



PERSPECTIVES

A Magazine for and about Women Lawyers



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Report on Women of Color Lawyers Lands During National Reckoning with Race

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Perspectives: July 2020

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Report on Women of Color Lawyers Lands During National Reckoning with Race

By Cynthia L. Cooper

Cynthia L. Cooper is a journalist in New York with a background as a practicing lawyer.

The summer of 2020 was not on the minds of researchers when, three years ago, they embarked on studying the experiences of women of color who had practiced in law firms for 15 years or more as part of a multipronged project on long-term careers by the American Bar Association (ABA) and the ABA Commission on Women in the Profession.

“I actually think that it is a good time for the report to come out because maybe people will pay a little closer attention to it,” says Paulette Brown, senior partner and chief diversity and inclusion officer at the international law firm Locke Lord LLP and one of the coauthors of *Left Out and Left Behind: The Hurdles, Hassles, and Heartaches of Achieving Long-Term Legal Careers for Women of Color* with Destiny Peery and Eileen Letts. At the time, Brown was coordinating town hall meetings with people of color and executives at her firm, discussing race matters that had recently overtaken current events.

When the report was released, American society was wrapped in reexaminations of systemic racism following police actions that resulted in the deaths of George Floyd in Minneapolis and other African Americans. Black Lives Matter protests in 350 cities and towns, antiracism forums, roundtables, and corporate statements filled the news.

“It is a necessary time. People are thinking about these things now. Everybody is saying that this time is different, and it does feel different,” says Brown, who in 2015 became the first African American woman to serve as president of the ABA.

The *Left Out* report, using in-person focus groups and an online survey, pulls back the curtains on the lived experiences of women of color in law firms. The authors sought to discover how women of color had progressed since 2006 when *Visible Invisibility: Women of Color in Law Firms*, a study by the ABA and the Commission on Women in the Profession, reported a lack of opportunities in work assignments, stereotyping, and invisibility that impeded the ability of women of color to succeed.

The answer 14 years later: “Little has changed for women of color in the legal profession. They continue to feel as though, by virtue of their race and gender, they are left standing on the outside of even the small advances made by white women,” *Left Out* reports. “The profession has largely continued to ignore their plight.”

Small Shares of the Pie

Statistically, women of color hold but a handful of leadership roles in law firms, and the attrition rate is high. Women of color account for 14 percent of associates but only 5 percent of non-equity partners and a mere 3 percent of equity partners, according to the 2018 Vault/MCCA (Minority Corporate Counsel Association) Law Firm Diversity Survey. This means that 21 percent of the women of color who start on the law firm path reach the level of equity partner. By comparison, white women make up 32 percent

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of associates, 25 percent of non-equity partners, and 17 percent of equity partners, still a significant narrowing on the rise up the law firm ladder, but at a rate (54 percent) more than double that of women of color.

“Some experiences of women of color are the same; some are not. They have to deal with both: being a woman but also people of color. Women of color are not given the same opportunities as white women,” says Eileen Letts, a partner at Zuber Lawler and Del Duca LLP in Chicago and one of the study’s coauthors.

A 2019 report, *Walking Out the Door: The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice* by the ABA and ALM Intelligence highlighted the persistence of gender bias as a significant inhibition to the advancement of all women.

When race is added to gender, the challenges become formidable. Women of color experience a lack of mentorship, being talked over in meetings, not getting credit for their ideas, the scarcity of inclusion in business opportunities, and the absence of a support system to help them navigate rough patches, as well as deep-rooted stereotypes about women and life balance.

“It’s an uphill battle,” Letts notes.

Women of Color in Law Share Their Feelings

Voices emerging from women of color in *Left Out* reflect a weariness with the additional challenges they encounter. The report is drawn from 103 participants in 11 focus groups held in Atlanta, Chicago, Los Angeles, and New York and an online survey. Those participating self-identified as black (49 percent), Asian (22 percent), Hispanic/Latinx (14 percent), or multiracial or multiethnic (16 percent). There was outreach to a broad array of bar associations and individuals in an effort to obtain input from women of color of all races and ethnicities.

