



Diversity Retrospective:

Where Have We Been? Where Are We Going?

By Marta-Ann Schnabel



Twenty years ago, the concept of “minority involvement” or “minority recruitment” was fairly new. Bar associations talked in terms of increasing “involvement” among minority lawyers and firms were beginning to actively “recruit.” Still, women and African-Americans were rare as associates at most firms, and even rarer as partners. A visitor to the Louisiana State Bar Association or American Bar Association (ABA) House of Delegates would have assumed that only white men were association members. Hispanics? Native Americans? Asian-Americans? They weren’t much on the radar screen, either locally or nationally.



Today, diverse groups have begun to gain a voice within the profession. More women and minorities are law school graduates. Statistics developed by the ABA reveal, however, that progress is slow. While women have comprised between 47-49 percent of law school classes over the past three years, only about 27 percent of practicing lawyers are women. More to the point, just 17 percent of the partners in law firms are women. Minorities have comprised about 22 percent of law school classes in that same time period, and yet the percentage of minorities who remain in the profession still hovers at about 10-12 percent, even allowing for recent increases in minority graduates and hiring since the 2000 census. According to the National Association for Legal Career Professionals, just under 6 percent of partners in law firms are minorities and, of that, approximately 2 percent are African-American and about 1.5 percent are Hispanic. Minority women fare even more poorly — .56 percent of partners are African-American women and .42 percent of partners are Hispanic women.

ABA Diversity Hearings and Summit

With these statistics as a backdrop, ABA President H. Thomas Wells, Jr. appointed a special committee to take a hard look at the state of diversity within the profession. For all of our programs and all of our efforts, he asked, has any real progress been made? Are there truly more opportunities for a diverse population to attend and graduate from law school? Are bar associations populated by a more diverse membership? Have firms and corporations actually embraced diversity, or are those efforts simply governed by a sense of political correctness? Do government lawyers and the judiciary reflect the true demographics of the community they serve? Assuming that the profession has changed in the last 20 years, what does the future hold? Has “diversity fatigue,” particularly coupled with the current economic crisis, resulted

in less focus on diversifying our ranks? Or, indeed, has the recent presidential election, wherein an African-American and a woman were the strongest contenders, established that diversity goals have been fully accomplished?

As part of this analysis, the ABA presidential initiative includes a series of regional public hearings. Lawyers and legal educators of varied backgrounds and experiences are encouraged to voice their opinions on these issues. The first hearing was held during the ABA Midyear Meeting in Boston, Mass., on Feb. 12. For four hours, testimony was offered from members of academia, bar leaders, representatives of corporate America, partners in private law firms, members of the judiciary and public interest lawyers. This process will be repeated in San Francisco, Columbus and Atlanta. A final Diversity Summit will be held in Washington, D.C. in June to share all the information gathered and to preview the future of diversity in the profession.

Initial Insights in Boston Hearing

Participants in the Boston hearing were impressed with the level of discourse. The room was filled to capacity for most of the four hours, perhaps disproving the sentiment that “fatigue” has set in. Even though the portion of the program reserved for comments and questions from the audience did not occur until 6 p.m., lawyers lined up at the microphone to be heard.

During the hearing, three representatives of the “Legal Academy” — Kent Lollis of the Law School Admission Council; Peter Blanck, an expert in disability rights from the Burton Blatt Institute at Syracuse University; and Richard A. Matasar, dean of New York Law School — identified the cost of a legal education as a bar to access to the profession, particularly for students from diverse backgrounds. They praised “pipeline” programs, but noted that graduates were often unpleasantly surprised by the reality of paying off the

massive debt accumulated over the course of law school. These economic factors, they said, have resulted in declining applications to the nation’s law schools, with comparatively fewer minorities seeking admission.

Representatives of corporations and private law firms offered lively and frank discussion about the problems of access and retention. All agreed that the “business case” for diversity was a strong one if corporations pursued their internal diversity policies when choosing outside counsel.

