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Sunday, October 10, 2010

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Diversity: Some firms fail to retain diverse attorneys



By [Amanda Robert](#)

July 02, 2010

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Arin Reeves usually hears from law firms when they decide they need help with diversity.

Reeves, the president of The Athens Group, a consulting firm that specializes in diversity strategies, interviews these firms before she works with them. If they're not interested in change, she's not interested in them. She also doesn't help law firms that call one sensitivity training session their diversity effort.

"There are a lot of law firms that want to put up some window dressing and call it a day," Reeves said. "When I sense that, I walk away."

She said the majority of law firms focus on "feel-good efforts," such as diversity committees and diversity functions, but they never challenge the systemic barriers that women and minorities face in assignment allocation, client inheritance and compensation.

For this reason, she said, as law firms recruit and hire less, or even downsize, they've lost a disproportionate number of female and minority attorneys during the economic downturn.

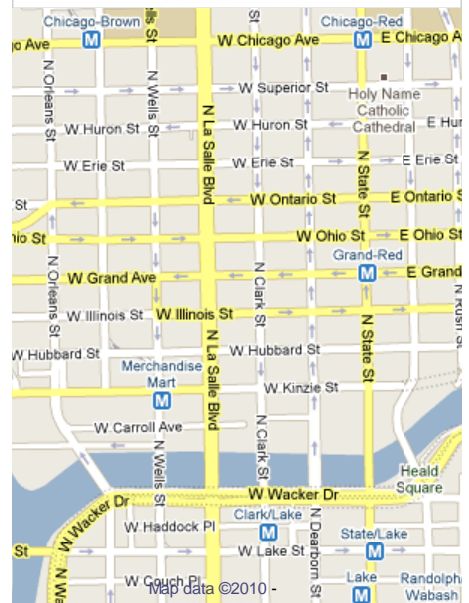
"Unless we double our efforts on diversity and inclusion, I'm really nervous that some of our losses are going to be permanent losses," Reeves said.

This month, *Chicago Lawyer* released the results of its 2010 diversity survey of the largest law firms in Illinois. According to the survey, which tracks the numbers of women and minorities in partner and associate positions at law firms, nearly every firm reported losses in one or more of these groups as of Jan. 1.

Kirkland & Ellis and Sidley Austin, the top two law firms in the survey, revealed decreases in the number of

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associates.

Kirkland employed 139 female associates in Illinois in 2009, but only 124 in 2010. The firm also lost minority associates in Illinois, from 63 in 2009 to 48 in 2010.

Sidley employed 152 female associates in Illinois in 2009, but only 129 in 2010. The number of minority associates went from 59 to 54 in the same period.

Kirkland reported an increase in female partners in Illinois, from 67 in 2009 to 69 in 2010, and in minority partners in Illinois, from 22 to 23.

Sidley reported a decline in female partners in Illinois, from 50 in 2009 to 48 in 2010. The firm employed 14 minority partners in Illinois in 2009 and 2010.

Other large and midsized firms, such as Skadden, Arps, Slate, Meagher & Flom and Freeborn & Peters, also reported decreases in female and minority partners and associates.

Skadden showed a decrease in female partners in Illinois, from nine in 2009 to eight in 2010. The firm also reported a decrease in minority partners in Illinois, from three in 2009 to two in 2010; a decrease in female associates, from 58 to 47; and a decrease in minority associates, from 21 to 18.

Freeborn & Peters revealed a decrease in minority partners in Illinois, from four in 2009 to three in 2010; a decrease in female associates, from 27 to 15; and a decrease in minority associates, from four to one. The firm reported nine female partners in Illinois in 2009 and 2010.

Lawyers inside and outside of law firms acknowledge these losses, but point to a bigger story behind the numbers. Even before the economic downturn, firms struggled to retain female and minority attorneys. They say firm management often fails to connect with them, give them significant assignments or introduce them to influential clients, forcing them to pursue in-house positions or other opportunities.

