

# NAPABA

## LAWYER

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NATIONAL  
ASIAN PACIFIC  
AMERICAN BAR  
ASSOCIATION

## The Top Ten Malpractice Traps—How to Avoid Them

By Howard L. Halm

I am fortunate to serve on the ABA's Standing Committee on Lawyers' Professional Liability. One of our goals is to provide continuing education toward reducing legal malpractice claims. Further information about our activities is available at [www.abalegalservices.org/lpl](http://www.abalegalservices.org/lpl). Among other things, this site includes: a directory malpractice insurance providers; a loss prevention library; and information about our biannual Conferences and ongoing activities. I have taken one of our committee's articles on risk management and summarized its salient points for NAPABA members.

This five minute read will help you to avoid the top ten malpractice traps, and is especially useful in today's hard legal malpractice insurance market.

**Trap #1: Missing Deadlines.** Calendaring errors remain a leading cause of malpractice claims. Common mistakes include data entry errors, failing to use file review dates, absence of a back-up calendar and procrastinating until the last minute to file documents. To avoid this trap, an office must have at its organizational core an office-wide calendar, and practices in place regarding its use.

**Trap #2: Stress and Substance Abuse.** It takes just one dysfunctional attorney to ruin a firm's reputation and add significantly to its malpractice claims history. All too often the problem is compounded by inaction on the part of the law firm. Consider appointing a fair-minded and well-respected partner as an ombudsman for intra-firm problems and conflicts. Sole practitioners can find this support by seeking out other lawyers who might be similarly situated, but they must remember to preserve client confidences.

**Trap #3: Poor Client Relations.** Poor communication and client relations and conflicted working relationships can transform into malpractice claims quickly. Typical mistakes include failure to obtain client consent, failure to inform a client of a case development or failure to follow the client's instructions. Avoid problems by adopting a simple, commonsense approach to working with clients.

Explain clearly to each new client orally and in writing the purpose for which the firm was hired, the fee arrangements, the reporting and billing procedures and the client's obligations.

Listen to the client. Clients may want to pursue non-litigation avenues. Take time at the beginning of the attorney-client relationship to identify clearly the client's objectives.

Encourage realistic client expectations. Clear and documented explanations about the services to be performed or avoided are crucial. Explain legal procedures in simple, clear language so the client understands what to expect, and when.

Maintaining good client communications requires a lot of work: promptly return all telephone calls; promptly keep appointments with clients; send regular status reports, and report negative developments promptly. If you copy clients on correspondence or pleadings, inform them as to their meaning and purpose. Complete assignments on a

*continued on page 9*

## IN THIS ISSUE

The Top Ten Malpractice Traps	1
Regional News	2
President's Message	3
Leadership Advisory Council	5
Board Report	7
Calendar of Events	11

## HOT DEALS, HOT SUITS

**Chan Law Group LC** in Los Angeles, California prosecuted AST Computers on behalf of GVC Corp. and its subsidiary G-Tech, U.S.A. Inc. for breach of contract and common counts arising from the failure to pay for computers and computer manuals. The action was tried before a jury and GVC was awarded the entirety of its claims: in excess of \$5,000,000. *G-Tech U.S.A., Inc. v. AST Computers*, Los Angeles Superior Court, Case No. BC 225807. Opposing Counsel: Alschuler, Grossman, Stein & Kahan, LLP. Additionally, Chan Law Group defended a bank and loan officer accused of misappropriation of trade secrets. Plaintiff has sought damages of more than \$500,000. After a nine-day trial, the judge found in favor of Chan's clients on all charges. *Preferred Bank v. East West Bank, et al.* Los Angeles Superior Court, Case No. BC 253382. Opposing counsel: Grosberg & Benjamin.

ABA Business Section selected **Jay JuneKun Choi**, a shareholder of Burns Figa & Will, P.C., in Englewood,

*continued on page 7*

# Regional News

**CALIFORNIA (SAN FRANCISCO) REGION AABA of the Greater Bay Area** held its 26th annual installation dinner at the Far East Café in San Francisco on March 7. This year's keynote speaker was the Honorable Debra Yang, United States Attorney for the Central District of California. In addition, AABA inaugurated the Ray Ocampo scholarship to honor the former presidents of AABA.

At the installation dinner, former Regional Governor Phil Shinn took over as president. The other officers are Victor Hwang, vice president; alternate Regional Governor Gene Woo, treasurer; and Kathy Asada, secretary. The new board of directors will be composed of returning members David Chiu, Kevin Chung, Rita Hao, Celia Lee, and Edwin Prather. Four new members are joining the board: Elaine Chow, Jim Leong, Marissa Tirona, and Jayashri Srikantiah. The new board members replace departing president Edith Ho and departing members, Moona Nandi, Bernard Shek, and Richard Tamor. AABA thanks them for their service to the organization and wishes them well in their future endeavors.

Regional Governor and former AABA president Joan Haratani has had quite a full plate. Besides being the San

Francisco Bay Regional Governor, Joan is now the secretary for the Bar Association of San Francisco. If that isn't enough, she is also co-chair of two subcommittees for the American Bar Association's Science and Technology section. Joan co-chairs the section's medical ethics and opportunities for women and minorities subcommittees. Somehow, Joan found enough time in her schedule to get married. She married Ralph Latza in a beautiful beachside ceremony at the Four Seasons Hotel on the Big Island of Hawaii in January. NAPABA members Jennifer Liu, Dale Minami, and Gene Woo were among the attendees.

After waiting ten months, former AABA president Jeff Adachi was finally installed as the Public Defender for the City and County of San Francisco. On January 3, Jeff took the oath of office in the San Francisco Board of Supervisors chambers. In March 2002, Jeff defeated Kimiko Burton in a hard fought election. For Jeff, it is an opportunity to return to the office that he started his legal career in. Jeff was the chief deputy public defender before he was removed from that post and terminated after Kimiko Burton was appointed in 2001 to complete the term of the previous public defender, Jeff Brown. AABA extends its heartiest congratulations to Jeff for his well deserved victory.

