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# ABA Resolution 113 and the Model Diversity Survey:

Wins, Challenges & the Way Forward

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# Agenda

- Introduction
- Concerning State of Diversity in the Legal Profession
- ABA Diversity & Inclusion 360 Commission and the Resolution
- Model Diversity Survey
- Implementation of the Resolution
- Benefits for All Attorneys
- Conclusion

# Introduction

- The American Bar Association: 4 Goals to Achieve Mission
  - Goal III seeks to eliminate bias and enhance diversity in the legal profession.
  - Under Goal III, diversity is considered race/ethnicity, gender, LGBT status and disability status.
- Why should we seek to provide equal opportunities to qualified individuals regardless of background besides it being “the right thing to do”?
  - Better talent
  - Understand customers
  - Better decisions
  - Drives innovation and creativity
  - Teams are more engaged
  - Teams are more productive



# Concerning State of Diversity in the Legal Profession

- Diverse individuals' representation in the U.S. population is not commensurate with their representation in the legal profession. For example, consider the following:
  - Women are slightly over half of the population but are only 35% of attorneys.
  - Blacks and Latinos are just over a third of the population but are only approximately 10% of attorneys.



# Concerning State of Diversity in the Legal Profession, cont.

- In-house counsel increasing diversity at all levels at a higher rate than law firms, which lag behind with essentially no increase.
  - The percentage of women general counsel of the Fortune 500 has increased continuously since 2014 to 25% in 2016.
  - The percentage of racially diverse (black, Latino, and Asian) general counsel of the Fortune 500 is approximately 10%.
  - The percentage of women in equity partnership ranks has increased less than a percentage point to 17.8% from 2014 to 2015.
  - The percentage of racial minorities in equity partnership ranks remained at 5.6% between 2014 to 2015.
- The lack of diversity within law firms does not appear to be a pipeline issue:
  - Women constituting half of law school graduates.
  - People of color constituting a quarter of law school graduates.
  - Women and people of color make up 45% and 22% of law firm associates, respectively.



# American Bar Association's Diversity & Inclusion 360 Commission

- 2015 - 2016 ABA President, Paulette Brown created the Diversity & Inclusion 360 Commission.
- Four working groups created to assess diversity and inclusion in the legal profession and create action plans to achieve Goal III.
  - Economic Case
  - Diversity & Inclusion
  - Pipeline
  - Implicit Bias
- The Economic Case Working Group explored ways to increase economic opportunities for diverse attorneys and drafted Resolution 113.
  - Law firms
  - Public sector
  - Corporate clients
  - Affinity bar associations
  - Other organizations focused on advancing diversity in the legal profession



# Resolution 113

- **The Resolution** *(passed in August 2016)*
  - Urges legal service providers to expand and create opportunities for diverse attorneys
  - Urges the buyers of legal services to direct a greater percentage of legal spend towards diverse attorneys
- **The Report Supporting Resolution 111**
  - Increase diversity at all levels within the legal profession will make the legal field a more appealing profession for diverse individuals
  - Increase in the number of diverse attorneys and remediate the issues of implicit bias in the legal profession
  - Encourage corporate clients to use a Model Diversity Survey in procuring and evaluating legal services



# Model Diversity Survey

- The primary tool to implement the Resolution is the [Model Diversity Survey](#).
- Survey Benefits: Data uniformity, time efficiency, and trending year over year in aggregate and for individual firms.
- Survey Purpose: To serve as the standard for law firms' reporting of their diversity metrics.
- Stakeholder Interest
  - Survey is free of charge for signatories and stakeholders and does not require a paid membership to use.
  - Corporations: 1. Need to become signatory and 2. Need to send list of firms that they deployed survey to in order to receive reports. GCs can get reports of any firms.
  - Law Firms: 1. Fill out demographics information one time for over 80 companies, 2. Monitor firm trends over time, 3. Potential use as marketing tool.





# Model Diversity Survey - Big Picture Benefits

- Transparency to corporate clients
- Allows for the measurement of trends in law firm partnership ranks, hiring practices, attrition rates, lawyers working on flexible schedules, and the ranks of highest compensated attorneys
- Allows for GCs and law firm relationship partners to agree upon “client-specific” questions, which is more efficient and cost-effective than filling out entire separate questionnaires.
- Annual reporting of aggregated data



# Corporate America's Implementation of the Resolution

- What are Signatories asked to do:
  - Support the Resolution;
  - Ask the firms that provide a significant portion of legal services to complete the Survey;
  - Have firms currently not retained and that are competing to handle a significant matter for the company to complete the Survey;
  - Use, as a factor in determining what firms to retain or terminate in providing legal services to the company, the information obtained through the Model Survey; and
  - Advise the ABA that they support the above four principles, such that an ongoing list of those that have committed to the principles can be maintained and published.



# Benefits for All Attorneys

- Law firms will gain a greater assortment of perspectives in their firms to enable them to achieve better results.
- Diverse attorneys, given an equal opportunity, will have greater chances at obtaining leadership roles in the legal profession.
- The efforts of the Economic Group and all supporters of the Resolution are intended to increase trust in the legal profession as one of ethical conduct and integrity by seeking equal opportunity for access, acceptance, and advancement.
- The cultural shift in law firms necessary for inclusion to occur will benefit law firms, as they must operate in an increasingly diverse society with increasingly diverse clients.



