Best Practices for Firms Representing Employees

As advocates for workers’ rights, firms that represent employees have unique insight into the value of promoting equal opportunity in the workplace. Our cases regularly illustrate the importance of diversity and inclusion. Given the values we strive to advance in our cases, it is even more important that our firms exercise leadership in opening our practice area to lawyers from groups that are currently underrepresented, particularly in the areas of race, ethnicity, gender, age, disability, sexual orientation, and gender identity.

It is widely recognized that, in a general sense, the contribution of diversity to an organization is “substantial.” *Grutter v. Bollinger*, 539 U.S. 306, 324 (U.S. 2003). But diversity benefits employee-side firms in a number of more specific ways. Especially in firms that handle discrimination cases, minority lawyers can “bring . . . a perspective different from that of members of groups which have not been the victims of such discrimination.” *Id.* at 319. Current and prospective clients will welcome this different perspective. A diverse legal team can also be helpful in gathering evidence, framing arguments, and presenting a case to a fact-finder convincingly and effectively. As for a firm’s bottom-line, diverse candidates increase a firm’s exposure to a wider variety of organizations, groups, and communities, which means access to a wider base of clients. In these and many other ways, a diverse legal team can make our firms “stronger than the sum of [their] parts.” *Id.* at 315-316.

At employee-side employment firms, however, we often face unique challenges in efforts to diversify our workplaces. These challenges arise mostly from the small size of the typical employee-side firm – between 2 and 10 lawyers. Small firms often have erratic hiring needs and often need to fill vacancies quickly. We have limited resources to devote to recruiting and do not offer market rate salaries. We do not usually hire very junior lawyers because training them is often more of a responsibility that we can manage. Unlike the large law firms, we do not have the benefit of headhunters and professional recruiters who specialize in diversity recruitment. To a great extent, we rely on personal connections and word-of-mouth advertising.

Therefore, employee-side firms should take other steps to ensure that we recruit and hire candidates in a way that maximizes the chance that we will be able to attract and retain a diverse pool of lawyers. The following are some suggested practices for increasing diversity in small employee-side firms:

1. Develop relationships with non-profits and legal services organizations, which often employ minority lawyers.

2. Speak at minority bar associations, to minority student groups, and to corporate affinity groups whenever possible.

3. Post job openings on public interest websites, message boards, and with minority judicial clerk organizations.
4. Recruit from government agencies.

5. Recruit at law school job fairs that specifically target diverse candidates.

6. Recruit and hire interns and clerks from minority student groups at law schools.

7. Offer flexible work arrangements, promote work-life balance, encourage participation in community groups, and recognize family responsibilities.

8. Use hiring criteria that recognize the value of life experience and work during school.

9. Encourage senior associates and partners to participate in mentoring diverse associates. The relationship and skills development can be mutually beneficial to the associate and the firm.