

# State Bar Honors Phyllis Cheng as 2012 Public Lawyer of the Year



Phyllis Cheng and Chief Justice Tani Cantil-Sakauye

The Public Law Section honored California Department of Fair Employment and Housing director Phyllis Cheng as the 2012 Ronald M. George Public Lawyer of the Year Award at an awards reception at the State Bar's Annual Meeting in Monterey on Oct. 12.

The Public Lawyer of the Year Award recognizes Cheng as an exceptional lawyer who has dedicated a significant portion of her career to public service. Chief Justice Tani Cantil-Sakauye presented the award, which is named after her predecessor on the California Supreme Court.

"Now, more than ever, we need to recognize the hard work of public lawyers," Cantil-Sakauye said. "It couldn't be more fitting to recognize

Phyllis Cheng with this award. ... Her accomplishments are inspiring. I'm grateful her heart strings pulled her back to public service."

Appointed in 2008 as director of the Department of Fair Employment and Housing, Cheng heads the largest state civil rights agency in the nation. She previously was of counsel at national employment and labor law firm Littler Mendelson; a senior appellate court attorney for Associate Justice Laurie Zelon in the California Court of Appeal's Second District; a deputy attorney general in the Civil Rights Enforcement Section of the California Department of Justice; and an associate at Hadsell & Stormer, where she practiced employment discrimination law.

"I am sincerely thankful for today's honor and accept the award on behalf of all the dedicated public lawyers of California," Cheng said at the reception. "There is nothing more meaningful and satisfying than being a public lawyer, who serves the public interest. Ours is a noble calling."

Zelon, who also spoke at the awards reception, said she was pleased that Cheng chose public service.

"She is an extraordinary public

servant," Zelon said. "When I plucked her from the Attorney General's Office, she came with a commitment to fairness and justice and doing the right thing. It's what she's done all along. When she left for private practice, I had a feeling she'd be back in public service."

Among her accomplishments at the DFEH, Cheng developed a telephone and online intake process for new claims and a grading system to rank and target cases for investigation and prosecution. She reorganized the DFEH's mediation system and dramatically expanded the department's class action capability, overseeing the largest settlement in DFEH history, a \$6 million settlement in a class action against Verizon Services Corporation. She also established civil rights clinic programs at the law schools of University of California at Irvine and University of California at Davis, to train students and assist in the litigation of discrimination cases.

"Since taking over as the director of the DFEH, Phyllis has accomplished so much with less resources than ever," said Tony Skogen, a shareholder at Littler Mendelson who wrote in support of Cheng's nomination for Public

Lawyer of the Year. “As many public sector workers are struggling to overcome rising workloads and shrinking budgets, Phyllis tackles and solves problem after problem with a positive attitude and infectious smile.”

Cheng’s colleagues praised her hard work and dedication in supporting her nomination for Public Lawyer of the Year.

“Phyllis deserves this award because she is fearless,” said Tim Muscat, DFEH Chief of Enforcement. “All too often, boldly innovative work in government is not adequately rewarded. Indeed, leaders who carry out difficult reforms are often opposed by those who prefer the status quo. Phyllis never backs away from challenges. Indeed, she champions them. ... Phyllis has rebuilt DFEH into a department that champions civil rights enforcement. All of California has benefited from her efforts.”

Cheng previously served two terms on the California Fair Employment and Housing Commission, ruling on nearly 80 fair employment and housing and civil rights act cases. She also has served on the California Commission on the Status of Women and the Interagency Coordinating Task Force on Early Intervention.

Cheng has been a member of the State Bar Committee of Bar Examiners and the executive committees of the Labor & Employment Law and Public Law Sections, and she co-founded the Fair Housing and Public Accommodations Subsection of the State Bar’s Real Property Law Section. Cheng also edited both the California Labor & Employment Law Review and the Public Law Journal and is an attorney editor of two chapters of Employment Litigation (The Rutter Group California Practice Guide, 2009-current editions) and a chapter contributor to an upcoming California Fair Housing and Public Accommodations Practice Guide (The Rutter Group, California Practice Guide, in progress). She also authors a regular column on cases pending before the California Supreme Court, has published widely in both legal journals and newspapers, and provides a free case alert service on new labor and employment law decisions to thousands of practitioners.

