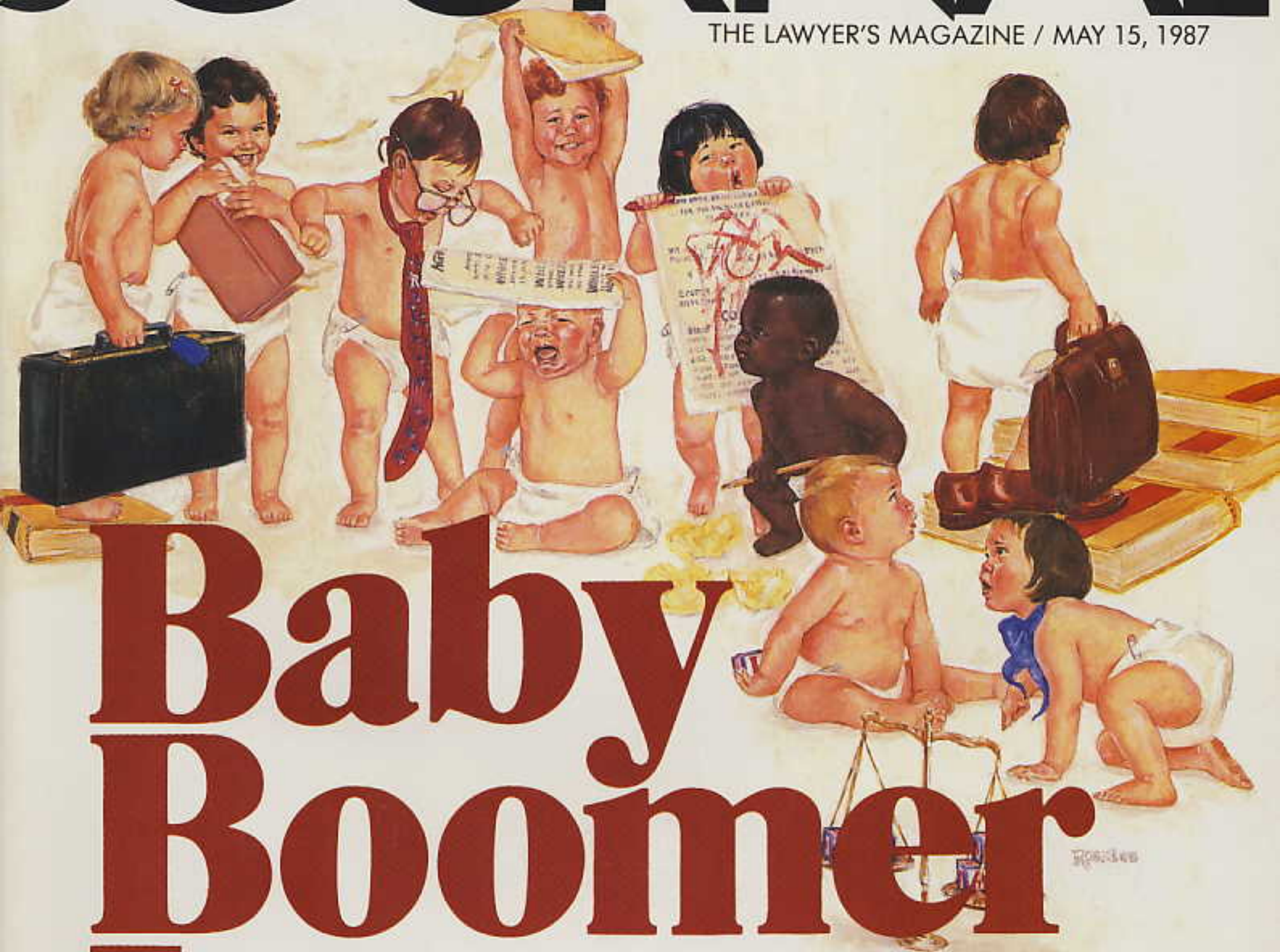


# JOURNAL



**SPECIAL REPORT**

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# Baby Boomer Issue

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A GENERATION  
COMES OF AGE

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# A Trace Element in the Law

BY MARK DIAMOND

The condition of minorities in the legal profession is not good. The number of blacks, Hispanics, and Asian-Americans who enroll in law school is small. In law firms, there are few minority associates and even fewer partners. And though minority attorneys express hope for the future, for the time being morale is at an ebb and frustration runs high.