In focus groups, participants were encouraged to share their experiences and how they see the arc of their careers. “I have to keep proving myself to clients, peers, superiors, subordinates, even after each success. . . . I feel like I have to try harder than white [men]. I feel like people don’t give me the same tools to succeed or excel. I have to make my own way without these tools for success,” said one black woman lawyer in a focus group.

Law firms need to be doing more to support, train, and mentor women of color in their ranks, says Sharon Barner, vice president and general counsel for the Indiana-based Fortune 500 company Cummins Inc. In June, Barner’s picture appeared in the *Indianapolis Recorder*, under the heading: “Sharon Barner: I am black. I am a mother.” Two paragraphs of quotes ended with: “(W)e must be undaunted and undeterred in our efforts to undo systemic racism.”

Barner spent 30 years at the 2,000-lawyer firm Foley & Lardner LLP in Chicago, where she worked her way up from associate to partner, team leader, and a member of the management team. “To be successful in law firms, you have to be given good, complex work; you have to be given good supervisors who will mentor and train you; and you have to be given the ability to be successful and to fail, and recover,” Barner observes.

“From the law firm perspective, you have to teach people how to get clients and to keep them,” she continues. “Some of that is an art and some of it is a science, and it’s about access and visibility. That

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requires being in the room.”

As general counsel, Barner says that she insists that diverse lawyers have meaningful and visible roles on outside counsel teams.

To Stay or Go

Women of color regularly consider leaving their law firms, according to the results in *Left Out*, because they feel undervalued or face barriers to advancement, as well as experiencing an inability to meet personal and professional responsibilities. While the reasons are not dissimilar from those of white women in the profession, a substantial number of women of color—as high as 70 percent in the study—said they have considered leaving or had left.

Where they have not left, their reasons may vary from those of white women. Women of color experience different financial and familial pressures that they feel preclude them from departing. The study finds that more women of color are single and the sole breadwinners in their families. “I’m a single mother of two children. . . . I’ve got bills to pay. So I can’t really leave,” explained one Asian woman participant in *Left Out*.

The report states that “different family structures, needs, and priorities create distinct challenges for maintaining a personal and professional life that differ not only for men and women, but also for women of different backgrounds.” Among other things, women of color are more likely to have commitments to extended family and their community and less likely to have domestic help than other firm members.

Another especially striking reason to stay: the need women of color feel to live up to the expectations of their families and to be a role model for their communities. “(M)y continued presence is beneficial for younger generations. I also try to be the mentor that I wanted when I started out,” noted one Latinx participant.

Using Their Intellectual Capacity Is Key

Underlying the experiences of women of color who participated in the report is one constant: a love of the law.

“I enjoyed using my brain to solve complex problems for my clients. I love the nuances and strategy involved with litigating cases and conducting investigations. . . . I enjoy grappling with the gray areas . . . it feeds my inner nerd’s soul,” said one black woman in her mid-40s.

But, despite that love, law firms make it difficult for women of color to succeed, says Kim M. Rivera, president of strategy and business management and chief legal officer for HP Inc. in Palo Alto, California, and the chair-elect of the Leadership Council on Legal Diversity (LCLD).

“You start with the proposition that these are very hard jobs to do. On top of that, you are required to put in an extra degree of effort, energy, and intellectual capital to achieve the same level of opportunity. And it shows up across assignments, client relationships, and compensation, and there is the additional degree of difficulty in trying to execute well and prove yourself across all of those domains,” Rivera says.

“Those barriers are real,” she continues, “and whether they are the result of behaviors, customs, policies, or practices, law firms need to start staring at what needs to happen to eliminate them.”

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Until that time, Rivera is ready to recruit law firm talent for her in-house team. “It’s not unreasonable at all for someone in that situation to look for better alternatives where they are going to be either compensated or recognized for the amount of effort, time or achievement they have to deliver,” she says. “We think about diversity, inclusion, and the need to make them an integral part of the culture in the pursuit of innovation and in reflecting our global customers.”

Yet, in the law firm environment, women of color sometimes feel they can’t win. They are presumed to be docile if they say nothing and overly aggressive if they speak out. Micro-aggressions accumulate—one woman describes keeping a file folder full of the reasons why she should leave. Differing experiences emerge among individual identities for women of color, whether black, Latinx, Asian, Native American, or multiracial, but all describe constantly looking for a way to fit in. “(We) have to morph to what society wants from us, whether it’s to make yourself bigger or to make yourself smaller,” said one study participant.

