

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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Diversity without Inclusion Is
Sound and Fury Signifying
Nothing

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ASPATORE

Introduction

The value you get from your diverse lawyers will be proportional to the power and value they have within the firm.

We are all so different. I graduated from the University of Michigan Law School, started practicing in Chicago, and then moved to and am now settled in Richmond, Virginia. I have always worked for a defense firm. I have always been a trial lawyer, or at least one in training. If I stop there, I am already the same as and different from everybody reading this.

I was raised for a portion of my life in profound poverty; my parents decided to focus on social change and marching for freedom, rather than raising their children. I ate food obtained with food stamps. I did not go to the dentist. I lived in abandoned homes. I marched with the Black Panthers. I had great adventures, but no shoes. Then I became middle class, in middle school. I have lived in neighborhoods where I was the racial minority for many years of my life.

I have bi-racial family and bi-racial children. I have four children: one has a tattoo; one is a dancer; one loves sports; and one loves fashion. One is also gay. I have been divorced; I have been widowed; and I am now married for the third time and just celebrated my tenth anniversary. I am a fifty-year-old white woman, and I am a trial lawyer.

How similar are we now?

I am so lucky to have had such a rich, challenging, and rewarding life. It is the things that I have done that you have not that make me diverse. The fact that it is my story and I can talk about it is my power. The fact that I can tap into it and use it to perfect my craft, to inform my decisions, to compel my audience is my voice adding value. Because this is my life, I want and expect more from diversity programs in law firms.

Diversity in law firms is often measured and tracked in numbers. Diversity for numbers' sake should not be a goal, but the means to an end. The true value of diversity is in the quality of the problem solving, strategic planning, client service, and legal strategy that can be obtained when it is sought from

an empowered, supportive, committed, and driven group of diverse lawyers. When your point of difference—your “value-add”—is your diverse lawyers, you are ready to meet the challenges and succeed in the legal arena in which we practice.

To get there, you have to yield power and share value. What I believe you will find is that this is not a zero-sum issue; by changing the narrative around power and value, you can raise the value and power of everyone within your firm by adding inclusive diversity to your firm’s arsenal of legal and business tools. To get there, you need to recruit, retain, empower, and include diverse lawyers at the highest levels of the firm governance and client legal teams.

Benefits of Being a Diverse Law Firm

I would like to start with the controversial notion that there is *not* always a benefit to being a “diverse law firm.” If your firm is diverse because you can blackboard statistics regarding lawyers at your firm, you may not actually be seeing any benefit. The benefits of being a diverse law firm vary greatly, depending on your commitment to and utilization of diversity. Top-down commitment to diversity is essential to maximization of the benefits of a diverse law firm. The leadership’s willingness to learn and teach about core values to be observed and core strengths to be obtained through diversity sets the tone for success with diversity.

Once you have a structure in place that will foster an environment of the recruitment, retention, advancement, and empowerment of diverse lawyers, then you can really build the infrastructure for an inclusive and successful system. One of the most powerful benefits of diversity, in my opinion, is the ability to tap into many different life experiences and perspectives on how to solve a problem, grow a business, or add value. There are many law firms with some diverse teams or groups, and by comparison to the non-diverse groups, they are more successful, more cohesive, and set up for greater longevity for diverse lawyers. If an entire law firm has that model, the effect is even greater. We must help our leaders and partners who resist the natural change and evolution that result when you bring people from different backgrounds into a firm. That mindset or fear will hamper what I think is the greatest benefit of diversity: the collective differences of

perspective that will always prevail when matched against the whim, choices, or decisions of any one brilliant person.

This Is Not Supposed to Be Easy, but We Are Defined by the Challenges We Overcome

There are many challenges and impediments to law firm diversity. In my mind these impediments break down into two basic types of challenges—there are challenges for the individual lawyers and challenges for the law firm. You cannot succeed as a firm if you do not appreciate that there is not always an alignment of interest between individuals and the firm on this issue and put that business reality front and center in your firm planning.

The most organic and insurmountable challenge of being a diverse individual in a law firm setting is that you simply do not fit in. You do not feel at home. You feel that people question your success as if it is attributable only to your diverse status. You feel as though your challenges are a result of that same status. It is isolating; it is challenging; and it is real.

