

WASHINGTON STATE
B A R A S S O C I A T I O N

Board of Governors Special Meeting
Late Materials

October 20, 2020
Zoom Conferencing and Teleconference

BOARD OF GOVERNORS SPECIAL MEETING Late Materials October 20, 2020 Seattle, WA	
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WASHINGTON STATE BAR ASSOCIATION

Board of Governors

Rajeev D. Majumdar, President

Dear Minority Bar Associations,

We are writing to you jointly (as the outgoing President of your bar and the incoming President of the bar) to update you on our steps to take responsibility those times when the BOG has demonstrated a lack of understanding around diversity, equity, and inclusion.

I announced soon after the June board meeting, I have invoked a formal process to investigate the matter. This is the process created by the Board and approved by the Supreme Court to involve an outside ombudsperson—appointed by the Chief Justice of the Supreme Court—to avoid any conflict of interest when the board needs to investigate its own conduct. That process is underway, and processes take time. But that does not mean the Board is sitting on its heels.

We are balancing our feelings of extreme urgency to repair broken trust while, also, prioritizing being very intentional and thorough with our approach towards self-education. After consulting with experts, and after much consideration, we are sequencing our next steps as follows:

As we have already committed, Director Nevitt, President-Elect Sciuchetti, and I are jointly committing our authority over the next year to mandating an ongoing and in-depth conversation and training on diversity, equity, and inclusion, both with the board and the staff. As I mentioned to you earlier, it had been our intention to re-tool our retreat as an opportunity to kick-start this process with some intensive training. I also thought, it would be meaningful to invite you to engage in a meaningful dialogue about how the Board can better understand and represent your concerns.

However, in looking at the availability of meaningful skilled trainers that are available, and our commitment to have those conversations be as constructive as possible, we are choosing to first lay some essential groundwork through initial, foundational DEI training for our Board. As you know, those trainers who are most highly recommended are in extremely high demand right now. We believe embarking on thorough and truly high-quality training is essential to moving forward and so want to respectfully schedule meaningful time for direct and public dialogue with the MBAs.

Personally, both Kyle and I will be advocating for and supporting the mandatory ethics credit on implicit and explicit bias. I am fully expectant the Board will support the MCLE Board's final proposal as well.

Finally, we want to acknowledge the degree of frustration, disappointment, and anger that so many of you have communicated to us. We deeply share in your commitment to work towards making our profession truly inclusive and equitable, and know how essential our role as elected leaders is in this.

Sincerely,



Rajeev D. Majumdar
President, Washington State Bar Association



Kyle Sciuchetti
President-Elect, Washington State Bar Association

WASHINGTON STATE BAR ASSOCIATION

Kyle Sciuchetti, President

Dear Minority Bar Associations,

Thank you for your agreeing to meet with the Board of Governors on October 20, 2020. We are looking forward to the opportunity to deepen the Board's understanding of the experience of marginalized attorneys in the legal profession and discuss how we can be effective allies of the Minority Bar Associations in making this profession as equitable and inclusive as possible for attorneys of color.

In advance of that meeting, we would like to update you on the steps we have taken in response to your letter dated July 9, 2020, in addition to those outlined in our letter to you July 23, 2020 (enclosed).

- July 16-21, 2020 – Board members and members-elect participated in facilitated Small Group Discussions to address the immediate impact of the June Board meeting discussions.
- August 28-29, 2020 – Board members and members-elect participated in training on understanding structural/institutionalized racism and intersectional bias interruption.
- September 17, 2020 – Board members and members-elect developed strategic goals to be further developed by the Long Range Planning Committee and circulated for member and public comment. Draft goal number four is to promote diversity, equity and inclusion in the legal system of Washington and the Bar.
- September 17, 2020 – Board members and members-elect received a presentation on WSBA's diversity, equity, and inclusion programming, including a brief re-introduction to the Race Equity and Justice Initiative's Acknowledgements and Commitments, which the Board has previously signed-on to.
- September 17, 2020 – Board of Governors approved the FY2021 WSBA Budget, including an additional \$130,000 for training for the Board of Governors, executive leadership, and employees.
- September 18, 2020 – Board of Governors endorsed the MCLE Board's proposed amendment to APR 11 to require attorneys to obtain one CLE credit every reporting cycle on the topic of equity, inclusion and the mitigation of bias in the legal profession and voted to offer the CLE free of charge to its membership.

