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The Evolution of Workplace Diversity

Gender Fairness — Four Years Later

Attorney-Client Privilege Issues Unique to
In-House Counsel

Roundtable on Diversity/In-House Counsel

Houston Bar Foundation Annual Meeting

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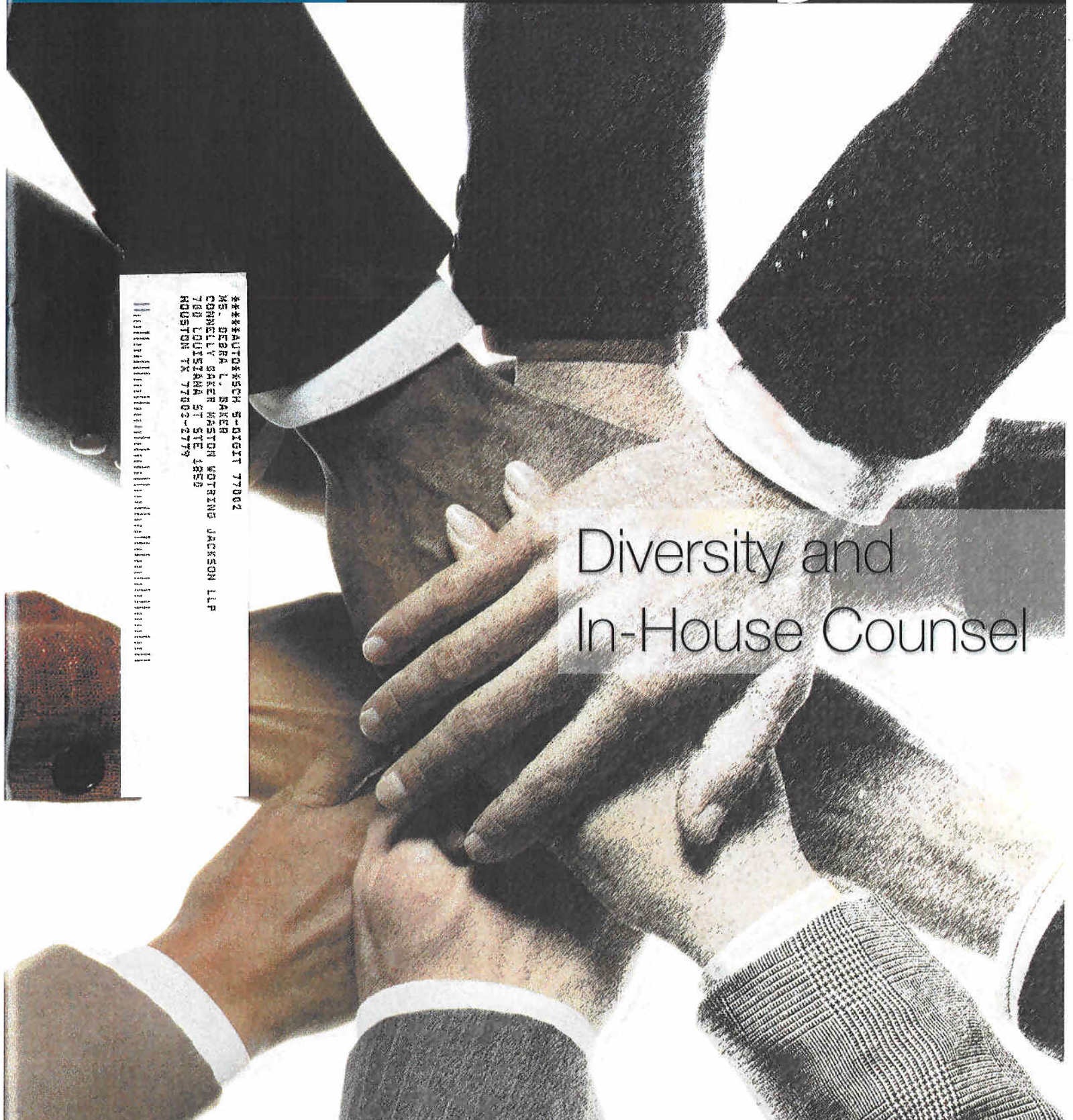
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MS. DEBRA L. SAKER
CONNELLY SAKER WATSON WOTRING JACKSON LLP
700 LOUISIANA ST STE 1850
HOUSTON TX 77002-2779

Diversity and In-House Counsel



Gender Fairness Four Years Later



Photos from the
January HBA Gender
Initiative Breakfast

What has long set the HBA apart from other bar associations is the collegiality and spirit of community and cooperation that its members share. Nowhere was that more evident than the HBA's recent Gender Fairness Breakfast, where leading law firm managing partners and corporate law department heads met to share their experiences (both successes and challenges) with each other. The round table discussions were unique in the frank interchange that took place as these legal leaders compared notes and shared ideas about the topic of gender fairness.

Is Gender Fairness Still an Issue?

