

Creating Pathways To Success For All: Achieving The Diversity That Our Clients Want From Law Firms

By Lorelie S. Masters



Lorelie S. Masters is a partner in the DC office of Jenner & Block LLP. As President of the Women's Bar Association of the District of Columbia for 2007-2008, she led the WBA's effort to organize its March 19 Diversity Summit and publish its 2008 Report, *Creating Pathways to Success for All*. The WBA report is available at www.wbadc.org.

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Clients increasingly are demanding that law firms provide diverse teams of attorneys to staff their matters. At the same time, women and women of color, leave law firms in disproportionately high numbers. Less than 20% of law firm partners nationwide are women. Even today, after years of focus on diversity and inclusion, only 1.65% of law firm partners nationwide are women of color. Our statistics in DC are marginally better, with slightly more than 2% of partners being people of color. In 2006, the ABA Commission on Racial and Ethnic Minorities reported that less than one percent of women of color stay at their law firms through their eighth year.

The Women's Bar Association of the District of Columbia (WBA) took these statistics as a call to action. We know that women lawyers and women lawyers of color are ambitious and want to succeed. Therefore, beginning in 2005, the WBA began its Initiative on Advancement and Retention of Women to study the reasons why the numbers of women and women of color at the top ranks of our profession have stagnated since the mid-1990s. Given the continuing paucity of women partners and managing partners in our law firms, it is apparent that the solutions to the need for increasing diversity and inclusion in law firms will not simply happen as the numbers of women and women of color in the profession increase. Women have made up half of our law school graduates since the mid-1980s, but that success has not translated commensurately into continued increases of women at the top ranks of our profession.

Continuing the work of the WBA's Initiative on Advancement and Retention of Women, the WBA, this year, addressed these issues through its Diversity Summit. The WBA published its 2008 Initiative Report, *Creating Pathways*

to Success for All, to set forth both the findings from its March 19 Summit, held at Howard University Law School, and the WBA's recommendations for increasing stemming the disproportionately high attrition of women of color from law firms. We firmly believe that we can reverse the trend confirmed by the stagnating statistics and promote diversity and inclusion if all stakeholders work together to address the issues that, for too long, have prevented us from increasing the number of women, and women of color, at the top ranks of our profession. As we say in our 2008 Report, available at www.wbadc.org, we win when all stakeholders—law firms, clients, lawyers, law schools, and bar associations—work together, without preconception or fear, to address the root causes of attrition and failure to thrive in law firms.

Importance of Efforts to Achieve Diversity and Inclusion

Moreover, if we can address the causes of attrition for women of color, it is likely that the problems of attrition for women lawyers generally, and for men lawyers of color, will also abate. The overall finding of our Summit and work on these diversity and inclusion issues shows that women of color largely face the same issues confronting women and men of color—but they experience them more intensely because women of color confront the assumptions arising from both gender and race.

The WBA's 2008 Report builds on our effort, begun in 2005, to study why women lawyers leave law firms in disproportionately high numbers. In this work, the WBA, with help from other bar association sponsors and leaders, seeks to dispel myths that retard women's success in law firms and help law firms, clients, and lawyers identify

strategies that will stem attrition and increase inclusion at all levels of the law firm. All ideas need to be on the table. As we increase diversity and inclusion in our profession, we will help ensure the continued credibility of lawyers as leaders in our society—and increase the success of our lawyers, and law firms, to win the battle for talent and increased inclusion.

Why Women Stay, and Why They Leave

To understand why women of color leave law firms in high numbers, it is important to understand why lawyers, regardless of gender, stay. Lawyers are accustomed to success. Lawyers therefore, like all high-achievers, are more likely to stay if they see a realistic possibility of success, and if they believe that benefits in the law firm are distributed on a level playing field, pursuant to an understandable system of rewards.

Contrary to long-standing assumptions, statistics show that the majority of women who leave law firms continue to practice law. Therefore, the lack of women and women of color in the top ranks of our law firms does not emanate from a lack of ambition or interest in success. On the contrary, the lack of women at the top rank of law firms is a self-perpetuating prophecy. In these days when 50% of law school classes are women, the obvious lack of women and people of color role models and successes at the top of our law firms communicates a clear message to women of color. Increasing the numbers of women and people of color at all levels of law firm management will help communicate the unmistakable message that women of color have as great an opportunity to succeed as anyone.

