

# GOAL IX

TO PROMOTE FULL AND EQUAL PARTICIPATION IN THE LEGAL PROFESSION BY MINORITIES

Volume 8, Number 3, Summer 2002



## Minority Recruitment and Retention— How Does a Firm Succeed? *A Case Study*

V e r n a M y e r s

For many law firms, the challenge of how to recruit and retain young women and lawyers of color is the most perplexing of the “diversity issues.” Even with all the goodwill in the world, progress can be slow. Yet, in my work as a diversity consultant, I have become aware of a few firms that seem to have unlocked the secret to real change. Fortunately, their success isn’t really a mystery: it comes down to pursuing a number of clear, definable actions and strategies.

Here, then, is a case study of success.

### Background

**The Client:** Peabody & Arnold, a 100-year-old general practice Boston law firm with 110 lawyers and approximately fifty partners; predominately white.

**1999 Diversity Demographics:** Three partners of color (two Asians, one African American) and five associates of color, with several other well-liked minority associates having left for opportunities in other local firms; five female partners, two heading firm departments; no people of color or women on the firm’s management committee; several openly gay partners and associates.

**Prior Diversity Efforts:** Mostly focused on racial diversity; membership in the Boston Lawyers Group (BLG—formerly the Boston Law Firm Group), a consortium of private firms working to increase the representation of lawyers of color; active BLG participation by a few white partners; many minority recruitment efforts, including participating in the Black Law Student Association and BLG job fairs, recruiting at

Howard University, and training hiring committee members on diversity issues; several female associates working part-time.

**Firm Profile:** Well-meaning, honest, “nice,” excellent lawyers; loosely structured, supportive of lawyers’ independent business endeavors; a “lifestyle” firm, not highly status conscious; tension internally as firm culture shifts in response to an increasingly competitive legal environment; not overtly exclusionary or biased; frustrated by its lack of progress on racial diversity.

**The Diversity Steering Committee:** Members include the firm’s well-respected but recently appointed managing partner, a white female partner with a keen interest in diversity issues, especially in terms of women lawyers, and a white business partner who had been with the firm for a long time.

**Peabody & Arnold’s Starting Advantage:** Firms that “get it right” on diversity usually have someone with influence who has developed a deep understanding of the experience of minorities in a majority culture. At Peabody & Arnold, the impetus for a full-scale diversity initiative sprang from Doug, the white business partner on the Diversity Steering Committee, who was the adoptive father of two African American children and helped found an antiracism group in his suburban community. He used to say that he had been “blackened” by adopting his children. Before, he had thought racism was mostly a thing of the past. But his daily experiences with his children had made him understand what it feels like “not to be expected or valued” in a community or in a

workplace, and he badly wanted that to change in his firm.

### What Made Peabody & Arnold’s Diversity Initiative So Successful?

The firm did *five* important things to ensure the success of its program:

**1. From the Beginning, the Firm Signed Up for a Long-Term Cultural Change Process.** I knew we had a chance for real progress when the firm chose to commit to a four-month project. Most firms that retain my services merely want advice about how to hire and retain people of color in their organization—without being obliged to evaluate the deep ways the firm’s culture, policies, and practices welcome or rebuff people and ideas different from the status quo. A typical firm might ask me to conduct a two-hour diversity training seminar for its lawyers, not understanding that without being part of a comprehensive, coordinated plan to shift the firm’s culture, such limited effort might never produce real behavioral change.

Together, Peabody & Arnold’s steering group and I created an action plan: I spent two days a week in the firm’s offices (where I was given an office and staff support), learning its culture and conducting a needs assessment based on focus groups and selected interviews. They also encouraged everyone interested in the initiative to speak with me. During my time at the firm, I made presentations to the partners, representative groups of associates, secretaries, and managers about the meaning, value,

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# Building a Pipeline to the Profession

C h a r i s s e R . L i l l i e  
C o m m i s s i o n C h a i r

In April 2002, the ABA Commission on Racial and Ethnic Diversity in the Profession held a Megameeting in San Francisco with all of the Commission entities meeting. William B. Lytton, president of the American Corporate Counsel Association and senior vice president and general counsel of International Paper; Kenneth C. Frazier, senior vice president and general counsel of Merck & Co., Inc.; and Don H. Liu, senior vice president, general counsel and secretary of IKON Office Solutions, each addressed the participants. We closed out the proceedings with a town hall meeting, cohosted by the witty and erudite Michael Yamamoto. During the town hall meeting, participants talked about concrete actions being taken in their communities to foster more diversity in the legal profession. This conference was a confluence of all the best that the Commission and its entities have to offer. The planning committee, chaired by Ray Ocampo and Mary Beth Clary, is to be congratulated for a job very well done.