Before becoming a lawyer, Cheng was a public school teacher, then began studying urban educational policy and planning and civil rights policy and planning. While pursuing her Ph.D., she worked at RAND

Corporation researching school desegregation. She was then hired as Title IX coordinator for the Los Angeles Unified School District, where she founded and directed a citizens’ commission that addressed sex discrimination and monitored a Title VII consent decree promoting women into administration. She continued her focus on educational equality issues, ultimately drafting California’s version of Title IX (Cal. Ed. Code § 200 et seq.) passed in 1982.

Cheng received her B.A. and M.Ed. degrees from UCLA, her Ph.D. from the University of Southern California, and her J.D. from Southwestern Law School.

# 2012 Ronald M. George Public Lawyer of the Year Award

## Remarks of Award Recipient Phyllis Cheng



California Supreme Court Chief Justice Tani Cantil-Sakauye, Phyllis Cheng and California Court of Appeal Justice Laurie Zelon

*The following are Phyllis Cheng's remarks after receiving the Ronald M. George Public Lawyer of the Year Award on Oct. 12, 2012 at the State Bar of California Annual Meeting in Monterey.*

Heartfelt thanks, Chief Justice [Tani] Cantil-Sakauye, for honoring me with your eloquent introduction. Thank you, Justice [Laurie] Zelon and Lydia Beebe for your generous remarks. I am grateful to the Public Law Section for naming me the 2012 Ronald M. George Public Lawyer of the

Year, for honoring public lawyers, and for making this reception possible. Special thanks to Deputy Attorney General John Appelbaum, who nominated me for this recognition, and to my colleagues in the legal profession who recommended me. Many thanks to the many generous sponsors

of today's reception, including Chevron Corporation, my former firms, Hadsell Stormer and Littler Mendelson, and my alma mater, Southwestern Law School – all of whom have helped me develop in my career as a public lawyer.

Receiving this award is an amazing honor for someone with a humble beginning like mine. I was born on an old kitchen table, in a midwife's apartment, in the middle of a typhoon in Hong Kong. My mother had fled Communist China just days before with \$25 in her pocket and the hope for

freedom and opportunity. Ten years later, my mother and I immigrated to America. It was a different world then. We could not find an apartment for months, because it was acceptable to refuse to rent to Chinese, divorced women and families with children. My mother took a "woman's" job as a clerk for an oil company. Whenever she worked overtime, she had to be supervised by a male supervisor. Schools did not provide bilingual education, so it was a sink-or-swim system of integration. Soon, the civil rights movement took fire, and doors opened one by one.



Chief Justice Tani Cantil-Sakauye introduces Public Lawyer of the Year Phyllis Cheng.



Public Lawyer of the Year Award Subcommittee Co-Chair David Hirsch, Phyllis Cheng, Subcommittee Co-Chair Scott Dickey, Chief Justice Tani Cantil-Sakauye, Public Law Section Outgoing Chair Sheryl Bratton, and Public Law Section Incoming Chair Jodi Cleesattle

Today, civil rights have flourished due in large part to the work of the Department of Fair Employment and Housing, the largest state civil rights agency in the nation. Thanks to Governor Arnold Schwarzenegger for appointing me and Governor Jerry Brown for retaining me, I have the honor of leading the Department and its awesome team with whom I share this award. At this time of fiscal austerity, my Department adopted the motto “to SOAR as the nation’s top civil rights agency.” “SOAR” stands for “service,” “outreach,” “advocacy,” and “resource.”

On service, the Department implemented several systems that are user-friendly and cost effective. Using available technology, the DFEH created automated online appointment and right-to-sue systems to exhaust administrative remedies for persons already represented by counsel. The DFEH gradually consolidated offices from 10 to five, cutting hundreds of thousands of dollars in rent, saving employees’ jobs and promoting

deserving staff. At the same time, the Department expanded its telephone intake services to almost daily. The DFEH also launched a critical case grading system to better triage and match resources to case investigations. For the first time, an attorney manager heads up the Department’s Enforcement Division and its re-established Special Investigations Unit. The DFEH has further hired legal analysts to work alongside investigators. As a result, productivity has increased, such that fewer cases are opened at any one time. Moreover, out of these efficiencies, the Department has regularly returned six to seven figures in savings to California’s treasury to help defray the budget deficit.

As to outreach, the DFEH has collaborated with stakeholders to expand training statewide to more than 500 in-person or Web events since 2008. Using small grants from the U.S. Equal Employment Opportunity Commission (EEOC) and the State Bar of California’s Labor & Employment

Law Section, the DFEH also produced a number of outreach videos in multiple languages on: employment discrimination; housing discrimination; public accommodations; hate violence; how the Department handles a case from intake to decision; the FEHA 50th anniversary; and the DFEH’s accomplishments. The DFEH distributed many of these videos, along with lesson plans and other materials, to every California public high school. In addition, the Department launched social networking pages such as Facebook, YouTube, LinkedIn and Twitter to publicize its services.