When you come from a different group, whether that is gender, race, or socio-economic background, you do not perceive yourself to have a natural entrance point to the power within a law firm. Success demands that you become part of the conversation, whether at a partner meeting or in a client relationship. The problem is that you feel as though “law firm” is your second language.

As a woman, for example, I have often been told that if I want to be heard, I have to learn to talk like a man. Go to your local bookstore. There are literally hundreds of “self-help” books to teach women how to talk to the power men within different organizations. They are filled with key-to-success generalizations about what men want: Men want less context and more conclusions. Men want meetings before meetings so they know how the meetings will go. Men want highly personal things to be treated as if they are not personal at all, that it is just business. Men want everyone to be friends at the end of the meeting, no matter how the meeting goes. (I have come across, by the way, no books explaining to men how to succeed in a woman-run organization or company.)

This is *not* how women are acculturated to relate to people. So power in a law firm is a second language for many women. So we have a woman, myself at times, faced with a conundrum: Do I want to be heard? Or do I want to be me?

This takes us to the heart of the issue of diversity and inclusion. When you bring people who are different to the meeting, to the table, to the power, you cannot get the benefit of their differences if you ask them to behave out of character, or more specifically, like everyone else.

So as I evolved and matured, I changed from wanting to win each point (lawyers!) to wanting not to lose who I was. I decided that I do not want to talk like a man (or another woman for that matter)—I want to talk like myself. I do not want to read books about what others want; I want to spend my time on the quality of my position and my craft, the art of my persuasion. When I am thinking about how I want to decide an issue, how I want to handle a case, or how I think the strategic plan should be laid out, my gender does not define me. I am composed of many things. The gender is visible, but not definitive. Moreover, I have learned that how I communicate is neither male nor female. It is unique to me, and I do lose value, and I lose perspective, and I am not all that I can be for my client, for my firm, for myself, or for the issue at hand if I have to change who I am to convey the import of my message.

This personal experience, this lifetime of experiences, leads me to where I am now. I believe that we have to assume that even though we all speak English, we are not all communicating. Some of us—those who are not majority lawyers (white male lawyers with power and influence)—do not have the same access to learning the traditional language of the law firm. That does not mean we cannot add value. That does not mean the firm does not need us; in fact, all indications are otherwise. That certainly does not mean that we need to change our language. Firms have to accept these differences as the new baseline and do whatever they can organizationally to encourage the free exchange of ideas without consequences and without restrictions. For certain people, because their unique set of life experiences will make them less likely to participate, organizations need to draw them in, affirmatively learn about who they are and what is different about them, and try to experience those differences in ways that will forge bonds with those people.

Another challenge that diverse lawyers have is success ownership. We do not get to have success without explanation. When I hear people say about me or to me, “She got that case because she is a woman,” I smile, and then I have two answers. My first answer is, “I probably got the interview because I am a woman.” And then I say, “So what? I got the case after tens or hundreds of women were interviewed. I got the job because I am excellent at what I do.” I never apologize for being a woman or for the fact that female lawyers are in demand. If there is a supply/demand curve issue with female trial lawyers, then we need more female trial lawyers. I am doing my part to make that happen. Are you?

Our firm handles not just the highest-stakes products cases, but also class actions, intellectual property (IP) work, and commercial transactions. While my focus is on product liability, the issues I have raised apply to all of those other practice areas, as well; I do not know of a practice group that is not affected by diversity-related concerns. My impression is that clients want and expect that the case team selection, the trial team selection, and the succession planning process within law firms will include diverse lawyers who are going to be well-trained, excellent at what they do, and ready to take over from the current majority-group lawyers with whom they may be in partnership. When these lawyers get this work, they should be able to own it without reservation. Work is work; we all want it. None of us should ever have to apologize or explain how we got work. Work is power; do not be so shortsighted as to demoralize the rainmakers in your firm by questioning the origin of their rain or whispering about it or doing compensation gymnastics to attribute it to someone else.

