

While the Recession Has Slowed Diversity Efforts at Some Firms, Two Partnerships Push Forward with Persistence and Innovation

While the legal profession has made strides in the last decade or so in hiring and promoting minority, women, and lesbian and gay attorneys, diversity efforts at many firms have waned since the recession hit, according to several sources and a recent survey.

Yet, despite the recession and the trend among some partnerships to cut back resources for and commitments to diversity—as quietly as they can—some firms (including two featured later in this article) have shown that law firm management can effectively initiate programs and strategic approaches to reach out and retain diverse attorneys, even in this economy.

Every couple of years since the mid-1990s *Of Counsel* has examined and reexamined the important issue of diversity within law firms, primarily because of the legal profession's inability to keep pace with advancements that other industries have made in this regard. Not all of that reporting has been negative; we've reported on successful mentoring programs, the emergence of diversity managers at firms, and other efforts to make the historically white-male-dominated profession "look more like America."

The last time this publication explored this area was two years ago in the July 2009 issue when we reported this, based on interviews within the profession: "When law firms laid off wave after wave of attorneys earlier this year, a disproportionate number of them were minorities and women."

At the time, a partner at a large East Coast firm who asked for anonymity, for obvious reasons, had this to say: "I'd say out of all the people that left my former firm within the past six months, 75 percent were women or minorities. In talking to colleagues across town, I'm hearing the same thing occurred at their firms." (For more, see "Under Cover of Recession, Firms Undercut Diversity, Despite a Promising New Coalition," July 2009, p.3.)

Looking back today, others seem to confirm that assessment. "The recession definitely affected diversity efforts in the industry, especially at big firms, where often there was a disproportionate amount of diverse attorneys laid off," says Brent Clinkscale, partner and diversity committee chair at North Carolina's Womble Carlyle Sandridge & Rice, who adds that when diverse attorneys have significant books of business they're less likely to be laid off. "The solution to that is client development so that when you reach a partner level, you make sure that those individuals have the opportunity to get business, that you share your business."

NYC Bar Reports Lagging Efforts

In January, the New York City Bar Association released its "2010 Diversity Benchmarking Report" with some dismal findings. The survey showed that during 2010 the percentage of minority attorneys dropped "overall as well as at every key level up to partner" and that the percentage of women attorneys also fell "among partners

and overall.” Attrition among minority associates and partners continued at rates higher than those of their white colleagues, a pattern that’s been consistent since the bar began monitoring attrition rates among minorities in 2005.

The report did show some positive developments, such as an uptick in diversity among new partners and an increase in the percentage of women who are now practice group leaders, but in general, the numbers indicate that the economic downturn has slowed diversity. “The [New York City Bar] survey has been consistent with a lot of the trends that I’ve seen,” says Derede McAlpin, Esq., a vice president at Washington-based Levick Strategic Communications and an expert on diversity issues. “Firms have been focusing on priorities other than diversity, and a disproportionate number of minorities have been affected by downsizing due to the recession.”

McAlpin, however, does point to some firms that have consistently moved forward to diversify their ranks over the years. In particular, she says, Womble Carlyle stands out. The 520-attorney partnership, which won the 2009 Law Firm Diversity Award by DRI, the Voice of the Defense Bar, backs its diversity commitment with time and money.

In 2004, the firm established the Womble Carlyle Scholars Program, which awards scholarships to diverse second-year law students at schools in the several states where the firm operates and sometimes beyond those jurisdictions.

“I think that we’re the only firm that gives scholarships to 10 law schools a year,” Clinkscale says. “First we look for recipients at law schools in our footprint. But if we have extra scholarships because for some reason the pool that year doesn’t meet our requirements, because of a lower-than-we’d-like GPA, for example, we go outside our footprint. For instance, this year our 10th scholar is from Northwestern [University Law School in Illinois, a state where the firm does not have an office].”

“Getting a Good Yield”

Although the scholarships are handed out with no strings attached, the program is paying dividends as several recipients have served as summer associates at the firm and some have graduated from law school and joined its ranks.

“One of the great things about the scholars program is that we’re getting a good yield,” Clinkscale says. “We don’t require those kids to come to work with us to get the money. So if we give out 10, we’ll have five over the summer, and then we’ll give three offers and they’ll matriculate into the firm. The program has a two-prong goal. One is to grow diversity within Womble but also within the industry.”

