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ASIAN AMERICAN BAR ASSOCIATION  
*of the Greater Bay Area*

## AABA Newsletter - October 2016

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### President's Message

By Hung Chang

It's in our nature to want to improve ourselves. We measure the health of a company by how its revenue grows and market share improves. We all want to provide a better opportunity for our children than we were afforded. We constantly strive to be thinner, healthier, more successful, and "happier" (whatever that means). If you are a perfectionist, then you probably lose sleep over the perfect brief or the perfect scenario that is most advantageous for you or your client. While I agree that we should always strive to be better, I don't believe perfection should come at the expense of execution. Sometimes it makes sense to seize the opportunity even though you are not quite satisfied with where you are, or where your work product is. Once the opportunity is lost, it's gone forever, and you are left with the bitterest tears for words left unsaid or deeds left undone, to paraphrase Harriet Beecher Stowe, an influential figure on social issues apropos of today's political landscape.

Similarly, I hear comments from some of my colleagues that they are not happy with either presidential candidate from the Republican Party or the Democratic Party, and are considering not voting at all. I would suggest that such decision of non-voting is a perfect example of letting idealism or perfectionism getting in the way of progress. Shunning away from voting in this historical moment because of imperfect candidates ignores

the fact that democracy itself is not perfect. We trust the people to cast their votes on issues that would impact everyone, despite the flaws within the system (and some goes as far as claiming that the system is "rigged.")

Democracy requires people to make collective decisions, based on an imperfect understanding of the issues and incomplete or contradictory set of facts. Yet, with all the imperfection, we trust the system to elect judges and presidents, and decide on issues like recreational drugs and soda tax. The reason is that the system improves itself by leveraging the collective wisdom of the people. More participation means more accurate and more representative outcomes. If you don't vote because you don't like any presidential candidates, then you are really choosing to not improve society, and therefore not striving towards the perfection that you seek. Furthermore, it's not clear to me the opportunity to vote itself would remain available if you choose to sit this one out. So, stop being so ironic and go out and vote!



## **Election 2016: Recreational Marijuana on the Ballot**

By Sylvia Chi

This November, among the dozens of statewide initiatives and local measures on the ballot, Californians will vote on Proposition 64, the Adult Use of Marijuana Act (AUMA). Marijuana remains prohibited by federal law, but medical use has been legal under state law since voters approved Proposition 215 in 1996. Today, medical marijuana in California is a booming business, often invoking comparisons to the Gold Rush. The ArcView Group, a marijuana market research firm, estimates that legal medical marijuana sales in California

amounted to \$2.7 billion last year, and projects that number to reach \$6.4 billion by 2020 if adult use is legalized. Meanwhile, patients are using the plant to treat a wide range of conditions, from anxiety to epilepsy. Lawyers are going to be in greater demand than ever to advise cannabis businesses, and many of us are diving into this dynamic field.

Following the recent passage of the Medical Cannabis Regulation and Safety Act, California's marijuana industry is facing the prospect of complying with a new, complex licensing system. State agencies ranging from the Bureau of Medical Cannabis Regulation, within the Department of Consumer Affairs, to the Department of Food and Agriculture are developing regulations for medical cannabis businesses. Growers, processors, and product manufacturers will also have to gain approval from local water boards and municipalities or counties in order to receive a state license. If voters approve AUMA in November, non-medical marijuana will be similarly regulated, while the medical marijuana system will remain unchanged. Meanwhile, cannabis businesses have to take special steps to avoid or mitigate risks of running afoul of the federal government.

These developments, among others, make it an interesting time to be practicing law and advising entrepreneurs in the cannabis space. Moreover, the Asian-American community is poised to make a big impact. Asian-Americans are underrepresented in the cannabis world, perhaps due to a general lack of outreach and education to our community. Recently, at a Cannabis Regulatory Commission meeting in Oakland, Asian-Americans spoke out about issues including the lack of language access at dispensaries in the East Bay.

Reaching potential patients – as well as, perhaps, non-medical consumers – in the Asian-American community presents an exciting opportunity for entrepreneurs and for the lawyers that advise them. That’s why last year, after four years of practicing environmental law, I started advising local medical cannabis businesses with compliance and business formation issues. I have met and worked with several other Asian-American attorneys and entrepreneurs in the field, and would love to help others join us. Feel free to contact me at [sylvia@sylviachilaw.com](mailto:sylvia@sylviachilaw.com) if you’d like to learn more.

