



# Profile: Darci Burrell

## Women's rights, employment law advocate and her partners show there's strength in numbers

By **STEPHEN ELLISON**

Trial by committee may not be a foreign concept in the plaintiffs' law community, but Darci Burrell and her partners take it to the next level.

The women who make up the leadership at Levy Vinick Burrell Hyams in Oakland swear by such an approach, and there's no question it gets results. They've been doing it for eleven-plus years now, and Burrell says it's simply a matter of multiple heads being better than one.

"We all have our areas where our skills (stand out)," she said. "Some people are really good negotiators. Some people are really good writers. Some people are really good at evidence. So, we spend a lot of time talking to each other and working things out. That's really the key to our trial strategy, to come together to figure out what our themes are, how we're going to present the case, who's going to present which witnesses and to really map everything out before we get started."

The group also may go away for a weekend or a few days to sit down and talk to each other about a case or a trial, put pieces of posterboard on the wall and map out a basic plan, Burrell said. It's a collaborative process in which all of them get involved in each case whether they're working on it directly or not.

"You may have a case that you're assigned to, you may be working on it with another partner or another associate. But we always work together," she said. "You can't ever think of everything, right? It's like you take a deposition, and it can be your first deposition or your hundredth deposition ... and somebody will say, 'Did you ask this?' And you'll say, 'Shoot, no, I didn't ask that.' People will think of things that you didn't, and somebody always has a good suggestion."



**Burrell**

That strategy, Burrell said, applies not only to trials but also to their practice in general. It's about taking advantage of the knowledge and finding good ideas that one person on their own might miss.

Burrell focuses on civil rights law cases involving discrimination, harassment and retaliation in the workplace. According to the firm website, she is noted for the novel application of "aiding and abetting" claims to employment discrimination cases, including one case against a psychiatrist who determined that an African American employee was unfit for duty because she kept raising claims of racial discrimination in the workplace.

### Recognizing a needed change

Raised in the Southern California city of Victorville, Burrell attended UC San Diego for her undergraduate studies in literature and women's studies. At that time, she had designs on a career in publishing or editing. She also had a keen interest in social justice issues and thought maybe she would explore working with a women's health organization, perhaps a nonprofit, she said.

Law wasn't even on her radar until the summer of 1991, after she graduated from college. That July, President George W. Bush nominated Clarence Thomas to replace Thurgood Marshall on the U.S. Supreme Court, and during his confirmation hearings, Thomas faced contentious questions over abortion as well as allegations of sexual harassment from a former employee, law professor Anita Hill.

Burrell was captivated by the proceedings.

"I had no plans to go to law school," she said. "Just watching that summer, I got to feeling like there was a real misunderstanding going on about what sexual harassment in the workplace looks like. And how the things that need to get done are really consistent with the things that women are being sexually harassed at work to do. I was watching it on C-SPAN with my mother and complaining. She said, 'Well, why don't you go to law school and be a women's rights attorney?' And I said, 'Maybe I will.'"

Burrell went to law school at UCLA, where she continued to focus on civil rights and women's rights issues. She recalled one seminar with law professor and civil rights advocate Kimberle Crenshaw on critical race theory – it was a key moment for her and foreshadowed the direction her career would take, though she was still at the time rather averse to becoming a practicing lawyer.

"I think that aspect of law school really influenced me," Burrell said. "That's where I really got exposed to critical feminist theory, critical race theory. It was already consistent with my interests, and it definitely informed my way of looking at things in terms of legal analysis. It just underscored for me that it's the sort of thing that I wanted to keep doing, those kinds of issues."

### Finding a purpose

Still on the fence about a law career as she studied at UCLA, Burrell applied and was accepted to a masters and Ph.D. program. Then she did an externship at the NAACP Legal Defense Fund in Los Angeles for a quarter, and the experience of litigating was "very influential for me." She worked on mostly class-action cases there, and just being there and actually



doing the work may have finally convinced her she would enjoy practicing civil-rights law.

After graduating from UCLA law, Burrell was accepted for the Ruth Chance Law fellowship at Equal Rights Advocates, a nonprofit advocate for women's employment rights based in San Francisco, where she represented women and girls in cases involving sexual harassment and gender discrimination. For the latter focus, she advocated for women in nontraditional employment, including tradeswomen and firefighters.

She then returned to the NAACP Legal Defense Fund, where she did impact litigation, and at that time, Proposition 209, which essentially shot down California's affirmative action policies, was on the ballot.

"Everybody was working on that. And then my boss left to become the acting Attorney General for the Civil Rights Division," Burrell recalled. "So, I ended up being almost the only person there, and I was sort of running the place – my supervisor was in New York."

