

I N S I D E T H E M I N D S

Building and Encouraging Law Firm Diversity

*Leading Lawyers on Creating and Maintaining
an Inclusive Firm Culture*



ASPATORE

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Creating a Pipeline of
Tomorrow's Lawyers Today
and Other Law Firm
Diversity Strategies

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Introduction

The focus of this chapter is to recognize that law firm diversity encompasses both attorney and staff diversity. Law firm diversity is necessary to compete in a global society. It is not easy to attain. It requires work, including expanding the number of young people of color and other underrepresented groups entering the pipeline to becoming lawyers. However, once diversity is attained, steps must be taken to maintain it to better ensure a viable and profitable firm.

Understanding Law Firm Diversity

Webster's Dictionary defines diversity as "the condition of having or being composed of differing elements." We have heard that adage of spice being the key to life. Diversity can be that spice that is essential to a successful law firm. Diversity does not stop at any one level of a law firm or any one characteristic. Diversity, like spice, should infiltrate all sectors of a law firm, from attorneys to staff. It should include race, gender, sexual orientation, economic condition, culture, and national origin. As America becomes more diverse, so should our law firms.

As a shareholder at Greenspoon Marder, P.A., a large Florida firm, I have seen our state growing more and more diverse as potential clients from Latin, Haitian, European, Asian, and Caribbean countries make Florida their home or home away from home. Many of them either cannot speak English or speak very little English. Yet they hold the key to a successful and profitable law firm.

Diversity is not uniformity. It is not homogeneity. It is today's reality.

Challenges of Increasing Law Firm Diversity

How do you increase the diversity in your firm when you are struggling to maintain the diversity that you have? It sometimes seems that as soon as one lawyer adding to your firm's diversity joins, another attorney leaves. You may ask yourself, which is more important today: recruitment or retention? I liken it to the question of which comes first: the chicken or the egg? You cannot have an egg unless it is laid by the chicken, but you

cannot have the chicken unless it is hatched from the egg. One cannot exist without the other, and they both are pleasing to the palate.

This is the case for recruitment and retention. It does a firm no good if it invests time and money into recruiting lawyers who are ethnically, racially, and gender-diverse, yet fail to invest in the tools necessary to develop and nurture them so that they will be productive, loyal assets of the firm. For diversity to yield profits to the firm, you must bring the attorney in, acclimate the attorney to a positive firm culture, and help that attorney identify the skills within himself or herself to be a productive and profitable addition to the firm. Some studies show an associate's departure can cost a firm up to \$500,000 in recruiting, training, salary, overhead, severance, and other costs. (See ABA Presidential Diversity Initiative, *Diversity in the Legal Profession, The Next Steps*, p. 36, April 2010) This brings credence to the adage that it is cheaper to keep them.

Some firms claim that they would have more diversity in their hiring of attorneys, but attorneys of color are just not out there. Sadly, there are too few lawyers of color in the job market. According to the 2010 US Census, minority groups comprise more than 30 percent of the US population, and this number is expected to increase to more than 50 percent by 2050. Lawyers of color make up about 10 percent of the legal profession. Of this percentage, approximately 3.99 percent are African Americans; 3.3 percent are Hispanics; and 2.39 percent are Asian. (See Ann Farmer, *Feeding the Diversity Pipeline*, The ABA Diversity Collection 2008-9, ABA Center for Racial and Ethnic Diversity, P. 30) This is why it is necessary that we focus on the pipeline for youth of color so that they will consider careers as lawyers.

In 2000, when I was President of the National Bar Association (NBA), we initiated the National Bar Association Crump Law Camp for high school students on the campus of Howard University in Washington, D.C. Now in its fourteenth year, the NBA Crump Law Camp has graduated a number of today's young lawyers. In my acceptance speech, I said it was incumbent upon the NBA to "grow" lawyers of color. If not the oldest and largest association of African-American attorneys in this country, then who? If we do not expose our children of color to a positive experience within the legal

profession at a time in their lives when they can improve their grades and be accepted into good colleges and law schools, then we could lose them forever.

When the NBA Crump Law Camp commenced, the number of lawyers of color in the United States was approximately 10 percent, and that number remains stagnant. Ultimately, with such a small pool of attorneys from which to draw, it is going to be difficult to create any significant diversity in this field, particularly in large law firms. Consequently, one of our major challenges in increasing law firm diversity continues to be expanding the pipeline.

I graduated from law school in 1982, and I still remember when one of the staff at the law school library told me that, in light of the racial climate, as a black woman, I would need to leave the state of Georgia if I was going to practice law. While I planned to return to Florida to practice, I found that the vestiges of racism and sexism, whether intentional or not, followed me to Florida.