Lydia Beebe, Chevron Corporate Secretary and Chief Governance Officer, praises friend and former colleague Phyllis Cheng.

On advocacy, the Department increased its productivity and achieved better results. Settlements nearly doubled from \$7.2 million in 2009 to \$13.1 million in 2011. Quality has improved, such that Director’s complaints, class and group actions that address systemic



Public Lawyer of the Year Phyllis Cheng, Chief Justice Tani Cantil-Sakauye and Student Writing Competition winner Monica Smith



Phyllis Cheng is joined by her children – Alexander, Roxanne and Maxwell – at the award reception.

discrimination, are now routinely prosecuted. The DFEH recently settled several class/group actions on pregnancy, disability and family leave. The most significant settlement is an historic \$6,011,190 family leave (California Family Rights Act (CFRA)) case with Verizon, which was approved by the Los Angeles County Superior Court in January 2012. The settlement provides three tiers of damages for nearly 1,000 current and former California employees in Verizon's voice, data and video operations. The lawsuit

was precipitated by a more than two-year-long investigation into Verizon's family leave practices, which alleges that Verizon denied or failed to timely approve class members' requests for leave for their own serious health condition, to care for a family member with a serious health condition, or to bond with a new child. Settlement of the lawsuit, equivalent to an entire year of DFEH Enforcement Division settlements, is the largest in DFEH history. Verizon also agreed to review and revise its leave policies and procedures, continue

an existing internal review process that employees can invoke to appeal denials, train all California officers, managers, supervisors and human resources personnel on the procedures and submit regular updates to the DFEH regarding the company's compliance. More systemic discrimination investigations and class/group complaints of this type are in progress, including a national class action suit against the Law School Admission Council for failure to provide access to disabled test takers.

As to resource, the DFEH established its first-ever attorney-staffed Mediation Division, which along with volunteer mediators, expanded settlement services by 100 percent. In its first full year of operation, the Mediation Division settled \$2.6 million worth of cases. These free mediation services save both victims and businesses significant expenses by helping them settle cases out of court, and improve employment and housing practices. The Department further sponsored legislation (California Senate Bill 1252 (Corbett)), which was enacted in 2011, to make technical amendments to the housing provisions under the FEHA. Moreover, the Department supported the Governor's FY 2012/13 budget initiatives under SB 1038. The DFEH additionally promulgated its first procedural regulations to streamline complaint processing. The Department also worked with the UCLA-RAND Center for Law and Public Policy to conduct a 50th anniversary



Public Law Section members Natalie Bocanegra, Betty Ann Downing and Jacqueline Carey-Wilson enjoy the award reception.

retrospective study of the FEHA's achievements. These findings were presented as testimony before an oversight hearing of the California Senate and Assembly Judiciary Committees. Other resources to the community include spearheading the first fair housing and public accommodations entity at the State Bar of California; contributing to legal practice guides; and providing a free case law alert to the legal and human resources community. In addition, as an MCLE and HRCI provider to the legal and human resources communities, the DFEH has hosted twice monthly

webinars for the public that are free of charge for governmental agencies, saving the state more than \$400,000 in training costs this year. Finally, the Department has returned \$3.5 million to the State treasury over the past four years to help defray the budget deficit.

Like a phoenix then, the Department has managed to soar from the budgetary ashes to lead a civil rights renaissance in California. By embracing the fiscal crisis as a vehicle for innovation, so too can other governmental agencies.

None of these achievements would have been possible without the moral support of my family – my children, Maxwell, Alexander and Roxanne. My work at the Department has taken me away from home for the majority of every week over nearly five years. My children have been responsible, my sons helping their younger sister throughout her high school years. I thank my friends, one of whom is my law school classmate Karen Soomekh, who came from Taos, New Mexico to be here today.

I am grateful to my colleagues at DOJ, the Court of Appeal, Hadsell Stormer, Littler Mendelson, and the State Bar for their steadfast support.

I am sincerely thankful for today's honor and accept the award on behalf of all the dedicated public lawyers of California. There is nothing more meaningful and satisfying than being a public lawyer, who serves the public interest. Ours is a noble calling. Thank you.



# THE PUBLIC LAW SECTION OF THE STATE BAR OF CALIFORNIA

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*Phyllis W. Cheng*

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