In 2005, the WBA began its Initiative on Advancement and Retention of Women based on the premise that law firms cannot continue to afford to lose half the talent pool on whom they spend so much to recruit and train. Pursuing a theme identified in the Initiative's 2006 Report, *Creating Pathways to Success*, the WBA in 2007-2008 sought to focus on the combined effects of race and gender as they affect women of color in the law.

Common Themes Retarding Women's Efforts to Reach the Top of the Legal Profession

With 83% of law firm partners being men, women lawyers often report feeling alienated and isolated in the law firm environment. In 2008, we saw themes that came up in our 2006 Report rise again—only with more intensity. Thus, our Diversity Summit showed that, for women of color, their sense of isolation is compounded by their race. A web-based survey conducted in advance of the Summit and discussions at the Summit confirmed

that women of color face many of the same barriers and challenges as white women. However, because women of color struggle with additional stresses of being a “standard bearer” for their race or ethnic group and of exclusion from both formal and informal networks that help members of the majority group succeed, barriers facing women of color are more pronounced.

What are the common themes and obstacles identified in the WBA's 2006 and 2008 Reports?

- Unexamined bias presents a major barrier to success and to failure of recognition by management to recognize the challenges faced by women and women of color in law firms.
- Unexamined bias and inability to facilitate honest communication leads to “micro inequities”—verbal and non-verbal messages that communicate discomfort and lead to negative perceptions of competence about women of color, so-called “soft” evaluations (lack of specific, substantive feedback) and non-substantive or uninteresting work assignments.
- The inability to access both formal and informal networks in the same way that men can, greatly diminishing the opportunities to develop and inherit business.
- Lack of concrete standards about requirements and competencies needed to ascend to law firm partnership. Because women and women of color tend to have greatly diminished access to informal networks and mentoring by business generators in law firms, they are much less likely to have a clear understanding of how partnership decisions are made and the “hard” and “soft” requirements that must be met on the road to partnership.
- A lack of structures to help ensure that all lawyers, regardless of gender or race or ethnicity, have equal access to quality assignments and training throughout their careers from first-year associates through the partner ranks.
- A general lack of accountability and lack of periodic evaluations of partners and their efforts to help the firm achieve diversity goals. A growing recognition that law firms have not caught up to corporate America's focus on management and statistical analysis of law firm efforts to achieve diversity and inclusion. The lack of statistics and metrics helps perpetuate myths surrounding reasons why women and women of color leave law firms and prevent clear understanding of the causes of the disproportionately high attrition of women and women of color from law firms.

“Common obstacles include recognition that law firms have not caught up to corporate America's focus on management and statistical analysis of law firm efforts to achieve diversity and inclusion.”

- Lack of objective criteria used in the compensation process and lack of women and people of color on law firm compensation committees.
- Lack of oversight of evaluation processes to ensure that all associates receive substantive, constructive evaluations that lead to professional growth and substantive skill development. Women of color, in particular, from our Summit reported a widespread tendency to give women of color “soft” evaluations.
- Recognize the role of micro-inequities and unexamined bias, and provide strategies for correcting previously unexamined biases.
- Support efforts by bar associations and other groups seeking to advance and increase retention of women of color.

These themes serve as a backdrop for recommendations that will help our law firms and our profession become more diverse and inclusive.

Inclusion Is the Key

With a sustained focus and commitment to change, we can achieve the diversity we seek—and, increasingly, our clients demand. All stakeholders—law firms, clients, lawyers, law schools, and bar associations—have a role to play. Success will require communication among all stakeholders and a willingness to move beyond the myths and assumptions that have in past years been the driving force behind efforts to increase diversity. The time to act is now. Success is achievable if all of us work together.

