

# THE DAILY RECORD

WESTERN NEW YORK'S SOURCE FOR LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

## Special committee will review candidate evaluation process

One of the pleasures of serving as president of the Monroe County Bar Association is the chance to network with officers and executives from bar associations throughout the country.

It is a wonderful opportunity to share ideas, and it is especially gratifying to discover how well regarded the MCBA is by other bar associations.

My first occasion to attend a national bar event came in March, when I went to the American Bar Association's Annual Bar Leadership Institute in Chicago. The two-day program was filled with seminars on everything from the strategic issues of membership value propositions and changes in the legal profession to the practicalities of running a meeting and dealing with the press.

Beyond the formal programs, the conference allowed us to exchange ideas and experiences with presidents, presidents-elect and executive directors from small to large county, state, national and specialty bars from throughout the country.

The program also featured an inspiring short film highlighting the diverse and innovative ways several bar associations have served their members and communities during the recent challenging economic times. I was proud that the MCBA was featured in the film for the establishment of the Telesca Center for Justice, the first location in the country to co-locate a bar association with several civil legal service providers. I was delighted to be able to share the film with those who attended at MCBA's Installation Dinner in June.

As I write this column, I have just returned from the annual meeting of the National Conference of Bar Presidents, held in San Francisco in conjunction with the annual meetings of the National Association of Bar Executives and the National Conference of Bar Foundations.

In San Francisco the temperatures were chilly — never rising out of the 50s, in early August — but the camaraderie was warm and the ideas were hot.

I am looking forward to sharing — and hopefully implement-

ing — some of those ideas with the board of trustees, especially those dealing with the evolving practice of the law (including globalization, social media and e-lawyering) and the economic challenges of our times.

On a more troubling note, it recently has been asserted that the MCBA's Judicial Evaluation Process may be perceived by some as biased against African-American judicial candidates. That perception is very disconcerting to me and my colleagues on the board of trustees, since the MCBA has worked diligently and earnestly through the years to design and implement an evaluation process that is fair and unbiased to candidates of all genders and races.

The purpose of the MCBA's judicial evaluation process is to provide the political parties, which nominate judicial candidates, and the public, which elects those candidates, with useful and fair information that helps them to know how qualified each judicial candidate is to serve as a judge.

Our evaluation process includes both a broad-based survey and an in-depth evaluation. The survey is open to all attorneys registered to practice in Monroe County, and includes questions regarding the candidate's legal ability, experience, writing ability, communication and management skills, fairness, and sensitivity to gender and race. Lawyers are permitted to complete the survey only if they certify that they have sufficient professional contact with the candidate. The race and gender of the respondents is reviewed confidentially for any indications of bias.

The MCBA's Judiciary Committee, which is diverse in gender, race, experience and type of law practice, then interviews each candidate and reviews their writing samples, references, educational background, legal experience and trial experience. Based on the committee's review and the results of the survey, each candidate is rated as highly qualified, qualified or not qualified.

Through the years, some candidates who have received ratings of "not qualified" have exercised their right to appeal the rating to

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the board of trustees. When appropriate, the board has remanded the decision back to the committee for a *de novo* review. The results are not released publically until that process is complete and the ratings are final.

It has been pointed out that on occasion the MCBA's ratings differ for a particular candidate from ratings issued by the other local bar associations (the Greater Rochester Association of Women Attorneys and the Rochester Black Bar Association). Because each association has a different evaluation process with different participants, it is inevitable that from time to time our ratings may not be identical. Rather than marching in lockstep, the diversity of procedures and ratings provide the public with a broader range of information about the candidates.

As an association of lawyers, the MCBA takes its duty of due process very seriously and has worked hard over the years to

ensure the process is as free of bias as possible, both in design and in execution. No process is perfect, however, and we periodically review and revise it to improve it further.

To that end, I am appointing an independent special committee to review the MCBA's judicial evaluation process in light of the current concerns raised that there may be bias. The committee will make recommendations to the board of trustees for any appropriate changes.

Few issues in society are more important than the perception that the judiciary is fair and even-handed, and racial or gender bias should have no place in judicial performance or in the rating of judicial candidates.

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