In the eighties, I experienced and observed law firms, usually consisting of Caucasian men, not hiring attorneys of color and women. In 1990, when I opened my own law office after working for legal services and small law firms, I found that the integrated firms in my community were controlled by lawyers of color. I also discovered that people tend to hire attorneys who originate

from a background similar to their own—at least until they were exposed to attorneys who were racially, ethnically, or gender-diverse. Therefore, a key challenge in this area is getting law firms—and their clients—to become willing to diversify.

Race is not the only issue that leads to law firm diversity challenges. When I first started working in private practice, I was hired by an African-American male attorney who told me that he had never hired a woman attorney before; in fact, he had some derogatory things to say about women lawyers. However, by the time I left his firm, that attorney said that he would be willing to hire another woman lawyer.

Ultimately, it is important to open people's minds to the fact that different types of people can expand and enhance a firm. Diversity can equal profitability—not just in terms of money, but also in terms of quality. Basically, if the diverse people in your firm feel that they are valued, and all of the people in your firm believe that they can learn from different types of people, then that mindset adds to the bottom line. A diverse law firm tends to have greater longevity and more retention, simply because your people are not going to try to find better opportunities elsewhere when they can find those opportunities at your firm.

To that end, Greenspoon Marder offered sensitivity training to its attorneys on client diversity so that the attorneys would become more understanding of different cultures and how to develop clients from different cultures. In Florida, the client base includes a substantial number of people in the Haitian, Hispanic, Cuban, South American, and Caribbean communities—many different types of people from many different types of cultures. To understand these diverse groups requires a recognition that they may not think as you do, and your action may unknowingly be an insult to them. Consequently, a significant goal of diversity training programs for a firm is to become more sensitive to the clients' needs. Some attorneys in firm leadership may believe that corporate clients do not seem to be interested in diversity, but the reality is that many attorneys do not have corporate clients, and those attorneys need to be more sensitive to the needs of the people whom they serve.

Finally, as the “browning of America” trend continues, a growing number of people of color have wealth. If you want to be able to reach those people—particularly if you have practices in estate planning, family law, probate, and wills—then you have to be able to relate to them.

Our firm is located in Florida, and our client base comes from many different cultures, races, and backgrounds—as do our lawyers and staff. We have found that when a firm has a diverse group of lawyers, those lawyers have a greater ability to connect with potential clients. Many of the firms in our area are small or medium-sized firms that need as many potential clients as possible; in many cases, prospective clients will hire a firm because the people who are representing them provide diversity in terms of race, gender, and background.

In addition, a diverse lawyer is often more comfortable working for a diverse law firm because the lawyer is more likely to feel that his or her opinion will be heard. For nearly fifteen years, I have been a shareholder in a large law firm. While I wish my firm had more lawyers of color who are shareholders, I have had many experiences when associates of color have approached me and expressed their opinions with the belief that those opinions would be given great consideration because I could empathize with their circumstances. Even when I was not able to deliver on a request, the lawyers felt that I tried and that they mattered. This feeling of someone caring can instill self-worth and loyalty.

Diversity Initiatives in Today's Law Firms

Greenspoon Marder has ten offices and employs nearly 500 attorneys and support staff. Our support staff is extremely diverse, while our legal staff is not as diverse as I would like it to be. However, much depends upon the situation in a particular office. In my office, which has six lawyers, I am the administrative partner, and we are located in a small community. My office reflects the way I desire my firm to be staffed: of the six attorneys we have on staff, two are male; three are African-American; two are Caucasian; one is Jewish/Hispanic; four are women; three are over age fifty; and three are under age fifty. This is quite a diverse office that reflects the community that we serve and the managing partners of our firm, who are sensitive to the needs of our attorneys and our support staff.

Greenspoon Marder has a diversity committee which is racially, ethnically, and gender-diverse; however, it is not as active as I believe it should be. I am the Chief Diversity Officer, and based upon my conversations with other attorneys in firms who have roles similar to mine, they are experiencing some inactivity, as well. Much of this inactivity was driven by a sluggish economy, which is slowly turning around. An active diversity committee that includes the leadership of the firm is necessary for a healthy, diverse firm.