A fair amount of discussion at the Megameeting centered on the need to develop a pipeline of diverse students poised to study law and enter the legal profession. I had two recent experiences relevant to this concern that I would like to share. In March 2002, Michael Clarke, senior counsel, and Hinton J. Lucas, Jr., associate general counsel, of DuPont in Wilmington, Delaware, asked me to address a group of high school students from Wilmington as part of the company's "Pipeline Project."

DuPont's legal department initiated the Pipeline Project to help increase minority participation in the legal profession. Although a long-time proponent of diversity, DuPont Legal is mindful of the relative scarcity of minority lawyers. As explained by DuPont Associate General Counsel Hinton J. Lucas, "Despite our best intentions, neither DuPont [n]or its outside firms can hire minority lawyers [who] don't exist. And we're concerned by projections, from the ABA and others, that over the next decade that the situation may get worse."

DuPont Legal has partnered with a

local community service agency located in Wilmington and together they have identified seven young inner-city minority students who have expressed an interest in pursuing legal careers. The students meet weekly in DuPont's offices, where they are exposed to different aspects of the law and learn the skills necessary to succeed in legal careers. Their activities have included tutorials on computer skills and technology, presenting a mock trial, reviewing and discussing historical information, including a biography of Thurgood Marshall, and meeting with a variety of successful lawyers and judges. They also spent an informative and upbeat session with DuPont CEO Chad Holliday

After listening to my remarks, the students asked me some thoughtful and interesting questions. At the close of our session, the students promised to visit my office. In late April, they took an excursion into Philadelphia to visit some historical sites, and stopped by my office for that visit. The students asked me detailed questions about my trial work, the division of labor between associates and partners, and the work that I was actually doing in the office that day. They were taking it all in and clearly appreciated the time I spent with them.

DuPont's work supporting and promoting diversity in the legal profession is admirable and should serve as an example for corporations and law firms about investing in the future of our profession. For those seeking global results, instantly, DuPont's efforts may seem a small effort. But I am convinced that this sort of small, intense effort to give individual attention to a discrete number of children who have expressed an interest in law is an important way to tackle the pipeline issue. The DuPont lawyers and paralegals are planning to work with the teens on a long-term basis, through high school, and hopefully beyond. This effort should be applauded and emulated.

The second experience that I want to share is my participation as a substitute reader in "Philadelphia Reads." "Philadelphia Reads" is a program sponsored by the Office of the Mayor of Philadelphia in collaboration with the Philadelphia School District and the Free Library of Philadelphia. The program encourages partnerships among individuals, city and

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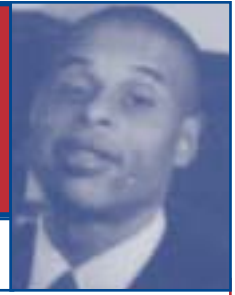
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# Of Words We've Never Spoken and Thoughts We've Never Had . . .

L a t e e f M t i m a



That African Americans have made real progress in American society as a result of the Civil Rights Movement seems beyond legitimate debate. Unfortunately, it is equally manifest that blacks have met with little success in their efforts to advance into the elite ranks of corporate America, particularly insofar as practice and partnership in the major corporate law firms is concerned. For decades now, one survey of the legal profession after another continue to confirm that notwithstanding the growing number of African American law school graduates, the percentage of black lawyers practicing in such firms has improved little in the past thirty years.

One question often at the core of discussions of this problem is that of the extent to which racial discrimination plays a part in maintaining this lamentable status quo. Many attorneys who practice in corporate firms insist that racial animus has little and perhaps even nothing to do with the low numbers of blacks employed as associates or invited to become partners in their firms. Although many of these lawyers will acknowledge that racism against blacks and other minorities has not been completely extirpated from American society, for them racial bigotry is largely a social malaise of the ignorant and uneducated, and certainly not any widespread plague infecting the elite boardrooms of enlightened professionals and corporate entrepreneurs.