Another not inconsequential challenge for the diverse attorney within the law firm is the demand on time to represent the firm as the “diverse” representative. It is not a coincidence that I am writing this chapter, rather than someone else at my firm. This is my space; I have national responsibility and recognition within the diversity space. I also represent the firm in the Woman Lawyer space. And I do my part with recruitment, mentoring, retention, and promotion. I am a managing partner. These are responsibilities that disproportionately find their way to the diverse attorneys within firms because firms recognize the importance of the representation of diverse perspectives relating to these responsibilities. Recognizing the need for diversity in these key roles is a good thing.

What is not always so clear is the profound extra burden this places on diverse lawyers who already carry a burden of having to learn a path to success that is different for them. This extra burden of representativeness can and does overwhelm many diverse lawyers. Firms need to recognize the potential for this and monitor it. The take-away actually is that a conversation between firm leadership and the individual diverse attorneys needs to occur. The diverse lawyer needs to understand what is being put on and taken off the plate, and the firm leadership needs to commit to the arrangement. The old saying that a woman has to work twice as hard as a man to get half the recognition was not funny the first time I heard it, and it is not an acceptable business model for diversity. Have the conversations.

The final challenge that I will cover lies at the firm level, and that is the inertia that prevents progressive steps toward diversity and inclusion. There will always be people within any firm who do not understand or care why diversity matters; they see no reason to change the way things have always been. Sometimes these people have tremendous individual power within the firm. It is the imperative of the firm to put the firm first and not the interests of any individual and strategically evolve in a way that will maximize firm success now and in the future. Any impediment to this should lose power. It is shortsighted to permit individual clutching of power to prevent the vast personal and business potential of candid, even meaningful, interactions among people from different backgrounds, socioeconomic groups, races, and countries. Whatever your point of diversity is, you are likely to have something to add to the conversation concerning whatever your law firm is challenged with, whether it is an organizational, client-driven, or human resource (HR)-driven challenge. Basically, the input of a diverse law firm member will make the conversation different than it would be if it involved only “the usual suspects”—the people who have always been in charge and who have always done something in a particular way. Whether a diverse law firm member’s views prevail is irrelevant to the organizational concept of inclusion. Having all views, perspectives, and disagreements heard, understood, given weight, and vetted is going to make the organization stronger.

This leads to another side of the organizational tension. I hate to say that there are “sides” on the issue of diversity. But if you divide the world into lawyers who want their firms to fully support diversity and inclusion and are willing to embrace the organizational and individual implication for that and

those who do not, then there are sides. Those two sides are not made up of diverse and non-diverse lawyers. In case you missed that, I will say it again: those sides are *not* made up of diverse and non-diverse lawyers. But on both sides, there are people who have selected their positions on this issue because of the impact on the firm. There are also people who have selected their positions on this issue because of the impact on them personally.

For the “personally” selected on each side, there are strong feelings. These cannot be ignored. If you feel personally disenfranchised and denied access to success and power and you take it personally when someone thwarts your success and affects your livelihood and that of your family, then that is a business reality a firm must deal with. If you feel your power is threatened because you will not be able to compete as favorably in a world where diversity and inclusion are embraced, and you think it will affect your livelihood and that of your family, then that feeling is a business reality that the firm must deal with.

That neither “side” appreciates or even discusses these feelings that the other “side” is having is also a business reality that the firm must eliminate. Majority-group lawyers have no idea how hard it is to be a minority or diverse lawyer. They do not understand or appreciate the burden of difference. They do not understand the doubt you carry when you see no one like you succeeding. They do not appreciate the burden of representativeness. They do not understand the need to explain that your success is yours and that it is not due to some allowance. Majority lawyers may have had hard life experiences, but they simply lack any basis for comparison to these experiences.

Correspondingly, diverse lawyers may understand on a group level the difficulty for majority-group lawyers to hear that things are going to be different going forward. They may appreciate that there is a sense of having had a promise or expectation that if they did certain things, they would receive certain returns. However, on an individual level, they cannot know how any one person, who supports people, who struggles with his or her own sense of worth or belonging, will react to yet another threat to his or her lease on life. When you promote law firm diversity, you make some majority-group lawyers feel as if you are threatening their livelihood. Therefore, they do not view diversity initiatives as a

sociological imperative; they view them as a personal threat to their ability to put food on their tables.