There are 700,000 lawyers in the United States. By the turn of the century, this number may climb to one million. Last year alone, more than 38,000 law degrees were conferred; law schools continue to turn out large numbers of lawyers despite the drop in enrollment in recent years. Apparently, the lure of becoming a member of the legal profession remains strong.

But blacks and Hispanics have not shared in this career boom. The number of minority students graduating from law school has either declined, in the case of blacks, or risen only slightly, in the case of Hispanics and Asian-Americans. In either event, the numbers remain very low.

"Minority involvement in law school has leveled off from the 1970s," says Norman Redlich, dean of New York University School of Law. "But I am afraid it will go down because of the drop in enrollment of minorities in college."

Right now, there are about 118,000 people enrolled in law schools in the United States. Of this

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number, only about 12,000 are minorities. It is in law school that blacks, Hispanics, Asian-Americans and American Indians face their first difficulties with the profession.

## UNUSUAL PRESSURE

"The minority student is under unusually high academic pressure," says James Rosas, a sole practitioner in Chicago and a governor of the Hispanic National Bar Association. "He generally has to work while attending law school. Yet he must compete with non-minority students who have more time to study and get better grades. Minorities wind up with the lower paying, less prestigious jobs."

Cuts in financial aid by federal and local governments have left many minority students no choice but to work while attending law school. These cuts, combined with the rising cost of a legal education, often deter minorities from seeking a legal education in the first place.

"We come from lower socioeconomic groups with very little financial support from families," says William Mendez, president of the Hispanic National Bar Association, "so money from government and

schools is very important to minority students."

In fact, for most minority students the path away from the legal profession begins in high school and college. Their drop-out rate is alarming, says Mari Carmen Aponte, a partner in Pena & Aponte, Washington, D.C.

"I think the reason for this is that governmental social programs that made up for social inequalities have been dropped," says Aponte. "Kids have to find jobs earlier to help support their families, or they get involved in crime for economic reasons."

Robert Pickett, an attorney in Newark, N.J., and a member of the ABA Task Force on Minorities in the Legal Profession, thinks there is an additional cause for the high drop-out rate: "Under Reagan, there is no encouragement for open enrollment or equal opportunity. Several years ago, public sentiment was to give minorities a chance. Schools and legal institutions ignore minorities today. Minority kids are getting the message that the profession is closed to them."

Steve Bracy is a young attorney and research analyst with Merrill Lynch in New York. He describes

## Lawyers in the United States by Racial or Ethnic Group

	1970	1980	1985
TOTAL LAWYERS	264,752	501,834	642,000
WHITE	259,857	480,980	607,974
BLACK	3,406	13,594	19,260
HISPANIC	2,429	8,930	14,766
ASIAN-AMERICAN	1,004	3,737	

\*No longer tabulated.  
Source: U.S. Department of Labor

yet another reason for lack of interest by many minority kids in school and the profession.

"There is tremendous peer pressure in the black community against you if you want to go to school," says Bracy. "White kids expect to go to college, but most minorities don't. There is no concentration on education for black kids. This is a big reason why black enrollment is down in law school.

"In the minority community there are also few professional role models. Black attorneys, professionals in general, should go back to their schools to show the kids that there are blacks other than pimps and pushers who wear suits."

For those who do reach law school, the problems continue. According to Rosas, minorities have less peer support in law school, simply because they have fewer peers in their schools.