**CALIFORNIA (LOS ANGELES) REGION Philippine American Bar Association (PABA)** had its installation banquet at the Renaissance Hollywood Hotel on January 25.

**Japanese American Bar Association (JABA)** held its installation banquet at the Omni Hotel on February 28 with keynote speaker U.S. Assistant Attorney General Viet Dinh. The new JABA 2003-04 president is Bill Seki.

**Southern California Chinese Lawyers Association (SCCLA)** is having its installation banquet at the Empress Pavilion on March 21. The speakers will be United States Attorneys Debra Yang (for the Central District of CA) and Carol Lam (for the Southern District of CA). A distinguished service award is going to be presented to Brian Sun, a former president of SCCLA and NAPABA. State Senator Gloria Romero and former CA State Bar president Karen Nobumoto are also scheduled to briefly comment on their efforts with SCCLA regarding the legislation against the unlawful practice of law. The new SCCLA 2003-04 president is Phil Lam.

**Korean American Bar Association (KABA)** is having its installation banquet on March 28. The keynote speaker is

expected to be UCLA Law Professor Jerry Kang. The new 2003-04 president is Won Koo Chang. The expected attendance is around 300-400 persons.

NAPABA 2002 Best Lawyer Under 40 awardee, the **Honorable Ted W. Lieu**, left the law offices of Munger, Tolles and Olson, to become the Corporate Vice President of UBS PaineWebber in Los Angeles.

NAPABA 2002 Best Lawyer Under 40 **Eduardo Angeles** left northern California to join the Los Angeles City Attorney's Office as the Managing Assistant for the Los Angeles World Airports.

**Roger Ito**, former Deputy District Attorney and City Attorney, has been appointed as a Los Angeles Superior Court Commissioner.

**CALIFORNIA (SACRAMENTO) REGION The Asian/Pacific Bar Association of Sacramento (ABAS)** welcomes the addition of the new NAPABA Las Vegas affiliate to this region. In the fall of 2002, the **Asian Bar Association of Las Vegas (ABALV)** announced their official formation that took place last summer. Over the past several years, efforts have been made to organize a local NAPABA affiliate in Las Vegas and we are very proud and excited that ABALV is now a reality. ABALV began with twenty active members and has continued to grow. Led by Co-Presidents Bryce Kunimoto and Rob Kim, ABALV seeks to contribute to and benefit the API community both in Las Vegas and nationally. ABALV's officers include Vice President Puoy Premsrirut, Secretary Jeannie Hua, Treasurer John Higa, Membership Chairs Sunny Kwon and Maile Estaban, CLE Chair Pauline Lee, and Social Chairs A.J. Kung and Hahn Le. We look forward to more great things to come from our friends in Las Vegas.

In Sacramento, ABAS closed 2002 with a series of great events. Led by ABAS, the Unity Bar Association held the 3rd Annual Diversity Career Forum providing minority and women law students a unique opportunity to meet informally with representatives from numerous private and public sector employers in the Sacramento region. The Diversity Career Forum was founded with the goal of increasing representation of minority and women attorneys in the greater Sacramento area. ABAS also took part in the Annual Unity Dinner with the La Raza Lawyers, Women Lawyers of Sacramento, Wiley Manuel Bar Association and SacLEGAL. ABAS honored Donna Tamanaha, an ABAS Past President as the 2002 Unity Award Winner. ABAS continued significant work in the areas of public appointments, advocacy and issues, law

*continued on page 3*

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school support, and community outreach as we closed an extremely busy year.

January 1, 2003 marked the beginning of the new term of ABAS officers including President Robert King Fong, President-Elect Lara Diaz Dunbar, Vice President Mike Mireles, Secretary Jane Takenouchi, Treasurer Alice Choi, Directors at Large Darrel Woo, Mike Lorilla, Rebecca Westmore and Dee Brown, and Ex Officio Director Toso Himel. ABAS will hold its 22nd Annual Lunar New Year Awards Celebration and Installation of Officers on March 6, 2003.

### CENTRAL REGION

The **AABA of Illinois** is holding its annual Ethnic Food Drive to provide needy Asian families with food catered to their ethnic tastes. We are also involved in a clothing drive to provide needy Asian families with coats, in addition to professional clothing (suits in good condition). AABA is in the process of interviewing for a program with the Cook County State's Attorney's Office (SAO) that offers two Asian American law students with a paid summer internship at the SAO. For 2003, our projects include: seminars on rainmaking for APA attorneys, which also is helping us to reconnect with some of our more experienced attorneys; our annual Asian American Law Students Career Day, which we have co-hosted with the **Korean American Bar Association** the last two years; and our continued participation in the Alliance of Bar Associations, a group of minority bar organizations that interview and evaluate judicial candidates in Cook County.

**AABA of Missouri** will be joining with the African American Bar Association in St. Louis for its 3rd annual "Unity Dinner" on April 24, 2003. AABA continues to network and mentor its local APA law students via panel discussions on various career choices. Currently the group is attempting to create a panel comprising attorneys who have worked abroad.

### NORTHEAST REGION

**Asian American Bar Association – Delaware Valley's** new Officers for 2003 are: President Alisa Shin, Vice-President Sophia Lee, Secretary May Mon Post, Treasurer Catherine P.Y. Siu and its Executive Committee Members are Joseph Centeno, John Chou, John Encarnacion, Glenn Hing, Cindy Hinkle, Lisa Lanphear, Tsiwen Law, Teresa Lin, Julie S. Lu (ex-officio), Helen Han Mountain, Stephen Murphy, Sunah Park (ex-officio), Stella M. Tsai, Robert J. Wilson, Suzanne Young and Humane Zia.