Once you incorporate the personal difficulties that both “sides” are having in this area into your business strategy, you can acknowledge these personal issues and then have a business conversation and make progressive steps for the firm. Being brave does not mean that you do not hold the concept of change and fear together; it means that you are afraid, but you progress anyway. An organization, a company, a law firm that is brave understands that incorporating new ideas, letting new people speak, moving power from the existing power structure to a new amalgamated one, and entrusting power to people who are not like the organization’s traditional leaders mean that the firm’s position in the world is going to change in ways it does not fully understand or appreciate, but it believes that this will ultimately make it stronger. A brave organization is more likely to be successful—and the biggest challenge in promoting law firm diversity is getting an organization’s leadership to understand that definition of bravery and then want bravery as a core value.

You Can Do Anything with Numbers

Diversity is traditionally measured by numbers of traditionally protected-class individuals. If you use numbers only as a marker of the success of your firm’s diversity, your firm may do very well. However, I do not think that people who look at diversity in that way are on the cutting edge of this issue. Increasing law firm diversity is only the first step toward solving the real problem: inclusiveness and empowerment.

Essentially, it is important to ensure that the so-called diverse members of your firm actually matter. They should have power, voice, opportunity, and a firm structure in which they can see themselves succeeding. There are typically plenty of settings within a firm where there are the people who matter, people who play a supporting role, and people who play a window-dressing role. If most of the diverse individuals in your law firm are merely playing supporting roles or, even worse, serving as window dressing, then your diversity initiative is deficient or even offensive. The numbers may be great, but the effect is you have spent time, money, and effort to create a diverse environment, and you are not reaping any benefit from it. Until a

firm has a representative number of diverse people whose voices make a difference, it will not realize the true value of diversity. In fact, one diverse individual in one organization can be more important to that organization than ten diverse individuals at a different firm. It is all about the relative volume of their power and the receptivity of their organization.

The Only Constant Is Change

Any organization that is not progressively inclusive cannot survive the changing legal landscape.

The larger the law firm, the more spending it generally dedicates to the concept of diversity. However, as previously noted, law firms are increasingly aware that it does not pay to have a rotating door of people of color, people of alternative sexual orientation, or women. Therefore, an important trend in improving diversity initiatives involves increasing efforts by law firms to maximize the value of their diversity efforts by increasing their focus on inclusiveness, sensitivity, and empowerment with respect to those people who make up what is traditionally considered the diverse attorney pool—and that also entails a greater focus on diverse lawyer mentoring, retention, and sponsorship.

In fact, law firms, like most organizations, have come to realize that diversity is an organizational issue. It is as important or more important to have diversity/leadership training programs for the non-diverse lawyers in a firm to acclimate and instruct them to the unique issues associated with the retention and inclusion of diverse lawyers. Over time, the cultures of the members of the diverse attorney pool need to blend and meld (with change occurring by all—not just the diverse lawyers) with the culture of the majority firm, everyone learning each other's differences and languages, and the firm will ultimately evolve into an amalgam of all of its cultural components.

The end goal of bringing a diverse person into a firm should not entail turning that person into someone who acts like all of the other lawyers at the firm. That is a waste of money, a waste of diversity, a loss of value, and a lack of return on firm investment. If the majority-group lawyers at the firm approach diversity with the mindset that when looking for diverse lawyers, “We need to find a lawyer who may look different on the outside,

but who is just like us on the inside,” they are probably going to be sorely disappointed with the results of their strategy, and/or they will be satisfied and do their firm a great disservice. Either way, they will not attain inclusiveness. The trend away from this approach is positive.

Another important trend that I am seeing is an acknowledgement and education that micro-diversity already exists in most firms, and it has not made the firm implode. I am majority race, but if you read my introduction, I am not like you. I am different in some way from everyone reading this and most lawyers who do not read it. Education and celebration of all of our inherent diversity are having a generally positive impact. This should pave the way to educate people that they have been working with people who may look the same, but who are at least a little different on the inside their whole lives, so now it will not kill them, their firms, or their future to expand on that.

People differ in many respects—race, gender, and disability being the most obvious ones. Lawyers also come from a wide continuum of socioeconomic backgrounds in terms of previous jobs, where they grew up, or what kinds of families they were raised in. We have different religions. We have different types of schooling. We have different hobbies. All of these factors help form your decision-making patterns, your approach to problem solving, the way that you tell stories, and the things that matter to you, including your core values. We all come from a different place; therefore, it is important to recognize our inherent diversity. So-called invisible diversity in terms of religion or sexual orientation has long existed and been seamlessly incorporated into many law firms for decades, and that trend has paved the way for “visible diversity” to be important, valuable, and necessary.

