

National Task Force in Diversity Committee Meeting

Friday, March 16, 2012, 12pm-2pm, Eastern. Dial-in Only

Participants

Kenneth L. Andrlichik
Charles A. Beach
Nelson A. Diaz
Cassandra Georges
Dye Ann Graham
Claire Gutekunst
Wendy Hufford
James A. Hurd
Joia M. Johnson
Laura Kaster

Jeff Kichaven
Horatio A. Lanier
James K.L. Lawrence
Monica G. Parham
Victoria Pynchon
Kenneth G. Standard
Edna Sussman
Cynthia Thompson
Nancy L. Vanderlip
Beth Trent
Jay Waks

CPR Sr. Vice President, Beth Trent, welcomed the Task Force members on behalf of the co-chairs and Ms. Bryan, who had scheduling conflicts. Ms. Trent then gave a brief update on CPR's collaboration with the ABA Dispute Resolution Section on projects in conjunction with section's annual conference, beginning on April 18 in Washington D.C. CPR's collaboration with the section on creation of a directory of diverse neutrals ("Beat the Bushes") is ongoing, although it has been somewhat delayed by the need to coordinate with other ABA projects. In addition, Ms. Bryan has provided an article for inclusion in the ABA eNewsletter for Diversity and, in response to a request by the ABA's Women in Dispute Resolution Committee, the April edition of CPR's Alternatives highlights issues involving women in the field.

Ms. Trent then opened up discussion of whether the Committee could create a Diversity CLE, possibly for use at CPR's 2013 Annual Meeting. The consensus was that such CLE could be very useful and three members of the Committee, Laura Kaster, Monica Parham and Victoria Pynchon, volunteered to form a subcommittee to address this idea. There ensued a vibrant discussion, focused on the objective(s) of such CLE that also addressed and integrated issues of relating to mentoring /sponsorship and future project ideas.

Specifically, various committee members addressed the perception that, while diversity within the legal profession as a whole has improved, diversity in ADR has not. In this context, the issues of both explicit and implicit bias were raised. With regard to the issue of implicit bias, several committee members expressed the view that this is a primary cause of women in dispute resolution not getting selected for panels. Specifically, that there is a widespread implicit

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impression that women are weaker and less effective as neutrals and, thus, much less likely to be selected for panels. It was reported that the AAA is putting significantly fewer women on panels because they are not being selected and that women are exiting the profession due to frustration caused by low selection rates.

Other committee members expressed the view that a contributing factor to low selection rates for diverse neutrals is that neutral selection tends to be strongly based on referrals and recommendations—*i.e.*, people tend to turn to a trusted network of other professionals for advice when selecting a neutral. The Committee discussed the indicia of trust and its relationship to sponsorship. The question was raised regarding how the Committee could improve the ability of diverse neutrals to become known within such networks, which in turn brought the discussion back to the issue of implicit bias.

It was suggested that, as the corporate world (clients) has been more systematic and successful in addressing issues of diversity than the legal profession, and clients have the greatest ability to impact decisions made by counsel selecting neutrals, one possible path by which to improve diversity in ADR would be to piggyback on corporate diversity initiatives. This raised two issues: (1) how would the Task Force focus its outreach and (2) to whom would it address its outreach?

On the first issue, there was a consensus that the Task Force would benefit from an expert presentation on bias issues so that it would be better able to make an effective case on the nature of bias, its impact, and potential solutions to its target audience. Several committee members expressed the view that Verna Myers would be an excellent choice as a person to assist the Task Force to understand and communicate key issues relating to bias. Victoria Pynchon agreed to contact Ms. Myers in order to determine her availability to do a presentation to the Committee. It was agreed that the committee meeting should take place after the ABA DR Section meeting, but as soon thereafter as possible (possibly the week of April 23rd, but the precise timing would be contingent on Ms. Myers availability). In addition, it was agreed that Ms. Myers should be paid her customary fee.

On the second issue, it was suggested that the Committee identify senior corporate executives with a history of leadership in the diversity arena and seek their assistance in making the case to a broader corporate audience. In this way the Committee could tap into a trusted corporate network with proven ability to advance diversity and seek their assistance in address an area in

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which progress has been notably small. Ms. Trent agreed to identify a core group that the committee could reach out to and invite to the meeting with Verna Myers.