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Diversity Report ...

Firms Make Strides but Still Not Achieving Sufficient Progress

Despite a heightened awareness, the nation's ever-increasing, diversified general population, and significant amounts of time, money, and energy to effect change, attorneys at U.S. law firms are overwhelmingly white and male. Simply put, the legal profession still has a diversity problem; law firms continue to lag considerably behind their clients on this front.

But there are success stories of partnerships taking significant action to make their workforces look more like America. And it's no secret that often clients are the ones driving this change for the better.

Consider this example conveyed to *Of Counsel* by Natasha Innocenti, a partner

in the San Francisco office of the national legal recruitment firm Mlegal Group, who writes and speaks extensively about diversity and women's issues: A few years ago, some in-house attorneys for a top five bank contacted one of the company's largest law firms and essentially said, "You're wildly successful in virtually every areas we care about—except diversity."

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Within a month, Innocenti says, one of the most powerful white men in the firm was made chair of the diversity committee. Three years later roughly 30 percent of its executive committee were women; 35 percent of its management committee were women; 50 percent of lateral hires were diverse. For the last three years more than 50 of the attorneys that were made partner were diverse. In 2017, every single attorney the firm made partner was a minority.

The message: “When a firm cares, it’s usually because a client cares, and someone at the top of the firm enlists the key stakeholders

to make change,” says Innocenti, who was recently named Honoree of the Women of Achievement Award 2018, by Legal Momentum, Women’s Defense and Legal Fund. “It requires all of us working together to make that kind of change that quickly. It can’t just be left to women and minorities.”

Familiar Roadblocks

Law firms run up against several factors preventing them from hiring, retaining, and promoting more women and minority attorneys. For one thing, of course, it requires a lot of money and hard work to become a lawyer no matter what your background is. It’s more arduous than taking a smoother career path into Corporate America, in which a bright young professional earns a four-year degree in, say, business or communications, finds a job, and works up the corporate ladder and into management.

“The barriers to entry to becoming an attorney are quite high,” says Angela Gonzales, a partner in the San Diego office of the global law firm Rimon. “You have to put forth a lot of effort in your education and usually take on a lot of debt to have the opportunity to take the bar and then find a job. Because of the high cost of going to law school the pool of lawyers tends to be more privileged and less diverse.”

Practicing law requires high-quality writing skills, and that can pose challenges for anyone who wants to become a successful lawyer. It’s more difficult for some minorities and for people who didn’t get sufficient training in writing, sources say. “People can learn to speak very eloquently, but to be able to write is more of a challenge—and it’s something that’s not focused on enough in school,” says Christine Noma, a partner at Oakland’s Wendel Rosen Black & Dean, who has worked on diversity efforts for 25 years. “The focus in schools is on STEM [science, technology, engineering, and mathematics], so we often lose the best and brightest who are not going into fields such as law where you have to master written English.”

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Diversity Goals

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And then there's the nature of the partnership, which contributes to the foot-dragging of the full embrace of many changes, including those that corporations seem to make with relative ease. "Law firms are partnerships and companies are corporations with professional management teams that have the authority for top-down change," Innocenti says. "Law firms are slower to adapt because of aggregated decision-making, and historically they've been run by white men. To a large extent, that's still the case. So, layering that on top of the partnership structure—it just takes more time to change."

The Retention Factor

Even when firms hire women and minority lawyers they often have trouble keeping them, as many attorneys—white males included—are seduced by the siren song of the relatively easier work atmosphere of corporate legal departments, a source of frustration for many private practitioners.

"Retention rates of all associates are not as good as Corporate America because it's a tougher environment for lawyers in law firms," says Alex Chae, a partner in the Houston office of Dallas-based Gardere Wynne Sewell, who has served in many different diversity positions both in and outside the firm. "[Losing a minority or female lawyer to the corporate world or elsewhere] is magnified when you feel like you have identified, recruited, and hired great minority candidates, and you develop them and then they choose to go in-house or make a career path change. It's more of dramatic impact statistically when you have fewer numbers and then lose a couple of minority attorneys."