After considering this epiphany of similitude, then the next part of the education is to discuss that while we are all the same and all different, there is a definitive power line. Generally, if you have power in a law firm, you are white first and male second. Not all white men have power. Not all power is held by white males. But, as much I abhor generalizations, this one is fundamentally indisputable. As long as this is true and your firm appears unwilling to change it, you will not have a successful diversity program because inclusion will never thrive. Moreover, as this is a firm issue, in spite of the appearance of some personal interest conflict, your duty to the firm demands that the more power you have, the more responsibility you have

to contribute to the empowerment and inclusiveness of the others lawyers within your firm. This is the way to make your firm a better business. Using micro-diversity education as a launch pad for discussions about inclusion and diversity and power strategy is an excellent trend in law firm development in diversity initiatives.

Impacts of Client Preferences for Diversity

Few private, professional organizations that are financially sound—including law firms—change the way that they do business unless financial pressure (real or perceived, present or future) is applied to them. I have been a lawyer for almost twenty-five years, and over the years, I have worked with people who thought that it was important to have more women and other diverse people in the legal profession because it was “the right thing to do.” However, until clients started demanding that their legal teams be more representative of the juries who were deciding their cases, the population who was purchasing their products, and the population generally, many law firms did not take diversity seriously. Increasingly, clients said to their law firms, “At the end of the day, you are just vendors, and our vendor programs need to have diverse representation—therefore, you need to step up and do your part.” That was the “stick” aspect of the carrot and the stick equation for increasing law firm diversity. Now, however, I am seeing an increasing use of the “carrot approach” in this area.

Corporate clients today are taking this a step further and are increasingly willing to partner with law firms and participate in programs that contribute to law firm diversity. An example of this is the issue of creating a better pipeline for diverse law school graduates. Once this pipeline problem was identified, companies and law firms worked together to reach out to candidates not yet in law school to provide assistance, guidance, and passion to give them the pathway to the law. This effort is a very long play, but essential to increase the representation of the underrepresented within our profession.

Play the Cards You Are Dealt, or Re-Shuffle: Geographic Impediments to Diversification

It is certainly easier for law firms in certain areas of the United States to achieve higher diversity numbers—and correspondingly, there are certain places in the country where it is profoundly more difficult for law firms to

hire certain sectors of the diverse population. Simply put, there are excellent excuses to fail to achieve diversity and inclusion in certain geographic areas if you are looking for excuses. Nevertheless, I believe that if a law firm makes having ethnic, racial, and gender diversity a priority, that is a challenge that can be overcome. For instance, we are seeing a growing number of cross-country job fairs—i.e., there is a high population of highly gifted and talented Hispanic lawyers in Florida who say that they are willing to work in other parts of the country, and some law firms are interviewing at these job fairs because they want to hire Hispanic lawyers to work for their offices in those regions where it is harder to hire Hispanic lawyers.

As a female leader of an office that has been predominantly diverse for many of the years I have been there, I have a large number of candidates who are willing to work for me—largely because they see more opportunities for success in an office that has been run by a female managing partner for almost ten years. They do not perceive the undisclosed structural impediments that they may fear in other places because they know that I regularly speak on the issue of diversity and the eradication of impediments for diverse lawyers, and I have published works on that topic. Therefore, my primary challenge involves finding people who are an excellent match for our firm and who can keep up with our pace and what we do, rather than finding diverse lawyers. I submit that is a much better challenge to have.

Cultural Considerations and Diversity at Home and Abroad

My firm represents many clients who have international headquarters or offices. My partners are often spending time in foreign countries with different cultures. I practice exclusively in the United States; I am often spending time in foreign environments with different cultures. It is ironic to me that when people travel abroad, they have training and education or at least a traveler's guide to basic language and customs in the region they are traveling to. But it occurs to me that there is not a similar effort to become familiar with the different cultures, peoples, backgrounds, orientations, and histories of the people who were born and live in the United States.