Reeves said if law firms plan to correct this problem, they must first change their attitudes toward employing women and minorities.

"They need to understand that bringing diverse perspectives in the door is not the end of their efforts," Reeves said. "There are structural barriers to success that need to be dealt with in order for any diverse voice you bring in the door to actually be successful."

Opposing views

Even when many private law firms experienced booming business, women and minorities weren't often given the same assignments or development opportunities as their white, male counterparts, said Venu Gupta, the executive director of the Chicago Committee on Minorities in Large Law Firms.

She said they weren't logging hours on the best work or with the most influential partners - a problem that only became exacerbated by the economic downturn.

Many law firms focused on the bottom line and neglected other efforts. They gave women and minorities fewer hours and less crucial assignments. They stopped mentoring or offered opportunities on a limited basis.

Gupta said many law firms removed the attorneys who never got the chance to build relationships with the "champions in the room."

"Law firms and those who run law firms continue to invest in people who they are most comfortable with," she said. "They believe that they're investing in people based on merit when, in fact, they're investing in people who they like and get along with.

"I don't think it's obvious discrimination in that law firm leadership wants to keep firms non-diverse. I think that, in part, it's neglect, in part, it's that changing culture is difficult, and, in part, it's the business model of law firms."

Jessica Arong O'Brien, a special assistant attorney general with the Illinois Department of Revenue, grew up in Cebu City, Philippines. She immigrated to the U.S. with her mother after she graduated from high school.

"Discrimination started as soon as I landed in this country," O'Brien said. "As painful as it is, it pushed me to do better in life."

Before joining the public sector, O'Brien worked as an associate with Schuyler, Roche & Zwirner. She said part of the challenge comes from women and minorities not seeing many others who look like them.

"We hang out with people who are like us," O'Brien said. "If there are so few people like you in a firm, and you're not really comfortable, eventually you're going to leave."

As a young attorney, two women mentored her - one white and one Asian - but O'Brien said she should have also bonded with the firm's male leadership.

As law firms cut diversity programs to reduce costs, O'Brien said, it becomes harder to form these bonds. As the president of the Diversity Scholarship Foundation, she offered law firms mentors for their minority attorneys. She said not one firm accepted.

O'Brien said she also heard from a colleague that some large law firms hire diversity officers who are usually

a "token minority" who appear in the firm's website or newsletters.

"It's not really meaningful," she said. "It's just for the appearance that they're diverse. And if they really hire a diversity officer who's really doing diversity work throughout the firm, how do you measure that? There's no accountability."

Elizabeth E. Jaci, a white associate at Barker & Castro, served as an assistant corporation counsel for the City of Chicago Law Department and then switched to private practice. She said the law profession still harbors "old boys' clubs," which often exclude women.

"When you go over to the courthouse, it's still mostly men," Jaci said. "There's a difference for a judge when a woman tells him something, and when an old white guy tells him something."

Jaci said these older male partners rarely share tips with younger female associates. She chalked up this attitude to human nature - she said even a woman might defer to an older white person rather than a young person.

"When you hear attorneys describe other attorneys, if they're talking about a woman, she's demanding and bitchy," she said. "If you're talking about a guy, he's demanding, he's a good lawyer."

"He could be a full-blown dick, but no one ever says that."

RoxAnne Rochester, a white lawyer, worked in private practice for 15 years before becoming a staff attorney in the Cook County Circuit Court, Law Division. She started at Fishman & Merrick, but she left after suing the firm in 1994 for sexual harassment.

Five years later, Rochester won the lawsuit and became the first Illinois lawyer to obtain a judgment against other lawyers in a Title VII sexual harassment case. She said the experience showed her the "spiritual, emotional and degrading impact that discriminatory treatment has on an individual."

The law profession has grown from a time when women couldn't sit on the bench or work while pregnant, Rochester said, but firms might need another generation to eradicate discrimination.

"There are still some men that assume women and minorities, because they don't come from the same background, have less to offer," she said. "Unless and until those individuals leave the profession, it might still taint. In the next generation, you'll see more and more people understanding that there's more to gain by including each other."

