TABLE OF CONTENTS

**Articles**

**Strategies for Success: Tips for Women Lawyers from Two Trailblazing Women Who Found Their Own Paths**
By Ashley J. Heilprin
Advice for women navigating the many obstacles that arise in corporate America.

**Lawyer Well-Being: An Uncharted Path to Increasing Diversity and Inclusion**
By Jayne Reardon and Bree Buchanan
How can we address the corrosive culture at the root of the profession's diversity problem?

**UC Irvine Law Names Woman of Color as Its New Dean**
By Robert K. Dixon
L. Song Richardson is the only woman of color serving as dean at a top-30 law school.

**A Former Trial Attorney Shares Her Insights as an Outside Counsel Turned Company Executive**
By Robert K. Dixon
Alicia Wilson of Sagamore Development Company offers insights and advice on a host of topics from career advice for women to diversity in the legal profession.

**Judges Push for Diverse Voices in Court**
By Rebecca Beyer
U.S. District Judge Elizabeth Wolford implemented a standing rule that encouraged young attorney participation to address gender disparities.
ARTICLES

Strategies for Success: Tips for Women Lawyers from Two Trailblazing Women Who Found Their Own Paths

By Ashley J. Heilprin

For many women of color practicing law at large firms, the statistics regarding the retention and promotion of women and women of color can be borderline paralyzing. Indeed, 85 percent of minority women attorneys will leave large law firms within seven years of entering the practice of law. To shed light on how to change staggering statistics such as those, I interviewed two African-American women lawyers and authors, Eboni K. Williams and Jade Brown Russell. Both women have recently published books aimed at preparing women for best navigating the many obstacles that arise in corporate environments.

Jade Brown Russell is founder of JD Russell Consulting, LLC, a full-service legal, lobbying, and strategic consulting firm, headquartered in New Orleans, Louisiana. Prior to starting her firm, Ms. Russell worked as in-house counsel for a large corporation, a corporate associate at a regional law firm in New Orleans, and as a mergers and acquisitions associate for a large firm in Chicago, Illinois. Ms. Russell recently authored a chapter in Champions Never Tell: Sisters Surviving Storms in the Workplace.

Eboni K. Williams began her legal career as a public defender in North Carolina, representing indigent clients that often never had their story told, or were rarely listened to. Eventually, she chose to transition her litigation skills into a career as a professional broadcaster in television and radio. Ms. Williams has found that “these new roles permit [her] to continue [her] work as an advocate in a larger, more diverse space, and gratefully increase [her] ability to impact in the spaces of social justice, criminal justice, politics and more.” Her journey has taken her into law firms, public defender work, city halls, the NFL Network, CNN/HLN, CBS News, Fox News, the largest talk radio stations in both Los Angeles and New York City, and a nationwide book tour for her best-selling debut work, Pretty Powerful: Appearance, Substance & Success. When interviewed, Ms. Russell spoke frankly about the challenges to promotion of women in law.

“Many of the challenges facing the promotion of women in the legal profession are institutionally and systemically driven. Law firms are often the least innovative organizations. The legal profession has been slow to evolve because the ‘same-old way’ has been extremely prosperous for firms—so why change what's working?” said Ms. Russell. She noted that from her experience, churning out high numbers of billable hours has not been the most conducive practice for retention of women lawyers at law firms, especially mid-to-large law firms. In her view, many women have and continue to enter into these same firms with doubts of their ability to elevate to partnership before they even start working.

Ms. Russell recalled a comment made by her mentor at her first law firm: “Don't get married, because you'll end up divorced. Don't get pregnant, because you won't be able to raise your
kids.” To add insult to injury, Ms. Russell’s mentor then proceeded to give her examples by describing the statuses of the three (3) women partners in their group of 90+ attorneys. Bottom line: “We can't continue to enter into firms believing and/or knowing that the highest level of achievement is not even an option for us.”

In both her legal and media career, Ms. Williams also noticed various obstacles women faced in advancement. She stated, “Again, representation matters. In both the law and in media there are certain persistent stereotypes around educated, impactful women. Many have to do with how we are expected to ‘present’ whether in front of a jury or a television audience. The similarities are incredible. In both spaces, women are expected to be both professional and attractive. The hard part is capturing those sometimes seemingly conflicted elements in a way that persevere our power and credibility without sacrificing our personal comfort levels with our femininity.” It was this very struggle that led Ms. Williams to write *Pretty Powerful.*

Where do we go from here? How do we move the needle forward? Both Ms. Russell and Ms. Williams emphasized the systemic nature of the challenges, and emphasized the importance of a multi-faceted solution, one that empowers women from within, encourages women lawyers to connect and support one another, and drives successful companies and firms to value the contribution of the women they employ.