People who grow up in New York City are very different from people who grow up in rural Ohio. These people do not come from the same place;

therefore, they do not have the same expectations about work volume or speed, the intonation or pace of speech, or something as simple as who gets on the elevator first.

These cultural differences and expectations can be extended and greatly expanded when you start to think about all of the points of diversity of the lawyers in your firm. You have people of different religions, races, genders, and ethnicities. If you start with the notion that all of the lawyers in your firm are going to have the same cultural practices as you do, just because they are from the United States, then it is unlikely that you are going to succeed in your business or social relationships with those people.

Hopefully, as the US legal community increasingly becomes a part of the international marketplace, it will be easier for people to accept the importance of diversity training, inclusiveness, and listening to people whose language you do not completely understand. You cannot simply discount people because their way of speaking English does not sound like your way of speaking English—whether that is because they come from a different ethnic background and law firm is their second language or because they come from another country and English is their second language.

For example, my primary practice area is as a product liability defense trial lawyer. I am a trial lawyer, and my job is to turn complex technical, historical, mechanical, chemical, and electrical information into simple stories and analogies that most people can understand. But I cannot stop there; I do not want my judges and jurors just to understand me—I want them to be compelled by the simplicity and inherent truthfulness of my presentation and the passion with which I present it. I learn all of the technical information. I am surrounded by smart people and experts who assist me in that regard. But, to teach most people, I have to speak like most people. Therefore, I use many analogies; I talk about sports; I use popular song lyrics; and I am much less likely to refer to an article in *THE WALL STREET JOURNAL* than I am to mention something that happened on reality TV because, at the end of the day, my job is to talk to people. To do that, I need to stay current with what they want to hear and how they want to hear it. I need modern, current, interesting references that will make sense to them.

I cannot and would not be successful at what I do by limiting my exposure to people who are like me (if there are any). And yet, it is human nature to surround yourself with people like you. I would not be useful in what I do for a living if everyone I worked with thought as I do. I readily acknowledge and embrace that it is incumbent upon me to get to know people who are different from me. I seek that difference. I am the one who must be comfortable about being uncomfortable. They are just people, and if I never meet them and talk to them, then I will never change, and that would be quite boring.

Successful Inclusion of Diverse Lawyers Will Not Occur Organically: You Need a Strategy

I do not know of any law firm that is either doing everything it can possibly do to be more diverse or doing everything it can to leverage its diversity to achieve more inclusiveness and empowerment of their diverse lawyers. Every firm can do better in this area. Similarly, I have not found any clients who have a commitment to diversity, inclusion, and empowerment who would say that they are completely satisfied with the diversity and inclusiveness achievements of their law firms. Ultimately, the firms that are most successful with the least amount of effort, and that are in the best position to achieve the most gains in the short run, are those that have top-down support for increasing diversity and inclusion. This support includes, in its highest success, planning, spending, measuring, and reporting.

Unfortunately, many lawyers do not want to do anything differently from the way they have always done things in the past. Inertia, likened to precedent, convinces many lawyers that you cannot be held accountable if you do not change anything; you can be held accountable only for a new idea. I am wired differently because I believe fundamentally in bravery and change and running—not walking—toward something better. I am willing to make mistakes as long as I am moving. I clearly add a different voice and approach.

Ultimately, if you hire diverse individuals who are passionate about what they do, who are empowered in an organization that has previously had little success, and who wind up doing work that is highly compensated by longstanding clients, your diversity initiatives will become non-negotiable;

the power will shift to these individuals; inclusiveness will happen organically; and you will see the most change within an organization. While an individual client can impact an individual law firm, I believe that fundamental change can occur only when law firms proactively match the efforts their clients have started.

The practice of law tends to be highly focused on controlling the outcome: you look up the precedents, research the law in a certain area, and then know what the outcome is likely to be, or you feel safe in predicting it. However, when you implement a diversity initiative, you do not know what the outcome will be. You never know what a new hire is going to say because he or she comes from a place that you do not know anything about. This is even truer if the individual is powerful and what he or she will say will have to matter, no matter what it is. This is a good thing. This is what will inspire your next great idea if you can find the bravery to let it happen. Diversity planning is no longer simply a day-to-day concern; it is part of a law firm's strategic planning, and I think that is a very positive advancement.