The first question was whether gender fairness was still an issue in 2007. Four years ago, the HBA pioneered the Gender Fairness Initiative, bringing together representatives from 40 firms and corporate law departments to discuss gender fairness issues and to urge law offices to shatter glass ceilings within their organizations. The HBA established a Gender Fairness Task Force to develop programs and policies to help the advancement of women attorneys. The Task Force developed a commitment statement to encourage firms to increase the number of women in partnership and management roles, maintain equal retention rates, offer flexible work schedules, and take other actions to promote gender fairness. Thirty law firms and corporate law departments signed the Commitment Statement.

This year, the Gender Fairness Task Force became a standing committee of the HBA. At the first committee meeting, the members wondered how firms and corporations had progressed with the Commitment Statement from 2003.

The Role of Bar Associations in Gender Fairness Issues

Bar Associations have long sought to

identify and educate their memberships about issues of importance in the legal community. With a membership of approximately 30 percent women, the HBA continues to provide services and education in areas of particular interest to women. This year's Gender Fairness Committee decided to revisit those law firm managing partners and corporate management representatives who had signed the 2003 Gender Fairness Commitment to see how things had gone. Had they noticed results? Was the Gender Fairness Commitment helpful? What else needed to be done? What could a bar association do?

The Committee sent a survey to its original Commitment signatories and asked for information about how those employers had tried to implement the tenets of the 2003 Gender Fairness Commitment.* A review of the surveys allowed the HBA to gauge the Commitment's success and to evaluate whether progress could be correlated to the Gender Fairness Initiative. The surveys provided a great wealth of information about innovative new programs and flexible working arrangements. It was clear that much time and effort had been devoted to gender fairness issues in law firms and corporations. Together, the HBA's survey and January 30 Gender Fairness Breakfast enabled the Committee to identify the most current "hot topics" regarding gender fairness issues as law firm and law department management representatives compared notes and shared ideas.

The State of Affairs on Gender Fairness

The threshold question first put to the assembled group of law firm and corporate law department leaders was whether gender inequity still existed in law firms and law departments. Responses ranged from those who believed that gender unfairness was still *perceived* to exist in the legal workplace (without specifically addressing whether that actually was the case), to those who believed that there is still *some* inequity, albeit on a much-

reduced level and acknowledging that there seemed to be an increased sensitivity to the issue. Subsequent questions addressed the issue of how law firms and law departments were working to address any remaining perceived or actual gender fairness issues – an exercise that led to spirited discussions of the salient issues. At the end of the meeting, it seemed clear from the feedback of the attendees that tremendous strides *had* been made in addressing gender fairness issues and that innovative and heretofore unheard-of programs were becoming prevalent in Houston legal workplaces. Some of the most common themes and issues that were identified as part of this frank exchange are identified below.

What progress has been made?

Numerous participants reported that their firms or companies had made progress in incorporating flexible work schedules and flexible or part-time partners and associates into the legal workplace. They noted that there seemed to be less stigma associated with differing work arrangements and that our "electronic and mobile" society made it easier to rely on technology to allow more flexibility and required less "face time." A number of participants also noted the advent of more work-based child-care options, company-sponsored backup babysitting or elder care, and weekend child-care assistance. The increasing availability of paternity leave was cited as an example of law firm flexibility and changing attitudes, with the recognition that male attorneys (and not just women) sometimes needed to explore part-time options to address family situations. Several firms reported implementing "boomerang" or "follow-up" programs, in which they kept in touch with lawyers who had left their employment to evaluate their interest in returning to work at a future date or when their children started to attend school. Many participants cited to the increase in the numbers of women partners and women in management positions as progress, as

well as evidence that women were more well-represented in legal management than ever before.

What programs have been put in place to address gender fairness issues?

It was clear that in most large law firms at least, a significant amount of infrastructure has been devoted to addressing women's issues. Most firms had committees devoted to women's initiatives, women's professional development, and diversity issues. Some had created special positions such as Chief Diversity Officer, Chief Development Officer, and Diversity Counsel within their law firms to head up these programs. Firms and law departments reported an increased use of consultants, coaches, and formal mentoring programs to address issues pertaining to gender and diversity. Women-only lunches, business-development meetings, affinity groups and women-only events at firm retreats were also cited as examples of programs implemented to address gender issues.

In some cases, formal billing review programs were put into place to review work assignments and hours billed to key clients to make sure work distribution was being handled evenly and that women lawyers were not excluded from working with prominent clients.

What areas were perceived to need more attention?

One area of concern was the issue of better phase-in programs for women returning from maternity leave. In response, other attendees reported that their firms had implemented "maternity mentoring" -- a network of new parents who had successfully transitioned back into the work place who helped mentor others through the transition. Mentoring remained a hot topic, with many attendees continuing to believe that better mentoring situations were needed in both in-house environments and law firms. Some of the more difficult questions raised were issues in which some believed that women were more receptive to being mentored by male lawyers than by other

women, perceiving the male lawyers as being rainmakers and more well-connected in their firms and therefore more desirable mentors. There was also discussion of an interesting phenomenon reported by some attendees about women in large law firms who entered the profession with the perception of equality, having been treated equally in college and law school, who resented gender fairness programs. Some reported that those women did not participate in the programs until years four to six of their careers, when they apparently did begin to perceive differing treatment and sought help. As always, the issue of retention of women lawyers remained in the forefront as an area in which firms and law departments continue to struggle.