In her consulting practice, Ms. Russell counsels companies on diversity and inclusion issues. She stated that companies must “be intentional about creating and implementing practices, programs, and policies that protect, promote, and create partnership opportunities for women.” Leaders within these organizations cannot wait for the next person to start the initiative; rather, the change must take place from the highest levels of leadership on down. She challenged firms that do not currently have women on the executive team or committee to start there.

Similarly, Ms. Williams noted that those who do not recognize the differences in priorities towards individual satisfaction and personal happiness that many women lawyers possess, will be simply “left in the cold.” She stated, “Successful corporations recognize that given the choice, women will chose themselves and their families over corporations, so the smart companies that value having women be a part of their fabric will do all they can for women to be able to cultivate that balance/satisfaction...so that the corporation doesn't get left in the cold.”

To help overcome the challenges that women lawyers face, Ms. Williams stressed the importance of flextime, particularly for women lawyers in the United States. Ms. Williams noted that she is an American Swiss Foundation Young Leader, and that one of her Swiss women counterparts works as a corporate lawyer in Zurich. Her counterpart described the impact of her company’s decision to allow all employees to have the option of one workday from home. Her counterpart noticed that as a result of the shift in policy, the company retained a much larger share of senior corporate women than their competitors, who did not employ the same policy.

Both Ms. Russell and Ms. Williams emphasized the importance of “safe spaces” where women lawyers can collaborate with another to talk about challenges, needs, opportunities, and strategy.
Communication across groups is an excellent tool for women lawyers to find safe spaces before a snowball turns into an avalanche.

To fight for her “seat at the table,” Ms. Williams relied on her preparation and fearlessness. She stated that it is much easier to be prepared than fearless. Nonetheless, she emphasized the importance of “doing the work, research, and active preparation to ensure that you contribute something of value to the table.” She urges women to trust themselves, and their preparation, which is her own personal definition of confidence. “I know I've done the work and earned every seat I’ve ever had at any table, so once there I fearlessly assert my purpose in the space, whether that's welcomed by others at the table or not. I’m not there to please, I'm there to impact and sometimes that means disrupting the norm. I’m very OK with being a disruptor.”

For the women lawyers, and particularly young women lawyers searching for their path, Ms. Russell offered the following words of wisdom: “Every job, every opportunity, every experience, every struggle, every sacrifice, every hater, every joy-stealer, and every no—they all count! Steve Jobs once said that you cannot connect the dots looking forward—you can only connect the dots looking back. Many times we can’t see how much all of the experiences we have are collectively worth, but you have to have keep pressing forward and have an unwavering faith that you will look back and be able to connect the dots.”

Ashley J. Heilprin is with Phelps Dunbar in New Orleans, Louisiana.
Lawyer Well-Being: An Uncharted Path to Increasing Diversity and Inclusion

By Jayne Reardon and Bree Buchanan

Historically, society’s stereotypical image of the successful lawyer, like a hero in a Western movie, is a hard-charging, heavy-drinking, macho man. There is, however, an unspoken but widely known truth behind this archetype: too many of these so-called successful lawyers suffer from mental health or substance use disorders and are struggling (or even failing) to properly serve their clients. As a call to action to the legal profession, the National Task Force on Lawyer Well-Being issued a comprehensive report in August 2017 that urged all stakeholders to develop initiatives to change the unhealthy state of affairs.

The report, “The Path to Lawyer Well-Being: Practical Recommendations for Positive Change,” (referred to henceforth as “the report”) makes recommendations designed to ignite a movement to improve the well-being of the legal profession. Seeking to tackle dysfunctional systems from the top down, the drafters include a charge to urgently address the lack of diversity and inclusion in the profession. What does the lack of diversity and inclusion have to do with the thrust of the report’s recommendations to build a legal culture premised on attorneys’ well-being? We have no doubt there is a correlation between the two, if not a direct connection. After all, a profession that purports to promote the well-being of its members must, by definition, foster an environment that supports a diverse and fully inclusive workplace.