### NORTHWEST REGION

Newly-elected officers and board

*continued on page 12*

# President's Message

Spring 2003

**D**ear Members and Friends  
of NAPABA,

It takes people to make things happen. Fifteen years ago, a small group of people had a NEED TO ACHIEVE and a VISION TO BELIEVE in a dream. That dream was to create a new professional association specifically for Asian Pacific American lawyers. Before that time, APA lawyers had no national voice. The leaders that brought us to this point made things happen.

This year is a time to build upon the foundation that past boards have begun. As we grow, our needs have grown with us. Last year, in preparation for my year as president, the Personnel and Finance committee were formed. The Personnel Committee shoulders responsibility for all personnel matters regarding administration of NAPABA. The Finance committee has oversight responsibilities for NAPABA's finances.

The Leadership Advisory Council was formed to provide a constant base of historical and advisory support for NAPABA. As our board members change, the LAC will be engaged and involved in the vision of NAPABA. Our first two co-chairs for LAC are Vivian Hsu, former president of the NAPABA Law Foundation, and Peggy Nagae, one of our early NAPABA presidents. Recent events where a quick and efficient media response was necessary have given rise to the Rapid Response Media Team. This team is chaired by Julie Soo, a former journalist for Asian Week.

Our committees will be the next focus. We want to rejuvenate and reinvigorate our committees. This is where each one of you can get involved. We have been gathering information and interest from our members. Our website



has a list of the committees now in place. If one

peaks your interest, let us know and get involved.

As always, we are looking for future board members and future leaders of NAPABA. Let us know through your regional governor where you can fit in with us. We urge each of you to be involved in a committee or consider running for the board. The nominations and elections process starts in March.

In Atlanta, your new board and Leadership Advisory Council participated in a Strategic Planning Session. A new mission statement was created. Here it is:

**NATIONAL ASIAN PACIFIC  
AMERICAN BAR ASSOCIATION**

*We are the national voice for the APA  
legal profession.*

*We promote justice, equity and opportunity  
for APAs.*

*We foster professional development, legal  
scholarship, advocacy and community  
involvement.*

This is who we are and this is our mission. Help us keep the dream alive.

Warm regards,

# NAPABA's Media Team and Rapid Response Media Team (RRMT): Speaking on Behalf of the APA Community

By Julie D. Soo

Did Shaq's remarks before his showdown with Yao Ming make your blood boil? Thinking of ways to straighten out Representative Howard Coble after his remarks about Japanese Americans being safer in internment camps than in their own homes during WWII?

NAPABA's President Ruthe Catolico Ashley has heard your calls and has formed the NAPABA Media Team. The NAPABA Media Team will be organized to consist of an Internal Communications Branch and an External Communications Branch. The anticipated structure is such that the Internal Communications Branch will keep the general membership informed via the NAPABA Newsletter and Website and the External Communications Branch will foster relationships with mainstream media editorial boards in print, television, and radio. The External Communications Branch shall publish proactively and work as a public relations branch, highlighting accomplishments of the APA legal community and addressing current events and issues.

The Rapid Response Media Team, also known as the RRMT, is designed to act with immediacy and will be a subcommittee of the External Communications Branch. RRMT is designed to timely respond to troubling issues through letters and opinion statements to the offenders, and if warranted, with dissemination in various media outlets and to supportive elected officials.

Yes, the RRMT acronym is supposed to evoke bullet train speed. The RRMT consists of seven members with duties as delegated by the President: 1) Julie D. Soo, chair (focus on all media and will be in charge of direct communications); 2) Dale Minami (Western U.S. and Hawaii and civil rights input); 3) David Kim (Midwestern U.S. and business/corporate community); 4) Bettina Yip (Eastern and Southern U.S. and legal community); 5) Grace Yoo, NAPABA executive director (focus on national APA organization coordination); 6) Ruthe Catolico Ashley, NAPABA president (letters; communication with the NAPABA Board; coordinate and foster relations with other entities as needed); and 7) Amy Lin Meyerson, NAPABA VP of Communications (general oversight of the NAPABA Media Team).

The immediate nature of issues posed to the RRMT for action necessitates that

the RRMT will have the authority to act independently after a vote by the RRMT members to take on an issue. It is the intent upon the founding of the RRMT that members 1 through 4 remain beyond annual administration changes. RRMT may respond to issues that arise in one or more of the following ways:

1. NAPABA responds directly and in full with a press release;
2. NAPABA refers the matter to a partner organization that would be more appropriate, with the possibility of NAPABA signing on to a response prepared by the partner organization;
3. NAPABA sends a Letter of Inquiry / Letter of Concern to the offending person, organization, or company; or
4. NAPABA chooses not to respond or responds only to the person (or organization) who brought an issue to NAPABA's attention.

Here's more about the RRMT members who act cool under fire:

**Julie D. Soo** (RRMT chair), a fourth-generation San Franciscan, is presently a staff attorney for the California Department of Insurance and in her "off" hours enjoys kickboxing and writing for AsianWeek. She is a former mathematician who has had prior career experience as a pension actuarial specialist and a group life and disability underwriter. Julie finds community-based work greatly rewarding and has engaged in a variety of volunteer causes including hate crimes projects, civil rights education, voter registration, and campaign work.

**Dale Minami** is a named partner at Minami, Lew & Tamaki in San Francisco. He is a noted civil rights attorney who headed the legal team that led to reparations for interned Japanese Americans and to date, may be best known for his work on the Fred Korematsu case. Dale humbly states that he has no positions or leadership titles but is a member of the following organizations: Asian American Bar Association of the Greater Bay Area, Alameda County Bar Association, San Francisco Bar Association, Consumer Attorneys of California, Lawyers' Committee for Civil

Rights, Coalition of Asian Pacific Americans, National Lawyers' Guild, Japanese American Citizens' League, Chinese for Affirmative Action, Center for Social Justice, Joe Ozu Films, Inc. Dale's passions are food, movies, music, exercise, golf, people and work, not necessarily in that order.