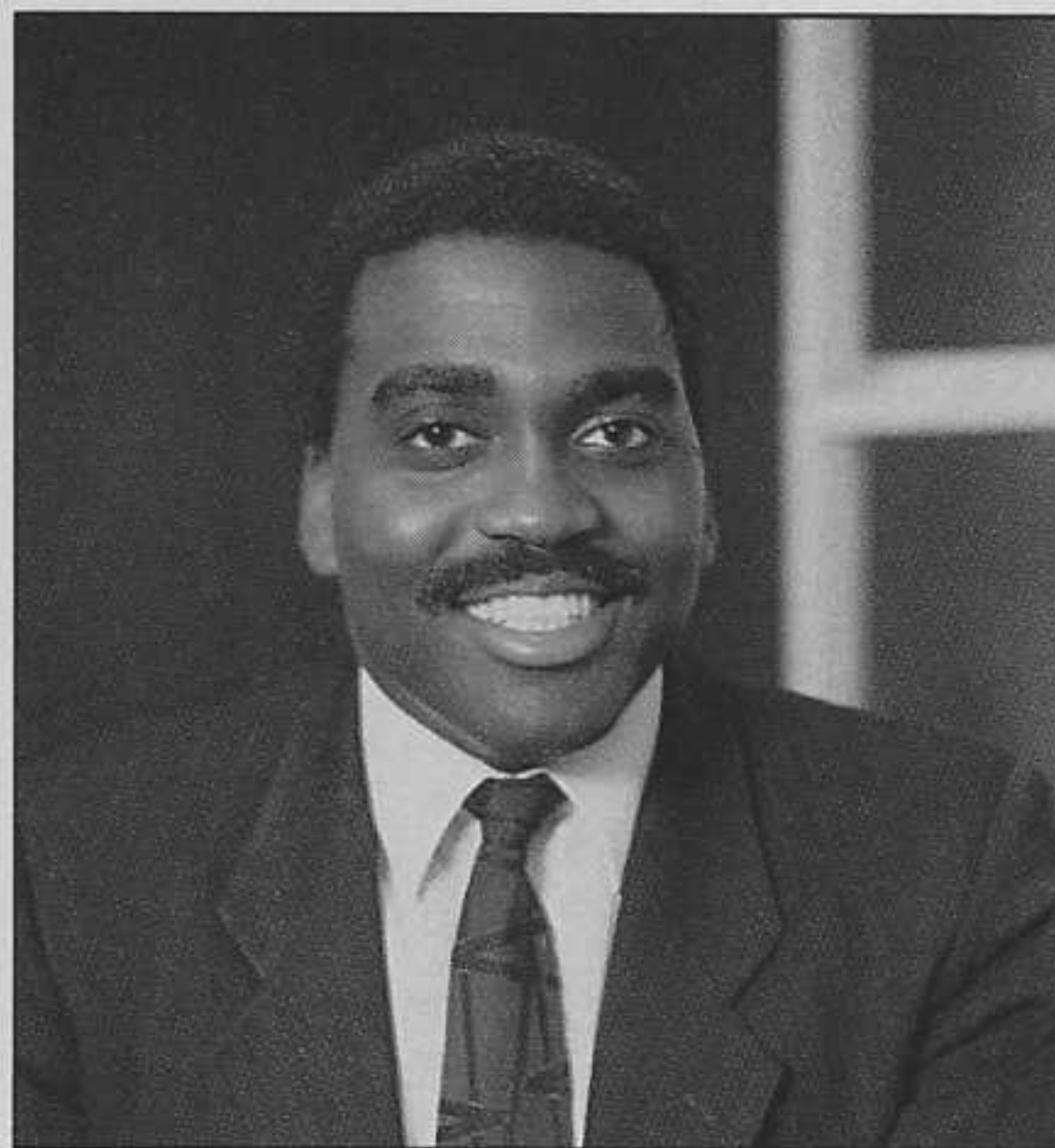
"Minority students also usually cannot rely on an uncle or father who is an attorney for help," says Rosas. "In addition, their dress, customs and language automatically make them outsiders."

Law schools themselves have been blamed, at least in part, for causing low minority enrollment.

"The climate has changed," claims Jose Luis Morin, staff attorney with the Puerto Rican Legal Defense and Education Fund in New York City. "Schools feel no need to recruit minorities anymore and there is no pressure upon them from above to actively recruit them." While most schools still have vestiges of affirmative action policies, they are not as vibrant as they were in the 1960s and early '70s.

