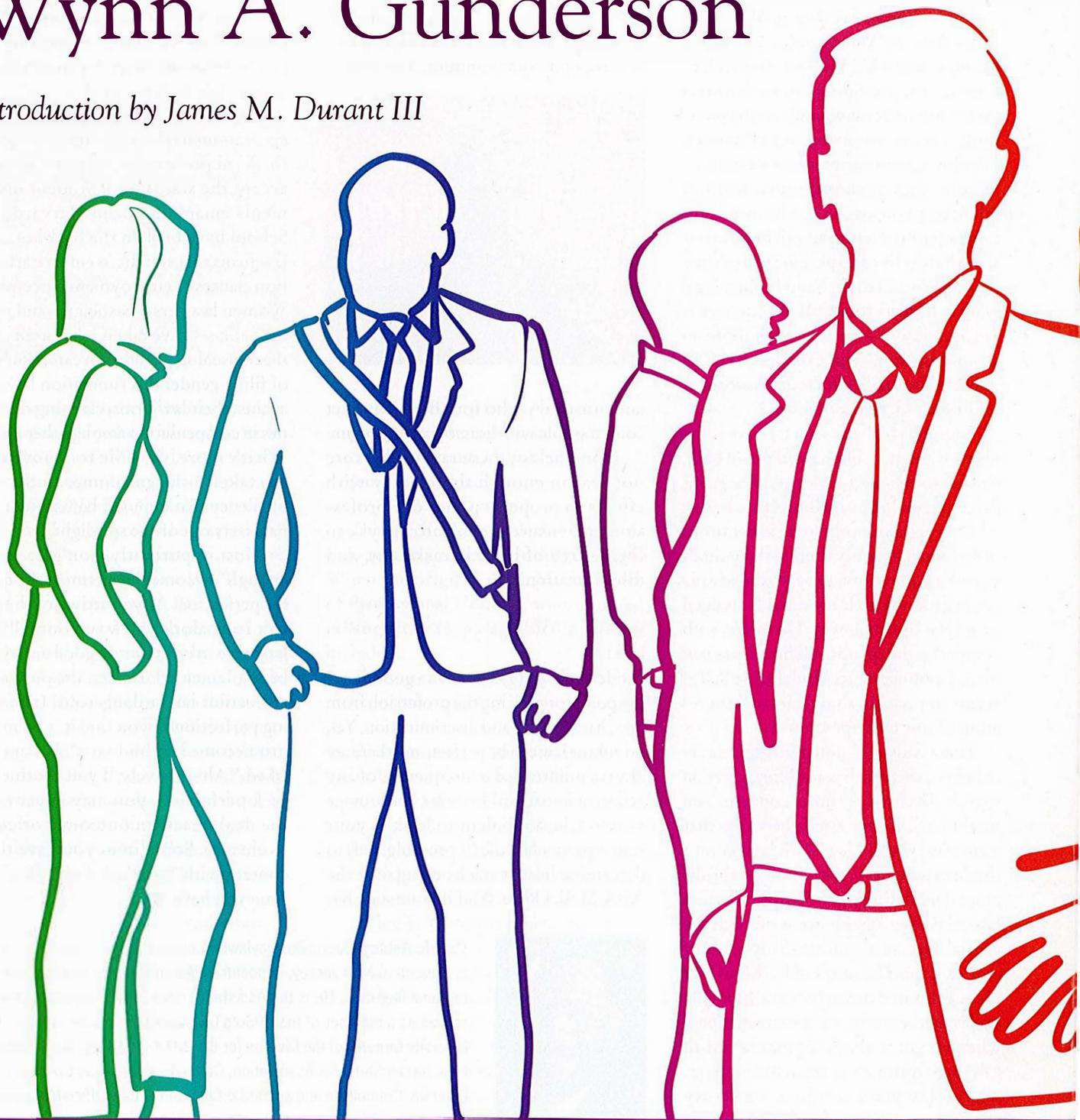


A Journey to Diversity Reminiscences by Wynn A. Gunderson

Introduction by James M. Durant III





Diversity is the “what,” and inclusivity is the “how.” A civilization built on a phenomenal human enterprise is often highly successful when all members of the society are engaged at all levels of the endeavor. In essence, a successful society is derived from the full use of the entire society, drawing the very best human resources together at the appropriate time and at the appropriate place. The result is usually excellence. We often see this with, for example, Team USA in the Olympics, the U.S. Armed Services, and nonprofit entities such as the American Bar Association (ABA). Sadly, with regard to our Diversity and Inclusivity Journey, we are simply not “there” and will probably not reach “there” during our lifetime. But we are on the path, and it is our path that truly matters; moreover, this path defines our “what” and our “how.” It is fueled by hope, trust, and belief and is backed by the promises of the Equal Protection Clause of the 14th Amendment of the U.S. Constitution, and although it is a wonderful trip marked by indelible milestones, much travel and learning await us, and we must engage in careful dialogue. In recent times we have indeed taken a few steps back on our incredible journey, some steps too large and too ineffable to mention, but so long as we continue toward a bright horizon, marked with equal opportunity in employment, justice, education, voting, immigration, etc., our journey will be enhanced, and our society will be made the better. “Diversity is not an imposition, it is an advantage; additionally, inclusion is not a problem, it is a solution” (Jamie Claudio, 2019, U.S. Department of Energy Office of Science EEO/Diversity and Inclusion Manager).