When I joined Ruden McClosky PA in 2000, we did not have a diversity initiative. Ruden McClosky merged with Greenspoon Marder in 2012. In 2007, I was the chairperson of the American Bar Association Presidential

Advisory Council on Diversity in the Profession staffed admirably by Cie Armstead. Ms. Armstead assisted me in making the case with my managing partner that Ruden McClosky should seriously consider implementing a diversity initiative because out of more than 150 lawyers there were less than five partners of color. We hired a diversity consultant, Wilhelmina Tribble, who conducted focus groups throughout our ten offices. Our efforts resulted in greater diversity on a firm-wide basis. Because we were primarily a real estate firm, the downturn in the market that occurred later in the decade impacted us greatly, and ultimately, we merged with Greenspoon. Now that we are growing as part of a new firm, we are also starting over in terms of trying to expand our diversity—particularly the diversity of our attorneys.

Current Trends Affecting the Structure and Diversity of Law Firms

In my particular practice, I have found that I am dealing with more clients from Haiti. In fact, a portion of this chapter is being written on a plane en route to Port au Prince. I also have Hispanic clients who speak little English. Fortunately, my assistant is from Cuba, and she speaks Spanish. This is an important by-product of staff diversity. As an attorney who practices in Florida, I have found that you need to be able to relate to and communicate with the people you serve for them to feel comfortable with you and your firm. For example, the aging community represents a huge client base: as our client base ages, we have to respect their needs and be patient with them.

The clients you seek may require that your firm be reasonably diverse. This may be because those potential clients are diverse and would like someone with whom they can identify to handle their matters; or it may be because they service or sell goods to adverse population and want to do business with firms that reflect this diversity. Essentially, law firms need to be prepared to serve their clients in the way that they want to be served and by whom they want to be served.

Of course, much has changed in this area over the decades. Back in 1990, for instance, I lost a case because of a bad ruling by the judge; however, my client, who was Caucasian, asked me whether I lost because I was black. His question upset me so much that I handled his appeal *pro bono* and won the

case. I took that judge's decision and my client's remark so personally that it caused me to lose money and faith in myself. These days, however, about 60 percent of my clients are Caucasian, and they hire me because of my reputation. Years ago, many clients did not want a black woman to take care of their legal business, but now they have become accustomed to working with me. That is the beautiful thing about diversity—it teaches you that those fears that you had were not based on fact, but on some faulty perception or somebody else's reality. Once you see the truth, you no longer have those fears.

Essential Components of Law Firm Diversity Strategies

To develop a law firm diversity strategy, you first need to have a “North Star”—and that North Star is typically a managing shareholder or director who is committed to your diversity program. You need to be able to fall back on somebody if a partner, an associate, or an administrative staff person does not like or is struggling with your diversity initiatives, or if someone has issues with one of your new hires. If the lower-level people in your firm do not believe that the top-level people have bought into your diversity program, it is not going to work. In particular, your shareholders need to know that the decision-makers in your firm are committed to diversity.

Second, you need a watch dog—a diversity officer or somebody else with the authority to ensure that your diversity efforts are carried out. That individual needs to feel that the North Star has his or her back. This must be demonstrated in a meaningful manner, which can include a diversity budget and compensation.

Third, the law firm needs to have money to focus on diversity. If a firm is profitable, its people are more willing to share power and be open to new ideas. You also need to have a pool of talent to draw from, which is why it is so important to create a diversity pipeline.

Fourth, the firm must be willing to change its way of thinking. In the old days—particularly with respect to large firms—many people believed that the only way you could be successful as a lawyer was as a “legacy” hire working for your parents or a friend of theirs, or if you came from the top 5

percent of your law school's graduating class. However, law firms have been forced to change their way of thinking regarding what makes a successful attorney or partner. For example, the person at the top of a graduating class might not necessarily make the best partner because that person might not have the ability to bring in certain clients. Consequently, it is often a better idea to hire someone who represents a different kind of lawyer than the lawyers you currently have on staff—someone who has different ideas and who may be able to reach a different group of clients. Indeed, one reason our firm hosted a diversity seminar is that we wanted our attorneys to be more sensitive to different types of clients and attorneys so that we could bring those people into our firm.

Ultimately, you have to be able to create an environment of acceptance in your firm because if your diverse hires do not feel that they belong or are wanted, then they are going to start looking elsewhere. If you have created an environment of acceptance, then it is easier for your firm to grow and retain the diversity that you currently have.

Conclusion

Our firm recently hired another African-American female lawyer, which is in keeping with one of my goals: to increase the diversity of our attorney base, at least on the associate level. Ideally, I would like to increase overall diversity at our firm by 5 percent, and I would like to increase the number of women partners in our firm by 10 percent to 15 percent in the next two years. We opened a new office in Tampa last year, and as the firm expands, the diversity of our support staff has increased—at least 30 percent to 40 percent of our support staff is diverse.