We understand that these are just initial steps in demonstrating our commitment and leadership in a more inclusive and equitable profession and legal system. We look forward to continuing the dialogue and collaboration.

Sincerely,



Kyle Sciuchetti
President



Rajeev D. Majumdar
Immediate Past President



Dan Clark
Treasurer

**JOINT OPEN STATEMENT TO THE
WASHINGTON STATE BAR ASSOCIATION
BOARD OF GOVERNORS**

On June 26, 2020, Governor Carla Higginson made racist comments at the WSBA Board of Governors' meeting as they pertain to the minority bar associations (MBAs). Specifically, Governor Carla Higginson made the following comments:

“I feel that it is not appropriate to send it out to specific special interest groups and I am just going to say it really bluntly that the minority bar associations have various specialty groups for their own purposes and that is supported by the Bar Association but we dumb white folks don't have our own special interest group so we're going to now promote contact with specific groups against others.”

On July 9, 2020 (updated on July 23, 2020), a coalition of MBAs issued a joint open letter to the Board of Governors, demanding restorative action in response to Governor Higginson's comments. On July 17, 2020, the Asian Bar Association of Washington (ABAW) and ABAW Student Scholarship Foundation issued a joint open letter to the Board of Governors, similarly demanding action from the Board of Governors.

On October 5, 2020, Governor Higginson emailed an open letter to the MBAs. To be clear, after four months of silence, this was the first and only communication made by Governor Higginson to all but two of the MBAs¹ since the incident occurred in June.

Open Statement

For four months, the Board of Governors² and Governor Higginson have remained silent, have failed to engage in genuine restorative action, have failed to provide transparency in addressing this matter, have failed to communicate with the MBAs and legal community at large, and have failed to address or resolve this matter.

In the open letters issued by the MBAs, we demanded the following measures in response to Governor Higginson's offensive remarks:

- Written censure of Governor Higginson and her divisive remarks.
- Formal written apology from Governor Higginson, outlining a clear understanding of why her comments were harmful and action steps she will take to rebuild trust.

¹ Prior to October 5, 2020, to our knowledge Governor Higginson had only communicated with MELAW and WWL regarding her comments from June. We await Governor Higginson extending the same efforts to engage with the other MBAs and make amends directly with the MBAs.

² The MBAs acknowledge and appreciate the letter issued by WSBA President Kyle Sciuchetti and Immediate-Past President Rajeev Majumdar on July 23, 2020; and the communications made by WSBA President Kyle Sciuchetti, Immediate-Past President Rajeev Majumdar, and Interim Director Terra Nevitt to KABA and LBAW in planning for the special meeting on October 20, 2020.

- Mandatory and intensive diversity, equity, and inclusion (DEI) training for all members of the Board in the immediate future, along with annual trainings henceforth.
- Creation and implementation of DEI priorities by the Board before the end of this fiscal year (2020) that are in compliance with the [Race Equity and Justice Initiative's Acknowledgements and Commitments](#), which the Board has signed.
- Support the MCLE Board's proposal regarding a mandatory ethics credit on implicit and explicit bias in the legal profession.

Here, we reaffirm and re-demand the same.

To date, the Board of Governors has made no formal response to our demands. We do not know where the Board of Governors stands and what it has done or plans to do moving forward.

Your silence is troubling. Your silence for four months is unacceptable.

Therefore, we make the following additional demands to ensure actual and transparent communications by the Board of Governors moving forward:

- The Board of Governors shall provide a written report on its antiracism, diversity, equity, and inclusion efforts at each Joint MBA meeting (held bi-annually).
- The Board of Governors shall discuss their anti-racism, diversity, equity, and inclusion efforts (separate from the Diversity Committee) at each Board of Governors meeting as a standing agenda item and each Governor shall commit to speaking on the Board's efforts at least once during their term.
- The Board of Governors shall delegate and provide a liaison(s) to the MBAs, who shall communicate with their MBA(s) at least once per year.

In the special meeting scheduled for October 20, 2020, it is our sincere hope and expectation the Board of Governors will fully engage in productive dialogue to address the above, providing information, transparency, and commitment to a genuine restorative process.

In closing, we continue to hold this Board accountable for its words, behaviors, and actions and demand the same.