I now introduce to you Wynn A. Gunderson, Esq., former chair (2000–2001) of what was then called the ABA General Practice, Solo and Small Firm Section (GPSolo). Wynn is a person who embraces diversity and fundamentally understands the journey. I am an American of African descent; during my first year in GPSolo, Wynn told me that one of his goals is to right the wrongs American society inflicted on Americans of African descent. I did not know Wynn too well

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at that time, but for some reason I took his words as truth. To his credit, Wynn followed through with numerous firsts in matters of diversity, including GPSolo's first Diversity Fellows program, of which I was a recipient. I could tell you Wynn's Diversity and Inclusivity story, but it is better told by Wynn:

I recently received an e-mail from one of my favorite members of the Division, James Durant, who asked me if I would agree to an interview on the subject of diversity. Back in the late 1990s I had the privilege of meeting James for the first time. (Later I pondered, but did not ask, if he was the brother of the Kevin Durant of the NBA.) James has a very likable personality, similar to Kevin's (perhaps there is a little bit difference in height . . .) and both are consummate gentlemen. At the time, James was becoming deeply involved in the ABA, and his leadership qualities were evident. It was not surprising he was later elected chair of the Division [2009–2010], only the third chair of color since the Division began. Even more impressive, he is currently an appointed career senior executive in the federal government, where he serves as the chief counsel for the U.S. Department of Energy Office of Science, and he is a retired full-bird Air Force colonel.

Over time, our friendship blossomed through GPSolo meetings but, sadly, there came a time when our relationship suddenly ended up on a very “slippery slope”! Let me explain: In early May 2002, GPSolo held its Spring Meeting at Banff National Park, Canada, a spectacular venue. During the meeting, buses were arranged to transport us to view the beautiful scenery around Lake Louise, which included many hiking trails and waterfalls. At one point during the tour, James thought he and I should hike up one of the trails to see, close-up, some of the highly touted waterfalls. Because he was the senior officer between the two of us (I am an ROTC grad with only six months on active duty and achieving only the rank of second lieutenant), I felt I should obey him. Up the trail we went, only to discover that the surface of the trails did not thaw out until much later

in May. Consequentially, we perilously clung to the icy slopes while risking an occasional glance at the various waterfalls through the long shards of ice covering them. Luckily, we survived the hike but not without assuming the risk of transcending many “slippery slopes.” Under the circumstances, I am glad we are still around, good friends as ever, to discuss diversity, our favorite subject.

Although the Division has had considerable success promoting diversity, there is much more to do.

JOURNEY TO DIVERSITY

I'm sure that you are abundantly aware of how the elderly love to indulge in sharing memories of the past, and I am no exception. I hope you will bear with me as I take you on my journey toward adopting diversity as a way of life. As to my background, I was born in 1933 and raised in rural South Dakota, a state with a very small population and almost no diversity. What little diversity existed consisted almost entirely of the indigenous people, namely the Lakota Sioux, who resided primarily on nine reservations scattered throughout the state. My feelings about diversity have been largely shaped by my experiences in an area that had little racial discord or violence. The exception was the treatment given Native Americans before I was born or that occurred after but which I never witnessed firsthand (e.g., the Wounded Knee Occupation in 1973). When I was in grade school, I was told there was a black lady in our town of approximately 13,000 people, but I never saw her. I was about five years old when I had my first contact with people of color. That revelation took place while traveling with my parents and brother on a visit to the Lower Rio Grande Valley of Texas. As we traveled on one of the many back

roads, we came upon two black children close in age to my brother and me. The first sight of people of color caused us no end of excitement. We begged our father to stop so we could meet and play with them, and, fortunately, he did. Our new friends were initially too shy to let us approach them. So my mother offered each of them a pack of gum if they would allow her to take a photo of them and us together. We barely were able to contain our excitement while driving back to South Dakota, where we could show the photo to our classmates. I often wonder what our new friends' parents thought about the Kodak moment that took place in their front yard.

FIRST VIEW OF DISCRIMINATION

It wasn't until 1954 that I saw my first sign of discrimination—while stopping briefly in Waco, Texas, during a train trip to Lackland Air Force Base in San Antonio, Texas. The train station had two water fountains, one marked “Colored” and the other unmarked. At the time, I was curious as to what color the water was in the fountain marked “Colored,” but those more worldly than me quickly set me straight.