My advice to other managing partners is to take the concept of diversity seriously. For example, if you have a diversity officer, you should provide some type of compensation for that position, whether it is a bonus or an increase in salary. You need to show that person that you are willing to pay more than just lip service to the concept of diversity because you do not want your diversity officer to feel as if he or she is the only one who is sacrificing time in this area.

At the same time, you should not be afraid to let the firm's shareholders and partners know that you take diversity seriously, and therefore, they should take their diversity officers seriously. In addition, they may need to be told that they should not be afraid to take a perceived risk on a person of color or a woman. Sometimes a new hire might not work out, but it should not be because you did not give that person what was necessary to achieve. In addition, you should not place higher standards on a diverse person than you would place on a new hire who came from the top 5 percent of his or her class, or someone who is a legacy hire. Rather, you should do everything possible to help a diverse hire achieve and succeed. If everyone in your firm communicates the message that the only reason a new attorney was hired was his or her race or gender, that attorney is unlikely to succeed.

Finally, do not forget your focus on building a pipeline of legal talent. For instance, some of the students who attended the NBA Crump Law Camp had some challenges in school prior to attending, but after their law camp experience, they excelled in school. The NBA Crump Law Camp completed its 14th year at Howard University in Washington, DC. Some 34 students matriculate through the ten day summer program and compete in the Evett L. Simmons Mock Trial Competition. The finalists in the mock trial competition compete at the NBA annual conventions. This is a unique experience for many students from inner cities and rural areas who do not have many opportunities to get involved in the field of law. I did not meet my first lawyer until I was in college. I believe that if we can get more young people through this type of pipeline program, we will ultimately have a larger group of diverse lawyers from which to choose. Therefore, my goal is to encourage more law firms to commit to mentoring youth and funding programs such as law camps. We must work to get these youth on track to succeed in school and become lawyers.

Key Takeaways

- Hire someone who represents a different kind of lawyer from the lawyers you currently have on staff—someone who has different ideas and who may be able to reach a different group of clients. Learn how to create an environment of acceptance in your firm so that it will be easier for your firm to grow and retain the diversity that it currently has.

- Focus on enhancing diversity in the educational pipeline to develop legal talent. Encourage your firm to commit to putting money into programs such as law camps and mentoring youth of color so that they can get on track to succeed in school and become lawyers.
- Take the concept of diversity seriously. For example, if you have a diversity officer, you should provide some type of compensation for that position. It is important to show that the firm values what the diversity officer is doing.
- Let the firm's shareholders and partners know that you take diversity seriously, and therefore, they should take their diversity officers seriously. Do not be afraid to take a perceived risk on a person of color or a woman. And do everything possible to help a diverse hire achieve and succeed.

Eve L. Simmons is a shareholder and the Chief Diversity officer of Greenspoon Marder PA, a full-service law firm with ten Florida locations. She primarily concentrates her practice in the areas of probate and guardianship administration, as well as estate planning and real estate. She is a past president of the National Bar Association (NBA) and chairs the NBA Crump Law Camp Committee, which organizes a ten-day law camp each year in Washington, D.C., for minority high school students. The Law Camp, commenced under her presidency, has as its high point for the students the Eve L. Simmons Mock Trial Competition.

Ms. Simmons is a Fellow of the American Bar Foundation. She has participated on a leadership level in the American Bar Association (ABA), having chaired its Presidential Advisory Council on Diversity in the Profession, sat on the board of the ABA Diversity Center, served in the ABA House of Delegates, served on on-site inspections to law schools pertaining to accreditation, and served as a member of the ABA National Civics Commission on Civic Education. She is a member of the Board of Directors of her alma mater, Florida Southern College (FSC), located in Lakeland, Florida, and is a member of the American Law Institute. Ms. Simmons served on The Florida Bar Board of Governors and was the first woman appointed by The Florida Bar to the Judicial Qualifications Commission.

Ms. Simmons has received many awards, including the Mercer University School of Law Alumni of the Year Award; FSC Alumni Achievement Citation; the Fernandina Beach High School Hall of Fame inaugural class; the Gertrude E. Rush Award, which

is presented at the NBA's Mid-Year Conference to honor those who have demonstrated spirit and commitment to mankind; the NBA Sankofa Award for her contributions to the legal pipeline; the National Black Pre-Law Admissions and Preparation Conference Legacy Builder Award; the Council on Legal Education Alumni of the Year Award; and The Florida Bar Nineteenth Judicial Circuit Pro Bono Award. In 2013, FSC named the Multicultural Center after her in recognition of her accomplishments and service. In 2001, she received an honorary degree of Doctor of Laws from Suffolk University in Boston.



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