Those who disagree counter that the absence of outright racial epithets and the disappearance of "WE DON'T HIRE COLORED" placards and policies has not yet resulted in a color-blind, level playing field in corporate America. They contend that the disproportionately low number of black lawyers practicing in major corporate law firms, or occupying similar positions of authority and prestige in the legal profession, inevitably implicates the question of racial bias in the attendant selection and appointment processes, and demonstrates that the removal of de jure racial barriers provides no dispositive remedy for the racial prejudice that engendered such obstacles in the first place.

As is often the case in heated debate, it is likely that the truth of the matter lies somewhere in between these polar positions. While racial apprehension is almost certainly a factor in accounting for the lack of African American progress within the elite corporate law firms, it is probably not an issue of virulent, racial antipathy. Rather, the problem may be more one of unconscious, subliminal notions about blacks and their abilities, yet to be purged from the American psyche.

One consequence of the Civil Rights Movement is that it is difficult for many Americans to perceive the problem of racial bias in anything other than stark, express extremes. Racists are ignorant, perhaps even evil people, who hold hateful beliefs and engage in deliberate, reprehensible conduct toward their fellow human beings. Nonracists, or "racial equalitists" are enlightened, or certainly at least fair-minded people, who reject racial prejudice as uncivilized and inhumane. Consequently, most of us today consciously avoid engaging in conduct or expressing

views that might be seen or construed as bigoted or racially disparaging.

However, cognitively rejecting illogical prejudices and eschewing politically incorrect behavior is a good deal easier to accomplish than eradicating from one's conscious every vestige of black racial stigma. Some recent breakthroughs in psychological and sociological research have helped to illuminate this point. For example, two leading researchers, Professors Mahzarin Banaji and Anthony Greenwald, have developed a mechanism referred to as the Implicit Association Test (IAT), as a means by which to gauge subliminal social biases relating to race. In essence, the IAT consists of showing the test taker a picture of a white person and a picture of a black person, to which the labels "good" or "bad" are alternately affixed. The test taker is then asked to match rapidly the picture labeled "good" with various positive images, and to match rapidly the picture labeled "bad" with various negative images. The test taker's subliminal biases can be revealed when the labels are reversed, to the extent that his or her matching accuracy is thereby significantly affected. In other words, a person who can quickly make accurate (i.e., "good-to-good" or "bad-to-bad") matches when the picture labeled "good" is that of a black person, but then makes many matching mistakes when the "bad" label is affixed to the picture of the black person, demonstrates an unconscious preference for thinking of blacks as "good," and an unconscious resistance to thinking of blacks as "bad."

Among the various findings and conclusions derived from the results of random application of the IAT, perhaps one of the most interesting is that a number of consciously liberal whites who took the test discovered that, notwithstanding their sincere beliefs in racial equality, they still harbor subconscious preferences for whites. The IAT revelation that is perhaps the most sobering, however, is that a number of blacks who took the test discovered that they also harbor subliminal predilections in favor of white people.

The problem of racial bias in the elite legal ranks then is likely more often one of *subliminal* concerns regarding the ability of blacks to perform in positions of high or ultimate authority, as many Americans remain unconsciously apprehensive of "black" competence, assessment, equity, judgment, and/or authority. And the fact that there are few blatant bigots today swaggering about polite professional society, while demonstrating our collective victory over rank prejudice, nonetheless clouds the picture as to the extent to which racial prejudice against blacks remains a professional, or for that matter, even a social reality. The post-Civil Rights Movement etiquette that demands the rejection and/or camouflaging of negative racial views not only conceals any vestigial affirmative prejudice, but also makes it difficult for many racial equalitists to appreciate or even acknowledge the existence of covert, reflexive, or subconscious racial biases.

These revelations raise troubling questions (and answers) when it comes to evaluating the lack of progress of blacks into many of the elite tiers of American society. If Americans retain some negative, albeit subconscious reactions toward blacks in general, and at the same time are comfortable only with the prospect of whites

holding important, authoritative positions in society, the ramifications for blacks competing for positions such as associates or partners in prominent law firms, or other positions of authority and prestige, are portentous. The subjective assessments deployed in these employment selection contexts repeatedly require decision makers to consider choosing black candidates over white and other nonblack candidates for positions traditionally occupied principally by whites, and most often by white males. Blacks seeking to occupy such roles are, therefore, acting in direct contravention of virtually every traditional, covert, and *subliminal* racial convention that permeates American society.