Paulette Brown wants firm leaders to use the *Left Out* study as a call to take a closer look at the women of color in their firms. “People have to open their eyes and see that, yes, these things really do happen to people. I hope they will say, ‘what can we do within our organization to make structural change so that, five years, 10 years from now, no person can be coaxed away because we’re not providing the tools they need to be successful and happy in our organization?’”

She adds: “I’m the eternal optimist.”

VOICES

What Happens to a Dream Deferred?

By Michele Coleman Mayes

Michele Coleman Mayes is vice president, general counsel, and secretary for the New York Public Library. She joined NYPL in August 2012 after serving as executive vice president and general counsel for Allstate Insurance Company since 2007.

Michele Coleman Mayes, 2014–17 chair of the ABA Commission on Women in the Profession, has held senior legal positions at Allstate Corporation, Pitney Bowes, Inc., Colgate-Palmolive Company, and Unisys Corporation. She currently serves as the vice president, general counsel, and secretary of the New York Public Library. Her career as an in-house counsel has given her the platform to speak out against biases and challenges encountered by women of color in the legal field.

In 2009, Mayes was named one of the National Law Journal’s “Most Influential General Counsels,” and in 2012, she was honored with the American Lawyer Lifetime Achievement Award. In 2018, the Minority Corporate Counsel Association (MCCA) presented her with its very first Charlotte E. Ray Award, given to a woman lawyer for her exceptional achievements in the legal profession and extraordinary contribution to the advancement of women in the profession. For this issue of Perspectives, we showcase her remarks upon receiving the award (edited slightly for print).

I must also admit that I knew something about Charlotte E. Ray because of the years that I’ve been in this space. As I found out more about her, a poem, “Harlem,” kept running through my mind:

What happens to a dream deferred?

Does it dry up
like a raisin in the sun?
Or fester like a sore—
And then run?
Does it stink like rotten meat?
Or crust and sugar over—
like a syrupy sweet?

Maybe it just sags
like a heavy load.

Or does it explode?

—Langston Hughes

What did I know about Charlotte Ray? I knew she was born in New York in January 1850. I knew that she used her ingenuity to make sure she was admitted into Howard University law school. So, the story goes, she didn’t use her full name—she used her initials, “C. E. Ray.” (Needless to say, she got in.) I also knew that she was the first black woman lawyer in the United States when she was admitted to the bar in April 1872—at the ripe age of 22.

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But then I had to dig a little deeper—and this is when it pays off to work for the New York Public Library. The Arturo Alfonso Schomburg Center for Research in Black Culture is part of the New York Public Library. So, I phoned up its director, Mary Yearwood, and asked if she could help me find out more about Charlotte E. Ray—and that’s all I had to say.

I learned that her father, Charles Bennett Ray, was quite the activist. He attended college and became a journalist, a minister, and a conductor on the Underground Railroad. As they say, the fruit doesn’t fall far from the tree. Both her father and mother knew the importance of education. Ray attended the Institution for Education for Colored Youth in Washington, D.C. She then taught school at Howard University and probably got the idea that, maybe, law school wasn’t a bad idea.

The founder of Howard, General O. O. Howard, had this to say in his 1870 annual report about Miss Ray: “A trustee of the law school was amazed to find a colored woman who read us a thesis on corporations and not copied from the books but from her brain a clear, incisive analysis of one of the most delicate legal questions.” So, there’s some irony that this woman decided to focus on corporations and we’re here this evening with the MCCA.

During law school, she continued to focus on corporations and real estate. My sense from some of the quotes I read about her is that she wasn’t just an excellent student. She was probably a brilliant student. But she was still just a “girl.” She graduated and then was admitted to the bar. When she passed the bar, there was an article written about her in May of 1872 in the *Woman’s Journal*:

In the city of Washington, where a few years ago colored women were bought and sold under sanction of law, a woman of African descent has been admitted to practice at the bar of the Supreme Court of the District of Columbia. Miss Charlotte E Ray, who has the honor of being the first lady lawyer in Washington, is a graduate of the College of Law of Howard University and is said to be a dusky mulatto possessing quite an intellect countenance. She doubtless has a fine mind and deserves success.

