

Alone on an Island

The Realities of Practicing Law for Women of Color

By Michelle P. Crockett

A recent article in *The New York Times* titled “Racial Diversity Efforts Ebb for Elite Careers, Analysis Finds”¹ suggests that despite affirmative action efforts, minorities, and more specifically African Americans, have made little progress in integrating into some of the most sought-after professions, particularly since the recession.

After reading the article, I decided to address the diversity issue that was touched on by the *Times*, with a bit of a twist. As an African-American female attorney at a large law firm, I perceive a reality that is often unspoken, ignored, or, perhaps more accurately, lumped in with *all* women’s issues at large firms: the extraordinarily high attrition rate of women of color and the consequent underrepresentation of this demographic within the partnership ranks of major law firms. My goal in bringing this issue to the forefront is not to suggest that women of color should be given preferential treatment or to suggest they are somehow exempt from the requirements all attorneys must meet to attain success in their chosen field. Rather, what I hope to accomplish is to remind firms that qualified women of color exist and truly want to succeed within the law-firm environment. However, as reflected in the statistics associated with the success of this demographic, absent a concerted effort by firms to assist in this regard, women of color will continue to choose alternative paths and firms will continue to struggle to attain true diversity. In my opinion, this is a vicious cycle that needs to stop.

The unique experiences and concerns of women of color in the law-firm arena is a phenomenon that has been extensively

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The representation of women of color in law firms, particularly in the partnership ranks, is abysmally low. This phenomenon is more closely examined from the perspective of an attorney who is intimately connected with the ongoing diversity issue that many firms throughout the country continue to struggle with.

studied by the American Bar Association's Commission on Women in the Profession through a research initiative launched in 2003. Phase one of this initiative, completed in 2006, focused on four critical aspects of the careers of minority female attorneys in law firms: recruitment, hiring, retention, and promotion.² The Commission's findings painted a very daunting and bleak picture of life in large law firms for women of color. In fact, it was specifically noted that minority women in the profession are "underdogs who... are consistently underpaid, underestimated, and undervalued [and treated as such]... in [the very] profession that ironically is charged with the responsibility of ensuring justice and equality for all."³

According to data gathered by the National Association of Law Placement in the late 1990s, more than 75 percent of minority female associates had left their jobs in private law firms within five years of being hired; after eight years, the percentage of those leaving rose to 86 percent.⁴ Moreover, when the ABA Commission examined the intersection between race and gender and its impact on women of color in firms during its 2006 initiative, the following poignant realities were revealed:

- Forty-nine percent of women of color reported having been subjected to demeaning comments or other types of harassment while working at a private law firm, compared with only 2 percent of white men reporting the same experiences.
- Sixty-two percent of women of color reported being excluded from both informal and formal networking opportunities, compared with only 4 percent of white men reporting the same exclusion.
- Forty-nine percent of women of color reported being informally mentored by white men, as compared to 74 percent of white men who reported being mentored by other white men.
- Forty-four percent of women of color reported being passed over for desirable work assignments, compared with only 2 percent of white men reporting the same experiences.
- Thirty-one percent of women of color reported getting at least one unfair performance evaluation, while less than 1 percent of white men reported ever having received an unfair performance evaluation.

These statistics begin to explain the resulting underrepresentation of minority females in partnership ranks. According to data released by the National Association of Law Placement in 2010, just over 6 percent of partners in law firms were minorities as of 2009, but the statistics were significantly lower for minority females as outlined in the chart below.

	All Partners			Partners by Race or Ethnicity						# of Offices
				Asian		African American		Hispanic		
	Total #	% Minority	% Minority Women	Total %	% Women	Total %	% Women	Total %	% Women	
Total	61,821	6.05	1.88	2.20	0.76	1.71	0.57	1.65	0.41	1,514
By Size of Firm										
50 or fewer lawyers	2,116	5.25	2.13	2.03	0.80	0.95	0.38	1.23	0.61	125
51–100 lawyers	5,234	5.81	2.03	2.58	0.96	1.15	0.48	1.24	0.34	151
101–250 lawyers	14,756	4.52	1.36	1.50	0.54	1.32	0.46	1.14	0.22	254
251–500 lawyers	12,502	5.34	1.58	1.41	0.50	1.80	0.54	1.72	0.44	290
501–700 lawyers	6,821	6.35	2.07	2.14	0.79	2.02	0.75	1.67	0.31	192
701+ lawyers	20,392	7.63	2.33	3.13	1.01	2.05	0.65	2.11	0.57	502

Source: NALP Bulletin, *Women and Minorities in Law Firms by Race and Ethnicity* (January 2010)

Complicating this situation even more is the issue of compensation. Without question, the strongest measure of the value an employer places on an attorney and her abilities is fair and equitable pay. According to the study conducted by the ABA Commission on Women, “compensation is the prism through which bias—both overt and subtle—against female attorneys of color can be measured.”⁵ Furthermore, it is the most obvious metric by which to effectively judge the progress being made toward the achievement of parity between female attorneys of color and their white counterparts. The disparity between the salaries of male and female attorneys of color is stark. This income disparity—typically a 25 percent difference at the onset of an attorney’s career—grows disproportionately over time. One study noted that “what starts as a \$2,000 annual gap between male and female associates accelerates to a \$66,000 annual gap between male and female equity partners.”⁶

Why is this the plight of minority females? What makes it so difficult for this demographic to gain access into the law-firm arena, thrive within this environment, and ultimately succeed by obtaining partnership status? The ABA initiative provides some insight into the underlying systemic and cultural factors contributing to these disparities.