However, the problem of subliminal racial bias is by no means an unconquerable dilemma. There is much reason to believe that repeated, firsthand experiences that challenge and contradict unfounded preconceptions can prove an effective means of dispelling subliminal biases. Routinely working with or being advised by African American attorneys in connection with complex and high-profile legal matters, and with such black lawyers participating as fully accepted members of an elite (and, therefore, presumed competent) legal cadre, will expose many nonblack lawyers, corporate executives, and others to an increased level of professional interaction with black lawyers, and thereby better enable them to transcend any conscious prejudices or subliminal racial biases that they may retain.

But bringing about the critical mass of black lawyers essential to creating the appropriately conducive practice environments requires that each of us in a position to impact the problem embrace a methodology of “if I don’t do it, it won’t get done.” Not because our partners and colleagues are all hateful (or secret) bigots, but because insofar as they/we are *consciously* aware,

racial bias has affected neither individual decisions nor the relevant recruitment, hiring, mentoring, or promotion processes overall. Consequently, absent proactive, individual intervention, business will generally proceed as usual, as there is no apparent need for any affirmative, remedial action.

Accordingly, we must accept that if this situation is to change we will each have to undertake a degree of personal, affirmative responsibility. In fulfilling the recruitment needs of my individual firm or corporate in-house counsel department, *I* must volunteer to undertake law campus interviews, with the specific intention of seeking out and recruiting black and other minority candidates. And when I have successfully recruited such candidates, *I* must provide them with appropriate work assignments, and in due course, *I* must see to it that they are exposed to other attorneys in the firm, especially those likely to prove pivotal in providing professional development and career advancement. And *I* must consciously track the candidates’ progress, and mentor them toward consideration for partnership and similar advancement. *Because if I don’t do it, it simply won’t happen on its own.*

Unconscious racial biases can be consciously overcome. Altering the normative corporate law practice experience can lead to an evolution in subliminal attitudes and expectations. And in these times in which Americans need to trust in and rely on each other more than ever, we have not only the need, but the will to make it so.

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## Minority Recruitment

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and process of developing an inclusive work environment. Many firms, concerned about what I’ll uncover, try to keep the assessment process under wraps. It is a mark of this firm’s internal trust and respect—a strength we built on—that they were so open.

We invited fifteen individuals from different backgrounds and perspectives, representing a cross-section of the firm, to form a diversity committee. Their charge was to design a multifaceted action plan to prioritize and address the issues uncovered in the needs assessment. As this core group worked on the plan, talking openly and respectfully about diversity issues from their various experiences inside and outside the firm, I watched them become the new culture of Peabody & Arnold. I knew we were getting somewhere when one committee member, an older white male real estate lawyer, came to my office to give me his perspective on an action I was promoting. He said, “I understand what you’re proposing and I support it, but as the over-fifty, nontouchy-feely white guy, it’s my job to help you understand why you might encounter resistance and to think about the most effective strategy to get it done.”

Devising the plan took longer than we’d hoped, but because we took the time to craft it so carefully and to communicate across the firm about the process, Peabody & Arnold is still able to rely on this core document as a guide to measure progress. Implementing the plan happened and continues to happen in phases. I was directly involved with its implementation for approximately fifteen months.

**2. The Steering Group Believed Diversity Was a Positive Resource and Catalyst for the Firm’s Prosperity.** What motivated Peabody & Arnold to pursue such a broad diversity and inclusion

initiative? In large part, the desire to see its core values of excellence and fairness realized with regard to racial minorities. But the firm also knew that “getting diversity right” could help it compete for talent and clients. It especially understood the economic and emotional toll of losing talented women and people of color. The firm wanted to transform itself in a way that would set it apart from its competitors and saw diversity as one way to achieve this.

Its investment in this initiative did, in fact, yield access to new clients and candidates. It also helped clarify the firm’s core values in a period of transition and its process for resolving conflicts, and helped revise work systems that benefited both lawyers and staff. Another key benefit for the firm was greater openness, better communication, and more meaningful relationships across departments and job categories. Ultimately, the firm reached a point where “diversity issues”—in most places a matter of significant tension—could actually help people laugh together about their foibles in public settings, including the associates’ annual humorous skit.