"Schools complain they have to apply a lower standard for minorities," says Brian Sun, president of the Asian-Pacific Bar Association of California. "But if law schools really want to diversify, as they say they do, then they have to look at non-traditional factors. The bottom line is that the schools have to apply different standards to achieve diversity since minorities tend to score lower on LSATs and have lower grade averages."

For minorities who can overcome the financial, academic and social disincentives to law school, there is a final problem. Says Ce-



▲ Steven Bracy



▲ William Mendez

celia Espenosa, assistant prosecutor for Salt Lake City, the best and brightest minorities that could go to top law schools are opting for business schools instead where, it is thought, there is more money to be made.

As in law school, minority participation in the legal profession is not robust. According to the U.S. Department of Labor, of the 642,000 American lawyers practicing in 1985, only about 19,000 were blacks, and only about 15,000 were Hispanic.

The ABA has tried to discover the extent of and reasons for this low minority representation. Last year, its task force on minorities reported a survey of law firms across the country.

Almost 90 percent of those firms with one to 25 attorneys do not employ any minority lawyers. More than half of all law firms employed no minority associates at all, and 78 percent had no minority partners.

According to Roderick McLeod, chairman of the Minorities in the

Profession Committee of the ABA and an associate with Brobeck, Phleger & Harrison in San Francisco, "You can count on a hand and a half the number of minority partners in law firms in this city."

Even more than law firms, law schools are traditionally low employers of minorities. According to James P. White, the ABA's consultant on legal education, there are 4,915 full-time teachers at approved law schools and 2,940 part-timers. Of this amount, there are only 312 full-time minority teachers and 149 minority part-timers.

The most common reason given by firms in the task force report for the dearth of black, Hispanic and Asian-descent attorneys is that there is too small a pool of qualified minorities from which to hire.

"By and large, minorities are very under-represented in all segments of the profession—in all size firms, corporate legal departments and government," says McLeod. "Firms are unwilling to hire minorities because there is the feeling that they are not really as good as their white counterparts. For this and other reasons, it is hard for minorities to even get interviews.

"Firms do not think that it is economically necessary to hire minorities. But hiring them does affect their bottom lines because of changing demographics. Today, for example, it is advantageous to have an Hispanic name on your letterhead because there are so many Hispanics in this country."

#### **RACISM**

Many minority lawyers think that interviewers doubt their competence. "My friends are constantly being questioned about their qualifications, much more so than white attorneys," says Morin.