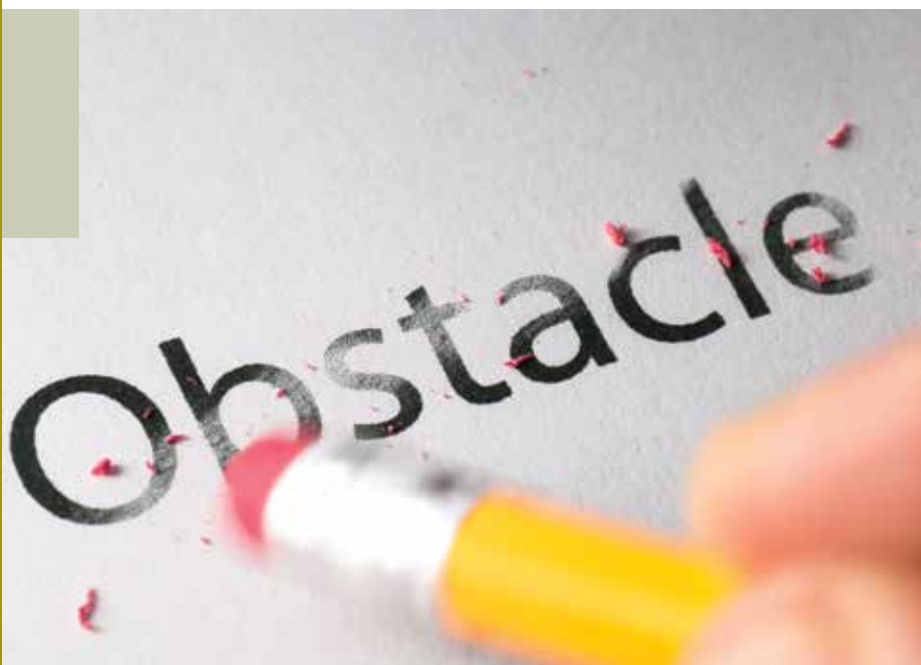
First and foremost, there is a pipeline issue.⁷ The number of minorities entering law school has decreased significantly in recent years, resulting in a diminished pool of diverse candidates from which law firms can choose. Moreover, this demographic is likely naïve concerning the realities associated with attaining positions in large law firms because of their lack of exposure and, accordingly, are often deemed less desirable candidates for associate positions within large law firms than their nonminority counterparts.⁸ For example, because women of color are often the first within their families to enter into the legal profession or attend graduate school, they lack the insight nonminorities have with respect to not only the need to attain stellar grades, but more importantly, the ability and understanding of how to access the

materials necessary to ensure success, such as fully vetted course outlines that are often shared only among their white classmates.⁹ Thus, without the proper guidance and mentoring to help them define their goals and focus on the proper success strategies, many women of color are simply unaware of important survival skills until well into their law school experiences; in many instances, their grades have already suffered.

Another reason women of color fail to succeed within law firms is because of the firms’ inability to understand and subsequently develop strategic initiatives to ensure their retention.¹⁰ Some of the women interviewed during the course of the ABA initiative reported leaving their law firms because of quality-of-life concerns. There is a perceived flexibility associated with in-house positions and, moreover, there is no billable hourly requirement.¹¹ Notwithstanding this fact, minority women of color report they do not leave firms because they want to avoid hard work; rather, they leave because they are “seeking ways to work smarter—ways that will enable them to have fulfilling careers without neglecting their families.”¹² Consequently, it is incumbent upon law firms to understand this reality and respond by offering more flexible work schedules or alternative ways women of color can contribute to the firms’ success, which may not ultimately be reflected in raw billable hours. It is also important to note that many other women interviewed during the ABA study indicated that even though their respective firms had diversity committees and, in some instances, women’s initiative committees, these groups were not necessarily designed to address their unique issues and concerns, and the women did not feel fully integrated into the firm’s larger diversity goals.¹³

Finally, women of color cite barriers to advancement as another reason they choose to flee law-firm life.¹⁴ Essentially, these women report having difficulty forming the relationships necessary to build the critical books of business required to attain partnership status within a firm. This issue is largely attributable to a lack of mentorship/sponsorship and socioeconomic factors which, in all

fairness, law firms have no direct involvement in creating. However, the harsh reality is that women of color are less likely to be groomed to ascend to leadership positions once hired into large firms because, more likely than not, those in a position to sponsor, promote, and advocate for their ascension are white males who, for better or worse, tend to gravitate toward those who look more like them.¹⁵ This phenomenon largely derives from the undeniable fact that women of color historically come from less-privileged backgrounds than their white counterparts and, as a result, often lack the networks and support from individuals (both inside and outside the firm) who can help boost their careers.¹⁶



Working to improve diversity takes time, money, and dedicated leaders who refuse to waver from the ultimate goal of making their respective law firms more inclusive environments for minority females.