**David Kim** is director of Sales Development & Corporate Relations with Anheuser-Busch in St. Louis, a continuing generous sponsor of NAPABA's annual conventions. He helps the RRMT navigate through the twists and turns and hidden meanings of publicity ploys that come at the expense of APA communities. David's hobbies include trying to keep from losing money to Minami on some of America's nicest golf courses, watching for the next NAPABA karaoke champions, and doing what he can to help nurture the next generation of leadership in the APA community.

**Bettina Yip** is in-house counsel of Cingular Wireless in Atlanta. She was the president of the Georgia Asian Pacific American Bar Association (GAPABA) in 2000 and 2001 and was the vice president of GAPABA in 2002. She is the southeast Regional Governor for NAPABA for the 2001-2003 term. In 2000, she founded and directed the People's Law School for the Asian Community program in which volunteer attorneys teach basic law classes to lay people in the Asian community. Bettina has immersed herself in volunteer service, including domestic violence and anti-prejudice programs.

**Ruthe Catolico Ashley** (NAPABA president) is a career advisor at the University of the Pacific, McGeorge School of Law in Sacramento, CA. She attributes her numerous leadership positions to being "bossy, high energy, focused, and motivated" and a person who "wants to make a difference and has a sense of humor." In addition to leading NAPABA, Ruthe is active with the following organizations: Legal Services of Northern California; Sacramento Asian Pacific Chamber of Commerce; Asian Bar Association of Sacramento; President's Advisory Council on Diversity (ABA); Business Round Table of Sacramento; Legal Services Trust Fund (California State Bar); and the California Governor's Developmental Disability Board (Area 3 appointee). She

is into golf and shoes and is passionate about her family and giving back to the community.

**Amy Lin Meyerson** (VP Communications) practices at Martin, Lucas & Chioffi, LLP in Stamford, CT in the areas of domestic corporate law, concentrating in formation and growth of emerging businesses, mergers and acquisitions, executive compensation, employment law, computer law, corporate finance, intellectual property protection and development, securities regulation and venture capital. She is President of the Connecticut Asian Pacific Association. Amy is the recipient of the 2002 New Leaders in the Law award from the Connecticut Law Tribune for her service to the bar.

**Grace Yoo** is the NAPABA executive director.

The NAPABA Media Team will be supported by Regional Media Coordinators (RMC) to be appointed by each Regional Governor. These RMC's will have a primary role in working with the RRMT.

Get empowered. Get on board the RRMT. If you witness or learn of remarks, pictures, or acts that are injurious to our APA communities, or believe something just doesn't sit right and warrants the RRMT to take action, please contact NAPABA at ed@napaba.org. The volume of e-mails and issues prevents the RRMT to take on every matter. But, remember, your individual voice counts, too.

*Julie D. Soo is Staff Counsel in the Legal Division, Auto Compliance Bureau of the California Department of Insurance. She chairs the RRMT.*

## LEADERSHIP ADVISORY COUNCIL HOLDS INAUGURAL DINNER

Where do former NAPABA presidents go when they finish their presidency? Up until this year, no one knew the answer to that question. In preparing for her term in office, President Ruthe C. Ashley wanted to harness the energy, commitment, and history of former presidents in a group that could act in an advisory capacity to the board. During the 2001 convention, David Kim, an ardent supporter of NAPABA, made an offer to President-elect Ashley to partner on a project that would benefit NAPABA. The Leadership Advisory Council (LAC) is the product of this partnership with Anheuser-Busch Companies through David Kim.

The LAC invited all former presidents to become founding members. Also invited were representatives and/or corporate counsel of corporations who had a history of commitment and support to NAPABA. Other invited members were individuals who had been key to NAPABA's success in prior years. Each outgoing President will automatically have the option to become a member of the LAC.

LAC was formed with four general areas of focus. These include:

- 1) Nominations and Elections.** Each Nominations & Elections Committee will include members of the LAC.
- 2) Leadership Development/Education:** LAC will partner with the board and local affiliates in developing the future leaders of NAPABA and our legal profession.

- 3) Outreach:** LAC will be ambassadors for NAPABA in their own individual communities as well as on a national level.
- 4) Strategic Planning:** LAC will be an active partner in planning for the future of NAPABA and the NLF as well as in fundraising efforts for NAPABA.

LAC held its inaugural dinner at the Atlanta Convention on November 7, 2002. Leading the LAC for the next two years will be Vivian Hsu, Past President of the NAPABA Law Foundation, and Peggy Nagae, Past President of NAPABA. Ms. Hsu states that, "As Co-Chairs of the Leadership Advisory Council, we will coordinate the efforts of the LAC in its strategic planning for NAPABA and NLF. The LAC will provide its support, leadership expertise and institutional history to further the goals and operations of NAPABA and NLF. The Leadership Advisory Council will be a resource to support the initiatives of our organizations in the areas of leadership development, nominations and elections, community outreach and fundraising."

The LAC is an important and integral part of NAPABA's organizational structure. It will ensure that there is a strong base of support and guidance on a continuous basis from a committed group of individuals as NAPABA grows as an organization.

## NAPABA Board of Governors 2002-2003

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Ruthe Catolico Ashley

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**Vice-President for Communications**  
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### Regional Governors

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## Hot Deals Hot Suits *continued from page 1*

Colorado, as a Law Ambassador to serve the Section's 20,000 members for a two-year term. Jay practices commercial and international transaction law. His recent hot deals include a representation of Echo Bay, Inc. and Round Mountain Gold Corporation, U.S. subsidiaries of a Canadian gold mining company, Kinross Gold Corporation, in Kinross' establishment of one hundred and twenty five million U.S. dollars (**\$125,000,000**) acquisition credit facilities led by the Bank of Nova Scotia; and, a representation of a multi-billion dollar U.S. auto parts company, Gates Corporation, on its joint venture shareholder restructure, a ten million U.S. dollars (**\$10,000,000**) buyout of the local partner in Korea led by its Japanese corporate partner Nitta Corporation.