Walking the Talk

I knew when I was old and gray, I would have so much to teach the young lawyers who practice with me, but what I did not anticipate—never began to contemplate—was how much I would learn from them. I often now find myself lecturing myself to slow down and be quiet and listen and truly hear what these brilliant young people have to say. At the end of our conversation, I will still be in charge; it will still be my call; I will still run the show; and we will still do it my way; but the only thing that can happen is that my idea, my thought, and my direction can get better. If my idea withstands their vetting, it is a good one. If it does not, then the final idea will be better. They have helped me so much. It would be impossible to share all of the ways in which I have benefited from the empowerment of the generational diversity within my office, but one thing that comes up repeatedly is how they keep me current with respect to how young people process information, what words and technology they use. Also, because I have asked and have stayed quiet long enough to listen (though not always, admittedly), they help me prepare for dealing with younger clients, younger judges, and, of course, younger juries by sharing what they are afraid of,

what makes them happy, what makes them mad, and what strikes a chord with them. Again, if I stayed only within my comfort zone, did things only the way I had always done them, and never thought about issues outside of my area, or never met people who are different from me or cared about how they thought, I would not be doing my job, and I would not have gotten all of this help to do a better job.

I am one of relatively few national women trial lawyers who handle catastrophic injury cases—cases that generally have highly technical issues and millions of dollars at stake. Therefore, I am charged with not only doing my job today, but also creating a legacy of work product and lawyers who can do this work in the future. Clients have always expected that the lawyers they entrust with their greatest problems will handle them not just today, but forever, even after they are gone.

When I was a young lawyer, irrespective of what I thought of myself, my evaluators (the people of power within my former firms) did not consider me to be part of “the next generation” of trial attorneys. Twenty years ago, a young woman (especially a mom, a divorced single mom) would not typically be considered “the next big trial lawyer.” There were certain roles that even the least encumbered and most traditionally credentialed women lawyers had, and “superstar trial lawyer” was not one of them. Consequently, it was a rational decision for the trial lawyers not to waste their time teaching me how to be a trial lawyer. It was not a rational investment. The chances of me actually becoming one, as compared to those of my male colleagues, were very slim.

However, I do not look at the lawyers I have to train and compare their demographics to those of the traditionally successful trial lawyers. I do not look at them and compare their histories to my own. To do either would be folly. Neither is predictive, no matter how personally comfortable it may be. I have always chosen to train people who show a propensity for success, irrespective of their gender or race. I pick people who work hard, who are passionate about what they do, who care more about their success than they expect me to, and who have a high propensity for fearlessness because those are the qualities that I believe you need to be a good trial lawyer.

Clients have always put their highest demand on outstanding legal talent—that is their predominant requirement, and I think it should be. I do not

think that diversity should ever trump talent. But when faced with relatively equal talent, many clients are more likely to hire someone from a classically diverse background. This is a business reality. When I train my people, I emphasize that they need to be excellent and that, irrespective of their point of diversity, they should never strive to find themselves in a situation where they are a “relatively equal talent.” We work at excellence so that if given the chance to show what they can do, they make it impossible for the client not to hire them. If this is your value system and it is inclusive of everyone and appreciates different starting points and different value adds, then you may be in a position to build a more stable group of new talent that will make your firm a better business.

Conclusion

Ultimately, I believe that the best thing that I can do personally to promote diversity is to be a role model for the attorneys I train—and that means that I am never going to become an inauthentic version of myself to meet someone else’s expectations. I am a product of my crazy history and my eccentric personality, and I understand that is true of everyone. I have a voice in my profession and in my firm. I use it to explain what I am doing, why I am doing it, why I think it is okay. I advocate, and I listen and learn. I train young lawyers. I try to remember to say, “You will need to do this your way,” or “You will not want to use my words,” because they are unique, and they will be best at what they do if they do it in their voice and not mine.