**3. The Firm Was Willing to Expand Its Understanding of Who Is Included and Benefits from Diversity.** When people think of diversity, they generally think of race and gender. Peabody & Arnold was able to grasp that to make real progress towards equal opportunity for people of color and women, they had to look closely at all the vital differences rooted in our different identities, meaning not just race and gender, but also religion, sexuality, job category, class, and age. In the firm’s diversity statement, we communicated the message of inclusion as often as possible.

Initially, most staff in the firm could only focus on why “the lawyers were the ones with the issues” and not them. But through our workshops, they soon came to see that we all have complex iden-

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# ABA Program Urges Minority Law Students to Seek Judicial Clerkships



J u s t i c e   F r a n k   S u l l i v a n ,   J r .

Forty-two minority law students from thirteen law schools throughout the country were urged to seek judicial clerkships in a special program held during the American Bar Association's 2002 Midyear Meeting in Philadelphia. The ABA's second annual Judicial Clerkship Program was organized and conducted under the enthusiastic cosponsorship of the ABA Commission on Racial and Ethnic Diversity in the Profession and the ABA Judicial Division, with the generous financial support of LexisNexis.

The Commission and the Judicial Division launched the Judicial Clerkship Program last year in response to a study by the National Association of Law Placement that showed minority representation among judicial clerks generally lower than in the law school population, and in response to publicity over the absence of minority clerks at the U.S. Supreme Court.

Over the course of three days, the program brought the minority law students together with approximately one dozen judges and another dozen former law clerks for several panel discussions, a research exercise, and informal social events. These activities were designed to present the benefits of pursuing a judicial clerkship, including developing a close personal working relationship with a judge; improving legal research, analytical, and writing skills; enhancing career opportunities; and participating directly in the process of shaping the law.

One panel, chaired by Robert E. Wone, a former law clerk now practicing in Washington, D.C., consisted of a number of judges and former law clerks. They discussed with the students the differences and similarities in clerking for trial courts, intermediate appellate courts, and courts of last resort at both the federal and state levels.

Another panel, chaired by Stephen W. Beard, a former law clerk now practicing in Chicago, consisted of five former law clerks—one who now heads his own small firm, one who teaches at a law school, one who practices corporate law in a large firm, another who is general counsel of a corporation, and another who works in the criminal division of the U.S. Department of Justice. They discussed with the students the types of legal careers former clerks have pursued and the ways in which their clerkships have benefited them.

The most ambitious part of the program was the "research exercise." In an effort to acquaint the students with the working relationship between the judge and law clerk, the students convened in small groups of four to six students with two judges (or one judge and one former clerk) assigned to each group. Once in groups, the students assumed the role of clerks and researched and drafted opinions on whether a state's school voucher program violated the Establishment Clause.

After discussing the "assignment" with their respective judges, the students used computers and software provided by LexisNexis to research the issue. The topic, of course, was an extremely timely one as both the Wisconsin Supreme Court and the U.S. Court of Appeals for the Sixth Circuit have addressed the issue and the U.S. Supreme Court would be hearing oral argument shortly after the Midyear Meeting. The students spent a good deal of time conducting research and discussing the issue, after which they prepared outlines of opinions deciding the issue. The research exercise, above all else, was meant to simulate the kind of judge clerk personal interaction that is characteristic of judicial clerkships.

Initial feedback from the participating law students, judges, and former clerks has been extremely positive. Virtually all of the students who participated said they intended to seek clerkships. The program plans to keep in touch with the students in an effort to determine how many of them actually pursue clerkships.

As cochair of the program, I want to express appreciation to LexisNexis; my cochair, Judge Vicki Miles-LaGrange; Charisse R. Lillie, chair of the Commission on Racial and Ethnic Diversity in the Profession and the Commission staff; Judge Diarmuid O'Scannlain, chair of the Judicial Division, Judge Danny Boggs, chair of the Appellate Judges Conference, and to the Judicial Division staff; and to all of the judges and former law clerks who gave so generously of their time to this project. Most of all, I want to thank the students for joining us. Their willingness to put aside their studies for a few days to take part in our clerkship program was extremely heartening and invigorating.