“The Path to Lawyer Well-Being”
Two recent innovative studies, Suffering In Silence and The Prevalence of Substance Use (referred to henceforth as “the studies”), both published in 2016, galvanized leaders of several national legal organizations and led to the creation of the National Task Force on Lawyer Well-Being and its report. The studies provide the first extensive data about mental health and substance use disorders among law students and lawyers in decades. This new data suggests that prior conclusions about the scope and character of lawyer mental health and substance use disorders were either erroneous or outdated.

One in five lawyers among survey respondents self-identified as problem drinkers. Contrary to previous research that indicated problems began in later years, over a quarter of respondents reported their problem drinking began in law school. The rate of “problematic drinking” was twice that of other highly educated professionals. Twenty-eight percent of lawyers reported feelings of depression and 21 percent said they suffered from anxiety. A staggering 11.5 percent of lawyers reported having suicidal thoughts during their careers. Both studies revealed significant resistance to seeking help among law students and lawyers driven by attitudes that included: not wanting others to find out they have a problem, concerns about a negative impact on obtaining or keeping their law license, and the stigma still attached to these behavioral health disorders.

© 2018 by the American Bar Association. Reproduced with permission. All rights reserved. This information or any portion thereof may not be copied or disseminated in any form or by any means or stored in an electronic database or retrieval system without the express written consent of the American Bar Association.
In response to the studies, representatives from the ABA Commission on Lawyers Assistance Programs, the National Organization of Bar Counsel, and the Association of Professional Responsibility Lawyers met at the ABA Annual Meeting in August 2016. Several other entities subsequently became involved, including committees and divisions within the ABA (for example, the Standing Committee on Professionalism), the National Conference of Chief Justices, and National Conference of Bar Examiners.

The report sets out the rationale for taking on the lack of well-being in the profession. The rationale include (1) organizational effectiveness (“it’s good for business”), (2) ethical integrity and (3) humanitarian reasons. It provides an inaugural definition of lawyer well-being, defined more broadly than the simple absence of impairment. The report instead establishes well-being as “a continuous process toward thriving across all of life’s dimensions: intellectual, spiritual, physical, social, emotional and occupational,” and exhorts all stakeholders, including judges, regulators, legal employers, law schools, bar associations, professional liability carriers, and lawyers assistance programs, to work toward this goal.

The report also lays out the five essential components of the process of building a sustainable culture of well-being: (1) identify the stakeholders to engage, (2) end the stigma around seeking help, (3) emphasize that well-being is integral to competence, (4) expand education and outreach, and (5) change the tone of the profession one-step at a time. The authors acknowledge that changing a culture engrained over decades or centuries will not be a quick endeavor.

Well-Being and Diversity & Inclusion Initiatives Are Symbiotic
Among its many recommendations, the task force calls on all stakeholders in the profession to “Foster Collegiality and Respectful Behavior.” The report, supported by extensive reputable research, connects the fostering of collegiality and respect with well-being and calls for initiatives related to diversity and inclusion initiatives, including mentoring, as a means to achieve this goal.

The authors posit that a collegial and respectful workplace contributes to a person’s sense of connection and belonging and has a direct bearing on well-being. Noting research that shows, while worker engagement is linked to organizational success, a startling 68 percent of the workforce is not engaged, the report recommends that all stakeholders urgently prioritize diversity and inclusion by stressing that:

Regulators and bar associations can play an especially influential role in advocating for initiatives in the profession as a whole and educating on why those initiatives are important to individual and institutional well-being. Examples of relevant initiatives include: scholarships, bar exam grants for qualified applicants, law school orientation programs that highlight the importance of diversity and inclusion, CLE programs focused on diversity in the legal profession, business development symposia for women and minority-owned law firms, pipeline programming for low-income high school and
college students, diversity clerkship programs for law students, studies and reports on the state of diversity within the state’s bench and bar, and diversity initiatives in law firms.

Similarly, another initiative that the report concludes fosters inclusiveness and respectful engagement is mentoring, which can aid well-being and career progression for women and diverse professionals while also reducing lawyer isolation. Those who have participated in legal mentoring report a stronger sense of personal connection with others in the legal community, restored enthusiasm for the legal profession, and more resilience—all of which benefit both mentors and mentees.

Other report recommendations that can promote diversity and inclusion involve enhancing a lawyer’s sense of control and autonomy. For example, the recommendation to enhance lawyers’ sense of control cites studies that demonstrate that high job demands, paired with a sense of lack of control, breed depression and other psychological disorders. The report also points to anecdotal support for the conclusion that a lack of autonomy and control over schedules is a primary reason for women of childbearing and rearing ages to leave the profession.