Nobody ever taught me how to be a trial lawyer or a manager, and nobody ever taught me how to resolve conflicts—largely because nobody thought I needed to know those things. Therefore, I believe that the best thing I can do is to teach as many people as I can what I know, or at least show them that someone like me, a girl, can succeed in this competitive arena. One of the biggest thrills I get from my job is vastly exceeding the jurors’ expectations when I try a case. When jurors see me at counsel table, they do not expect me to be me. I have heard so much feedback over the years. They do not expect me to be so loud, so tough, so passionate, so smart, so prepared, so mean to the experts, so argumentative with the judge, so able to take on the male lawyers, so good. All of these things are, of course, great for my ego, but I am even more pleased to think that they all go home

and look at their daughters differently and have a different sense of what they are capable of, and maybe when she wants to go to science camp or debate camp, I will have helped a little.

The best thing I believe a firm can do is have an environment where diverse lawyers are powerful. They make money. They make changes. They make important decisions. They have important clients. They inform debate. They win. They lose. They succeed. They feel at home because they are. They change people. They are changed by people. They have a voice. They feel comfortable in their skin and can tell their story. Inclusion is intoxicating and inspirational. I am often asked why I love my job so much when so many other lawyers seem to feel so differently. I have the voice to explain this, and I use many words, and I move my arms around, and I talk about feelings, and the firm and the profession are better places because I do.

Key Takeaways

- Firms need to employ a top-down, funded, planned, staffed, and measured strategy to ensure that the firm structure and culture do not allow a diverse lawyer just to survive, but to thrive. Your firm will attract diverse lawyers when your firm can boast powerful, well-compensated, important diverse lawyers within its ranks.
- Train people who show a propensity for success, irrespective of their gender or race. Pick people who work hard, who are passionate about what they do, and who have a high propensity for fearlessness. Keep in mind that clients demand outstanding legal talent.
- Consider how diversity factors into your law firm's legacy. Diversity is essential to most succession plans. Your firm's longevity needs to factor this in to its business model.
- Diverse lawyers have options in firms, mentors, and environments, and on the supply/demand curve, they are in high demand. If you feel you are in an environment where you are under pressure to become less who you are, remind the people who spent time, money, and other resources that they hired you because you were different, and now they need to let you do things differently so they can reap the benefit.

- Remember that this is not easy for anyone. But the people with power cannot fail to act because of individual self-interest. Each partner's first obligation is to the firm.

Sandra Giannone Ezell is a managing partner in the Richmond, Virginia, office of Bowman and Brooke LLP. She is a trial lawyer who devotes her seemingly boundless energy to representing corporations in courtrooms all over the country, often in her role as national trial counsel. She primarily focuses on product liability defense, as well as handling commercial matters of all sizes. She routinely defends wrongful death and catastrophic injury product liability cases. In almost twenty-five years of managing and trying cases, she has handled product matters in various arenas, including automotive, general transportation, construction, tobacco, child products, medical device, trucking, toxic tort, recreational products, food products, asbestos, household products, and power tools. She also handles the litigation aspects of various commercial disputes, including contract disputes, class actions, franchisor representation, dealer/vendor termination, and other commercial matters.

Ms. Ezell takes on cases irrespective of their size or exposure from filing through verdict, or just on the eve of trial, and represents her clients in one-time or pattern litigation, with cost-effective, result-oriented strategies. Her energy and enthusiasm for getting the job done drives the results clients seek. She is a trial lawyer who manages both an office and a demanding trial practice. She also works to improve the legal profession through her local and national commitment to its diversity. She also writes a frequent column exploring and celebrating the efforts of in-house counsel to create and execute diversity initiatives within their legal provider programs. She has also been retained by companies as a consultant on matters of diversity and inclusion.

Acknowledgment: *I would like to thank my clients; you have used your power for good. You have insisted that change occur in our profession, and without your push and your backbone, we would have so much further to go.*

I would also like to thank my partners, who agree and disagree with me about so many things, but who provide me with a forum and a meaningful voice and, in so doing, embrace the process that I propose here today. My practice and my life would not be as rich without the opportunity to work with these people and the other professionals with whom I have had the great opportunity to try so many cases and have so many laughs.

I would also like to thank and to challenge all of the legal men and women who struggle daily to do “the right thing” regarding diversity and inclusion. It is your passion, your drive, and your dedication to finding the balance and the answers that will make this topic irrelevant one day, which is the ultimate goal.

Dedication: *To my children and my husband Shawn, who are the inspiration for everything I do. Without the safety, challenge, and acceptance that they provide in my life, I am not sure I would have ever found my voice.*



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