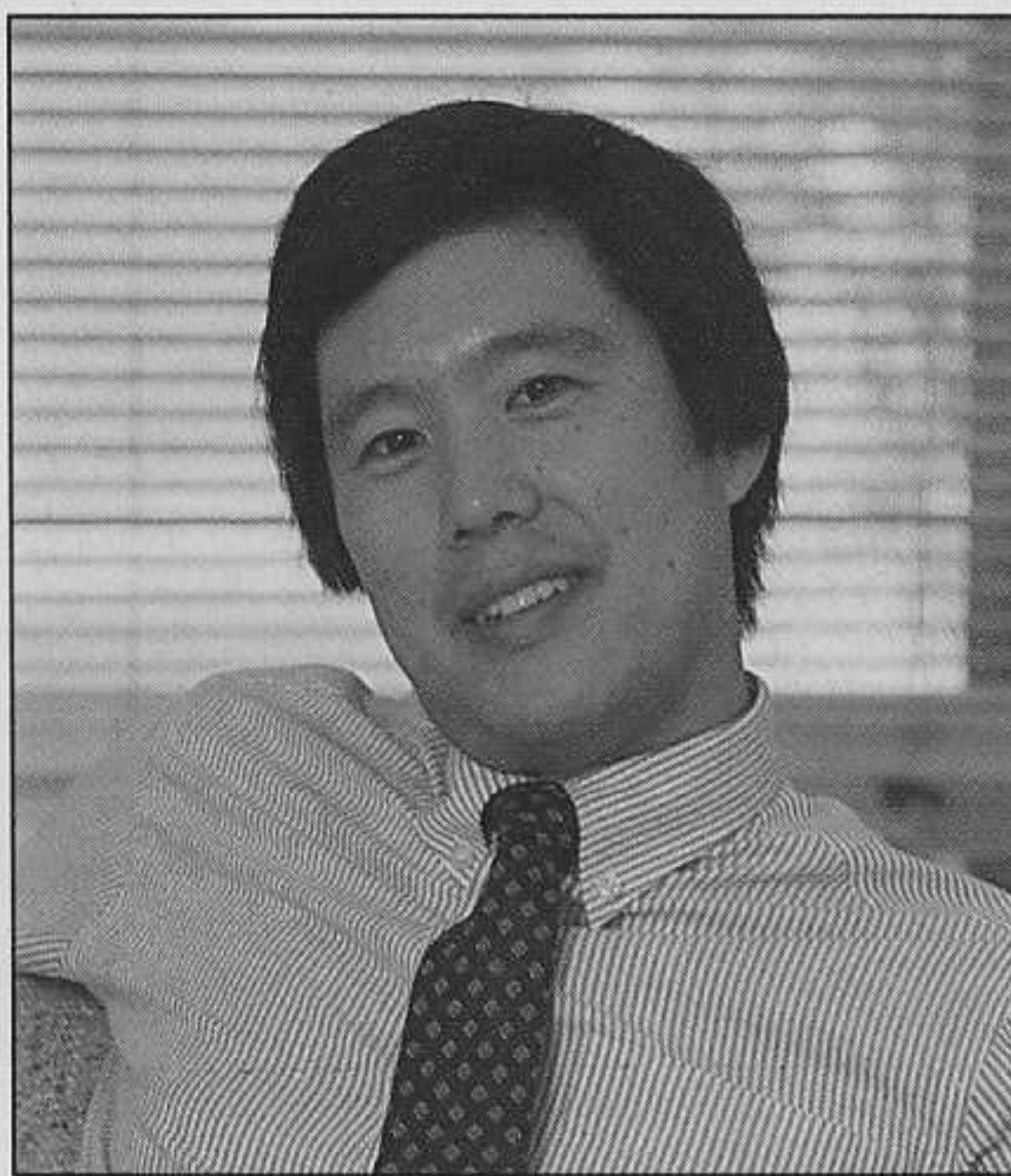
"For instance, job interviewers review their writing samples with attitudes of disbelief that an Hispanic can write so well. I am sure these kinds of preconceptions hurt Hispanics, not to mention the pressure it places on you."

According to Bracy, preconceived notions of ability and talent are a problem that young minority attorneys face all the time.

"I can tell that people don't expect me to speak and behave as well

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▲ Brian Sun

as I do," says Bracy. "When I first started at a law firm a black guy pulled me aside and warned me, 'Don't do things that are overtly black, like talking about black issues or dressing black. People will look down on you if you do.'

"I'm the first minority many whites get to work with. It gives me a chance to dispel these preconceptions. In law school, I was the first black friend many people ever had. They would tell me, 'Hey, you're OK for a black guy.' I had to laugh.

"Sometimes I feel isolated," Bracy says. "On the other hand, I haven't had it that bad. For me, being black is an advantage—it makes me stand out, and that gives me the chance to show what I can do."

One preconception that may be true concerns the types of jobs in which minority attorneys wind up working. Most minorities, says Pickett, work in low-level government jobs, or practice domestic re-

lations, criminal and low-grade personal injury law.

"This did not evolve by choice," maintains Pickett. "It evolved over time, because firms that do other types of work will not hire minorities and because many clients will not go to minority attorneys."

But why have more minority attorneys not formed their own law firms?

"It is inevitable," says Pickett, "that black law firms will form. It is taking a long time because non-

blacks still see blacks as being incapable. Time is the big cure here."

Brian Sun points out he is witnessing a growth in the number of Asian-American law firms on the West Coast that specialize in trade law with Pacific Basin nations.