If only that were true.

She opened up her own law practice in D.C., but, not that many years later, she closed it. By 1879, she had returned to New York, the state of her birth. A friend of hers, Kate Rossi, said, “In spite of outstanding achievement and recognition as a legal authority on corporation law, Ray was unable to maintain a law practice because of the lack of business.”

We know that when she came back to New York, she went on to work at the Brooklyn Public Schools along with two of her younger sisters. We also know that she eventually got married and became a suffragist—not unlike two other women who were alive during her lifetime, Sojourner Truth and Ida B. Wells Barnett, who was also an anti-lynching crusader. She died two days before her 61st birthday and is buried in the Cypress Hills Cemetery in Brooklyn, New York. Also in that resting place is Arturo Alfonso Schomburg (yes, that one), Jackie Robinson, and Eubie Blake. The odd thing about the website for this cemetery is that if you Google it (and it can be a verb!), her name doesn’t show up. These black males are touted as resting in the cemetery, but not Miss Ray.

So, we know her life ended in 1911, but I dare say not her influence. I choose to believe that while working in the Brooklyn Public School System, she kindled the fire and ambition in those black children whose lives, I will wager, she undoubtedly touched. The first question I asked at the beginning of my remarks is: What happens to a dream deferred? Dreams course through the veins of all those who follow.

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That's what I choose to believe. I say thank you to MCCA (for the award). Thank you to Charlotte E. Ray for the dream. And I say to all of you: Have a dream. Have a dream and fight for it.

CHAIR'S COLUMN

Where Are We Now and Where Are We Going?

By Stephanie A. Scharf

Stephanie A. Scharf is a founding partner of Scharf Banks Marmor LLC in Chicago. She is chair of the ABA Commission on Women in the Profession and co-chairs the ABA President Initiative on Achieving Long-Term Careers for Women in Law.

I write this column in June 2020—my last as chair of the Commission on Women in the Profession. As we reimagine law practice during a pandemic and grapple with the physical and psychological violence that people of color continue to face in America, many of us have experienced a wide range of reactions: frustration, depression, anger, confusion, and the desire to make meaningful action a reality.

Women, especially women of color, continue to be underrepresented and suffer greater attrition in the legal profession than men. The statistics are so well known, and so damaging to the profession, that it is hard to understand why positive change has been witheringly slow. One-fifth of law firm equity partners are women, and less than 3 percent are women of color—a huge decline given how many women start out as associates in firms. Only one-quarter of general counsels in the Fortune 500 are women, with some 5 percent women of color. Only a bit more than a quarter of all federal circuit court and federal district court judges are women.

What can each of us do? A recent focus of the Commission has been fostering new studies about the everyday practice of law and data-based recommendations for moving the needle. The recent *Walking Out the Door: Facts, Figures, and Future of Experienced Women Lawyers in Private Practice* details the reasons why women stay in firms and the reasons why they leave, through the perspectives of experienced women, men, and managing partners—all by way of explaining and encouraging policies and practices that are ripe for change.

Left Out and Left Behind: The Hurdles, Hassles, and Heartaches of Achieving Long-Term Legal Careers for Women of Color—published in June 2020, and the first national study of experienced women lawyers of color in more than a decade—drives home the hurdles, hassles, and, yes, the heartaches suffered by senior women lawyers of color. This report should be required reading for every leader in every legal workplace in the country. Something is terribly wrong when talented, dedicated, and hardworking women are stopped from achieving their full potential in the profession or are driven out altogether.

We are all experiencing a renewed national conversation about race, ethnicity, and gender and how to make our society just and equitable. These and other Commission reports pave the way for how legal employers can interrupt bias and create an inclusive culture that advances lawyers on the basis of talent, at the same time creating a stronger and more successful business along so many dimensions. Each firm, each corporation, and each organization has the ability to look at its data about hiring, promotion, compensation, workplace recognition, leadership, and more—in order to gain a genuine picture of women in the workplace and where change should take place. The challenge is having the foresight to see the facts and then to do something about what you see. To paraphrase a famous writer, it's important to stop saying "I wish" and have the courage to start saying "I will."