Clinkscale says that the firm’s “diversity infrastructure” is another reason Womble Carlyle is different from many other firms in the area of recruiting and retention. That is, the diversity committee that he chairs comprises members from across the firm’s ranks: senior partners, associates, sales and marketing professionals, as well as managing partner Keith Vaughn. “They all help carry out and manage the initiatives,” he says.

Currently, the firm has 41 attorneys who are minorities or gays and lesbians and 161 who are women, which is a pretty well-mixed composition. But not good enough, says Clinkscale who has been recognized within the profession for his work in diversity and race relations. “We need to recruit and retain more lawyers of color and focus more on retaining the women lawyers we hire,” he says, adding that, because of the growing Hispanic population, his firm, and the profession at-large, should seek out more Latino lawyers.

Progress on the West Coast

Across the continent in the Silicon Valley, another firm has made great steps toward diversifying its partnership: 300-plus-attorney

Fenwick & West. Like Womble Carlyle, Fenwick has also been recognized for its diversity success, most recently in May when *MultiCultural Law Magazine* announced its “Top 100 Law Firms for Diversity” survey results. Fenwick was named the number one firm on the overall survey ranking and scored high in several different diversity categories.

One thing that sets Fenwick apart from many other law firms is its persistence; its lawyers are simply determined to increase their diversity efforts and they understand well that the profession lags behind other industries.

“When compared with other industries, the legal profession is not doing well,” says Felix Lee, co-chair of the firm’s diversity committee. “For the entire profession, there is vast room for improvement. At Fenwick & West, by law firm standards, we are doing very well. In the rankings that various organizations do, we are consistently one of the top firms in the country with respect to diversity. But we can do better. We want to be on the vanguard and not rest on the accolades we receive.”

That attitude likely goes a long way in recruiting and retaining minority, women, and gay and lesbian lawyers. So, too, does self-examination and honesty. A year or so ago, Fenwick commissioned a survey to understand retention and advancement in racial minorities. It also broke down its internal population numbers and studied them. “We identified areas that we need to do better in,” says Michael Shuster. “The hiring of African-Americans was clearly the area that we need to work on the most.”

Indeed, while the firm is one of the best in the country at hiring and promoting Asian-Americans—some 25 percent of its non-partners and 8 percent of its partners are of this ethnicity—only .6 percent of its non-partners and 5 percent of its partners are African-Americans. The firm, led by Lee, Shuster, and Fenwick’s manager of attorney

recruiting and diversity, Julieta Stubrin, decided to change this.

“Not too long ago, all of the African-American lawyers we had were laterals, so we set as a task for ourselves to [hire first-years],” Shuster says. “Two summers ago we recruited an African-American [law school graduate] at a job fair in Miami, brought him in, and he summered with us this past year. He did very well, and he’s joining us later this year. He’s a Harvard grad, very bright and very personable. For this summer, we’re having continued success. We have three more African-Americans joining us. We’re making measurable progress.”

Borrowing from Other Firms

While Fenwick has proven itself very capable of devising diversity tools on its own, lawyers at the firm are also open to borrowing ideas from other partnerships. “One thing that we do that’s different from other firms is that we take affirmative steps to explore work that’s done at our local peer firms who are doing something better than we are,” Shuster says. “We like to understand how their practices differ from ours and adapt their practices in the larger context of the way our firm runs.”

The idea of sponsorship is one such program Fenwick learned about from a few Bay Area firms, and they’re now in the early phases of launching this initiative. While sponsors are similar to mentors, who Fenwick and many firms already have, they more closely navigate young diverse attorneys through the law-firm environment labyrinth. And they’re more experienced than most mentors.

“The sponsor will act as a resource, teach the unwritten rules, help people get plugged into the firm’s culture, and be a buddy,” Shuster says. “A sponsor is a more senior person, someone with the ability to source work either directly or indirectly. Sponsors have more pull. You can’t have

a junior partner be reliably helpful in that role.”

The firm has also placed more emphasis on diversity within the practice group areas, getting practice group leaders to take a more active role in working with minority, women, and gay and lesbian lawyers. Shuster says

that he’s “excited” about the practice-group focus and thinks both this approach and the new sponsorship program show promise. “We think that they can generate meaningful improvements to diversity in our firm,” he says. ■

—Steven T. Taylor

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