

## Success in Managing Diversity

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In recent years, law firms in New York City and the rest of the state have made concentrated efforts to increase the diversity of their workforce.<sup>1</sup> Many law firms that have taken steps to recruit associates of color are now facing a second difficult challenge: how to retain those associates.

Successful retention of associates of color is a worthwhile goal for a number of reasons:

- o **Recruiting:** From a recruiting standpoint, law firms that are unable to keep associates will face difficulty recruiting the most sought-after candidates of color. Moreover, law firms' laudable efforts at recruitment and hiring associates of color will be for naught.

- o **Business and Cost Perspective:** Turnover of associates of color is costly. A firm's investment in hiring and training is lost when the associate leaves the firm prematurely. Further, retaining associates can reduce the likelihood of costly discrimination litigation.

- o **Associate Morale:** Retaining associates increases morale.

Law firms have come to realize that focusing solely on the number of associates of color they recruit and hire is not sufficient to achieve a diverse workforce. The dilemma they now face is, after successfully recruiting and hiring, how can they retain them? To answer this question, it is necessary to look at some of the obstacles to retention. The New York State Bar Association Committee on Minorities in the Profession presented a forum at the 1995 Annual Meeting on "Identifying the Obstacles to the Retention of Minorities Associates."

Although surveys have been conducted<sup>2</sup>, the responses of the 60 associates of color from large New York firms indicated the lack of certain factors necessary for them to succeed as attorneys. These include a lack of clear and consistent feedback, mentorship by more experienced attorneys, opportunities to work on difficult and challenging assignments that would help them grow and develop professionally, access to valuable informal networks, chances to display their skills and potential, and training in client development.

### Obstacles Identified

The feedback we received can be summarized as follows:

**The Presumption of Incompetence.** The participants discussed the "presumption of incompetence," stating that many white partners fear that including associates of color in a project will result in work that is less satisfactory. This presumption makes obtaining assignments difficult and results in associates feeling pressure to perform twice as well as Caucasian in order to succeed. The situation creates added stress that is not experienced by other associates. Moreover, it creates

an environment in which open communication is not possible for fear of being judged incompetent. **Lack of a Critical Mass of Attorneys of Color.** The lack of a critical mass of attorneys of color makes the work environment uncomfortable, the participants said. It creates a "fishbowl effect" in which any mistake the associate makes is magnified, while a Caucasian associate making a similar mistake is given the benefit of the doubt and allowed to learn from that mistake. For associates of color, the smallest mistake can be fatal because of the degree of scrutiny they face and the limited opportunities to learn from their mistakes. Moreover, they lack role models.

**The Existence of Informal Networks.** The participants described the existence of informal networks to which they are often denied access. These informal networks occur partly as a result of differing cultural interests (e.g., certain activities, like golf, that associates of color do not often engage in), but also as a result of intentional exclusion (e.g., when associates of color are not invited to social gatherings).

**The Lack of Avenues to Discuss Issues of Race.** The consensus was that there is a need for open discussion about issues of race, including both discussion of the particular problems faced by associates of color and the discomfort Caucasian attorneys face when dealing with them.

**The Need for Mentoring.** Participants said it is difficult to develop professionally because of the lack of available mentoring opportunities. They rarely find mentors in an environment when a one-on-one relationship with a partner can "make or break you."<sup>3</sup>

**Limited Expectations and Negative Assumptions.** Participants stated that due to the lack of partners of color at most law firms, they feel their opportunities for advancement are limited. Observing so many situations in which associates of color reach their fifth or sixth year and do not make partner only reinforces this perception of a glass ceiling.

**The Lack of Any Opportunity to Display and Develop Skills.** Many associates of color have skills that they are not given the opportunity to display and/or develop (foreign language skills in particular), and their value and ability to contribute to business development is underestimated. Because there is no support given to them to develop new skills, cultivate clients or open new markets, their potential is untapped.

**The Lack of Adequate Feedback:** Participants stated that associates of color do not receive adequate feedback to enable them to assess how they are doing and what, if anything, they need to improve. They are not often provided with honest, constructive criticism to enable them to develop.

**The Extra Burden.** The participants discussed the extra responsibilities and additional burdens they faced. They are expected to be emissaries for their communities, attend special recruitment conferences and other such events, interview all candidates of color, take all candidates of color out to lunch, etc., while nonetheless remaining responsible for their quota of billable hours.

**The Continued Existence of Racism and Stereotypes.** Participants stated that blatant racism and hostility still exist in law firms in the form of pressure from clients who do not wish to work with

attorneys of color, and racial slurs and ethnic jokes by other attorneys in casual settings. They feel partners are in denial about the existence of institutionalized racism.

### Need for "Managing Diversity"

It is clear from the feedback that law firms are not receiving the full potential from their associates of color, which results in a loss of productivity for the firm and a missed opportunity for the associates to develop.

To retain associates of color, law firms need to become aware of the concept of "managing diversity."<sup>4</sup> They need to make the law firm environment more conducive to the associates' development and growth. Only by changing their corporate culture will law firms be able to make productive use of their associates and be effective in their efforts to retain them.

The need for law firms to be able to retain associates of colors will become an increasingly important one considering the future composition of America's workforce. A 1987 study by the Hudson Institute for the U.S. Department of Labor, known as **Workforce 2,000**, predicted that by the year 2,000, 85 percent of all new entrants into the work force will be female, non-white and immigrant.<sup>5</sup> Law firms, therefore, must learn to manage a diverse population or risk not being able to recruit talented individuals.

In addition, with the globalization of the legal profession, law firms are realizing that there are bottom-line benefits to developing diversity; by expanding the candidate pool, they enhance their ability to attract and serve a broader client base. Pressure also comes from clients looking for diversity in the law firms they retain.<sup>6</sup>

The state bar's Committee on Minorities in the Profession is continuing its efforts to address the issue of retention and to develop resources to aid attorneys and law firms in breaking down these obstacles. We hope some of the information contained here will be useful to firms in their continuing efforts to recruit and retain associates of colors.

1. They have joined various programs in which they have pledged to recruit and hire specified percentages of attorneys of color. For example, over 100 law firms and corporations affiliated with the Association of the Bar of the City of New York (City Bar) signed a pledge to hire at least 10 percent attorneys of color.
2. Most notably, the survey conducted by the City Bar, described in "Report on the Retention of Minority Lawyers in the Profession" by the Subcommittee on Retention of the Committee to Enhance Professional Opportunities for Minorities. See The Record, Vol. 48, No. 4, May 1992.
3. Unfortunately, as noted in a recent article, "mentoring is more likely to occur naturally between two people who are alike, which gives white male up-and-comers an advantage with white male managers..." Laurel Campbell, "Promus Team Studies Paths and Barriers to Diversity," The Commercial Appeal, May 14, 1995.
4. Roosevelt Thomas, Jr., founder of the American Institute for Managing Diversity at Morehouse

College in Atlanta, describes this concept in his book, Beyond Race and Gender: Unleashing the Power of Your Total Work Force by Managing Diversity, (AMACON, 1991).

5. William B. Johnston and Arnold H. Packer, Workforce 2000: Work and Workers for the 21st Century, (Hudson Institute 1987).
6. See Amy Stevens, "Clients Prod Elite Firms to Hire More Minorities as Total Remains Low," Wall Street Journal, June 19, 1995.