Rochester said law firm management needs to go beyond diversity committees to promote the professional growth of women and minorities. She said they also need to foster personal relationships by inviting female and minority attorneys out to the golf course or for drinks after work.

Philip Harris, a black partner at Jenner & Block and co-chair of the firm's diversity committee, agreed that firms need to turn female and minority attorneys into "superstars."

He said they need to focus on quality rather than quantity, and offer more attractive work environments to encourage women and minorities to stay. He said that if a firm retains three minority partners, and all three stand out as leaders, it would change that firm's performance in a positive way.

"The firms have to want to do it, and want to do it because they think it's the right thing to do," he said.

Harris said that promoting diversity must also appeal to a firm's business interests. It's unreasonable to think firms would make real changes, he said, if neither one of those factors is present.

Better housing

Businesses and corporations also contribute to the shortage of women and minorities in law firms as they seek to hire the best and brightest attorneys.

Susan Hackett, senior vice president and general counsel at the Association of Corporate Counsel, said the corporate market expresses more interest in creating diverse cultures than private law firms. She said companies "cherry-pick" female and minority attorneys from law firms, frustrating those who want role models in their partner ranks.

Hackett said female and minority attorneys often decide to move in-house, even though it offers less pay and advancement, because they doubt their future in law firms.

"You will make some sacrifices going in-house, but for people who are concerned about the lack of diversity in firms, they often feel more comfortable," she said.

Lynn Watkins-Asiyanbi started her career in private practice, but left last year to become in-house counsel for U.S. Foodservice. Watkins-Asiyanbi, who is black, said practicing in a firm was "eye-opening."

She wasn't given worthwhile assignments and didn't build relationships with firm management. Despite the help of older, female attorneys, Watkins-Asiyanbi said it was difficult to break through barriers.

Watkins-Asiyanbi encountered a different environment when she moved in-house. She works in a legal department that's comprised of 80 percent women. She also fills a role that was previously staffed by another black woman, who was promoted.

"Clients look at me as the next attorney who is working with them to support their business needs and their legal needs," she said. "The color barrier isn't as much as what I dealt with at the firm."

Even now, she said, opposing counsel still look at her as if they're trying to determine if she's the client or the attorney.

"It's still interesting to be across from maybe an older white gentleman that hasn't worked side-by-side or across the table from someone who looks like me," Watkins-Asiyambi said. "From that perspective, they haven't had the opportunity to really get to know people and their capabilities. People who might not look like them, but who have been equally educated at their alma maters."

She said several companies require outside counsel to complete monthly scorecards, which ask for the number of hours that female and minority partners work on their cases.

"I think it's a positive step, but I don't want firms to say, 'Let's put someone on there, but not give them any type of substantive work,'" she said. "The firms have to realize that they have to give substantive work to women and minority associates, so when they get to partner ranks, they have worked on client matters for a number of years and can move forward in building additional clients."

Sylvia Bateman, director of client services and associate general counsel for Exelon Corp., graduated from law school in 1980 and practiced as a corporate lawyer for most of her career. She joined Exelon and moved into her current role in 2007.

Bateman said she remembers attending meetings not only as the sole black attorney, but also as the sole female attorney.

"I still find that from time to time now, but it is not an everyday occurrence," she said. "It's nice when you look across the table in a room, and you see other women or other people of color, and you know that the perspectives and opinions that you're getting are broad."

Like other companies, Exelon holds its outside counsel accountable for their inclusion of women and minorities.

"Their clients need to be happy, because they have so many choices of lawyers they can hire," she said. "I think it is very important for corporations to be very explicit with their outside counsel about their values and what's important to them as it relates to diversity."

Victor Henderson, the executive partner in charge of Holland & Knight's Chicago office, believes that business interests alone push law firms to promote diversity.