Signatories on Following Page

Due to time constraints, not all MBAs could sign on to this Open Statement

With Respect,

Michelle Su, President
Korean American Bar Association of Washington

Vanessa Arno Martinez, President
Latina/o Bar Association of Washington

Joshua Treybig, President
QLaw Bar Association

Denise Diskin, Executive Director
QLaw Foundation of Washington

James F. Johnson, President
Loren Miller Bar Association

Katie J. Comstock, President
MAMA Seattle

Gail R. Manuguid, President
Filipino Lawyers of Washington

AN OPEN LETTER TO THE DIVERSITY STAKEHOLDERS

From: Governor Carla J. Higginson

October 5, 2020

In reading the September 29, 2020 letter from Alec Stephens, it appears that my apology made during the June 26, 2020 meeting was not circulated along with my comment at that meeting that led to the apology. I am therefore writing to provide that apology here. It was made at the June meeting to the governors, the Minority Bar Associations, and others.

The background to my comment was the proposal to modify the WSBA mission statement which was included on the June agenda at the behest of WSBA President Rajeev Majumdar, and he selected the timing of its presentation on the agenda. I had worked with him on the proposal and was protective of our interests in moving it forward. In reviewing the meeting video, I realize that I reacted to Alec Stephens' suggestion (that the request for member input be particularly sent to the various MBAs, specialty bars, and sections) as a political maneuver to kill the proposal, rather than a genuine request for comment from those particular groups. The words I used in the debate were not intended to hurt or offend but when it was called to my attention that they had, I was shocked and gave my apology immediately and publicly at the same meeting: "**But I want to offer my deep and sincere apology to each of my fellow Governors, to any Minority Bar Associations that might have been listening, and to anyone else who has been offended by my remarks.**" Below is the transcript of the portion of the meeting that included my apology:

00:01:01

Governor Higginson:

*Thank you, Mr. President, for this moment. This is going to be difficult for me. **But I want to offer my deep and sincere apology to each of my fellow Governors, to any Minority Bar Associations that might have been listening, and to anyone else who has been offended by my remarks.** I should not have used the words that I did. They were made out of a sense of great frustration for what has been going on in our country and in our state. And it has affected me greatly, that's why I have brought the motion to amend the mission statement. I brought it out of a place of hoping to rejuvenate us together, and I apologize that I took Governor Stephens' position that it should be deferred as a critique on my intent. And that was - I am sure that is not what he meant at all. I reacted very badly to that. I have to be honest and say that I have not thought I was guilty of what's being called white fragility, but in light of my reaction I have to confess -- and why I am tearing up -- is that apparently I am. And this is shocking to me. I have never thought that was part of my make-up. So I don't know if Governor Stephens or Governor Anjilvel will accept my apology, I hope that they will -- if not now, in due course. I cannot tell you enough how shocked I am that I said the things that I said. I still do believe that we should be sending it out to all the members. If additional input is desired, I certainly think that the Board should do as the Board wishes. But that isn't really the point of my remark here. My point is that I wish I hadn't used those words. The fact that I was that frustrated has caused me to start looking pretty deeply into myself. **And again, I can only apologize to Governor Stephens, Governor Anjilvel, and my fellow governors who were offended as well as everyone else who may have taken my remarks in a light that I understand exactly why they took them as they did.** And it was not meant that way, and it is really causing me now to do a lot of soul searching about the situation. So, possibly this will help me*

move forward and be a better person now that I realize there is something deep in me that I don't understand as well as I should, what my colleagues who are persons of color and what other people have gone through. Thank you for that opportunity to say what I've said.

Governor Stephens accepting the apology right after it was made:

Yeah. So I just wanted to give an initial response to Governor Higginson. And the first initial response I want to give is that in the work I've done all my life I know none of us are perfect. I know I make errors. I know I make errors regarding issues of race. I know I make judgments that I ought not make and we don't move forward. Actually the time for growth is actually when we make those errors and how we then go from there. So, I accept your apology. I want you to know that I will not be working to pick on you, but you may hear me call on some stuff, which I think my fellow governors all know I am not shy in doing, especially when it comes to these matters. We are in a period though, where, while I'm not so sure I liked the author I liked the title of his book. The book is Race Matters by Cornell West. Race issues are issues that we tend not to want to talk about at all, and rarely in settings where there are diverse people, but that's what we have to talk about. And so actually in my look at the long arc, I think your proposal and the items that President Majumdar has put on the table, actually is food for having the harder conversations. As with everything that's going to happen, not only by what we do, but what's going on nationally we're going to be a part of a lot of hard conversations. Hopefully though we will respect each other. And hopefully you will understand that when I do call on you it is not to personally hurt. So, let us go forward. I don't think you're a bad person and I understand what you were trying to do, but as is true with any of us lawyers, we may get up against it because people have other ideas and other questions. And that doesn't mean we won't get there, but we need to go through a process to get there. So, thank you.

