

DIVERSITY IN THE LEGAL PROFESSION

by Johnine P. Barnes*

I. Introduction

Diversity in the legal profession has been an issue on the forefront of many in the legal profession and bars governing the same. Notwithstanding such efforts, the Bar continues to fall short of complete diversity in the legal profession. According to the Minority Corporate Counsel Association ("MCCA"), Pathways to Diversity, *The Myth of the Meritocracy; A Report on the Bridges and Barriers to Success in Large Law Firms* (February 15, 2007), minorities comprise 13.70% of associates and 3.55 % of partners employed at law firms. These numbers are lower than the minority population of the United States population in 2005 was 33%. (See U.S. Census Bureau News Release, May 10, 2006). The disparity in these numbers continues in the areas of retention and promotion.

In 2006, 44.3 % of associates in law firms were women. However, of the total U.S. population in 2005, women outnumbered men (at all ages) by 4.4 million. The disparity in the numbers changes dramatically in the area of retention and promotion. According to the National Association of Law Placement ("NALP"), as of 2006, 17.9% of partners in law firms were minorities.

II. Current Status of the Bar

A. Private Practice - Large and Small Firms

While, not at numbers that reflect the diversity of the U.S. population, the number of minorities and women in private practice, particularly large law firms, have increased over the years. According to the U.S. Equal Employment Opportunity Commission Diversity in Law Firms report (2003), the following increases were measured in the respective groups from 1975 to 2002:

Women increased from 14.4% to 40.3%

African-Americans increased from 2.3% to 4.4%

Hispanics increased from 0.7% to 2.9%

Asians increased from 0.5% to 5.3%

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B. In-House Counsel

According to the American Bar Association (“ABA”) Commission on Racial and Ethnic Diversity in the Profession, *Miles to Go: Progress of Minorities in the Legal Profession*, Executive Summary (2005), 12.5% of corporate counsel in 2001 were minority, compared to 9% in 1998.

As of 2005, women made of 15.2% of the General Counsel positions of Fortune 500 Companies. This is an increase of 6.4% from 2000. (See MCCA, *Creating Pathways to Diversity, A Study of Law Department Best Practices*, 2005).

C. Government Positions

As of 2002, minorities comprised 16.9% of government lawyers. See ABA Commission on Racial and Ethnic Diversity in the Profession, *Miles to Go: Progress of Minorities in the Legal Profession* (2005).

III. Pipeline

A. Law Student Enrollment

Women enrollment in law schools has declined steadily since 2002. See National Law Journal, *Fewer Women are Seeking Law Degrees*, October 1, 2007. This year women make up 46.9% of law school students, whereas they previously comprised 49% of law school enrollment.

In 2004, 22% of all first-year law school students were minorities. The number of African-American law students declined between 2002 – 2004 from 7.4% to 6.6%. See ABA Commission on Racial and Ethnic Diversity in the Profession, *Miles to Go: Progress of Minorities in the Legal Profession* (2005).

B. Meritocracy

MCCA has discussed and highlighted the lack of recruitment of outstanding minority and women law firm candidates based upon required credentials, many of which the hiring attorneys do not possess. Such required “qualifications” prevent many qualified minority and women attorneys from entering the legal profession.

IV. Steps to Inclusion

A. State and Local Bars’ Diversity Principles and Practices

Many local and voluntary bars have conducted research into the diversity initiatives of the firms and corporations in their respective bars. The New York and San Francisco bars are examples of such. These studies help to address issues specific to a certain jurisdiction that may aid or hinder the diversification of the legal profession, e.g. insuring that legal professionals in a specific jurisdiction are as diversified as that specific population.

B. Call to Action

Several corporate law departments have committed to the diversity of the legal profession. This commitment is demonstrated by the Signatories pledge to “make decisions regarding which law firms represent our companies based in significant part on the diversity performance of the firms.” See Call to Action, Commitment Statement.