The Case of the Missing Oscar
GW Law team tackles decades-old Oscar mystery

Not many legal research trips involve a visit to the Academy of Motion Picture Arts and Sciences in Hollywood. But, the academy was a crucial stop for Professor W. Burlatte Carter, who headed to Hollywood to unravel the mystery of what happened to Hattie McDaniel’s Oscar—a case detailed in her article “Finding the Oscar,” published in the Fall 2011 edition of the Howard Law Journal.

For some 40 years, Ms. McDaniel’s Oscar has been missing from a glass case at Howard University, where it was last seen. She won the coveted award for Best Supporting Actress for her role as Mammy, the O’Hara family’s slave servant in the 1939 film adaptation of Margaret Mitchell’s Pulitzer Prize-winning novel, Gone With the Wind. “It was the first Oscar ever awarded to a Negro,” explains Professor Carter, who often uses “Negro” for African Americans of that era because “that’s what they would have proudly called themselves.”

The book was contentious among blacks, she says, because it “attacked the end of slavery and defended the Ku Klux Klan.” Professor Carter adds that when Ms. McDaniel won her Oscar, Hollywood offered only limited roles to African Americans, mostly as servants to whites or as comical, dangerous, or dim-witted caricatures. That context—and the perception of some that Ms. McDaniel accepted demeaning roles without protest—made her Oscar controversial. “On the one hand,” says Professor Carter, “it represented a Hollywood milestone as the first ever awarded to a Negro. On the other hand, to some it was Hollywood’s message that only black actors who went along with the status quo, no matter how much it damaged blacks by stereotyping them, would succeed.”

Professor Carter got the idea of researching the Oscar’s fate from a Twitter conversation. After another Best Supporting Actress winner, Mo’Nique, honored Ms. McDaniel in her 2010 Oscar acceptance speech, entertainment critic Touré led a lively discussion about the actress’s lost Oscar. Professor Carter, who teaches trusts and estates at GW Law, wondered aloud to the Twitterati if anyone had ever looked at Ms. McDaniel’s probate papers to see whether the Oscar actually reached Howard University—and how.

Most commentators assumed that it came directly to Howard from the estate.

“I later learned that Ms. McDaniel’s probate papers were at the Los Angeles County Records Center,” says Professor Carter, “and the center would not send anything by mail.” Not yet sure a visit to the West Coast would be worth it, Professor Carter called partner Ted Mayer of her former law firm, Hughes Hubbard & Reed in New York, who arranged for Los Angeles paralegal John Chaillot to visit the center to review key documents. An exhaustive search through the probate file further complicated the story; documents showed the Oscar in the estate, but its trail disappeared without explanation about midway through the probate process.

From that point on, says Professor Carter, “I was convinced that the story was worth telling.” She rolled up her sleeves and got to work, aided in her research by GW Law students Sam Cowin, Michael Dal Santo and Keith Sleeth Del-Prete. Together, the team conducted some 50 interviews and document reviews in four jurisdictions.

Reviewing Ms. McDaniel’s probate file was no easy feat, says Professor Carter. “The files were microfilmed out of order,” she notes, “and I had to piece it together. I actually had to do a spreadsheet to get the chronology straight.” As the story unfolded, she was surprised to learn that the actress died with an estate of just $10,000. Though she had only a few creditors, the estate was insolvent. (The IRS claimed it was owed more than $11,000.) Consequently, all of her assets, including the Oscar, were sold to pay creditors.

Professor Carter believes that the Oscar did not reach Howard until the early 1960s and that it probably came as a gift from actor and alumnus Leigh Whipper, a founding member and president of the Negro Actors Guild and an avid collector of Negro theater memorabilia. “He also knew Hattie McDaniel very well,” says Professor Carter.

After extensive research, Professor Carter concludes that the Oscar was removed from its glass case in Howard’s drama department between the spring of
But fund it he did. The academy houses the Margaret Herrick Library, which holds papers and photographs of Ms. McDaniel, again only accessible in person. In addition to reviewing those papers, there were two other things that Professor Carter wanted to accomplish there. First, she wanted to see the Academy's official photographs of that famous Oscar night in 1940. "I had heard rumors that Academy night was segregated," says Professor Carter. "But some histories report that at least one white person, perhaps her agent, was at Ms. McDaniel's table; other histories say Ms. McDaniel sat at director David Selznick's table as a guest. I wanted to see for myself."

Sure enough, says Professor Carter, the official photo shows Ms. McDaniel and her escort seated alone at a small round table in a sea of long banquet tables end to end. "They were in a corner," she adds. "If they turned left, they faced the back of a white person sitting at the end of one of the long banquet rows. If they turned right, they faced the stairs. They were the only two blacks in the room, including the servants and the band, and the rest of the Gone with the Wind cast and crew were seated several yards away toward the front center of the room."

The second thing Professor Carter wanted to see for herself was the type of Oscar Hattie McDaniel actually won. The academy's website has a "publicity shot" picture of Ms. McDaniel accepting the traditional tall 13.5 inch Oscar, taken days after she won. But in her day, Best Supporting Actors and Actresses did not win the traditional 13.5 inch tall Oscar, but rather were given Oscar plaques, approximately 5 by 6 inches and mounted on a stone base. "There are only a few of those in circulation now and some pictures on the Internet, even fakes claiming to be McDaniel's," she explains. "I wanted a sense of its weight, whether the engraving or base changed from year to year, that sort of thing. The academy librarians were very helpful in showing me several examples of what we were looking for."

Professor Carter knows that the book is not closed on Hattie McDaniel's Oscar story. "I am hoping that the article will bring some more sources out of the woodwork," she says. She also notes that there was a lot she had to leave out of the article. "This 'lost Oscar' story is larger than Hattie McDaniel," she says. "It is a story about how slavery and...racism...and gender discrimination affected the ability of the descendants of slaves to earn wealth, grow wealth, protect it, and pass it from generation to generation."

On the other hand, Professor Carter notes that the story is a metaphor for progress too. "At her death, the Oscar was assessed at 'no value.' Today it is estimated to be worth half a million dollars, and I think that's low. The whole story is a metaphor for where we've been...and where we are today in Civil Rights. And maybe the fact that it is lost now, suggests that there is still work to do."

Part of that work, she suggests, is making sure such artifacts are safe and preserved. "In Hattie McDaniel's day, most white institutions did not preserve black history, so there are tons of papers, books, artifacts from these earlier eras in the institutions across the country that would accept them. They represent American history, and we need to make sure that they are taken care of."

Readers might have one final question. Did Professor Carter deliver a mock Oscar acceptance speech when the academy's librarians gave her an Oscar to hold in her hands? She laughs, "You know I thought about that. But the academy knows they have something special, so I had to be very clinical about my examination, you know, to act as if it was no big deal to hold an Oscar in my hands—or to be in a room that had several of the tall Oscars on shelves. So I just played it 'GW cool.'"