*Justice Frank Sullivan, Jr., sits on the Indiana Supreme Court.*

**ABA Annual Meeting  
Washington, D.C. - August 8-12, 2002  
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**All are invited to attend the programs  
sponsored by the Commission on Racial  
and Ethnic Diversity in the Profession.**



# Judicial Clerkship Program: An Invaluable Experience

C h a r l i n e W r i g h t

Earlier this year, I had the opportunity to attend the American Bar Association's (ABA) Judicial Clerkship Program, cosponsored by the ABA Commission on Racial and Ethnic Diversity, the ABA Judicial Division, with support from LexisNexis. The experience far exceeded my expectations and proved to be one of the highlights of my 2002 spring semester. As a direct result of participating in the program, I have accepted a clerkship with Federal District Court Judge Ivan L.R. Lemelle in the Eastern District of Louisiana for the 2004-2005 term.

Before attending the ABA's Judicial Clerkship Program, I had been told by several faculty and staff members at Cornell that clerking was a wonderful experience for a young lawyer; however, I never quite understood how a clerkship could really enrich my life or benefit my career. The ABA's program gave me a fresh perspective and a lot to consider. It was an interesting mix of informal yet meaningful interaction with federal and state judges from all over the country, hands-on research and opinion drafting, information sharing through discussion panels featuring former law clerks and practicing lawyers in various areas of the law, and networking with other minority law students representing several law schools from across the country. I finally had some context in which to evaluate whether I truly wanted to pursue a judicial clerkship and what specific benefits the experience would provide in terms of my future career path.

The revelation that I absolutely had to clerk came about after completing the research project in my small group. The discussions and the decision-making process that followed were unlike anything I had experienced in law school. Judges, lawyers, and law students alike were actively engaged in the hotly debated issue of school vouchers and whether the fact pattern of a particular case amounted to a violation of the Establishment Clause. It was during these negotiations and deliberations with my work group that I developed a rapport with U.S. Bankruptcy Trustee Karl J. Connor, J.D., L.L.M., who had served as a former law clerk to Judge Lemelle. He openly spoke of his clerkship experience and the strong ongoing relationship he shared with the judge. I became very enthusiastic about also clerking for Judge Lemelle and couriered an application to his chambers immediately upon my return to Ithaca.

The ABA's Judicial Clerkship Program was an invaluable experience for me; not only did I secure a clerkship, but I established strategic alliances with colleagues in the profession, and formed lasting friendships as well. I am pleased to have been a participant and hope that I will be able to serve as a panelist in the not so distant future.

*Charline Wright is a student at Cornell Law School in Ithaca, New York, class of 2003.*

## Minority Recruitment

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tities that make us more or less aware of how others are included or excluded, and that while lawyers might fall into certain patterns of behavior, staff as a group and as individuals had lots of work to do as well. In one of our most memorable staff workshops, a black man who, as a child, had been bused to South Boston under the city's dramatic desegregation plan was actually able to talk openly with a white woman who had grown up in "Southie" at the same time. Neither had ever had the opportunity to talk about those experiences with someone from the other race before.

**4. The Managing Partner and Influential Partners Took the Lead in Establishing and Implementing the Process.** Having ongoing communications with the managing partner and other partners was essential to my ability to help them succeed. They kept me informed about what was happening at the firm and I communicated with them about what I was learning and how we might effect change. This constant, open exchange helped partners who were not quite "on board" realize the initiative was important. At the same time, the investment of resources made it clear this was not a "quick-fix" operation, but one that required real change.

One key to success was the obvious personal and public commitment of the managing partner. He regularly sent memos announcing related events and thanking people for their participation. He also rolled up his sleeves with other partners, associates, and staff at the Boston Food Bank for the homeless, an activity sponsored by the diversity committee. One day in January 2000, I came into the office to find a long e-mail from the managing partner. It was a thoughtful

personal reflection on the ideals of Martin Luther King on the day after the holiday. We had never discussed it; it was just something he did on his own.

This kind of visible and active participation from a number of firm leaders encouraged similar engagement at every level. For example, the partners in charge of hiring, associate development, or various departments all eventually felt free to ask my advice about a particular situation or program. Too often, firms will spend a great deal of time and money on a diversity initiative, but because they have assigned the project to human resources personnel or individuals who in some other way are not "on the fast track," any suggestions for action are rejected or stalled because there is no buy-in from the "power partners."

