

## **Are Today's Law Firms Committed to Diversity?**

By Allison C. Shields

*April 2010*

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The numbers may indicate that firms are failing to provide opportunities for diverse lawyers to flourish at the same time that more diversity is being demanded by clients.

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More and more law firms seem to be embracing diversity initiatives, but are today's law firms *committed* to diversity? Should they be? What is driving these changes? Why should firms diversify? Have firms made diversity a core value of the firm? What resources are being expended not only to recruit, but also to retain diverse lawyers?

In December 2009, Vault.com, a Web-based resource for career management, teamed up with the Minority Corporate Counsel Association (MCCA) to introduce the 2010 Law Firm Diversity Database (<http://mcca.vault.com>), a fully searchable database featuring data on diversity performance at nearly 300 law firms nationwide. The database was compiled from information obtained from responses to the annual Law Firm Diversity Survey distributed by Vault and MCCA, and contains benchmarking information about the diversity programs at more than 250 major law firms. Survey results include statistical data on law firm demographics, with breakdowns by race/ethnicity and gender, GLBT attorneys and individuals with disabilities, as well as qualitative information regarding firms' diversity plans and initiatives. The most recent information is compiled from the 2008 survey; 2009 results are not yet available.

Veta Richardson, Executive Director of the MCCA, claims that this database is a "reliable resource to illuminate and summarize the diversity efforts underway at top law firms," and since it is "clear that numbers alone don't offer a complete picture ... the database offers both quantitative and qualitative information for users to draw apples-to-apples comparisons."

### **What Is Driving These Changes?**

According to the Vault and MCCA, the database was developed in cooperation with various corporate partners to support the Call to Action, a corporate counsel initiative devoted to increasing diversity at U.S. law firms.

In a February 2010 article "Pushing Diversity in the Legal Profession," by Rebecca Hastings for the Society of Human Resource Professionals, April Boyer, employment law partner at the Miami office of K&L Gates LLP, claimed that "law firms want the best talent and that they want their professionals to come from a variety of backgrounds and experiences so that they can relate to a broad group of issues and people." But Boyer, who serves on her firms' Women in the Profession Subcommittee, admitted that clients have been a "driving force" in the growth of diversity initiatives in the legal profession.

Rebecca Siegel Singer, senior counsel at the Dallas law firm Underwood, Perkins & Ralston, P.C., expressed a similar thought in the article, saying that law firms are adjusting “to the changing composition and goals of the clients they seek or serve.”

Achieving diversity in today’s global marketplace is more critical than ever before. Given the shift of global economies and the emergence of the BRIC countries (Brazil, Russia, India and China), businesses want to see the global marketplace reflected in law firms, and that means that firms can no longer merely pay lip service to diversity. But change is still slow. Firms seem to be participating—creating or expanding diversity programs—not because they believe diversity is good for their firms or for the profession as a whole, but because diversity is being demanded by clients.

Iris Jones, Director of Marketing and Business Development for Chadbourne & Parke, LLP in New York and a member of her firm’s Diversity Committee, practiced law for 23 years in Texas and knows first-hand the challenges faced by women of color in the profession. Jones says that although diversity efforts have changed over the last several years, there is still work to be done. She acknowledged that diversity demands are coming from the client, and that as a result, many law firms are doing the bare minimum or only paying lip service to diversity issues. As long as law firms feel that they are being forced to change in order to retain their clients or to gain new business, it is likely that their diversity efforts will be insubstantial.

## **Where Do Improvements Still Need to Be Made?**

A look at the numbers reveals that although firms seem to be improving with respect to recruiting minority and women candidates to their firms, they have not been quite as successful in retaining those lawyers.

According to Vault and MCCA, “The latest data shows continued, albeit slow, increases in diversity at the nation’s largest law firms. However, statistics also suggest that law firm successes in the area of recruitment surpass those in retention,” particularly retention of lawyers of color. While minorities represent just 21.35 percent of the total associate population, 24.08 percent of associates who left their respective law firms in 2008 were attorneys of color, and attrition for minority attorneys is especially high for first and second year associates; in 2008, nearly 30 percent of those who left their firms in 2008 were minority men and women.