**Kevin M. Fong**, a partner in the San Francisco office of **Pillsbury Winthrop LLP**, is one of the contributing authors featured by the National Institute for Trial Advocacy (NITA) in its recently published commentaries to the Federal Rules of Appellate Procedure. The NITA publication includes the text of the Rules (as amended in December 2002), along with practice commentaries explaining the Rules and giving practical tips. Kevin authored the NITA commentaries on Rules 25-35, which cover appellate motions, briefs and oral arguments. Kevin has appeared in over 60 published appellate decisions; he has argued five cases before the California Supreme Court (prevailing in all five cases).

**Rebecca Lee**, a partner in **Goodwin Procter LLP's** Real Estate Department, recently led a team of Goodwin lawyers in representing a joint venture of Asian Community Development Corporation (ACDC) and a private developer in the land assembly, development permitting, and financing of "The Metropolitan," a 251 unit residential building in Boston's Chinatown. The project will include rental apartments and condominiums for low and moderate income households (including the formerly homeless), market rate apartments and condominiums, ground floor retail space, and commercial condominiums that will be the new homes of three Chinatown-based community organizations, including ACDC. The project is being built on a hotly-contested site on which an institutional parking garage had been proposed but that plan was defeated by neighborhood residents. The project is the realization of a long-held community dream of mixed income housing in Boston's Chinatown, where it is sorely needed. Occupancy is expected in early 2004 -- one of the (market rate!) condominium buyers is Rebecca.

Since NAPABA's 2002 Annual Convention in Atlanta, Georgia, NAPABA has continued its work on behalf of the Asian Pacific American community. Specifically:

- **NAPABA RESPONDS TO REMARKS MADE BY SHAQUILLE O'NEAL REGARDING YAO MING.** On January 14, 2003, NAPABA wrote to the Commissioner of the National Basketball Association and to Shaquille O'Neal regarding Shaquille Neal's "comedic attempt" on Yao Ming using racist language. The full text of NAPABA's letters to the NBA and Shaquille O'Neal are available at [www.napaba.org](http://www.napaba.org).
- **NAPABA CONDEMNS STATEMENTS SUPPORTING JAPANESE AMERICAN INTERNMENT.** On February 6, 2003, NAPABA issued a press release condemning remarks made by Representative Howard Coble (R-NC-6) supporting the imprisonment of 12,000 Japanese Americans during World War II. The full text of NAPABA's press release is available at [www.napaba.org](http://www.napaba.org).
- **NAPABA CO-SIGNS AMICUS BRIEF IN *Grutter v. Bollinger* BEFORE THE UNITED STATES SUPREME COURT.** On May 14, 2002, the United States Court of Appeals for the Sixth Circuit upheld the University of Michigan Law School's affirmative-action admissions program in the *Grutter v. Bollinger* case, in which the NAPABA had filed an *amicus curiae* brief in support of the Law School. The National Asian Pacific American Legal Consortium, Asian Law Caucus, Asian American Legal Defense and Education Fund and Asian Pacific American Legal Center joined NAPABA on the amicus brief.

In January 2003, NAPABA continued its work on the *Grutter* case by co-signing an amicus brief filed before the United States Supreme Court. NAPABA joined the National Asian Pacific American Legal Consortium on the amicus brief.

- **NAPABA CO-SIGNS AMICUS BRIEF IN *Pacific Law Foundation vs. Sacramento Municipal Utility District* BEFORE THE CALIFORNIA COURT OF APPEAL.** NAPABA also filed an amicus brief in a case of first impression on Proposition 209 in California in a case entitled, *Pacific Law Foundation vs. Sacramento Municipal Utility District*. The Pacific Law Foundation's position is that the Sacramento Municipal Utility District (SMUD) is violating Proposition 209, the anti-affirmative initiative passed by California voters a few years ago. SMUD's position is that it must meet federal guidelines under Title VII of the Civil Rights Act of 1964. NAPABA joined The Lawyers Committee for Civil Rights on the amicus brief filed in support of SMUD before the California Court of Appeal.
- **NAPABA CONDEMNS USE OF GANDHI IMAGE in MAXIM MAGAZINE.** NAPABA also issued a press release and letter to the Maxim Magazine condemning a cartoon depicting the beating of Gandhi. The full text of NAPABA's press release is available at [www.napaba.org](http://www.napaba.org).

## NAPABA LABOR AND EMPLOYMENT LAW COMMITTEE

We are forming a Labor and Employment Law Committee of NAPABA. Our goal is to create a networking resource for Labor and Employment law practitioners within NAPABA and to advocate labor and employment issues for the Asian-American community. If you are interested in being a member of this committee, please provide your name, telephone number, and email address to David Kahng, [dkahng@seyfarth.com](mailto:dkahng@seyfarth.com).



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Mercedes-Benz

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timely basis, explaining any unforeseen delays and revising the timetable accordingly. Bill clients regularly with a detailed statement of all charges. Encourage clients to give frank and constant feedback.

Document all discussions, recommendations and actions taken, including decisions to decline representation.

Document the termination of representation with a letter describing what was done.

Teach support staff the importance of courtesy, timeliness, professionalism and confidentiality in client relations. Your staff is the interface between you and clients. If staff members feel depressed, overworked or dissatisfied, understand that these negative messages are often unwittingly transmitted to clients.