I acknowledge again the hurt caused to the Minority Bar Associations, and others, by what I said during that meeting. The MBAs include those for and on behalf of lawyers and law students of color, lawyers and law students of various ethnicities, lawyers and law student with disabilities, lawyers and law student with various sexual orientations, lawyers and law students who are mothers, and lawyers and law students who are women. I have since then spent significant time in educating myself about the background and history of the Minority Bar Associations as organizations that exist in part to lift up the voices of those who traditionally have not had the same voice as others in the legal community.

Alec Stephens' letter suggests that the Board needs to take action. This is indeed happening. The Board attended training in August and those who could not attend in person due to short notice were provided information to view separately. At its September meeting, the Board adopted the MCLE Board's recommended mandatory CLE ethics credit on implicit bias. I joined in this recommendation. The Board also passed a motion, made by me, that this CLE be offered to members without cost to insure that there is no barrier to attendance. No training was offered to governors over the past three years on race equity, diversity and inclusion issues. That is now in the process of being rectified with \$150,000 included in the Board budget for training over the next year. The concerns of the MBAs are being heard and acted upon.

My focus as a governor has been on returning the organization to the service of all our members, and my actions to the point of the June Board meeting reflect this. I have worked diligently to keep members in my district and my sections informed of important actions taken by the Court and the Board, and I have over time asked for input on decisions that I believe will have significant impact on our profession. From this painful process, I am now aware that reaching out to MBAs is critical to my gaining a better understanding of constituent needs and interests. I am now aware that not everyone feels like their voice is heard, and I will work to ensure that underrepresented voices are recognized. You may never like me, and you will not always agree with my position on a given issue, just as within any group, not everyone agrees with everyone else. However, be assured that I firmly support that each of you deserve to have an equal voice in our organization. I have already met with some MBAs and look forward to the opportunity to do so with others. I have asked to join the WSBA Diversity Committee to further my awareness and continue to champion justice on various issues facing the various Minority Bar Associations. Whether this occurs or not, be assured that you will be heard with the dignity and respect that we should all accord each other as colleagues in the legal profession.

As attorneys, we handle many stressful matters for our clients and in turn have many pressures on us, and this has only been exacerbated by the virus situation and the social upheaval that has shocked our nation. Many of us are worried about how we will be able to continue to serve our clients, let alone the day to day issues of paying bills and supporting our families. The future is uncertain. You should be able to count on all of your governors to engage in thoughtful and courteous dialogue as policy issues are determined, subject to the Court's plenary authority. I look forward to continuing to grow as a person - even in very difficult conversations - and with my learning helping to strengthen the governors' relationships on the Board, with each other in our chosen profession, and with the clients we serve. Thank you for taking the time to read this.

Carla J. Higginson,
WSBA Governor, District 2



To: Board of Governors

From: admin@wadaweb.org

RE: BRIEF STATEMENT REGARDING RESPONSE TO MBAS

Date: October 18, 2020

A number of our members felt the need to respond to the response filed over the weekend. The response suggests Minority Bar Associations are based solely on race. Washington Attorneys with Disabilities Association is a minority bar association that is not organized around race.

An analogy compared Minority Bar Associations to tribalism, but I would argue Minority Bar Associations are not about pointing out differences -- to me, members of minority bar associations come together around common problems. Washington Attorneys with Disabilities Association works toward equal access to justice among other goals. In this particular case, it was NOT the minority bar associations delineating another group by skin color.

“Dumb white people,” may not be offensive to everyone but it is NOT unifying, helpful or appropriate for leadership in our profession. “Dumb,” historically has been a disparaging term for deaf persons, persons with mutism, and people with intellectual disabilities. Governor Higginson's remarks probably were not referencing this usage, however the remarks were disparaging and contemptuous of minority bar associations in general.

