

## Some experiences of a Black lawyer in our community

By: Special to The Daily Record Duwaine Bascoe and Jill Paperno June 26, 2020 0

*Editor's note: Jill Paperno is the new president of the Monroe County Bar Association, and Duwaine Bascoe is an attorney with Abrams Fensterman.*

**Jill Paperno:** I have worked as a public defender for over half my life. I have lived as a white woman of privilege in our country my whole adult life. And I have always thought of myself as sensitive to racial and cultural issues. I have strived to overcome my own racism and other biases. And became too comfortable in thinking that I am fighting the good fight.

As the country responded to the killing of George Floyd by police officers, I heard African American friends and strangers talk privately and to the world about their lives. I watched their collective experiences played out on Twitter, Facebook and in the news — lives interrupted or ended while jogging, barbecuing, and even birdwatching.

Earlier this month I heard my friend, a Black attorney, Duwaine Bascoe, speak at the demonstration in which local lawyers protested and mourned the death of George Floyd, and pledged to fight racism. As I listened to Duwaine, it struck me, as it has many times recently, that I cannot begin to understand what it is to live even one day in the life of a Black man or woman in this country or our community at this time. So Duwaine and I discussed writing a column for the Daily Record together, with me asking questions so that he could help me and other white attorneys to understand what his experiences have been as a Black lawyer in our community.

**JP:** *You spoke about this at the demonstration, and I asked you whether you wished to get personal in this column. You said you did. So here goes: Can you describe some of the experiences you have faced in recent years, whether in or out of court, that your white colleagues would not realize you confront in everyday life? Did you tell your white colleagues? How did they respond? How did you feel about the response you received?*

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### Duwaine Bascoe:

#### In Court

When I was in my second year of practice, I went to Canandaigua Court on an eviction matter. I walked in and sat with the other attorneys. The judge stopped the proceedings and told me I was seating in the wrong section because I was sitting with the attorneys. (This has happened multiple times in courts across Western NY).

The second time I appeared before this judge we had a vigorous dispute as he tried to demean me in front of my client. After the court session had concluded I walked outside, and the judge was speaking to a deputy. As I pulled out from the courthouse that same deputy pulled me over and had me waiting by the side of the road for an hour.

Being a new attorney, I sought advice on how to proceed because I wanted to file a complaint. Instead, my senior associate removed all of our remaining cases to county court in Canandaigua. ^



Duwaine Bascoe

Another time I was handling a matter in a western town in Monroe County. I filed the same papers that the senior associate always filed (in fact she drafted the papers I used on this date), however the judge refused to accept the papers from me. When I told the associate and the staff that he was refusing to accept the same documents from me that he normal accepts, they couldn't believe it. He then proceeded to tell me that I don't know the law because I don't have a right to amend. One week later the senior associate was before him and he accepted the same documents.

I recall sitting in the jury box waiting for the arraignments to be completed so I can argue my civil motion. There was a white young lady brought up for arraignment on a petty theft charge. She also had a warrant. The judge released her on her own recognizance. The very next person was a black man for the same petty theft charge. He told the judge that he couldn't afford bail and he didn't have an open warrant like the white young lady. Instead of granting him the same courtesy, the judge said he didn't feel right to grant him an O.R. since he was simply filling in for the original judge and remanded him into custody for a week.

### Out of court growing up

13 years old — I was playing with my friends (in Connecticut). While running I heard a gunshot and turned around and there was a cop with his gun pointed at me. He told me to freeze and with his other hand he radioed to his partner letting him know that he "has one of the colored boys." I was then handcuffed, placed in the back of the police car (by this time my other two friends were already in the back of the car). We were then taken to another street where a white boy was waiting. They brought him over and asked if we were the ones that beat him up. After he said no, they let us go and told us that they would get us for something else next time.

At 15 years old harassed in front of my home by 4 cops.

At 16 years old friend killed by cops

At 17 years old harassed and searched while walking down the street.