It has been my profound honor to chair the Commission on Women for the last three years. I am proud to

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have worked with many others to advance equity and inclusion in the legal profession. I have been guided by and learned from so many inspiring and generous lawyers who have become friends and colleagues. I end with my best wishes for all to stay healthy, be strong, and know that, together, we will continue to make change happen.

CWP NEWS

CLE Showcase Program at the ABA Virtual Annual Meeting

The Paucity of Women of Color in the Legal Profession and Its Impact on the Administration of Justice—July 30

Studies over the last 15 to 20 years have revealed that—despite numerous programs implemented to improve diversity and inclusion in the legal profession—women of color have not reaped the benefits of the progress made. In an effort to change this, on June 22 the Commission on Women in the Profession released *Left Out and Left Behind: The Hurdles, Hassles, and Heartaches of Achieving Long-Term Legal Careers for Women of Color*.

On July 30 at 10:00 a.m. CT, the Commission will sponsor a CLE Showcase Program as part of the 2020 ABA Virtual Annual Meeting. It will focus on the results of this study and the impact that the paucity of women lawyers of color has on the administration of justice. Without all demographics adequately represented in the legal profession, we cannot be ensured of a fair process.

Participants will learn about the concrete recommendations presented in *Left Out and Left Behind*, including adopting best practices for reducing biases in decision making, going beyond recruitment to inclusion, and incorporating an intersectional approach to addressing diversity and gender.

Speakers for the program include:

Co-moderators: **Paulette Brown**, senior partner and Chief Diversity and Inclusion Officer, Locke Lord LLP, Princeton, NJ; and **Eileen Letts**, partner, Zuber Lawler & Del Duca LLP, Chicago, IL

Panelists: **Mari Carmen Aponte**, former U.S. Ambassador to El Salvador, Washington, DC; **Dorothy Capers**, senior vice president and global general counsel, National Express LLC, Chicago, IL; **Cyndie M. Chang**, managing partner, Duane Morris LLP, Los Angeles, CA; **Dr. Destiny Peery**, principal, The Red Bee Group LLC, Chicago, IL; and **Mary L. Smith**, vice chair, VENG Group, and chair and president, Caroline and Ora Smith Foundation, Lansing, IL

The program has a number of ABA entity co-sponsors including the Council for Diversity in the Educational Pipeline, Commission on Hispanic Legal Rights and Responsibilities, Commission on Racial and Ethnic Diversity in the Legal Profession, Coalition on Racial & Ethnic Justice, Commission on Sexual Orientation and Gender Identity, Criminal Justice Section, and the Section of Litigation.

Members who register for the 2020 ABA Virtual Annual Meeting (<http://www.ambar.org/annual>) will receive access to all of the CLE Showcase Programs on a secure online platform.

The report, *Left Out and Left Behind: The Hurdles, Hassles, and Heartaches of Achieving Long-Term Legal Careers for Women of Color*, is available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/long-term-careers-for-women/left-out-left-behind.

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CWP NEWS

2020 Margaret Brent Awards Even Will Be Virtual on August 27

Due to the COVID-19 pandemic, the Commission on Women in the Profession has changed this year's Margaret Brent Lawyers of Achievement Awards ceremony to a virtual event at 4 p.m. CT on August 27. For ticket and registration information, as well as opportunities to support the honorees, please visit <http://www.ambar.org/brentawards>.

This years' recipients are:

- **Ruthe Catolico Ashley**—executive director emeritus, California LAW; Sacramento, CA
- **Hon. Anna Blackburne-Rigsby**—chief judge, District of Columbia Court of Appeals; Washington, DC
- **Deborah Epstein**—professor of law and co-director, Domestic Violence Clinic, Georgetown University Law Center; Washington, DC
- **Wendi Lazar**—partner, Outten & Golden LLP; New York, NY
- **Regina Montoya**—CEO, Regina T. Montoya, PLLC; Dallas, TX

Established in 1991 to recognize and celebrate the accomplishments of women lawyers, each year this prestigious award honors up to five outstanding women lawyers who have achieved professional excellence in their area of specialty and actively paved the way to success for other women lawyers. These women demonstrate excellence in a variety of professional settings and personify excellence on either the national, regional, or local level.

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