One of our members expressed concern that MBAs were referred to as “special interest groups.” This misnomer underpins the issues MBAs may have: we don't want special treatment, only equal treatment in light of the circumstances we live with. Bluntly put by the late Ruth Bader Ginsburg, “I ask no favor for my [position] ... All I ask of our brethren is that they take their feet off our necks.”

About equal communication, a known problem with communication continues. A member in our minority bar association uses a screen reader -- JAWS. Email sent by WSBA does not always work with JAWS. Tech support was contacted but they were unable to fix the problem. If the WSBA can look into solutions, it would be appreciated. Offering a plain-text email preference may a possible solution.

The suggestion to “provide everyone with an objective measure of how important any particular MBA might be... and provide[] a solid basis for according particular MBAs the status they deserve...” is divisive and unnecessary.

On a personal note, working with minority bar associations and working closely with people who face similar challenges has introduced me to role models; truly motivates me to be a better attorney; and, I believe, helps improve the reputation of professionals in the legal community.

October 19, 2020

Via Email Only

Washington State Bar Association
Board of Governors
1325 Fourth Ave, Suite 600
Seattle, WA 98101-2539

Re: Letter to the WSBA Board of Governors – In Support of Letter
from Minority Bar Associations.

Dear President Kyle Sciuchetti and the WSBA Board of Governors,

What gravely concerns me are not the comments of Governor Higginson but the context in which she felt justified to speak such words.

Similarly, the WSBA Editorial Advisory Committee [published an email from a member who states that systemic racism does not exist](#) (in response to the letter of June 4th from the Supreme Court), a member who states, "A racist is someone who engages in racist behavior. Systems don't engage in racist behavior, people do."

"Systems don't engage in racist behavior, people do."

If we focus our inquiry only on Governor Higginson's statements, we are colluding with the idea that racism is an individual act. And we are no better off. We have missed the point.

I encourage members of the Editorial Advisory Committee, the Board of Governors and WSBA general counsel to add *From Jim Crow to Civil Rights: The Supreme Court and the Struggle for Racial Equality* by Michael J. Klarman, Oxford University Press, 2004, to your personal libraries. I also encourage each of you to read a recent decision from Mississippi, *Jamison v. McClendon*, No. 3:16-CV-595-CWR-LRA, 2020 WL 4497723, at *2 (S.D. Miss. Aug. 4, 2020).

Would it be appropriate for the Editorial Advisory Committee to publish an editorial that states, "The earth is the center of the universe" as Galileo once countered or "The Holocaust did not exist" as Mark Zuckerberg recently decided to prohibit on FaceBook or "Climate Change is not real" or "People don't die from the coronavirus."

Systemic racism is similar to the fact of the Holocaust, similar to the science of climate change, similar to epidemiology of the coronavirus, and the science of astronomy. To be clear, systemic racism is real, it exists, it is proven by data and research and people do actually die from it.

In *Brown v Board of Education*, 347 U.S. 483, 494 (1954), the Court relied heavily on social science data to show the psychological impact of segregation. Segregation, colorblind jurisprudence, Higginson's remarks and those of the editorial have one thing in common. They all aspire to an ahistorical reality where a fiction of current racial equality narrates.

Furthermore, of utmost importance, just as astronomy, science and historical fact are not political by nature, racism is not a "political" issue. If anything, it is a public health and public safety issue. Although we typically associate racial discrimination with 14th Amendment claims, it touches every aspect of the law from corporate law to family law to contract law to intellectual property law to criminal law to real property, etc. Racism extends across all Sections of the WSBA.

White supremacy is a cultural norm in the United States. I personally see racism as a pervasive psychological illness. Thus, it must be treated accordingly: with professional help, similar to depression or anxiety or substance abuse. The first step is admitting we have a problem. It is not genetic but we are predisposed to it. Children are not born with it but learn it raised in our culture.

Systemic racism dehumanizes all of us, not just people of color. We all have something at stake. Speaking as a white woman, I am very cognizant of the role white women in particular have played to perpetuate white supremacy, historically and presently. There is also a vibrant history of white people divesting from systemic racism and investing in education to restore their own humanity. For raising equity literacy, in the context of Anti-Slavery and Suffrage movements, I recommend *Women, Race and Class* by Angela Y. Davis.