Diverse attorneys sometimes face higher hurdles in the all-important business-

development and rainmaking arenas, and the inability to build a sizeable book of business contributes to early exits from private practice. Often the source of this challenge comes from a lack of inside-the-business-world connections.

"Often minority lawyers don't have the family connections," Noma says. "Their dad isn't best friends with the CEO of some big corporation. You have minority attorneys who work just as hard or harder as their white male counterparts, but their families aren't positioned to have their connections give them business."

Another broader trend affects professional retention in virtually all industries: the Millennial Factor, attrition caused by younger workers' desire—and sometimes it's a need—to hop from job to job. "Like all employers, we run into the Millennial Factor when it comes to retaining good people," Chae says. "This generation has a different mindset about wanting to be at a place a long time and make partner. New issues are evolving for all of us."

Myriad Benefits

The advantages of having a diverse workforce, no matter what economic sector one operates in, are numerous but a few especially stand out. First, different people bring different ideas to the table. "We don't want to practice law inside an echo chamber," says Pamela Schock Mintzer, a Wendel Rosen partner. "If everyone who is a decision-maker or who you work with is of the same gender, race, and age frame, you're often going to get the same viewpoint on issues. You'll do a better job for your clients and your community if you're able to think creatively. Diverse opinions deliver a better product."

In addition, clients feel they can relate better when they deal with diverse teams. "We're able to provide more robust service to clients by having people with different

backgrounds who might identify better with clients,” Gonzales says.

It's an absolute necessity to have [diversity]. It's not an option: It's a must

Chae concurs and says working hard to hire, retain, and promote more women and minorities is critical in today's world and that he wouldn't want it any other way. “The people who are purchasing our services are not just white males,” he adds. “They're comforted to know that we have people who may come from similar backgrounds, and have similar experiences and perspectives. It's an absolute necessity to have that. It's not an option: It's a must.”

The importance clients place on diversity manifests in many ways, and firms that don't realize the need to diversify and then find methods to do it will be left out in the cold. Some companies hand out awards to recognize a firm's diversity efforts. AT&T now has an award for the diversity firm of the year that it gives to the partnership that best meets its diversity needs. Pepsi has a similar honor. “The big companies that have hundreds of millions of dollars for legal spend are paying attention and tracking it,” Innocenti says. “Firms with more diversity are simply more competitive.”

A survey that a client asked the partners at Rimon to fill out prompted them to increase their awareness about diversity. “We ramped up our regular internal diversity conversations after receiving that survey,” Gonzales says. “We started looking at our survey answers to see where we are and what we need to improve upon. By having these discussions we hope to bring to light the unconscious biases we all have.”

Gonzalez says recent events across the nation have ignited discussions about the nature of and the need for diversity. “I don't know if these headlines over the last year or so will translate into more law firm diversity, but I think we're having conversations that we weren't having before,” she says.

Firms with more diversity are simply more competitive

Certainly, there's no dearth of information nor paucity of forums for such discussion, and firms are spending more and more money on diversity. “There's a cottage industry of diversity,” says a source who asked not to be identified. “If you want to pour money into something and say you go to all these seminars, well, every firm is going to allocate money for that. No one is going to say, ‘No, we don't do that.’ Or, ‘You can't do that.’ That would never fly.”

At Gardere, Chae sees law firms trying very hard and are very sophisticated and intentional in wanting to develop a workforce of different types of people. And, he sees progress: “The benchmark for me is seeing more minority lawyers on compensation, hiring, and management committees, and more who serve as practice group leaders. That's my marker. That's encouraging, and it's a good trend.”

Wendel's Noma says she believes the legal profession could do better but also recognizes the headway that's been made in recent years. She cites a compelling reason for why there's no turning back now: “Diversity is not only a business imperative; it's morally the right thing to do.”

—Steven T. Taylor