

Corporate *Leavers*

 The Cost of Employee Turnover Due to Unfairness



“It’s not our problem.”

I’m a female partner at a law firm, one of very few female partners of color. It’s obvious to me and about every other person, except my fellow partners, who mostly are Caucasian men, that our firm has had problems recruiting and retaining other lawyers of color, especially female lawyers of color. They think that women and people of color just don’t want to be big firm lawyers and this isn’t a problem isolated to our firm. While it’s true that other firms aren’t doing well in this department either, I’d like our firm to do something about it. How do I get them on-board and how do I make this about more than just women or people of color?

Theos D. McKinney, III is Director of Diversity, Marketing and Sales, for AstraZeneca Pharmaceuticals LP. Theos was a litigator specializing in employment law before switching from playing defense to playing offense.

Three steps are essential to making progress towards your goal.

First, understand the business cases for your firm. Most firms are made up of several practice groups and multiple partners. One broad business case will not be sufficient to enlist a critical mass to take action. Uncover the business case for key groups or partners. Then find the stories that make those business cases compelling. Author John Edgar Wideman describes a story as “a handful of water we scoop up to recall an ocean.” Litigators understand the power of stories. If you’re not a litigator, find one with the talent to convey the power of the ocean in a story.

Second, search out external research and resources that will educate and engage. Continual learning is integral to the practice of law so cutting edge research from academia may resonate within the firm. Leading business schools have electronic newsletters and make faculty research available on-line. Research confirms that diversity and inclusion create benefits that go beyond men and women of color. Supporting your arguments with business school research also has the potential to increase your personal credibility.

Third, get a team of leaders to agree on actions to be taken. A collaborative approach is key. You do not want to appear as if you’re only concerned with men and women of color, nor do you want to appear as if you already know all the answers. Be prepared, nonetheless, to advocate for actions you deem critical. There are many sources you can look to for guidance. One of the best is the Minority Corporate Counsel Association (<http://www.mcca.com>), which publishes a magazine, *Diversity & the Bar*, and identifies best practices at law firms. Meet individually with allies and incorporate their ideas, then bring a team together to create a commitment to action.

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Luke Visconti is partner and co-founder of DiversityInc.

The obvious answer is to give them examples of the business case for diversity. Unfortunately, you're in an industry which has a demonstrated recalcitrant desire to not change.

This is a natural consequence of human tendencies: People are tribal in nature and visually oriented. Psychological tests show that we tend to most trust people who look just like ourselves. This is the natural hurdle we must all overcome when managing diversity. Companies are best motivated to action for financial reasons. Successful consumer facing companies were first to the table on diversity management - out of a natural selection process which benefited those companies willing to change to the reality of evolving demographics. Unfortunately, you're in an industry that has historically been exceptionally powerful, wealthy, white and male. There's nothing more limiting than a sense of self-fulfilling prophecy.

The law industry isn't going to change very quickly. In my opinion, the partner method of establishing seniority severely limits opportunity for women and others not in the "old boy's club." It rewards only the behavior that benefited the white men at the top of the food chain. In my observation, practically all advances I've seen in the law industry were in response to corporate pressure on outside council firms. Leaders like E. Chris Johnson at GM have established programs that require hours to be tracked back to women and/or people of color. They also evaluate firms on the basis of how those hours are allocated - litigation versus document review, for example, and which partners are given credit for the revenue brought in. This has spread through corporate America and diversity questions are now increasingly being seen on RFPs directed at law firms. This isn't a social agenda, it's a connection to the knowledge that superior corporate diversity management is tied to overall corporate success - as documented by the superior stock performance of the publically traded companies on our DiversityInc Top 50 Companies for Diversity® list (www.DiversityInc.com/top50).

It's 2008. If the global economy and rapid changes in the US population haven't dented the consciousness of the majority of your firm's partners, in my opinion, there is practically no chance that they're suddenly going to wake up. So - please share articles about corporate efforts and the business case for diversity. Use credible sources (like most subjects, there is a lot of garbage diversity information out there - we've recently exposed fatal flaws in several "diversity" research pieces, including one from the RAND Institute). Show them articles about the global economy. Explain to them that the plain fact that if people are created equally, then talent is distributed equally also. If a law firm doesn't have the same representation of gender and race/culture in their leadership as exists in the population of attorneys, it is a mathematical fact that the best people aren't working at the top. But keep in mind that flogging a dead horse hard enough will sometimes create the illusion of movement.

The market realities of a disregard of diversity management are working against your industry. In my personal experience of being an entrepreneur and, along with my business partner, building an eight figure business, the quality of law firm expertise available to us has declined over the past ten years in parallel to the persistent lack of diversity in the attorneys employed.

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Terence N. Hawley is a partner at Reed Smith LLP.

Tough question. Changing ingrained attitudes and misperceptions about women and minorities is obviously a daunting task, and I can't even begin to scrape the surface here. That said, I think that many firms, including those with very conservative reputations, are recognizing the "business case" for diversity, particularly those firms with global offices and global clients. In some situations, diversity is client driven, *i.e.*, firms are diversifying because clients are expressly demanding that they do so. Even the most "old school" partners understand those types of incentives.

Further, regardless of whether clients are specifically demanding change, common sense dictates that servicing clients with diverse workforces, operations and customer bases requires attorneys from different backgrounds who bring different perspectives to the table. Among other roles, women and minorities are key decision makers at many companies, and they also serve as judges and jurors in jurisdictions where clients get sued. Thus, sending a homogenous team to the business pitch, the client meeting or the trial isn't necessarily a wise strategy, nor is it always in the client's best interests. Moreover, overlooking female and minority attorneys means missing out on quality people (such as yourself), which makes no business sense whatsoever. In other words, a more diverse firm can actually deliver a superior work product and will be better able to serve its clients' needs.

The issues you raise are obviously very complex and nuanced, but these points might at least help spark a productive dialogue with your partners.