The fact that systemic racism is up for debate (otherwise, it would have been found without enough merit to publish) and that such miseducation finds a platform on the Official Publication of the Washington State Bar Association gravely concerns me.

If we come away today only focusing on one individual's comment or individual behavior, whether it be the editorial writer or Higginson's statements, we fail. We fail because we don't have the courage to examine the causes, the culture and conditions that create these statements. We fail when we do not examine the social construction of race itself, individual and group racial identity development, and the harmful psychological effects that result when people's ancestral cultural identity is denied, misrepresented or unrepresented.

At this point, we are all aware that our legal institutions and this country are coming to a racial reckoning. The non-profit, Armed Conflict Location and Event Data Project, which monitors war zones and political upheaval around the world, which launched the [US Crisis Monitor report](#) with Princeton University's Bridging Divides Initiative, finds there are strong indicators of increased racial violence.

This summer we saw over 7,500 protests, many in our own state, of which 93% were peaceful. 93% of all protests against systemic racism this summer were peaceful. The probability of violence increased when federal troops were called in. Yet we have legal professionals state systemic racism is nonexistent and frame peaceful protests - these civic engagement acts to condemn the violence of white supremacy - to exercise the 1st Amendment right to peacefully assemble - as "an attack on police and looting of stores."

The Civil Rights Law Section supports the measures in the letter from the Minority Bar Associations. In addition, we encourage all Executive Committees of all WSBA Sections annually and routinely to engage in Racial Equity, Diversity and Inclusion training as the foundation of our leadership positions in the WSBA.

Sincerely,

Molly P. Matter,
Immediate Past Chair, Civil Rights Law Section

From: [edward](#)
To: [Rajeev Majumdar](#); [kyle.s@millernash.com](#); [Bill Pickett](#); [Dan Clark](#); [Carla J. Higginson](#); [sunitha@amlawseattle.com](#); [pig@randalldanskin.com](#); [B Tollefson](#); [Paul S](#); [jkang@smithsfreed.com](#); [Kim Hunter](#); [Bryn Peterson](#); [tomamcbride@gmail.com](#); [habell@williamskastner.com](#); [Alec Cecil Stephens JR](#); [rknight@smithalling.com](#); [Terra Nevitt](#)
Cc: [katie@levy-law.com](#); [denise@qlawfoundation.org](#); [president@qlaw.org](#); [gail.manuguid@gmail.com](#); [LBAW President - Vanessa Arno Martinez](#); [James Johnson](#)
Subject: RESPONSE TO Michelle Su, et. al. "JOINT OPEN STATEMENT" re Gov. Higginson
Date: Saturday, October 17, 2020 12:55:26 AM

This is sent in response to the "JOINT OPEN STATEMENT TO THE WASHINGTON STATE BAR ASSOCIATION BOARD OF GOVERNORS",
submitted by Michelle Su, KCBA, et. al.

1. A hostile reading of Governor Higginson's statement would have her suggesting that MBAs not be notified of the proposed policy. However, a better reading is that she was merely proposing that all WSBA members be notified on an equal basis, rather than providing only a limited notice to particular segments of the membership. This reading is supported by her ending saying that it was bad to "...promote contact with specific groups against others." Higginson really said that notice be provided to all on equal basis. Treating everyone equally is not racist.
2. I asked my spouse, who is from Ghana, for her opinion on Governor Higginson's remarks. She said that, as a Black person, she saw nothing in it that offended her. The phrase "dumb white people" seems the most potentially racist part of the sentence. However, in context, it was self-deprecating rather than racist, and my wife had no problem with it. If one white person wants to call the rest of them "dumb", that's their problem.
3. If Governor Higginson's remarks deprecated only white people, why are MBAs angry? The answer is that MBAs and their managers view themselves as having special status, above that of WSBA members in general. A communications plan that did not provide special treatment for them failed to acknowledge their special status. Thus Governor Higginson's sin.
4. If a principled, non-racist argument can be made against the existence of MBAs,