**5. The Firm Made Real Efforts to Align Its Systems, Practices, and Policies with Its Stated Diversity Mission.** One of the first things I noticed at the firm was that everyone's nameplate read, "Mr. or Ms. [last name]." I asked the partners, in jest, "Do you all want me to call you by your last names?" Of course they said they didn't. Then I explained how something as small as the names on employee nameplates can determine the amount and level of communication across the firm. How am I going to speak candidly with you if I don't know your first name? How am I going to learn it if the only thing on the nameplate is your last name? People who work together regularly will know each other, but what about those who don't have regular interaction? Within a month, new nameplates were ordered for everyone. The firm also developed an electronic face book.

Small things matter and, as you would expect, so do larger things  
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# In Praise of the ABA Judicial Clerkship Program

K a r l a M c K a n d e r s



In fall 2001, I was selected to represent Duke University School of Law at the American Bar Association's (ABA) Judicial Clerkship Program. The program was held in Philadelphia during the 2002 ABA Midyear Meeting. I had already been considering applying for a judicial clerkship prior to attending the program; however, my participation in the program provided me with a much better understanding of the opportunities and benefits that clerkships can provide. Upon my return to Duke, I enthusiastically began to research and apply for several clerkship positions.

The program afforded me an opportunity to interact and network with state and federal judges and discuss the clerkship application process and the critical tasks performed by judicial clerks. During the program sessions, student participants engaged in research that a typical judicial clerk would perform, attended a variety of panel discussions on clerkships, and learned how invaluable the clerkship experience can be.

The most rewarding parts of the program were the small group discussions and the research assignments. Students were divided into small groups with combinations of judges and former judicial clerks assigned to each group. With the assistance of the judges and former clerks, students researched the legality of school vouchers under the Establishment Clause. After each student independently researched the issue, the groups reconvened and discussed the initial research results. The judges spoke to us about their expectations during this initial stage of research. At the close of the group discussions, each student was required to prepare a memorandum of law for the judge. After writing the memorandum, the groups again reconvened and students briefed the judges on the issues, arguments, and recommended resolutions. The research assignment was intellectually stimulating and solidified my desire to pursue a judicial clerkship.

The panel discussions on various topics were another very positive aspect of the program. Topics included the job duties and responsibilities of judicial clerks, the career paths of former judicial clerks, and the clerkship application process. The panelists also provided insight into the benefits of a judicial clerkship, including the mentor relationships that often develop between judges and their clerks, the nationwide network of former clerks, and the in-depth understanding of the judicial system that clerks gain. Panelists were ready and willing to answer questions. Further, after panel sessions ended, students were able to continue discussions with the panelists in an informal setting over meals. The panelists were all extremely helpful.

At the close of the program, students attended the Seventh Annual Spirit of Excellence Awards Luncheon, sponsored by the ABA Commission on Racial and Ethnic Diversity in the Profession, which was attended by over 700 lawyers and ABA leaders. We were introduced to some of the unique contributions lawyers are making to their communities and the legal profession to increase opportunities for minority lawyers. I had the pleasure of meeting former Mayor of Detroit Dennis Archer, who in 2003 will become the first African American president of the ABA. As I grew up in the Detroit area, this was a particular treat for me.

The program provided a phenomenal opportunity for me and other minority law students to learn about judicial clerkship opportunities. By the close of the program, I would venture to say that we all were very enthusiastic about our prospects of obtaining judicial clerkships.

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like assignment and feedback systems and policies. If the assignment system is designed so that essentially lawyers gain access to the most interesting work through their internal relationships, how successful can you be if—like many people of color, and many women—you have to fight the kind of negative stereotypes, discomfort, or invisibility that make such personal connections almost impossible? A good mission statement, diversity committee, and action plan are important, but nothing really changes until there is a willingness to alter the way the firm operates and encourages, supports, acknowledges and accounts for behavioral change.