** Forced Cultural Norms Lead to Exclusion **

Legal workplace cultural norms that support high levels of alcohol consumption can reinforce tendencies toward problem drinking and stigmatize—or even ostracize—those seeking help. In the legal profession, social events often center on alcohol consumption, an outdated tradition established during a time when there were few women or minorities in the workplace. Men—white men—created activities that allowed them to connect with each other, socialize, and exchange ideas. Typical activities include networking events serving alcohol, golf, and other sports outings that usually also involve the consumption of alcohol.

The report encourages legal employers, law schools, bar associations, and other stakeholders that plan social events to provide a variety of alternative non-alcoholic beverages and consider other types of activities to promote socializing and networking. Organizers of such events must strive to develop social norms under which lawyers encourage healthy means of coping with stress, discourage heavy drinking, and enable and motivate help seeking for problem alcohol or drug use.

By persisting with a norm of alcohol consumption for networking and socializing, the insiders and power brokers of the legal profession run the risk of excluding those faced with behavioral health challenges from events critical to professional advancement. Lawyers in recovery from substance use disorders are faced with either missing out on “book building” opportunities or with imperiling their hard-won sobriety. Knowledge that this culture predominates within the law acts as a deterrent to pursuing sobriety. Those of us working within the lawyers’ assistance program community can attest that law students and young lawyers often will cite their concerns about damage to their advancement if they must forgo these social events. It is not unusual for this situation to be used as reason to defer treatment for their disorder. The alcohol-dominated
culture also fails to consider that individuals receiving treatment for mental health disorders (e.g., depression) are often unable to drink alcohol because of adverse interactions with medication. A culture of aggression or dog-eat-dog litigation, another hallmark of the stereotypical successful lawyer, can also be exclusionary. Studies show that men tend to thrive in a competitive environment, whereas women tend to prefer to collaborate with their workplace colleagues. We know from personal experience that the more a female litigator is perceived as aggressive and hard-hitting, the more likely she is to be perceived as competent and successful. At the same time, there is evidence showing that women lawyers are more frequent targets of incivility and harassment. For many women, a lack of collegiality and respect leads to a toxic culture—which is corrosive and adds additional stress.

**Stigma Negatively Impacts Help-Seeking, Even More So for Minority Lawyers**
For all attorneys, a significant barrier to seeking help for substance use or mental health problems is the fear of negative repercussions. This perception is a direct result of the stigma and shame attached to these conditions. It persists, even though the medical community recognizes these conditions as treatable behavioral health disorders and not moral failings.

Stigma is defined as a cluster of negative attitudes and beliefs that motivate the general public to fear, reject, avoid, and discriminate, and results in exclusion, poor social support, and increased isolation. Social stigma, a bias against people with mental health and substance use concerns, is exacerbated by law firm culture that perpetuates the notion that seeking help for any behavior that might be associated with a deficiency of mental capacity or willpower is a weakness. As a result, law firms’ conspiracy of silence surrounding mental health and substance use disorders serves to drive underground those who are suffering, thereby exacerbating the conditions. Minority attorneys who are dealing with a behavioral health disorders, attorneys who often already feel pressure to over perform, to overcome negative bias and prove that they “belong” at the firm or in the profession, can face a crippling double stigma.

Another inhibitor of help seeking can be a strong cultural stigma associated with engaging in counseling or other mental health interventions. Research shows that racial and ethnic minorities—as well as lesbian, gay, bisexual and transgender people—face greater barriers to getting help. Even after controlling for factors such as health insurance and socioeconomic status, ethnic minority groups still have a higher unmet mental health need than non-Hispanic whites. For example, Asian Americans have been found to have stronger negative implicit attitudes toward mental illness than Caucasian Americans. Another study found that the cultural stereotype of the “strong black woman” promotes unflagging toughness, strength, self-reliance, and denial of self-needs, and has a distinct cultural history that is in tension with seeking help. Faith and spirituality can often complicate matters and a person’s faith community may not support seeking help (outside of prayer, etc.). Some minority groups and immigrant communities deal with a deep-seated distrust of the healthcare system.

**Conclusion**
The corrosive culture that promulgates incivility, overwork, and alcohol consumption as a badge of honor is at the root of the profession’s diversity problem. It is a Gordian knot. But lawyers are
problem-solvers. By implementing the recommendations in The Path to Lawyer Well-Being, we are likely to not only have attorneys who are healthier and more productive, but also a profession that is more diverse and sustainable.