Susan Klooz from Wal-Mart Stores, Inc. and Michele Coleman Mayes of Allstate described aggressive efforts to assure that those who provide legal representation to Wal-Mart and Allstate reflect the diversity of the company employees themselves.

Former ABA President Robert Gray offered insight into law firm strategies for eliminating the “glass ceiling” and avoiding attrition, but noted that some of the solution was simply the passage of clients and responsibilities from one generation to another.

Anthony Upshaw, a Miami partner in the Adorno & Yoss firm, described his experiences at the largest minority-owned law firm in the country, where clients had come to expect diversity on its legal team.

Much of the discussion centered on the concept of “meaningful inclusion,” a concept that both Mayes and Klooz advocated as a way to assure that women and minorities remain at a firm or corporation.

Members of the Hispanic National Bar Association (HNBA) and the Native American Bar Association spoke about the role of bar associations. Both said specialty bars were affirming for members left behind in other diversity initiatives sponsored by firms or state and local bar associations. Their bars, they said, often offer programs focused on the needs of constituent communities. HNBA Presi-

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MCCA/Vault Activate 2009 Law Firm Diversity Database

By Alexander K. Kriksciun

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dent Ramona Ramero said “pipeline” programs often center on the African-American community but could, and should, be expanded to include other minorities.

In the last session of the Boston hearing, panelists discussed the difficulties in assuring diversity in an elected judicial system and in attracting law graduates to public interest careers in light of the cost of a legal education. All agreed that the public rightfully questions the efficacy of a legal system in which lawyers and judges do not reflect the composition of the community being served, which in itself is a reason to assure diversity on the bench and in public interest lawyering.

Common Threads and Observations

University of New Mexico Professor Margaret Montoya, the 2008-09 Haywood Burns Chair in Civil Rights at the City University of New York Law School, is the reporter for the hearings. While it is too early to predict what will emerge from the other hearings and the culminating summit, Montoya has identified some common threads in the testimony.

A pervasive theme, for example, is that a truly diverse profession in the future will only be possible if the diversity “pipeline” into law schools is expanded. Another observation is that retention of minority and women lawyers will necessarily turn on “meaningful inclusion.” Many felt that this sense of inclusivity would develop naturally as the ranks of women and minorities reach a tipping point.

Given that ABA research shows that 88 percent of the lawyers in the United States are white and 73 percent are male, that tipping point may be a long way off. In the meantime, lawyers in Boston, San Francisco, Columbus, Atlanta and Washington, D.C. will be tugging hard on that lever.

Marta-Ann Schnabel, a shareholder in the New Orleans law firm of O'Bryon & Schnabel, P.L.C., is a member of the American Bar Association's Center for Racial and Ethnic Diversity and the ABA President's Diversity Summit Planning Committee. She served as Louisiana State Bar Association president in 2006-07. (Ste. 830, 1515 Poydras St., New Orleans, LA 70112)



The Minority Corporate Counsel Association (MCCA) and Vault.com have activated the 2009 Law Firm Diversity Database, accessible at <http://mcca.vault.com>. The Diversity Database is a fully-searchable online tool with comprehensive data on diversity performance at nearly 280 law firms nationwide. Diversity performance is available for a substantial majority of the AmLaw 200, an annually published list of America's highest-grossing law firms. The database is a free resource; however, registration is required.

The 2009 database, expanded from the initial edition in 2008, includes data on diversity performance from 70 additional law firms, an expanded list of ethnic and racial categories, and data on attorneys with disabilities. The 2009 edition also contains information on how law firm leadership communicates the importance of diversity to its attorneys and staff members and the ways leadership is held accountable for achieving results.

The data was compiled based on the participating organizations' annual diversity survey, a comprehensive online questionnaire distributed to law firms nationwide.

Samer Hamadeh, Vault's chief operating officer, said the Diversity Database will allow “corporations looking to hire outside counsel, as well as job seekers, to have crucial information at their disposal to compare the diversity commitment and progress of the nation's largest law firms.”

