

Law Firm Administration A Special Report

Seeking Diverse Partners

Firms face the conundrum of hiring and keeping women and minority leaders.

BY R. BRUCE MCLEAN

While the nation's top large firms are no longer the bastions of white, Ivy League-educated males they once were, the partnership ranks remain, for the most part, homogeneous. Law firms that successfully recruit the best and brightest minority and female law students are celebrated with accolades from their peers, recognition by the media, and respect from their clients.

What is often ignored, however, is the turnover rate of minorities and women once they are inside major firms. The high number of departures does not receive nearly as much attention as the statistical diversity firms have achieved predominantly through recruiting.

Recent surveys demonstrate that while firms aggressively woo minority and female attorneys, they have yet to figure out how to retain them. According to *Minority Law Journal*, in 2003 the number of black associates rose to 4.2 percent of all U.S. citizen nonpartners at law firms. The number of black partners, though, was a scant 1.6 percent of all U.S. citizen partners. *The American Lawyer* points out that over the last 15 years, women of all races have made up 40 percent of graduating law school classes. Yet in 2003, women made up only 17 percent of large law firm partners.

Why is this happening? Theoretically, almost everyone agrees that the diversity of thought and the variety of experiences that a heterogeneous work force offers can result in better solutions, more creative approaches, and innovative responses to clients' problems. This provides a higher level of service to clients and puts the firm in a better position to address client needs.

MERITOCRATIC METHOD

But in practice, law firms continue to grapple with issues of diversity at the top because they cling to the belief that they are pure meritocracies that reward the best performance. Often,

senior management's response to the lack of a diverse partnership is to assert that success is based on performance, that the firm is blind to color and gender.

Outside senior management, however, there are often disparate views about a firm's "meritocratic" system. True, ultimate success at the partnership level requires hard work, superior legal skills, sound judgment, and business development acumen. However, in a meritocracy, opportunities to demonstrate one's ability and achieve this success are equally distributed.

So, while it is true that in most firms, advancement in the associate ranks, promotion to partnership, and compensation are determined by an unbiased evaluation of performance, women and minority attorneys frequently say that opportunities to perform are not necessarily rationed equally. Until all associates get a fair shot at choice assignments and at work with important partners, opportunities for skill improvement, and more involvement in the life of the firm, many valued attorneys will remain skeptical about whether their firms are the meritocracies they claim to be.

Although overt sexism and racism generally no longer exist in law firms, the tendency for individuals to be drawn to those who are "like us" speaks volumes to those who are not. In most large firms, white males hold most of the positions of authority and control. The response from women and minorities is a disproportionately high turnover rate, compared with white male attorneys.

To be sure, the lure of other opportunities in corporate America and the normal rate of failure in large firms contribute to turnover. But women and minorities also cite disillusion, frustration, perceived lack of opportunity for long-term success, or the absence of successful role models as reasons for leaving.

Organizational leaders and managers know that you get what you reward. Law firm leaders have a responsibility to their people and their clients to address the rate of turnover among minorities and women in their firms. They can start to initiate change by understanding the realities of trying to be

successful as a minority or a woman in a culture that defines success in a way that reserves a disproportionate share of the pie for white males.

Then, firm leaders need to take conspicuous steps to groom all lawyers to be successful, not just those who are cut from a similar mold. Visible senior management support for the achievement of women and minority attorneys sends a strong message throughout the firm about the importance of excellence, regardless of gender or color.

CULTURE SHIFT

Correcting this imbalance requires a shift in the organizational culture of firms and of the legal profession in general. Instituting this type of change at all levels of the legal profession happens over time, starts at the top, and is driven by external as well as internal forces.

Outside the law firm, we can see this shift taking place: Five percent of general counsel at Fortune 500 companies today are minorities, compared with 1.4 percent in 1998, according to a recent Minority Corporate Counsel Association study. At many firms, including the firm I chair, Akin Gump Strauss Hauer & Feld LLP, associates see minority and female partners handling important cases and participating in every aspect of the firm's leadership. Women and minorities have increased representation in firm governance, including the chairing of high-level committees. These changes reflect the shift that is occurring in the profession.

Many firms have also gone beyond their doors to support diversity initiatives within the communities in which the firms' members live and work. For example, Akin Gump offers fellowship programs at Georgetown University Law Center, the University of Texas, and New York University for first-year minority law students, providing them with a mentor from the firm and allowing the students to participate in firm activities throughout the year. Additionally, these fellows are guaranteed a summer associate position after their first year of law school. Akin Gump is also the first law firm to host an intern from American University's Washington Semester American Indian Program, providing the student with a unique opportunity to gain firsthand experience in our American Indian Law and Policy Practice.

In a highly competitive environment with a focus on short-term profitability, social responsibility is often overlooked. This is why the Chicago-based Defense Research Institute, the largest association for the defense bar, attempted to stress the importance of diversity to its 22,000 members at its conference this year with the seminar, "The Economic Impact of Diversity on Your Law Firm."

The fiscal case for diversity seems fairly straightforward: Clients demand it and reward work based on whether or not diverse teams manage their work, and laterals and younger attorneys expect it and will go elsewhere to find it. Shell Oil is just one well-publicized example of a company that selects and awards work to its outside counsel based on their demonstrable commitment to senior-level diversity.

Factoring salary, benefits, loss of productivity, retraining, and startup costs for replacement associates, associate turnover by some estimates can cost as much as \$250,000 per attorney, a staggering figure that erodes profitability. Firms that downplay diversity issues, dubbing them unnecessary, expensive, or time-consuming initiatives driven by political correctness, expose themselves needlessly to potentially expensive financial consequences.

Law firms need to embrace a "top-down" approach to diversity if they expect to achieve pervasive or long-lasting shifts in firms' corporate culture or partnership ranks. Quite simply, transforming a firm's top rank so that it represents more accurately the diverse attorney base below requires a firm to recruit and promote women and minority partners into senior positions in the firm.

Akin Gump is by no means an idyllic sanctuary, but we are taking steps to ensure that our firm develops a more inclusive culture. Our efforts are having some effect: The firm ranked among the top 10 law firms (out of about 230) in lists of the "Highest Number of Minority Partners" and "Highest Percentage of Minority Partners" in the Spring 2004 issue of *Minority Law Journal*. In the firm's counsel program, which is an interim promotion for our associates on partnership track, 33 percent of the associates promoted to counsel as of January 2004 are female, and 10 percent are minorities. Akin Gump's incoming associate class for 2004 was 50 percent female and 28 percent minority.

Since the keys to the top levels of the partnership in most firms are held by rainmakers who produce prodigious amounts of high-quality, high-value business, firms will not achieve full diversification until everyone has a fair shot at obtaining the Holy Grail of partnership and becoming a client's "trusted adviser."

Although efforts that focus solely on recruiting and retaining a diverse class of associates will improve the firm's statistical diversity, they will not impact diversity at the upper tiers of the firm's partnership. Real change will only occur when clients and firm leaders hold themselves and others accountable for demonstrating a commitment to, and rewarding, diversity efforts.

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