#### **Trap # 4: Ineffective Client Screening.**

Often, while facing a malpractice complaint, attorneys will mutter “I knew I shouldn't have taken on that client.” “Problem” clients often result from ineffective screening. Institute a firm-wide policy of screening each prospective client according to a predetermined set of standards. A set of screening questions goes a long way toward weeding out undesirable clients. A periodic review of problem cases to uncover potential risk areas also makes sense.

#### **Trap #5: Inadequate Research and Investigation.**

The ABA has reported that substantive errors account for a great number of malpractice claims. Common errors include failure to know or properly apply the law, failure to know or ascertain a deadline, inadequate discovery or investigation, among other procedural errors. Many of these errors can be prevented through careful, methodical research and procedures. Carefully review the work product of all staff, including contract attorneys and other professionals. Consult experts if uncertainty exists about a point of law. Take the time to familiarize yourself with new developments in the law, and check closed files if new statutory and case law might affect a former client's rights.

#### **Trap #6: Conflicts of Interest and Conflicts of Matter.**

Conflicts of interest and conflicts of matter can arise from a variety of situations. Establish stringent procedures for identifying and resolving situations in which unexpected conflicts

may arise. It is insufficient to rely on memory alone. Lawyers need systematized procedures for documenting and analyzing potential conflicts for each new client and matter. A two-part system is recommended.

The first part should provide for a method of matching names, which can be accomplished either manually or by computer. Larger firms should have a computerized system. Additionally, firms with more than one office need a database with matters and names from all offices, as well as communications capability to access the entire database from any satellite office. The database, whether it consists of index cards at the receptionist's desk or a computer program, should include many parties.

The second part should include a practice of circulating a “new matter memo” to all professionals and support staff whenever the firm accepts a new case. This serves as a good conflict of opposing theories check. The memo should include the following information: identification of all parties, identification of the intake attorney, all relevant administrative details, a statement of the case and a description of the work to be performed. In addition to serving as a further updated conflicts check, circulation of this information allows everyone in the office to pool resources and contribute to the efficient handling of the matter. It also serves as a warning against accepting a subsequent matter that would require advancing a theory or position contrary to the new client's interests.

Remember that a conflicts-checking system is only as good as the people who use it. It must be used rigorously and consistently to be effective. The database must be checked and updated every time a new case is accepted.

#### **Trap #7: Inappropriate Involvement in Client Interests.**

A lawyer's inappropriate involvement in a client's entrepreneurial interests raises conflict of interest issues, and is increasingly a basis for legal malpractice. This can take several forms: acting as director or officer of a client company or investing in client securities; involvement in one-to-one business deals with a client; accepting stock from a client in lieu of a cash fee; agreeing to contingent cash fees, and; soliciting other investors on behalf of a

client's enterprise.

These activities cause many problems, including: inadequate or nonexistent directors' and officers' insurance for the lawyer acting both as outside counsel and director of a company; vicarious liability of the law firm for the acts of a firm member serving as a director or officer of a client company; higher standard of care and due diligence imposed under federal securities laws on a director who is also the company's lawyer, as compared to a director who is not the company's lawyer; weakened defense to a malpractice claim by third parties in cases where a lawyer is also a director of the company; and, conflict-of-interest arising out of a lawyer or law firm's personal involvement or investment in a client's business interests.

#### **Trap #8: Lack of Adequate**

**Documentation of Work** Insufficient documentation accounts for many of the client relations and missed-deadline errors associated with legal malpractice claims. Simple office procedures can prevent many of these errors from occurring. Each firm should have a system for checking the accuracy and content of all outgoing documents, such as letters, briefs, contracts and motions. The system should include provisions for cross-checking of these matters by more than one person.

Good file management should include maintaining a file of all documents prepared or received by the lawyer for each client matter. Telephone messages and memoranda should also be logged for future reference. Daily filing procedures help ensure that information is not lost and is available when needed. Office files should be reviewed regularly to avoid missing deadlines and to ensure that the system is performing as intended. As the practice of law keeps pace with our increasingly paperless world, so does the importance of administrative details. Consider how electronic files will be stored, backed up, kept secure and retrieved. Consciously design a uniform computer filing system, reviewing it regularly and updating it often, to assure that files are maintained confidentially and retrieved easily. Make certain there are current back ups of all data and programs, which are kept at all times in a secure place outside the office. Adhering

*continued on page 10*

to these measures will permit prompt resumption of work should a catastrophe occur, and will assure attorneys' compliance with their obligations to safeguard client information.

**Trap #9: Zealous Efforts to Collect a Fee.** Fee disputes constitute a large percentage of all legal malpractice claims. Typically, the attorney sues the client for unpaid fees and then is counter-sued for legal malpractice. In some cases, merely mailing a final bill triggers a claim. Use the following rules, as well as those discussed in #3, above (Poor Client Relations) to help avoid fee disputes:

*Don't accept clients who cannot afford your services:* Learn to say “no” to clients who are overly concerned about fees and who ultimately will not be able to pay the bill.

*Written fee arrangements:* Document fees and the scope of work. Rarely, if ever, work without a written agreement. Put a clear explanation of fees in each engagement letter or contingent fee agreement, detailing any restriction on the scope of work. Itemize the types of out-of-pocket expenses the client will be responsible to pay, such as filing fees, court costs, expert witness fees, photocopying charges and computer research. Clients are often surprised by the cost of litigation.

*Provide a detailed bill on a monthly basis and review all bills:* Attorneys who charge an hourly fee should always bill the client on at least a monthly basis, unless the client has specifically requested another arrangement. Avoid billing the client at the project's completion, unless the total cost of the representation has been agreed upon in advance. Bills should describe the work performed by each attorney or paralegal on a **daily** basis and how long each task took. The attorney responsible for a matter should review each bill for errors before it is mailed to the client, and make an ongoing assessment of the value of the work. Consider writing off time spent by young lawyers navigating the “learning curve.”