“Advancing diversity and annually benchmarking progress is essential work for MCCA,” said Veta Richardson, executive director of the MCCA. “But what is particularly exciting about this database is the ability to standardize the type of information that it is openly available about law firm diversity efforts and to continue to raise the bar as good approaches are adopted by more and more law firms.”

The 2009 data shows limited improvement in diversity at the highest ranks of U.S. law firms from 2003-2007. Among its statistics, the database indicates that law firms are making slow progress with respect to diversity, particularly at senior levels. The statistics indicate that women and minorities often have a difficult time advancing to partner status in U.S. law firms. The database includes several statistical breakdowns by gender and ethnicity.

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Demonstrating Commitment to Diversity: Executing Statement of Diversity Principles

The Louisiana State Bar Association (LSBA) Board of Governors on April 4 approved a Statement of Diversity Principles for dissemination to and execution by lawyers, judges, law firms and law departments in the state. Meaningful diversity advancements occur when the leaders in an organization embrace diversity and demonstrate through their actions that diversity is a priority to the organization.

By executing the Statement of Diversity Principles, the leaders of an organization agree to use their best efforts to increase the diversity in their hiring, retention and promotion of attorneys and the elevation of attorneys to leadership positions within their organizations. They also agree to promote and participate in appropriate diversity awareness training programs as well as programs to measure progress.

The LSBA Committee on Diversity asks all Louisiana law firms, law departments and judicial offices to execute the voluntary Statement of Diversity Principles. Individual attorneys are also invited and welcome to sign. The committee will recognize those executing the statement by May 30 on signage to be displayed at the LSBA Annual Meeting in June. The committee will continue accepting executed statements after May 30 but encourages all to execute it early to receive recognition as leading participants in this new LSBA initiative.

The Statement of Diversity Principles is available here and online at www.lsba.org/diversity. Return executed statements to LSBA Member Outreach and Diversity Director Kelly McNeil Legier by e-mail kelly.legier@lsba.org, by fax (504)566-0930, or by regular mail to 601 St. Charles Ave., New Orleans, LA 70130.

Statement of Diversity Principles

Those signing this Statement of Principles hereby commit themselves to foster diversity in the legal profession. The LSBA recognizes that diversity is an inclusive concept that encompasses race, color, ethnicity, gender, sexual orientation, age, religion, national origin, disability and other aspects of diversity.

We believe that with greater diversity, we can be more creative, effective and bring more varied perspectives, experiences, backgrounds, talents and interests to the practice of law and the administration of justice. We further believe that a diverse group of talented legal professionals is critically important to the success of every law firm, corporate or government legal department, law school and public service organization and every other organization that includes attorneys.

We recognize that to fully and equitably pursue justice, our profession must reflect the full spectrum of our communities. To this end, we pledge to make our best efforts to increase the diversity in our hiring, retention and promotion of attorneys and the elevation of attorneys to leadership positions within our respective organizations. We believe that all members of the bar should participate equally and fully in our profession. Ultimately, we believe that diversity in the legal profession is good for the profession, good for business, good for our communities and critical for enhancing the public's confidence in the judicial system.

We recognize that achieving diversity within our organizations and creating inclusive environments are evolutionary processes that require a continued effort and commitment on our part. We pledge to promote and participate in appropriate diversity awareness training programs. We further agree to participate in programs to measure our progress in the pursuit of these stated principles.

This ____ day of _____, 2009.

Signature of Party Committing to Statement of Diversity Principles

NAME & TITLE _____

FIRM NAME _____

FIRM ADDRESS _____

PHONE NUMBER _____

Mail, e-mail or fax the executed form to:

Kelly McNeil Legier, LSBA Member Outreach and Diversity Director
601 St. Charles Ave., New Orleans, LA 70130

E-mail: kelly.legier@lsba.org • Fax: (504)566-0930

A list of those executing this commitment statement will be available online at www.lsba.org/diversity.