In 2018 I had the pleasure of attending a great movie entitled *The Green Book* (2018), a true story, which received the Academy Award for Best Picture. The movie vividly depicts the color barrier and cruel/inhumane treatment that was so prevalent in the deep South during the 1960s. The only time I actually witnessed such gross discrimination was when I was assigned to Fort Carson, Colorado, in the late 1950s. It was the time of the “Little Rock Crisis,” which involved considerable physical violence between whites and people of color following desegregation efforts at Central High School in Little Rock, Arkansas, in September 1957. Jimmy, a personable young ROTC black trainee from Kansas, was assigned to the same barracks as a friend of mine and I, along with several ROTC trainees from Little Rock. Sadly, there came a time when the trainees from Little Rock decided to pick a fight with Jimmy for no other reason than the color of his skin. In response to their threat,

my friend and I advised them that they were going to have to go through us first, which, fortunately, ended the confrontation. I had wondered, before it was over, what it would have been like to go the rest of my life without my front teeth. Later Jimmy took us to the Cotton Club in downtown Colorado Springs, which was a night club exclusively for blacks. My friend and I were the only whites in the club that night, a place overflowing with blacks, yet we, along with Jimmy, were left alone to enjoy ourselves.

THE CHALLENGE OF ASSIMILATION

My first experience with assimilation occurred when I was enrolled at the University of South Dakota (USD), where the only students of color were Native Americans. The USD basketball coach, Dwane “Cloddy” Clodfelter, had a contact back East through whom he was able to recruit two black brothers, Jimmie and Cliff Daniels from Brooklyn, two very talented players. At the outset there was considerable physical contact in practices between the Danielses and preexisting players. After practice, words were exchanged between the Danielses and two white players. One of the latter two said to the Danielses: “There are only two of you” but another white player responded: “no there are three.” As was predicted, the Danielses immediately made the starting five. In 1957, Jimmie, the younger of the two, scored 47 points in the finals as USD won the NCAA Division 2 National Championship. They were both outstanding in every way, with Cliff being elected vice president of the student body. To know them, as I did, was to respect them. They were highly revered by all. For example, teammates, fans, and townspeople all secretly donated funds to pay their single mother’s expenses to travel from Brooklyn to attend USD Parents Night. One can only imagine how challenging it was for them to spend their college years culturally alone. (For more on the Daniels brothers, see the book *Cloddy* by Kim Clodfelter, Leone Press: Murfreesboro, Tennessee, 2018; and the magazine article “Cloddy the Book” by Bernie Hunhoff, *South Dakota Magazine*, March/April 2019 (34:6) at 70–71.)

DIVERSIFICATION TODAY: SOUTH DAKOTA

It is noteworthy to compare the change from that early time when there were almost no blacks living in South Dakota with the 2017 census showing a total population of 869,666, of which 13,679, or 1.6 percent, were black. U.S. Census data show that from 2000 to 2010 the number of black residents in South Dakota rose from 4,685 to 10,207. The 118 percent increase was second to a 132 percent rise in Maine.

GPSOLO DIVERSIFICATION: TEN YEARS OF PROGRESS

When we in the GPSolo Section took a leap of faith to establish a Diversity Committee, it was not without having outstanding talent in our ranks. For example, we appointed Judge Pamila J. Brown as its first chair. Her leadership, creativity, and ability to work with all committee members was a huge asset. Also, we appointed Benes Z. Aldana as its first vice chair. Benes was also a key factor in seeking greater diversity. Benes went on to be the 2012–2013 chair of GPSolo. Last but not the least, James Durant has been a long-term example of what diversity is all about.

Although the GPSolo Division has had considerable success promoting diversity, there is much more to do. It is imperative that the Division not only continue to encourage recruitment of diverse practitioners, but involve them in all phases of its work. Also, as we commit to greater diversity, let us remind ourselves that there is much left to do not only in the Division

but the entire ABA. Diversity can bring enrichment, a blend of cultures, and new talent that will greatly benefit the entire membership.

EVIDENCE OF THE JOURNEY

In the March 2001 issue of *GPSolo* magazine, I prepared a “Chair’s Corner” column entitled “The Color Purple” while promoting diversity as the theme for my year as chair. In that article, I made reference to my grandson’s basketball team, a diverse group of 12-year-olds. I observed that unlike some adults, they did not judge each other by the color of their skin, as it was evident that they were best friends both on and off the court. I speculated their relationship might change as they grow older because they could become influenced by the attitudes of some adults. However, I was recently proven wrong while attending my grandson’s wedding, as several of those diverse friends from the past were present. These same young men, now in their late 20s, not only attended but all were involved in the wedding some way. Some were groomsmen, and all were there to cheer on the bride and the groom. It was heartwarming for me to see the hugs of friendship and to be proven wrong.

Well, I hope you enjoyed Wynn’s story. Perhaps your story will inspire others to support and continue our American Diversity and Inclusivity Journey, the benefits of which are indeed perpetual across a myriad of social endeavors in our society, all focused on the singular advancement of the human race. ■



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