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## **Election 2016: Voter Identification Laws**

By Philip J. Tacason

On November 8, either Hillary Clinton or Donald Trump will be elected President of the United States and finally, at long last, the nastiest presidential race in recent memory will come to an end. The 2016 campaign cycle has seen unrestrained mud-slinging, scathing accusations, and outrage. To make matters worse, Trump claimed at a Florida rally last month that the presidential election is “rigged.” This is Trump's latest statement that alleges unfairness in the electoral system. The 2016 presidential race has resulted in an undermining of American democracy, a disillusion with both major parties, and even an **increase in anxiety** among Americans. Unfortunately for many voters, the apprehension will continue well into Election Day. This year, voters may face a number of potential threats to the integrity of their ballots, including threats or intimidation at the polls. Here is a primer on another significant potential threat – overzealous ID checks.

### **Vote Dilution and the Voting Rights Act**

In 1965, Congress passed the Voting Rights Act, which prevented vote denial and dilution through a coverage formula. The coverage formula determined which states would be subject to the special provisions of the Act. Under Section 5 of the VRA, covered jurisdictions must obtain the approval – or preclearance – of any change to their election laws. In 2013, the Supreme Court held in *Shelby County v. Holder* that the coverage formula was unconstitutional. Chief Justice John Roberts, writing for a 5-4 majority, reasoned that the coverage formula was outdated and no longer needed. With the striking down of the coverage formula, the preclearance requirement became unenforceable. *Shelby County*, in effect, invalidated two key provisions of the Voting Rights Act. The decision was met with widespread criticism, which included a dissenting opinion written by Justice Ruth Bader Ginsburg. The dissent wrote that invalidating the preclearance requirement despite its effectiveness “is like throwing away your umbrella in a rainstorm because you are not getting wet.” Within days of the *Shelby County* decision, state legislatures around the nation began passing statutes that significantly changed their existing election laws.

### **Voter ID Requirements**

These statutes share a common theme – they all include a list of acceptable forms of identification that must be shown in order to cast a vote at the polls. In all of these states, these forms of ID are disproportionately owned by white voters. As a result, advocacy groups have brought challenges to the constitutionality of these new laws, on account of the improper dilution of minorities' votes. In September, the Fifth Circuit struck down Texas's voter ID law, which is considered one of the most stringent in the nation. The state has filed a writ of certiorari with the U.S. Supreme Court. In North Carolina, the Fourth Circuit invalidated the state's SL 2013-

381, an omnibus bill passed the day after the Shelby County decision. The three-judge panel found that the legislature intended to use race as a factor in promulgating the law, and was therefore in violation of the Fifteenth Amendment. The bill included a stringent voter ID requirement and eliminated absentee voting, same-day registration, and provisional and out-of-precinct voting.

Although these decisions appear to be clear-cut victories for voting rights activists, the fight does not end there. In states such as Pennsylvania, for instance, there are reported cases in which **poll workers have asked voters** for more identification than is necessary. Perhaps these poll workers are not part of a grand scheme to deny citizens the right to vote. They may simply be confused and lack proper training. In either case, this type of incident is more than just inconvenient – it is illegal. As 2016 marks the first presidential election since Shelby County, there remains the danger that poll workers will engage in overzealous ID checks. The best way to combat this threat to the ballot is to **know your state's laws**. Currently, 32 states have implemented some form of ID requirement. Note that in California, if you have voted in the state before, you do not need to show identification.

No election ever goes completely smoothly, but the best way to protect your vote is to know your rights. Be aware of potential ballot threats such as overzealous and unnecessary ID checks and threatening or intimidating of voters. Familiarize yourself with your state's laws, and on Election Day, keep an eye out for anything out of the ordinary. If something is awry, contact an election protection hotline such as 1-866-OUR-VOTE, or your local elections officer.

Err on the side of caution this Election Day. It's 2016, and as we have seen, anything can happen.

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## AABA Membership Spotlight: David Tsai

David is Co-Managing Partner of the Vinson & Elkins' Taipei office and also resident in the firm's San Francisco office. David's practice focuses on patent, trade secret, complex breach of contract, and product defect litigation for companies innovating biotechnology, medical devices, software, and hardware. His legal experience includes defending clients in international arbitration cases, litigating in the areas of copyrights and trademarks, preparing and prosecuting U.S. electrical engineering patent applications, drafting patentability, freedom-to-operate and non-infringement opinions, as well as patent interference in the area of biotechnology.



David serves as the Treasurer for the Asian American Bar Association and serves on the boards of the University of California, Riverside Foundation and Lambda Legal. He has been recognized as a top 50 California Lawyer on the Fast Track, MCCA "Rising Star," Super Lawyer in Intellectual Property Litigation, and Best Lawyer Under 40 by both NAPABA and the National LGBT Bar. David has been quoted in various publications including The New York Times.