Jayne Reardon is the executive director of the Illinois Supreme Court Commission on Professionalism. She also serves as chair of the American Bar Association’s Standing Committee on Professionalism and is a member of the National Task Force on Lawyer Well-Being. Bree Buchanan is the director of the Texas Lawyers’ Assistance Program. She also serves as chair of the American Bar Association’s Commission on Lawyers Assistance Programs and is a cochair of the National Task Force on Lawyer Well-Being.
UC Irvine Law Names Woman of Color as Its New Dean
By Robert K. Dixon

On January 1, 2018, L. Song Richardson became dean of the University of California, Irvine School of Law. Richardson, according to the school’s press release, is the only woman of color serving as dean at a top-30 law school.

Howard Gillman, chancellor of University of California, Irvine, described Richardson’s appointment as follows: “She is the perfect person to work with our great faculty, students, staff and community partners to accelerate the law school’s ascendancy as one of the country’s most important and influential institutions of legal education.” And even before her appointment, Richardson had the support from Erwin Chemerinsky (the school’s previous dean): “… I think she’ll be a terrific choice for the permanent dean.”

UCI Law alumni are also excited about Richardson’s new position. Nicole Ambrosetti (class of 2013), said the following about the school’s new dean: “My fellow alumni and I are excited about this new chapter in the story of UCI Law. The naming of Song Richardson as dean is just another example of how UCI Law continues to be a frontrunner in legal education.”

Richardson commented to the Recorder (subscription required) about her position as the only woman of color at a top law school: “Through my life I have been inspired by other women and the incredible work they’ve done, and I hope with me in this position it will potentially inspire other women to dream big and work hard to achieve their dreams.”

About Dean L. Song Richardson
Richardson is a graduate of Harvard University and Yale Law School. After law school, Richardson was a Skadden Public Interest Fellow with the National Immigration Law Center in Los Angeles. She also worked for the Legal Aid Society’s Immigration Law Unit in New York. Her long illustrious legal career also included a partnership at a boutique criminal law firm and work as a state and federal public defender in Washington, D.C. She was also an assistant counsel at the NAACP Legal Defense and Educational Fund, Inc.

In addition, she is one of the nation’s leading experts on racial bias and the criminal justice system, according to September 2017 profile in Orange Coast magazine. Currently, she is working on a book that examines the legal and moral implications of mind sciences research on policing and criminal procedure. Previously she appeared in Hidden Injustice: Toward a Better Defense, which is a 10-minute training video designed by the ABA’s Diversity and Inclusion 360 Commission to help create a fair system of justice for all Americans.

Before joining UCI Law faculty in 2014, Richardson taught at various law schools, including the University of Iowa College of Law and American University Washington College of Law. In 2011, she was recipient of the American Association of Law Schools’ Derrick Bell Award, in recognition of her contribution to legal education as a junior faculty member.
At UCI School of Law, Richardson teaches and writes in the areas of criminal law, criminal procedure, and law and social science. She has also taught courses on race and the criminal justice system as well as the law of policing. In the short time since joining the school, she has been the senior associate dean for academic affairs, on the faculty advisory committee of the Center on Law, Equality and Race, and she has also worked with the school’s Center for Biotechnology and Global Health Policy. Following the departure of the school’s founding dean, Erwin Chemerinsky, she served as the school’s interim dean from July 2017 through December 2017.

**About the University of California, Irvine School of Law**

UC Irvine School of Law opened its doors to students in August 2009 and is the first public law school in California in nearly 50 years. The first class of students graduated in 2012 and passed the California bar exam at a rate of 90 percent. Since opening its doors in 2009, the school has become one of the top law schools in the country, ranked No. 28 overall by U.S. News & World Report in 2017. In 2015, the first year it was eligible for U.S. News & World Report’s annual ranking, it debuted at No. 30 among the 200 ABA-accredited law schools in the country—the highest debut by any law school in the ranking’s history. The school is also ranked in the top ten among public universities according to U.S. News & World Report. According to the school’s website, the faculty at UCI School of Law was ranked sixth in the country in scholarly impact. In addition, the school has an innovative curriculum that stresses hands-on learning, interdisciplinary study, and public service.