At 17 years old two friends beaten by police officers after a routine traffic stop, placing both in the hospital for several days.

At 18 years old vice principal (who was racist) called the SWAT team on me for a food fight.

At 18 years old guidance counselor told me to apply to trade school when I went to her for help to apply to college because, in her opinion, I wasn't college material.

### Out of court recently

Having to deal with a little boy calling my daughter and her friends N. My daughter was 9 years old at the time. This was a long drawn-out prospect that took several meetings with the principal and superintendent to resolve. Additionally, I was at one of my son's banquets when I spotted a child flashing the white power sign on the video tribute. These incidents that seemed to be back to back, along with other incidents resulting in the formation of F.I.R.E. (Family Igniting Racial Equity).

**JP:** *When you have told colleagues about your experiences, how have they reacted? Have their reactions differed depending on their race?*

**DB:** Black and Brown colleagues can relate because they have similar experiences. The lack of mentorship, feeling like a part of the team or that your work and success matters. Each of the colleagues I've spoken with have had similar experiences of being told they are in the wrong section when they are seated with the other attorneys.



**JP:** *You have participated in bar association committees and boards. How do you think our local legal community and bar associations have failed our Black and Brown colleagues?*

**DB:** For the most part the bar associations have paid lip service to diversity. With some exceptions, it is difficult for Black and Brown colleagues to be nominated for awards, placed in prominent positions on the bar, and supported in their efforts in their law firms, or public sector jobs. There are Black and Brown colleagues that have grown disenchanted with the legal community and have chosen instead to continue their law careers without the assistance of the bar associations. As for the legal community as a whole, the proof is in the numbers. If I'm not mistaken Monroe County may have upward of 2,500-3,000 attorneys;

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of which, roughly 100-150 are people of color. Out of the large firms in Monroe County I don't believe any have more than five associates/partners that are Black or Brown. It's 2020 and except for two firms, no other firm has a successful diversity hiring initiative. As it relates to public sector, take a look at the exodus from the DA's Office.

**JP:** *I realize that white people often expect too much of Black people in leading on teaching about racism and guiding us in ways to improve. But since we are addressing these issues, I will ask — Many of us have attended trainings on implicit bias and institutional racism. But that has not gone far enough. Do you have suggestions for our next steps?*

**DB:** We have to ask the hard questions to everyone. With all the training and CLEs that this legal community has attended:

What action have you taken in your child's school or school district to correct institutional racism there?

What specific hiring practice have you advocated for at your firm/business, and what intentional steps has your firm/business taken?

Where have you used your influence (business or personal) regarding police brutality or bail or sentencing disparity here in Monroe County?

Have you reached out to any young Black or Brown attorney with the intent of helping them navigate the minefields in the legal community?

What if any contact do you have with any of the change agent entities in the community? (And not just volunteer work on MLK Jr. Day).

Have you corrected derogatory talk when there are no Black and Brown people around or do you refrain because you don't want to rock the boat? (This one is especially important because if you can't do this there is little chance you would have done any of the preceding.)

**JP:** *The process Duwaine and I used in writing this column was to exchange the document back and forth, with some conversations along the way. So I sent him the questions, and then received his answers. And again, though I knew and expected to see Duwaine share some painful experiences, the number and degree of the assaults, both physical and emotional, shocked and sickened me, and reminded me of how easy it has been not to think, as a white person, about life as a Black person each day in America and Rochester. I am committing to changing that and not just stopping with a demonstration, a meeting, a CLE or posting on social media. At the demonstration, last week we took a pledge. I would like to invite you to take that same pledge today:*

**I pledge to fight racism and injustice in my personal life, my professional life, and the institutions, legal system and communities in which I participate.**

*(For an explanation, if necessary, of the choices in capitalizing used in this column, see [https://www.cjr.org/analysis/language\\_corner\\_1.php](https://www.cjr.org/analysis/language_corner_1.php))*

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