Vera Djordjevich notes, “One of the things our research highlights is the gulf between recruitment and retention at large law firms. Firms are making efforts, and showing some improvement, in the hiring of women lawyers and attorneys of color—for example, among the 248 law firms that participated in our survey last year, more than one-fourth of summer associates in 2008 were minorities, while 45 percent were women. But the higher you climb up the law firm pyramid, the lower the numbers get. Attorneys of color represent just over 21 percent of the associate population but only 6 percent of all equity partners.”

## **Why Do They Leave?**

As seen in the numbers noted above, the survey highlights the gap between recruitment and retention of diverse lawyers, which may indicate that firms are not fully committed to diversity and are failing to provide opportunities for diverse lawyers to flourish.

Djordjevich notes, “A law firm may have institutions in place—diversity committee, affinity groups, formal mentorship program—but without confidence that there are real opportunities for them to succeed, minority attorneys may not feel sufficient support or incentive to remain. This concern is highlighted by the relatively high rate of attrition we saw among minority associates at the junior level.”

The Vault/MCCA study also includes “qualitative data,” including responses to questions such as, “How does the firm’s leadership communicate the importance of diversity to everyone at the firm?” and “Has the firm undertaken a formal or informal diversity program or set of initiatives aimed at increasing diversity in the firm?” and “How is the committee and management held accountable for results?” However, while reported statistical data is likely to be accurate, in reviewing the survey, one can’t help but wonder how accurate the “qualitative data” is, since the survey results are based on self-reporting by law firm management, and likely represents management’s aspirations rather than the experience of diverse lawyers interviewing with or working for the firm. A review of these qualitative responses reveals non-substantial answers to questions regarding accountability for diversity issues. These responses don’t reveal much concrete information about the firm’s commitment to diversity.

Jones says that the key factors lacking in most firms for the successful retention of diverse lawyers are: the ability for diverse lawyers to feel that they are part of a community and equal opportunity.

According to Jones, at many firms diverse lawyers are an island unto themselves; there are no others like them and they feel isolated, abandoned and uncomfortable. Even where firms have best of intentions, they are not used to being around minority/women lawyers—there’s no community for them and little effort is made to make them feel welcome. Similarly, while firms claim that the same opportunities are open to all, lawyers seek out others like themselves, which leaves diverse lawyers out of the good assignments, the chance to sit in on trials or work with power partners. As a result, they are too often relegated to mundane or routine work and they are not given a real opportunity to shine within the firm, to grow or to showcase their skills.

Jones also says that too many firms fail to take action early in a lawyer’s career. Often their concerns are not addressed until the time of the exit interview, when it is already too late. All lawyers need help, community and support from the day they first walk into the firm.

### **Where Do These Lawyers Go?**

Given that corporations seem to be driving diversity initiatives in law firms, it is not surprising that many diverse lawyers leave firms to go in house. It stands to reason that many of these lawyers would feel more comfortable and more supported within the corporations themselves, who have a demonstrated commitment to diversity. Many diverse lawyers feel that opportunities are better and they have a better chance for upward mobility. Jones indicates that over the years, she has spoken with or mentored many diverse lawyers who have left firms to go in house and have met with success in a short period of time, which demonstrates that the problem isn’t that these lawyers couldn’t “cut it” in the business world.

Other diverse lawyers are opening their own firms or going to smaller boutique firms or nonprofits—again, places where they feel more comfortable and more supported, even if making these changes means working for less money.

## **How Should Firms and the Profession Address Diversity Moving Forward?**

In preparation for writing this article, I had the opportunity to speak with a number of attorneys who indicated that the actual experience of diverse lawyers needs to change significantly. One young female lawyer reported that she left her employment at a prominent New Jersey “white shoe” firm after only three months as a result of lack of adequate mentoring and lack of commitment on the part of management to provide guidance without bullying.

Jones isn’t surprised. She says that the key factors to improving retention of minority and women lawyers—and indeed *all lawyers* within the firm boil—down to mentoring and a commitment by firm management.