*Robert K. Dixon is a partner with Wilson Turner Kosmo in San Diego, California. He also serves as editor of the Section of Litigation's Diversity & Inclusion committee.*
A Former Trial Attorney Shares Her Insights as an Outside Counsel Turned Company Executive
By Robert K. Dixon

Alicia Wilson is Vice President of Community Affairs and Legal Advisor at the real estate firm Sagamore Development Company. Sagamore is majority-owned by Under Armour CEO Kevin Plank, who has charged the firm, in part, with turning the city of Baltimore into a hotbed for talent through the redevelopment of land in South Baltimore.

At Sagamore, Wilson oversees the implementation of community benefits agreements that were entered into between the city of Baltimore, Sagamore, and local communities in Baltimore. In particular, she was the lead negotiator of those agreements and with community groups, and now oversees the delivering on promises that Sagamore made to the community. She also gives strategic advice on complex crisis management and general public relations advice to the company’s corporate executives. Before joining Sagamore, Wilson was a highly accomplished trial attorney is currently a member of House of Delegates for the ABA.

Recently, Wilson shared her perspective on the following questions:

**What have the highlights and challenges been during your tenure at Sagamore?**
The highlights would have to include getting the largest tax increment financing legislation passed in the country, and the largest community benefits agreement signed and ratified in 6 months. Some of the challenges are really trying to pull together and sympathize with diverse groups, with diverse self-interest, and trying to find common ground. For example, if you are negotiating with 200 groups, you probably will not be able to get all 200 to agree to every detail in the agreement. So, I must negotiate in a way that everyone leaves feeling that they were part of the negotiation and had their voice heard and that they have a stake in the success of the development.

**How has your previous experience as a trial attorney aided you at Sagamore?**
There are several similarities between the work I did as a trial attorney negotiating matters and the work I’m doing now for Sagamore. In addition, as a trial attorney, you must know how to distill issues down to what really matters, which is an important part of my job at Sagamore. Further, as a trial attorney, you are a people person; you are selling people, whether it be to a jury or a boardroom, you are trying to convince people that the plan or the strategy you are proposing is the one that they should adopt. So, having to do all that as a trial attorney whether it be trying to craft a closing argument or negotiating an agreement that tries to settle a matter with multiple parties, all of that, nothing is lost in terms of utilizing help in moving things forward.

**What was the biggest challenge associated with the change from being an outside attorney with going in house?**
The biggest challenge is moving from being an advisor to also being an advisor and consumer of advice. As such, in this new role, I act upon advice I receive but I also give advice with a business mindset.

**What advice can you offer to women who want to go in-house?**
Attorneys interested in making the transition in-house should continue to grow in their practice, to take on tasks that others ordinarily would not do, so that they can get really rich experiences. They should make
sure that they are getting the sort of experiences that are substantive. If they are doing document review but they are not having rich experiences, such as going to trial, negotiating settlements, and other opportunities that enable them to raise their profiles in the community, they are really going to miss out on developing and refining the skills that will enable them to get an in-house position. Simply doing the rudimentary work at the law firm isn’t enough.

**What has been your role as a member of the ABA’s House of Delegates?**
During the first year I really used it as a learning opportunity, to get an understanding of my delegation, which is the Maryland delegation, to understand the resolution process and how such resolutions could impact people on the ground. In this past session, we had resolutions related to, for example, law school accreditations and [President Trump’s travel ban]. During this past session, I learned to collaborate across delegations and how the public interprets what we do. I have been taking this opportunity to really learn the process inside and out.

**Going forward, what do you want to accomplish as a delegate?**
I would like to bring to the floor issues and resolutions related to assisting attorneys in the middle point of their law careers, attorneys of color, and millennial attorneys. I think the legal profession is shifting at such a rapid speed, so I want to propose resolutions that add value to these types of attorneys to make sure they have a richer, rewarding practice.

**What are the biggest challenges facing the legal community in the next five years in your opinion?**
I think the cost of legal services is a huge issue. It continues to go up and up and up at a rate that is not congruent with other parts of the market. I’m not sure if that is because firms want to increase profits or if they actually believe the services rendered this year are 10 percent more the next year. I think there is going to be a shift, probably led by in-house counsel, against the exorbitant rate that most firms charge.

**What are the biggest obstacles for law firms in terms of delivering on their diversity and inclusion goals?**
It’s all about the pipeline. I have heard, over and over, people complain, for example, that they can’t find talented black attorneys. But these same people typically do not employ a sufficient plan to seek out and obtain diverse talent. To get the best and brightest folks in the majority population they zealously compete with other firms to seek out such talent. But they do not employ the same tactics for obtaining minority attorneys. Instead, they take a more passive approach. Talented minority attorneys are out there; firms are just going to have to recruit them.