**First job:** Mowing my parents' lawn. But first paid job I actually applied for was serving as a lab rat at

Georgetown Medical School (allegedly helping the FBI with DNA testing).

**What annoys you the most?** Global warming.

**Describe yourself:** My parents emigrated from Taiwan. I was born in California, but grew up outside of Detroit where Vincent Chin was murdered. I never forget seeing my parents march down the streets of Detroit holding signs and American flags, shouting “Justice for Vincent Chin.” My parents inspired me to work with the Asian American community and other minority communities to help all children feel safe and accepted.

**Favorite TV show/movie:** Growing up: Growing Pains. As a grown up: Sense 8 (can’t wait for season 2!) – reminds me of my childhood (sort of).

**Hidden talent:** I make a really tasty (and spicy) mapo tofu.

**Favorite food:** Shanghai dumplings from Din Tai Fung.

**Why did you enter law?** My parents complained that my working in the late 90’s with dot-com’s wasn’t “intellectual enough”. As an obedient Taiwanese-American son, I went to law school to be “more intellectual” and study intellectual property law.

**Dream job if you could do anything you wanted in this world:** I love my current job. I wouldn’t change that, but would love to teach and mentor more.

**AABA is:** what keeps me grounded. AABA reminds me of my roots and makes me especially appreciative of what our founding members achieved for our community.

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## AABA In-House Committee Lunch Series Held at Gap Inc. Headquarters

On October 11, 2016, the AABA In-House Committee held their second in-house luncheon at Gap Inc. headquarters in San Francisco, hosted by In-House Committee Co-Chair, Marie Ma, Senior Corporate Counsel at Gap. The lunch series provides AABA members within the In-House community the opportunity to meet and network with other in-house counsel.

Members of Gap’s legal leadership team, Julie Gruber, Executive Vice President, Global General Counsel, Chief Compliance Officer and Corporate Secretary for Gap Inc., along with Tom Lima, Senior Vice President and General Counsel, and Paul Adams, Vice President and Deputy General Counsel, stopped by to share their stories, talk about Gap Inc.’s work in the diversity and inclusion space, and answer questions from the attendees. The packed event included in-house practitioners from Apple, Bank of America, Google, Macy’s, Oracle, Salesforce, and Twitter, among others.

The next luncheon will be held on February 8, 2017 at Salesforce Headquarters (San Francisco). Space will be limited, so please RSVP early so that we can confirm attendance. Priority will be given to AABA members who are in-house counsel. To RSVP, you may click [here](#) or go to the AABA website, [www.aaba-bay.com](http://www.aaba-bay.com), for more information.

## Photo Galleries

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## Community Services Committee's Golden Gate Park Clean-Up Event

On Saturday, October 15, the AABA Community Services Committee (CSC) teamed up with the San Francisco Recreation and Park Department to restore Camellia Garden, a beautiful glen in Golden Gate Park. Eleven enthusiastic AABA volunteers and friends joined together to clear vines, weeds, and other invasive foliage to allow the camellias a chance to thrive once again. After their shift ended, everyone trekked to nearby Cha Cha Cha Restaurant to relax, reconnect, and make new friends.

Golden Gate Park never stops blooming, and its gardeners never stop working. The entire park is a garden created out of sand dunes by gardeners' hands in the 1870's, and generations of gardeners since then have planted many rare and exotic plants throughout the park. The AABA volunteers' hard work helped maintain the 1,017 acres comprising the park, which welcomes over 13 millions visitors a year. AABA CSC thanks its volunteers for helping to restore such a special and historic part of San Francisco.



AABA CSC serves the greater community through pro bono legal clinics and service activities like the San Francisco Food Bank and Preschool Beautification Projects. If you are interested in becoming more involved, please join the AABA Community Services Committee Facebook Group Page or contact any of the CSC Co-Chairs: Claire Y. Choo ([claire.y.choo@gmail.com](mailto:claire.y.choo@gmail.com)), Stephen Chong ([stephen@stchong-law.com](mailto:stephen@stchong-law.com)), and Pamela Chung ([pamela.chung.law@gmail.com](mailto:pamela.chung.law@gmail.com)).



Photo credit: John B. Lough Jr.

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**Annual Membership Mixer**



**How to Be a Better Negotiator: Insider Tips from Mediators**



**Networking Mixer with AABA, BASF, JBASF, La Raza, and SABA**



**Halloween Mixer at Wendel, Rosen, Black, and Dean LLP**

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