## Two-Year Milestones

Within two years of beginning its diversity and inclusion initiative, the firm had reached several significant milestones:

**Significant Increase in Lawyers of Color:** By the end of year two, the firm had gone from having only one black male partner and one black male associate to boasting two black male partners and five black male associates. By putting together such a large and talented group of black men, the firm was able to attract business from new clients who were impressed with this comprehensive approach and demonstrated commitment to

diversity. The firm is also now better able to attract lawyers of color from top tier schools and other firms. The new black partner remarked that he just *had to* come over to Peabody & Arnold, because during his career in three different firms, he had never had a chance to mentor even one other black male associate. During this period, the first Latina associate also joined the firm.

**Significant Increase in Female Lawyer Leadership:** Several women were made partners and two women were appointed to the firm's management committee. The firm was simultaneously engaged in a strategic planning process that led to the revamping of its leadership structure; importantly, they were careful to include members of the diversity committee and me in their discussions and to marry their strategic and diversity plans. The firm also revised its part-time policy, previously somewhat vague and underpublicized, after holding several open meetings for interested lawyers. The meetings were attended by partners and associates, men and women.

**Creative Minority Outreach and Recruitment Efforts for Staff:** Outreach and recruitment efforts included appending new language describing the firm's diversity mission to all employment advertisements and applications; distributing the firm's Diversity and Inclusion Statement to all candidates; retaining a minority-owned employment

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regional businesses, and professional entities to provide support for the improvement of children's literacy.

A number of Philadelphia law firms and law clerks from the Philadelphia Court of Common Pleas participate in "Philadelphia Reads." The students come to the law firms or to the courthouse once a week and meet with lawyers, paralegals, and secretaries. The children bring books they are studying at school, and read for forty-five minutes with a legal professional, who works with them for the entire school year. They develop friendships and learn about the legal

profession. They also learn about the people who practice law, the paralegals who do the paraprofessional work, and the secretaries who type, file, and coordinate the business lives of the lawyers for whom they work.

This is an extraordinary exercise in creating a pipeline of young people who might not otherwise have been exposed to lawyers or the courts. Who knows if there is another Thurgood Marshall or Sadie T.M. Alexander among them? Programs such as the DuPont Pipeline Project and "Philadelphia Reads" are significant efforts that in the long run will produce quality

lawyers and other legal professionals. These and other programs must be encouraged and subsidized by the legal community because of the potential to expand the pipeline of minority lawyers and lawyers of color exponentially.

True diversity in the legal profession can only be accomplished if we take direct action now to encourage ethnic and racial minorities to consider careers in the law. On behalf of the ABA Commission on Racial and Ethnic Diversity in the Profession, I urge you to consider a pipeline project of your own.

agency; informing schools from which the firm has recruited about its diversity commitment and initiatives; and maintaining hiring statistics as well as a record of what outreach efforts were taken in connection with each job opening.

**Increased Awareness and Interpersonal Connections Across the Firm Through Voluntary Educational Programs:** The firm had established an informal brown-bag lunch series that was well attended by staff and lawyers (including the managing partner), whites and people of color, women and men. Topics ranged from "To Kill A Mockingbird"—with texts distributed to more than fifty people in the firm—to a two-part series with women of all ages, backgrounds, and positions in the firm talking about women's changing roles and choices, and the opportunity and challenges they face in their lives.

**Introductory Diversity Awareness Workshop Offered to Everyone in the Firm:** For the lawyers, this entailed a full-day off-site meeting. Staff participated in small groups, in three-hour sessions, onsite. Summer associates participated, too; their program included an exciting tour of Boston's diverse neighborhoods, led by the extremely knowledgeable leader of the Boston-based voluntary youth service corps known as "City Year."

**Formal, Well-Supervised Mentor Program with Training:** We developed the program based on specific suggestions drawn from a comprehensive survey of all of the firm's lawyers. They were asked to describe their past mentoring experiences and propose how training and associate development could be improved. Both associates and mentors came together to discuss their expectations and responsibilities.

#### Conclusion

Although my concentrated work with the firm has ended, I occasionally return to facilitate workshops or advise the diversity committee. The firm continues to make great progress and to demonstrate its commitment to diversity and inclusion by constantly working to align its daily functions with its commitment, and by getting involved in outside community activities that support diversity and equal opportunity. Like any firm seriously invested in deep cultural change, it has made mistakes. But it has consistently viewed its own missteps as a reason to continue rather than an excuse to stop, which is perhaps its most important achievement of all.

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## GOAL IX

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