The WBA’s Report challenges all of us to act within our spheres of influence to effect change. We recommend that law firms, clients, lawyers, law school, and bar associations take the following actions:

Law Firms:

Strengthen law firm culture:

- Include women of color in all key committees, firm programs, client pitches, and day-to-day client relationships, demonstrating a top-down commitment to inclusion and advancement for all lawyers.
- Recognize that women of color do not wish to be “the standard bearer” for their race or gender, and that such roles can, to a disproportionate extent, divert women of color’s time from activities, like substantive training and client development, that have a much greater effect on promotion and success in a law firm.
- Ensure that, in organizing internal and client events, theme and focus are not geared solely to the interest of the majority to the discomfort of women of color or other minorities.

Evaluate law firm leadership structures:

- Promote women of color to leadership positions in practice groups and law firm decision-making structures.
- Groom individual women of color for key roles in client relationships and firm leadership.
- Devise a structure that allows for anonymous exit interviews as a means of obtaining accurate data about why women of color leave the firm.
- Devise systems that establish accountability by individual supervisors for achieving results in advancing and retaining women of color. Develop metrics to monitor progress.
- Equalize work on firm committees and assign credit, especially for lawyers who may do more than “their share.”

Active involvement in attorney development:

- Communicate directly with women lawyers of color regarding their experiences at the firm from entry to exit.
- Ensure that practice-related and training information is disseminated through organized settings, rather than informal structures that benefit the majority group.
- Communicate to all lawyers the skills and capabilities that are key to advancement in the firm. Monitor assignments and evaluations to ensure that women of color get equal opportunities.
- Offer skills-based training, including networking, business development skills, and practice group procedures and protocols.
- Collect objective statistics on participation of women of color in client relationships and business-development opportunities.
- Hold practice group leaders accountable.

Clients:

- Articulate your company's diversity goals to outside counsel. Hold them accountable.
- Communicate directly with women of color assigned to your matters and invite them to participate in meetings and other events.
- Maintain a visible and vocal presence in law school and bar association efforts trained toward client-development and client management skills training.

Lawyers:

Active career management:

- Be proactive and persistent. Ask for what you want. Begin managing your career actively on day one. Have a five-year, ten-year, and longer career plan. Focus early on developing internal relationships and your reputation in the firm. The first few weeks at a law firm are crucial to maximizing opportunities for success, especially for women and women of color.
- Develop a group of partners who rely on your work and attract business internally. "Internal marketing" is as important as external marketing.
- Be an active firm citizen. Seek out interesting projects, initiatives, and committees at the firm.
- Proactively seek out high-quality assignments. Talk directly to lawyers and ask for the work you want.
- Ask for meaningful feedback on all assignments.

Excel in core skills:

- Learn the business of law as well as legal skills.
- Understand the core skills that the firm values and work to obtain them.

Learn business development:

- Manage client relationships. Ask clients what they need and how you can better serve them.
- Cross market with colleagues because it is easier to develop business from existing clients.

Cultivate a broad network:

- Cultivate relationships with "sponsors" in the firm and ask for their help and advice.
- Seek mentors of all backgrounds and levels of seniority both inside and outside the firm.
- Use bar associations and other non-profit and affinity groups to expand your network and identify

opportunities for professional development and advancement.

Work for positive change:

- Present arguments for change in a meaningful business-oriented fashion to help strengthen your opportunities for advancement.
- Initiate your own programs and invitations.
- Expect adversity and persevere. All lawyers encounter challenges—work to learn and maximize the advantage in every situation.

Law schools:

- Educate law students, especially women and people of color, about the practice and business of law, the importance of networking, and the process of cultivating client relationships. Communicate with law firms to find out what skills-base and business development training firms seek. Coordinate with bar associations and other groups promoting inclusion and developing skills-based trainings.

Bar Associations:

- Ensure that women and people of color are represented throughout the leadership of your organization.
- Communicate the business case for improving retention and inclusion.
- Develop and publicize best practices and law firm structures to increase diversity and inclusion. Provide objective data on retention statistics, compensation, and other metrics.
- Issue reports and develop programs addressing retention and advancement issues.

Conclusion

The time to act is now. Our clients and our prospective employees graduating from law schools expect it, and it is the right thing to do. With NAWL and other groups, the WBA has sought to lead the way with its Initiative, its Diversity Summit, and its 2006 and 2008 Reports. Let us all continue that momentum by working for change. Working together, we can change our profession for the better for the benefit not only of women of color but for our firms, our clients, and our society as a whole.