Henderson, who is a black, said corporations drive the conversation, because their clients want women and minorities involved in their matters. He said small or medium-sized firms' lack of minority lawyers shows that diversity doesn't affect their practice or their cash flow.

"The most important color in diversity is green," Henderson said. "It's about dollars. People are motivated by their economic interest. I don't think there are a whole lot of lawyers who will push diversity from altruistic reasons - it's for business reasons."

Firms need to respond to the "weight of the pressure," he said, as more women and minorities enter the legal profession. He said their development of client relationships could help change diversity practices at firms.

Outnumbered

The National Association for Law Placement annually tracks the numbers of women and minorities in law firms, both nationally and for 45 cities, including Chicago.

According to the 2009-2010 NALP Directory of Legal Employers, minorities comprised 17.32 percent of 4,006 associates in Chicago law firms. Minority females comprised 9.61 percent of those associates.

The directory further reported that minorities comprised 5.84 percent of 4,380 partners in Chicago firms, while minority females comprised 1.92 percent of those partners.

Chicago fell below national averages in every area except minority female partners, who represent 1.88 percent of partners nationwide.

The Coalition of Women's Initiatives in Law Firms and the Chicago Bar Association Alliance for Women recently announced the results of the "Call to Action on Women in Leadership in Law Firms," a study that uses NALP data to measure the numbers of women in more than 60 Chicago law firms.

According to the study, six firms have 40 or more female partners: Hinshaw & Culbertson with 70; Kirkland & Ellis with 66; McDermott Will & Emery with 52; Sidley Austin with 50; Katten Muchin Rosenman with 42; and Mayer Brown with 40.

Nicole Auerbach, president of the coalition and a founding member of Valorem Law Group, said in a news release: "We are very encouraged by the increases and see them as a sign of continued progress, although there is still a lot of work to be done."

Several Chicago law firms that reported a decrease in numbers in the *Chicago Lawyer's* 2010 diversity survey said they continue to focus on recruiting and retention efforts.

Michelle Michaels, the national director of diversity for Foley & Lardner, who's based in Chicago, pointed to firm-wide layoffs as the reason for the declines in numbers of female and minority associates and partners.

According to the survey, Foley reported a decrease in female partners in Illinois, from 17 in 2009 to 15 in 2010. The firm also showed a decrease in minority partners in Illinois, from five in 2009 to four in 2010; a decrease in female associates, from 28 to 18, and a decrease in minority associates, from 11 to six.

"We had a round of layoffs like most big firms," Michaels said. "We waited as long as we possibly could, so what those numbers are reflecting include that round of layoffs."

Michaels said the slight declines, such as in female partners in Illinois, could relate to women who decided to stay home after giving birth.

"As far as I'm concerned, that's very insignificant," she said. "You're of course going to lose one or two people for various reasons."

Michaels said Foley works to ensure that diverse attorneys receive the same hours, training and support as white, male attorneys.

"This is always going to be something that we're working on," she said. "It's never going to be something we'll be able to raise a flag and say that we've succeeded."

Janine Landow-Esser, a partner at Quarles & Brady and co-chair of the firm's national diversity committee, said even though the firm slowed hiring and canceled its summer program, they continue to focus on the promotion of female and minority attorneys as part of their annual diversity business plan.

Quarles reported an increase in female partners in Illinois, from two in 2009 to nine in 2010, and an increase in minority partners, from zero to one. The firm reported a loss in female associates in Illinois, from 15 in 2009 to 13 in 2010, and in minority associates, from four to three.

Each month and every quarter, the firm evaluates its associates' hours, cases and partner relationships.

"We look at those to make sure we're creating a level playing field, and that diverse lawyers are getting opportunities to work with top clients and complex matters," Landow-Esser said.

The firm assigns every associate a mentor for two years, and provides a minority liaison to diverse attorneys.

"The diversity initiatives have to be supported by the management of the firm, beyond simply words," Landow-Esser said. "I know that if there isn't a fairly constant acknowledgement of diversity efforts and the diversity desires of the firm, it can seem like just another piece of window dressing."