*Take prompt action on accounts in arrears:* Work on past due bills early and with conviction. Partners should review all past due accounts on a monthly basis. Engagement letters and retainer agreements should state the consequences for failing to pay fees, such as withdrawal.

*Collect retainers:* Consider requiring a retainer fee. If the client takes his or her business elsewhere simply because you were realistic in setting the fee and you requested a reasonable percentage of the fee as a retainer, this may be a client you are better off not having.

*Call the client:* Personal calls from the attorney are more effective than from dunning letters. If the client still refuses to pay the bill, you have made both an effort to collect and discover if there is any dissatisfaction. Keep in mind that the precipitating factor for a malpractice claim is more the perception of the client than reality, and information from the call may provide a good indication as to whether further collection efforts are advisable.

*Never sue for fees:* Establish a strict policy against suing for fees, and consider alternatives such as arbitration or mediation. Legal malpractice claims usually seek an amount far in excess of the legal fees in dispute.

**Trap #10: Unwillingness to Believe You May be Sued for Malpractice.** In spite of all the publicity that legal malpractice claims have received in the past few years, many attorneys believe that they will never be the targets of a malpractice claim. Trends in the frequency and dollar value of claims suggest otherwise. At present, attorneys in private practice have between a 4 percent and 17 percent chance of being sued for malpractice each year depending on the jurisdiction and the nature of their practices.

The key to minimizing your risk is to be acutely aware of the malpractice exposure of each and every case you take on. Only by recognizing your malpractice risk and by implementing effective prevention procedures will you lessen the chances of becoming a malpractice statistic.

*NAPABA Past President Howard Halm was appointed by ABA President A.P. Carlton to the Standing Committee on Lawyers Professional Liability. Howard's term is from 2002-2005. Howard practices complex civil litigation with a focus on lawyers malpractice and toxic torts as a partner with Wilson, Elser, Moskowitz, Edelman & Dicker LLP in Los Angeles, CA.*

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**SAVE THE DATE**

**15th ANNUAL  
NAPABA  
CONVENTION**  
**“Asian Pacific American  
Currents: Surfing the  
Pacific Basin Network”**

**Honolulu, Hawaii**  
**November 12-16, 2003**  
Sign up early - space is limited.  
[www.napaba.org](http://www.napaba.org)

# NAPABA & NAPABA Affiliate Calendar of Events

MARCH 21, 2003

**Southern California Chinese Lawyers Association (SCCLA) Installation Banquet at the Empress Pavilion.** The speakers will be United States Attorneys Debra Yang (for the Central District of CA) and Carol Lam (for the Southern District of CA). A distinguished service award is going to be presented to Brian Sun, a former president of SCCLA and NAPABA.

MARCH 28, 2003

**Korean American Bar Association (KABA) Installation Banquet.**

MARCH 28, 2003

**NAPABA/Asian American Journalists Association (AAJA) Joint Cocktail Hour.** New York, New York (location tba). For information, contact aajanyc@hotmail.com.

APRIL 4, 2003

**APABA of Colorado's 2003 Annual Minoru Yasui Banquet**

APRIL 23-27, 2003

**NAPABA Inaugural Vacation Trip at The Palms, South Beach, Miami Beach, April 23-27, 2003.** Complete land package including hotel accommodations, taxes, gratuities \$406 city view, \$519 ocean view for 4 nights. CLE breakfast April 26: "Ethical Obligations post-Enron; representing corporations as inside or outside counsel": Panel Leader AAG Viet Dinh, with tips about advice to corporate employers from Paul Igasaki and Jim Goh. For more information or to RSVP, contact Donna Chin at dchinesq@yahoo.com.

APRIL 24, 2003

**AABA of Missouri will be joining with the African American Bar Association in St. Louis for its 3rd annual "Unity Dinner".**

MAY 3, 2003

**NAPABA 2003 Northeast Regional Conference, Legislative Office Building, Hartford, Connecticut.** For more information, contact Nina Elgo at ninaelgo@earthlink.net

MAY 7-10, 2003

**NAPABA is pleased to be a co-sponsor of the ABA Section of International Law & Practice ("SILP") annual Spring Meeting to be held in Washington DC from May 7-10, 2003.** For more information, visit the SILP website at [www.abanet.org/intlaw](http://www.abanet.org/intlaw).

MAY 15-18, 2003

**NAPABA/NLF Board Meetings. CBAC Annual Meeting.** NAPABA (CBAC) Room Block at Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza (near 9th and D) SW, Washington, D.C., 800.635.5065 (reservations ph), 202.484.1000 (hotel ph), 202.646.4456 (fax). \$179 per room, single or double, tax additional (please note that there are several national conventions in town during CBAC, resulting in higher hotel rates—thus, this group rate must be booked by April 16, 2003). Room Block under the name "National Asian Pacific American Bar Association". Reservations Department contact: Bernard Howe, Director of National Accounts for Loews, [bhowe@loewshotels.com](mailto:bhowe@loewshotels.com) or 202.646.4436.

MAY 16, 2003

**CBAC Annual Meeting. Jones Day, Washington, DC.** Host: Lisa E. Chang ([lchang@jonesday.com](mailto:lchang@jonesday.com)).

MAY 17, 2003

**NAPABA/NLF Board Meetings. Wiley, Rein & Fielding, Washington, DC.** Host: John Yang ([jyang@wrf.com](mailto:jyang@wrf.com)).

MAY 17, 2003

**CBAC dinner, Loew's L'Enfant Plaza Hotel, 480 L'Enfant Plaza, S.W., Washington, D.C. (202.484.1000) at 6:00 p.m.** Welcome by AAG Viet Dinh. For more information or to RSVP, contact Donna Chin at [dchinesq@yahoo.com](mailto:dchinesq@yahoo.com).