Interestingly, some of the discussions about retention became more gender-neutral, with the issues evolving into a dialogue of how to keep lawyers from leaving the workplace (irrespective of gender) as the participants acknowledged that retention of both men and women lawyers was a significant problem. Some participants thought that retention could be enhanced if the law firms and corporations focused upon making the practice of law more interesting, as exciting work would keep lawyers coming back. Others thought that the recent salary increases would encourage more lawyers to stay in the workforce than might previously have been the case. Participants also discussed the commonality of issues particular to women in conjunction with programs designed to address diversity efforts, noting that some of the issues were similar (mentoring, networking) and that focus also needed to be kept on the diversity issues. Some commented that improvement still needed to be seen at the top management levels and that law firm partners with influence needed to take responsibility for associates in general, ensuring that they were exposed to quality work projects and clients.

What can the HBA do to address gender fairness issues?

Feedback from the participants sug-

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gested that the HBA was perceived to be in a position to provide opportunities for lawyers to exchange information about these topical issues that apply to all firms and law departments. Many commented that the ability to participate in a high-level dialogue with other legal employers was useful and welcome and that the HBA should continue to provide a forum for such future exchanges. Creating a repository of "best practices/options" was raised as a potential way in which the bar could help its membership learn more about what other firms and companies are doing to address gender issues and improve communication about relevant issues. Moderated group discussions on gender issues and programs that could facilitate networking opportunities were also identified as ways in which the bar could support gender fairness efforts. Others suggested that the HBA could target programs and forums to provide earlier training and outreach to law students and first- and second-year associates to help them understand the importance of business development, networking, and other concepts that were not part of their law school education, but nonetheless are critical to their success in their legal careers.

The HBA, through its Gender Fairness Committee, will be able to continue to provide a forum for the productive sharing of useful information and can continue its goal of educating and providing service to its members on topics of importance in the legal community. We extend our thanks to those law firms and corporations that responded to the HBA's Gender Fairness Survey and who sent representatives to participate in this successful gathering of the legal community to discuss issues of common interest and importance. We welcome your continued input and suggestions. 

Debra L. Baker is a founding partner in the law firm of *Connelly · Baker · Maston · Wotring · Jackson, LLP*, where she serves on the Firm's Management Committee. She is a 1984 graduate of the *Georgetown*

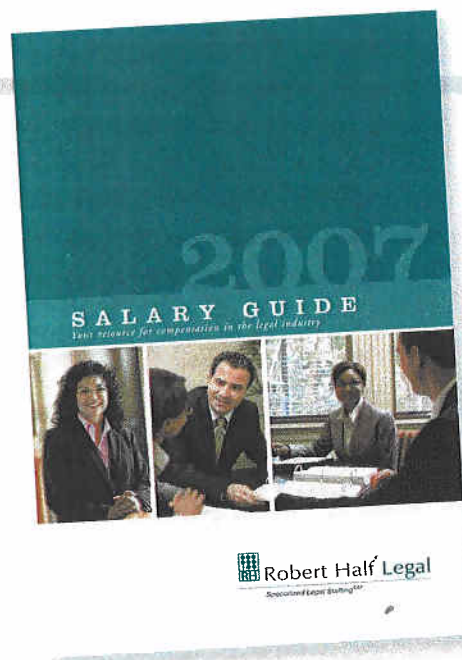
University Law Center, where she received the *Magoichi Kato Memorial Scholarship for Japanese-American citizens*. Baker is co-chair of the HBA's Gender Fairness Committee, along with *Howard Ayers of Andrews Kurth L.L.P.* She was a Task Force Member and contributing author of the *2007 State Bar of Texas Report on Hiring, Retention and Promotion of Minority and Women Attorneys in Large and Medium Size Law Firms and Corporations*.

Author's note

* Interestingly, even as the Gender Fairness Committee began its survey to evaluate gender fairness issues in Houston, the State Bar of Texas was conducting a similar exercise on a state-wide basis. In March 2006, the State Bar appointed a Task Force to analyze the hiring, retention, and promotion of minority and women attorneys in large and mid-sized law firms and corporations in the State of Texas. In January 2007, the Task Force submitted its Report entitled "Hiring, Retention and Promotion of Minority and Women Attorneys in Large and Medium Size Law Firms and Corporations" to the State Bar of Texas, which compiled information about current practices and contained proposals and recommendations that the State Bar could implement to address these issues. The report can be found at www.texasbar.com, under the menu item, Other Bar Groups/Minority and Women Lawyers.

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