Jones believes that firms should build teams around clients so that the associates feel that they are a part of something, “not just that they are completing discrete assignments and handing them through a window.” All associates need to know how their work impacts the whole outcome of a matter, and partners and senior lawyers need to be trained on how to delegate effectively and provide constructive feedback.

Mentoring programs cannot be in name only; they must have real substance. According to Jones, in order to be successful, mentors need to be committed to ensuring that their associates get the best quality, not only in terms of training and mentoring to create excellent technical legal practitioners, but also to create excellent relationship builders.

Firms must keep in mind that all mentors are not equal, and that not every great lawyer makes a great mentor. Firms should not force lawyers to become mentors, since forcing lawyers to do anything will likely backfire. Mentors should have the attitude “If my mentee fails, I fail.”

*Transparency* is also important to in the firm’s diversity initiatives and mentoring programs. Translation: The mentor-mentee relationship should be public, and everyone should know who is mentoring whom, which in turn helps to foster accountability.

Mentors and mentees alike should be provided with individual training and coaching, and there should be clear expectations and guidelines provided to mentors. The firm must decide how the performance of mentors will be measured and monitored, and most importantly, the firm should *recognize and reward* mentors.

Ultimately, the commitment to diversity and to mentoring lawyers needs to come from the top down; it must be a management priority. The firm’s culture and atmosphere needs to support diversity and mentoring.

Jones's comments were echoed by many of the attorneys I spoke with about the survey and this article. Mentoring and firm culture were often cited as the keys to progress on diversity. As one lawyer said, "People cannot grow in the legal field unless and until senior partners rethink their priorities. The old "bill, bill, bill and bill some more" mantra does not work. It does not take into consideration the value that the attorney brings to the practice." He suggests that firms need to improve efforts to understand those from different cultures and backgrounds and to make them feel welcome. Firms must ensure strong communication within the firm, and recognize the unique value provided by diverse attorneys.

One lawyer from the United Kingdom opined that the gap between recruitment and retention may be the result of a "mismatch between stated intentions of fair treatment" at the time of recruitment and the actual experience of diverse lawyers once they arrive at the firm, as well as a failure of firms and managers to communicate effectively with and actively coach diverse lawyers, particularly since his own experience has been that women and minority lawyers "are often the best candidates."

Several lawyers expressed the opinion that race, gender and sexual orientation should not matter, and that firms should simply "select the best person for the job." But this may not be as simple as it seems if firms are not used to working with lawyers of different cultures or backgrounds. These firms may be unable to recognize or appreciate the unique talents and skills of diverse lawyers, or they may be stuck in their usual way of doing things, unintentionally skewing the selection process against lawyers who perform in a different (but not necessarily less effective) way.

Similarly, once diverse lawyers are hired, established firm practices and procedures may hinder the performance or evaluation process of diverse lawyers who do not naturally undertake tasks in a manner the firm is accustomed to. These firms may unintentionally fail to provide opportunities for lawyers who do not fit into a firm's usual mode of operation or approach to a problem, preventing the firm from benefiting from that lawyer's unique talents, skills or approach. Keeping in mind that it may be exactly those talents, skills or perspectives that clients may be seeking when they are demanding diversity (and considering that diverse lawyers are thriving and succeeding in other settings), today's law firms need to continue to improve their diversity efforts and awareness by supporting and mentoring diverse lawyers, providing opportunities for them to get results, and making diversity an integral part of their firm culture.

All lawyers need this same encouragement, mentoring and support. But firms may be falling short because human nature dictates that mentoring and support come more naturally for people to whom we naturally gravitate. Generally, that means people who are "like" us. As a result, in order to be successful at retaining diverse lawyers, firms need to break through their comfort zones and make more formalized, concentrated efforts until mentoring and support for diverse lawyers comes as naturally as it does for other lawyers within the firm.

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## About the Author

**Allison C. Shields, Esq.**, is a practice management and business development coach and consultant for law firms and the President and Founder of Legal Ease Consulting, Inc. You can find her at [www.LawyerMeltdown.com](http://www.LawyerMeltdown.com) or view her blog at [www.LegalEaseConsulting.com](http://www.LegalEaseConsulting.com).

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