MAY 18, 2003

**NAPABA/NLF Breakfast. Host: Larry Barocas, UBSPaineWebber.**

JUNE 5-6, 2003

**NAPABA is pleased to be co-sponsoring the American Bar Association's 5th Annual National Conference for the Minority Lawyer: A Unique Program for Business Lawyers, Litigators, In-house Counsel and Government Lawyers.** This year's conference will be held June 5-6, 2003 at the Inn at the Union League in Philadelphia, PA.

AUGUST 8-9, 2003

**NAPABA/NLF Board Meeting, San Francisco; ABA Annual Meeting.**

AUGUST 9, 2003

**NAPABA/NLF Board Meeting, Minami, Lew & Tamaki LLP, San Francisco, CA.** Host: Dale Minami, Esq. ([dm@mltsf.com](mailto:dm@mltsf.com)).

NOVEMBER 6-12, 2003

**NAPABA Pre-Convention Options: Ilikai Waikiki Hotel at Convention rates or NAPABA Vacation to Maui, preferential NAPABA group resort rates.**

NOVEMBER 12-16, 2003

**Save the Date! 15th Annual NAPABA Convention will be held on November 12-16, 2003 at the Ilikai Waikiki Hotel, Honolulu, Hawaii.**

NOVEMBER 12, 2003

**NAPABA/NLF Quarterly Board Meetings, 12pm -5pm, Ilikai Waikiki Hotel, Honolulu, Hawaii.**

JANUARY 16-20, 2004

**NAPABA MLK Weekend Ski Vacation, Colorado.**

FEBRUARY 7, 2004

**NAPABA/NLF Quarterly Board Meetings and ABA Mid-Year Meeting, San Antonio, Texas.**

MAY 2004

**NAPABA/NLF Quarterly Board Meetings and CBAC.**

AUGUST 7, 2004

**NAPABA/NLF Quarterly Board Meetings and ABA Annual Meeting, Atlanta, Georgia.**

OCTOBER 2004

**NAPABA Annual Convention and NAPABA/NLF Quarterly Board Meetings, Dallas, Texas.**

## NAPABA 2003 Northeast Regional Conference Strengthening Our Communities: Unity and Diversity

Saturday, May 3, 2003

Legislative Office Building

300 Capitol Avenue

Hartford, Connecticut

Register Online Today

at [www.napaba.org](http://www.napaba.org)

members of the Asian Bar Association of Washington are: Nelson Lee, President; Ken Payson, President-elect; Angelie Chong, Vice President; Alice Truong, Secretary; Thuy Nguyen Leeper, Treasurer; Kim Tran, ID Legal Clinic; Dean Lum; Priscilla Chan; Scott Shigeta, Website; Kha Dang, Membership; Edwin Lee; Shelley Pellegrino, Judicial Evaluations; Clinton Foy, Student Liaison; Vanessa Lee, Immediate Past-president; Keith Talbot, Newsletter; Mari Horita; Shankar Narayan; Odette Polintan; Peter Kim; Peter Ku, NAPABA Representative; Jane Heller, UW APALSA Student Representative; Linda Lee, UW APALSA Student Representative; Risa Woo, and SU APILSA Student Representative. On February 8, 2003, NAPABA had its quarterly board meeting in Seattle, and members of the ABAW and NAPABA gathered together for dinner at the Dragonfish Café on Saturday night.

#### **SOUTHWEST REGION**

**APABA of Colorado's** 2003 Annual Minoru Yasui Banquet will be held on April 4, 2003. Community and scholarship awards will be presented. APABA will also reflect upon some of its accomplishments over the past year including organizing holiday food baskets for over 35 families identified as needing assistance, participating in the creation of

Denver's trend-setting racial profiling police report, monitoring the potential condemnation process of Denver's largest Asian shopping center, and actively endorsing judicial candidates.

The **Dallas Asian American Bar Association (DAABA)** kicked off 2003 with a Chinese New Year celebration at a local Chinese restaurant. DAABA is in heavy recruiting mode for new members as well as for volunteers to participate in the Planning Committees for the 2004 NAPABA Convention. President Wei Wei Jeang recently participated as a judge in the Championship Round of the Dallas Independent School District's Mock Trial Competition, which is part of the Texas Mock Trial Competition. DAABA members will participate along with members from the Dallas Association of Young Lawyers, the Dallas Hispanic Bar Association, the J.L. Turner Legal Association, and the Dallas Volunteer Attorney Program in the Dallas Bar Association's Community Legal Advice Clinic.

The **Asian American Bar Association of Houston** is pleased to announce that its new officers for the year 2003 were sworn in on Wednesday, January 29, 2003, by Justice George C. Hanks of the First Court of Appeals of Texas. The new officers are as follows: Patricia E. Lin, President; Lola F. Lin, President-Elect and Secretary; Tri Nguyen, Vice

President – Programs; Andrea E. Tran, Vice President – Membership; and Joseph C. Yu, Treasurer.

## People News

**Dale Minami** of Minami, Lew & Tamaki LLP in San Francisco, CA has been selected to receive the American Bar Association's 2003 Thurgood Marshall Award in recognition of his substantial and long-term contributions to the furtherance of civil rights in this country. Dale will receive the award at the 2003 Thurgood Marshall Award Dinner sponsored by the ABA Section of Individual Rights and Responsibilities on Saturday, Aug. 9, during the association's 2003 Annual Meeting in San Francisco.

**Marisa Chun** was elected partner at the San Francisco law firm of Coblenz, Patch, Duffy & Bass, LLP, effective January 2003.

**San San Lee** joined Chan Law as partner. Prior to joining Chan Law, Ms. Lee practiced at Coudert Brothers (Los Angeles, Tokyo and Singapore Offices), Gilchrist & Rutter (Santa Monica), and most recently at Haynes & Boone (Dallas, Texas).

**Margaret Masunaga** is a Co-President of the West Hawaii Bar Association.



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