After the NAACP, Burrell was ready to go back to the Bay Area, and she landed a position as a civil rights attorney with the U.S. Department of Education, where she enforced standard anti-discrimination policies involving race, gender, age, disability and more. It involved a lot of investigation and not a lot of litigation, she said. While she found the experience interesting and different, she soon found out it wasn't an ideal fit for her.

Burrell moved on to work for a couple of employment-law firms in the Bay Area over the next decade, first at what was then known as Goldstein, Demchak, Baller, Borgen & Dardarian, where she worked on discrimination and wage and hour class actions, then at Boxer & Gerson, an employment law firm that did a lot of workers' compensation cases and where she worked alongside Leslie Levy and Jean Hyams.

"So, I spent two years there, and then we all decided to go out and start a new firm with Kathy Dixon and Sharon Vinick,"

#### REDIRECT:

**Getaway Spot:** Hiking Matt Davis, Steep Ravine Loop  
**Go-to Music or Artist:** Indie alternative, any music with good vocals

**Recommended Reading:** "This Is How You Lose the Time War," Amal El-Mohtar and Max Gladstone  
**Dream Job:** If I could be paid to read interesting things for a living, I'd take it in a heartbeat.

**Words to Live By:** "You should never do or not do something because you're afraid."

she said. "And that's what we've been doing ever since. Kathy is gone now. It's just me and Sharon and Leslie and Jean. We've got some employees now. We've been doing this for a while; I think we're in our 12th year."

#### A woman's work

One of the more memorable cases on Burrell's record was a class action on behalf of the Oakland Raiders cheerleaders against the team in 2014. At the center of the case was the employee vs. independent contractor debate. The Raiderettes were paid a flat contractual fee at the end of each season. No hourly pay rate, no weekly or bi-weekly or monthly paycheck that most workers rely on, and no overtime – their end-of-season pay remained the same no matter how many days and hours they worked representing the team during those five to six months.

"But the cheerleaders had a contract that said they were employees," Burrell recalled. "And they weren't being paid minimum wage. They weren't being paid overtime. They just weren't getting a lot of the things they were entitled to, and it was just insane. I remember looking at this contract and just thinking this is the most insane thing I've ever seen."

"So, we filed a lawsuit on behalf of them," she continued. "We had one plaintiff, one named plaintiff representing the others. I think a lot of the cheerleaders are doing (the cheerleading) for exposure, whereas our client was somebody who thought of it as a job that she took seriously. She'd done it before for, I believe, the Golden State Warriors, where

they had gotten paid in the way you're supposed to be paid. So, she knew that it was wrong. But she was one of the few people who was willing to come forward."

The Raiders settled the case for \$1.25 million, which essentially covered the back pay those women deserved, Burrell said. The settlement was reached in July 2014, approved in February 2015, and after one of the class members lost an appeal claiming the settlement wasn't fair, the women finally were paid in May 2017.

The case also spurred the Raiders into offering the cheerleaders a new contract that nearly tripled their pay, gave them paychecks every two weeks and reimbursed them for business expenses and mileage, according to a Los Angeles Times report.

Of course, the case got a lot of media attention and sparked other NFL cheerleaders to take legal action, with squads from the Cincinnati Bengals, New York Jets, Tampa Bay Buccaneers and Buffalo Bills filing suits. Finally, it became the subject of a documentary titled "A Woman's Work: The NFL's Cheerleading Problem."

#### Tears and joy

Burrell recalled the first case she tried for a jury. It was a discrimination and retaliatory harassment trial in which she represented an African American woman against her employer, Caltrans. The woman was subjected to constant harassment as an agency engineer because she was a dark-skinned African American and she was overweight, Burrell said. When the verdict was read, Burrell, her client and some of the jurors were in tears.

"She was a really sweet woman who they just tortured," Burrell said. "Thankfully, we had a jury that was paying attention and ultimately was on our side. It was just a memorable experience being able to represent this woman who had gone through so much."

When she's not working, Burrell enjoys reading and listening to music – she used to take band classes and likes to sing. She also enjoys the outdoors and once took a weeks-long road trip with a



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friend to Alaska, camping out along the way. “That was a pretty epic experience,” she said. “I haven’t been doing a lot of traveling since the pandemic, but I’m very much a road trip person.”

As for Burrell’s sage advice for young lawyers, she would tell them to figure out how to do business by standing still, being

themselves and not trying to live up to some standard invented by Hollywood or the media.

“You know, how you’re supposed to be an attorney – like how you’re supposed to behave, how you’re supposed to perform,” she said. “To me, that always felt like a lot of pressure, and it took a

while to realize you don’t have to because there are plenty of people that are successful just by being who they are.”

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