*Robert K. Dixon* is a partner at Wilson Turner Kosmo in San Diego, California. He also serves as editor for the Section of Litigation’s Diversity & Inclusion committee.
Judges Push for Diverse Voices in Court
By Rebecca Beyer

On the day U.S. District Judge Elizabeth Wolford received a copy of a New York State Bar Association report revealing that women participate in court at lower rates than men, the judge had a meeting to discuss a pending breach-of-contract case.

In addition to a male partner, each side had a female associate who, Wolford says, had clearly done the relevant research. With the report in mind, Wolford of the Western District of New York recommended the associates argue at the hearing—and they did.

“It was one of the best arguments I have had the privilege of presiding over,” Wolford recalls. According to the July report, female attorneys account for just 25 percent of counsels appearing in commercial and criminal New York state and federal cases. In more complex matters, the percentage declines further. A 2015 ABA report found similar numbers in a study of the Northern District of Illinois. In August, Wolford implemented a standing rule that encouraged young attorney participation. Such rules, which often offer oral argument as incentive, are one way the NYSBA report recommends the bench help address litigation’s gender disparities.

Wolford’s rule was inspired by similar guidelines set forth by Judge William Alsup of the U.S. District Court for the Northern District of California. He implemented his rule soon after taking the bench in 1999, but he also requires large firms to document how they will integrate junior attorneys into a case. Alsup says he does so for the good of the profession, as well as for up-and-coming lawyers.

“If we don’t train the next generation, then lawyering will suffer and the public will lose confidence” in the system, he says.

None of the rules mentions gender or race. But the measures can have the effect of increasing opportunities for women and minorities because they now make up a greater share of young attorneys. In 2016, according to ABA data, women composed more than half of matriculating students at all law schools, and minorities made up more than a third of such students. In 2009, 47 percent of all enrolled students were women and 23 percent were minorities.

Attorney Sharon Porcellio, who worked on the New York bar report, says she thinks the rules are an innovative way to address an age-old disparity.

“Those of us who have been practicing for a long time had hoped that the pipeline theory”—the idea that increasing numbers of women and minorities in law school would lead to equal representation in practice—“would work,” she says. “The pipeline theory has not proven to work.”

Attorneys say the nonmandatory rules can make it easier to convince clients, who may prefer the most senior team member’s participation, to allow junior lawyers the chance to argue. But they also point out that not every matter is appropriate for assignment down the ranks. In 2016, a federal judge criticized Facebook for failing to send a more senior lawyer to a hearing. At the next appearance, Paul Grewal—Facebook’s vice president and deputy general counsel and a former Northern District of California magistrate judge—was present.
Grewal is part of a group called Next Generation Lawyers, which tracks and promotes opportunities for young attorneys.

The gap in experience for associates and underrepresented attorneys is “a problem which affects the profession, so each of the elements of the profession has to contribute to the solution,” Grewal says, adding that as a judge he felt younger attorneys “were not getting the opportunities they needed to prove themselves.”

Indeed, the opportunities the rules yield can be impressive. Reid Mullen was an associate at Keker, Van Nest & Peters in San Francisco in 2011 when he got the chance to argue a motion before Alsup on behalf of Google in an IP case brought by Oracle—his first argument in federal court. When he sat down, the opposing attorney who stood up was none other than David Boies.

“It’s something I tell recruits when they’re considering” the firm, says Mullen, who is now a partner.

This article was published in the January 2018 issue of the ABA Journal with the title Judges Push for Diverse Voices in Court: Standing rules help young women and attorneys take the lead.
EDITORIAL BOARD

Committee Cochairs: Paulette Brown, Eileen M. Letts
Members: Paul Arley Harrel, Patricia O'Prey, McCray Pettway, Rachel Pereira, Ghenete Wright Muir, Tracey Salmon-Smith

Newsletter Editor: Robert K. Dixon
Staff Editor: Steve Garland

The views expressed herein are those of the author(s) and do not necessarily reflect the positions or policies of the American Bar Association, the Section of Litigation, this committee, or the employer(s) of the author(s).

ABA Section of Litigation Diversity & Inclusion Committee
https://www.americanbar.org/groups/litigation/committees/diversity-inclusion.html