then no one, including Governor Higginson, should be punished for implying an opinion concerning their status. So what is a non-racist argument against MBAs? Consider Ghana, a legal jurisdiction sharing our English, common-law traditions with a very similar court system, but 100% owned and operated by Black people. Ghana, by definition, has a non-racist police force, judicial system, and government. But what about MBAs for the various ethnic groups? Short answer: MBAs do not exist. Organizing groups along ethnic lines, or advocating for the status of a particular ethnic group, is called "tribalism", a word with obscene overtones. Ghanaians view tribalism as a threat to democracy and orderly society. They would cite Rwanda as an example of what happens if ethnicity is used for purposes of political organization. In American terms, this is just the melting-pot argument, holding that everyone would be better off if racial and ethnic divisions were encouraged to disappear. I do not suggest this is the best approach, or even an approach that I agree with. However, it should not be a death-penalty offense to make arguments or suggestions consistent with this viewpoint. As in Ghana, such arguments are not necessarily racist and should be deemed well within the ambit of respectable political discussion.

5. Is there a practical argument against special status for MBAs in Washington? MBAs are ill-defined. We currently have a "Slavic Bar Association" that is recognized as an MBA. Do they get equal status with Loren-Miller? Is there any MBA that represents Black people who are politically conservative? If a communication plan favors MBAs, rather than WSBA members in general, would Black conservative WSBA members be deprecated? Under the current disorganized and non-accredited system of MBAs, it can be argued that Governor Higginson's desire to emphasize broad notice, versus narrow notice to MBA entities, is most fair, even to minority WSBA members. No WSBA member should be required to join an MBA in order to get equal notice concerning WSBA activities.

6. On the other hand, there is an argument for improving the status of MBAs. MBAs are small organizations that can tailor their activities to the needs of their members better than the distant and inefficient WSBA bureaucracy. So, I favor a voucher program that would allow WSBA members to direct half of their annual license fees to the MBA of their choice. This would do two helpful things. First, it would fund MBAs at high levels so that they can serve their members better. Second, it would provide everyone with an objective measure of how important any particular MBA might be, by counting the number of vouchers each organization gets. This eliminates the vagueness of the current system, and provides a solid basis for according particular MBAs the status they deserve.

7. The demand in the "Open Statement" for "censure" and a written apology, etc. suggests that WSBA members lack a good foundation in First Amendment and

Due Process jurisprudence. As a government entity, the WSBA may not impose penalties upon Free Speech. The WSBA Board may also not censure Governor Higginson since it is not an impartial tribunal as required by the Fifth Amendment. Did anyone learn anything from the Dan Bridges fiasco? Obviously, we need more questions about constitutional law on the bar exam, and also Free CLE Programs covering constitutional law and human rights.

8. There is something corrosive about the WSBA and other outsiders "demanding" that particular governors apologize, undergo Red Guard re-education, or otherwise knuckle-under to the WSBA bureaucracy. WSBA Governors are elected by their constituents to manage the WSBA. To represent their constituents, Governors must demand that the WSBA and staff remain subordinate to the Board. Governors must never allow themselves to become subordinate to anyone save their own constituents.

9. There is discussion concerning the adequacy of the apology of Governor Higginson. A copy of a text message from "Rajeev" was apparently sent to Governor Higginson on the same day this whole problem started. A copy is attached. "Rajeev" accepted the apology as adequate, and also stated that it was adequate in the opinion of the "WSBA Diversity Staff". What higher level of approval can there be? But the MBAs refuse to accept any apology, with persecution of Governor Higginson proceeding no matter what. Why is this happening? I think this is strategic, with the strategy being that defined in Alinsky's "Rules for Radicals". Per the rules, the plan is to "freeze, personalize, polarize". Governor Higginson's apology can never be accepted because of the "freeze" and "personalize" requirements. The ultimate goal is "a place at the table", without the need to prevail in a democratic election. Governors should be sensitive to the cynical way in which they are being used. A link to the Rules is provided below.

Thank you.

evh

Alinsky's "Rules for Radicals"

RULE 12: Pick the target, freeze it, personalize it, and polarize it."

Cut off the support network and isolate the target from sympathy. Go after people and not institutions; people hurt faster than institutions. (This is cruel, but very effective. Direct, personalized criticism and ridicule works.)

<https://bolenreport.com/saul-alinskys-12-rules-radicals/>

3:07



Rajeev >

Fri, Jun 26, 4:30 PM

She's supposed to get 3 minutes.

BTW, good job on the apology earlier. Even WSBA diversity staff thought it was appropriate, and appreciative.