Despite the recent doldrums in minority participation in law, the wheels of change are grinding. Much of the hope for change is pinned to bar associations.

#### THE ABA REACTS

"The ABA has been slow in gearing up its resources," says McLeod. "It was not until 1979 that the ABA genuinely recognized the problem of minority under-representation. Now I am hopeful, because I sense that people in the ABA want to increase minority participation in both the association and the profession."

Mendez concurs. "Things were getting better for minorities in the profession 10 years ago. Much of that was due to the powers-that-be pushing to make things equal for minorities. Today, there is no longer any push from government. I do see a push from the ABA, though, and I'm happy about that. Perhaps the association can make up for some of the backsliding by government."

But change, even if sought by the ABA, can occur only from a concerted effort by the profession as a whole.

The place to begin is in the colleges and law schools. There is widespread agreement that those institutions, as well as government, must affirm their commitment to give minorities the chance for quality education. This means pursuing affirmative action policies, offering scholarships, and raising financial aid back to the levels of the late 1970s.

Fair minority representation requires the development of a network of peer support for minority law students and those in the profession. It also requires minority attorneys to provide role models for high school and college students. Perhaps most importantly, minority lawyers must pool their resources to build their presence and influence.

"There is lot of infighting among minority professionals for

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jobs," says Espenoza. "Being burned by other minorities is common. For example, we feel that blacks have the power in the ABA and try to keep it to themselves."

Adds Mendez, "There is a lack of cohesion by minority bar associations. There is a we'll-do-our-thing, you-can-do-yours attitude by each minority group. We must overcome this if we are to progress."

Perhaps more insidious than the limited number of minorities in law school and in the profession is the frustration prevalent nowadays.

#### **PATIENCE WEARING THIN**

According to the ABA task force, "the legal profession remains largely segregated. In spite of the legal demise of racial discrimination, lack of equal opportunity for minorities in the profession persists as an unwanted residue of history."

"The problem is more subtle, more malevolent, than it was 20

years ago," Pickett says. "We don't know who our friends are now. What really scares me is today's young minorities. I don't see who will take up the torch of the previous generations."

Concludes Espenoza, "We have fought great odds and have hit a wall. We cannot change things."

One person who can gauge the progress of minorities in the profession is Julius Chambers. Chambers is director/counsel of the NAACP Legal Defense and Educational Fund.

"Things have been stagnating for 10 years, and they won't get much better in the near future," says Chambers. "One gets concerned when one has to address issues of discrimination that were addressed years ago."

"Through the courts and political pressure, the federal administration has done a lot to discourage employers from using affirmative action. For many employers, it didn't take much to discourage them."

"In the last five years, the promise that changes would take place in the legal profession and overall has become much more frustrating. No one even pretends anymore."

"If the legal profession doesn't open up for minorities within the next 10 years, there will be a growth in political entities to compel quotas and affirmative action through legal and political methods," says Pickett. "This includes targeting offensive employers and bringing them to court."

"We will see minority bar associations seeking denials of rate increases to public utilities that do not employ minority attorneys. If utilities are not using their profits to hire from a group of people that comprise a significant portion of their rate bases, then they are not fulfilling a requirement to meet the good of the public they serve."

On a more immediate note, Mendez says, "Minorities cannot wait for people and groups like the ABA to do things for us. We have to be approaching the ABA, government and the law schools with clear, explicit plans. There's hope, even though it looks bleak, if minority attorneys can get out and hustle." ■

## **The ABA's Goal**

Last year the ABA's House of Delegates adopted a ninth association goal: to promote full and equal participation in the profession by minorities and women. The action was taken at the recommendation of the ABA's Task Force on Minorities in the Legal Profession.

The ABA goals urge law firms to do the following:

▶ Take concrete steps to hire and promote minority lawyers.

▶ Make a concerted effort to recruit minority law students for summer and permanent positions.

▶ Create a more favorable work environment for minority lawyers.

▶ Provide full opportunities for minority lawyers to develop the skills and acquire the experience necessary for success and advancement.

▶ Expand the criteria by which lawyers are evaluated to take into account a broad range of skills and qualifications.