So what can law firms do? How do they turn the tide and increase the representation of women of color within their ranks? Following the completion and subsequent publication of its 2006 findings, the ABA Commission on Women in the Profession turned its attention to examining the strategies of women of color who succeeded in entering the partnership ranks.¹⁷ The Commission identified two strategies law firms should pursue simultaneously to achieve “sustained success” with women of color: implementing institutional changes in the way law firms are run and providing resources and support to empower individual women of color to develop the skills and network to succeed in spite of the barriers currently existing in law firms.¹⁸ More specifically, the following strategies were suggested:

- Grow and sustain active outreach to women of color through the firm’s recruiting efforts.
- Develop concrete tools through which progress can be traced, analyzed, and measured.
- Develop various channels throughout the firm in which inclusive formal and informal networking can occur and connect the networking activities to foster greater dialogue between persons of varied backgrounds, ethnicities, and races.
- Develop quantitative measures for tracking and analyzing the flow of work within all the practice groups in the firm and hold leaders of practice groups accountable for ensuring work is distributed in an equitable and unbiased way.
- Create general categories of skills and knowledge that younger lawyers can use to monitor their own success (e.g., develop and communicate core competencies for the various seniority levels and practice areas within the firm, including specific expectations for partnership selection).
- Build systems of self-advocacy into the attorney evaluation processes and ensure that attorneys who are evaluating other attorneys are trained to do so in an open, effective, and unbiased manner.
- Integrate business development skills—building into all areas of an attorney’s growth in the firm.
- Develop a succession planning strategy for the firm that integrates the inclusion of senior associates and junior partners in key committees.
- Create an effective diversity committee or similar leadership structure by ensuring meaningful participation by firm leaders, clear strategic planning around diversity issues, and adequate resources to effectively execute those strategies.

The Commission argued that if law firms are diligent in implementing the above strategies, an environment will be created allowing women of color to thrive.¹⁹ Notwithstanding this argument, the Commission acknowledged that women of color who choose to work in law firms must share in the responsibility and ultimate accountability for their own success. The Commission’s compilation of the perspectives, insights, and advice obtained from minority female partners who contributed to the underlying study resulted in the following success strategies for women of color:²⁰

- Believe in yourself, and do not let anyone shake that belief.
- Give excellence. Get success.
- If you cannot find mentors, you must create them. Seek out mentors rather than waiting for them to come to you.
- It takes a village to raise a lawyer. Accept the fact you need help from informal networking groups, babysitters, and cleaning services.
- Network, network, network.
- Recognize it is all about a book of business. Focus on strategies like hiring a personal coach to aid in developing necessary skills.
- Take care of yourself. It’s a marathon, not a sprint—success in firms is one part intellect and four parts stamina.
- Show up. Speak up. Be visible to the people in your firm, and when you attend events, walk up to people and talk.

As an African-American female partner at a large firm, I can attest that many of the findings in the ABA Commission’s 2006 study are true, and the data depicting the underrepresentation of



my demographic in law firms is indisputable. As of the writing of this article, I regrettably admit I am the first and only African-American female partner at my firm of more than 300 attorneys. Thus, the Commission's study and subsequent findings only confirm my daily reality. Working to improve diversity is something I believe my firm wants to do. The problem is putting together a sustained effort to effectuate that change and creatively develop initiatives ensuring the type of success we all believe is possible. This type of effort takes time, money, and dedicated leaders who refuse to waver from the ultimate goal of making their respective law firms more inclusive environments for minority females. The Commission's suggestions are helpful and provide a great starting point for individuals and firms grappling with the question of how to begin. My hope is that by discussing this issue, firms are not only reminded of the need for change but are educated about the means for actually effectuating change. Women of color do not want a handout; we do want a hand up, and the same opportunities as our nonminority counterparts. ■

As of the writing of this article, Michelle P. Crockett was a partner in Miller Canfield's labor and employment group. She joined the firm in 2001 as an associate and became a partner in 2008. In late 2012, Michelle was appointed the firm's diversity director. In August 2013, she left Miller Canfield to assume her new role as general counsel of the Education Achievement Authority of Michigan.

ENDNOTES

1. Schwartz, *Racial Diversity Efforts Ebb for Elite Careers, Analysis Finds*, NY Times, May 27, 2013, p A1.
2. See ABA Commission on Women in the Profession, *Visible Invisibility: Women of Color in Law Firms Executive Summary* (2006).
3. ABA Commission on Women in the Profession, *Visible Invisibility: Women of Color in Fortune 500 Legal Departments Executive Summary* (2012), p 8.
4. *Women of Color in Law Firms*, n 2 *supra* at 9.
5. *Women of Color in Fortune 500 Legal Departments*, n 3 *supra* at 9.
6. *Id.* at 10.
7. See *id.* at 7.
8. ABA Commission on Women in the Profession, *From Visible Invisibility to Visibly Successful: Success Strategies for Law Firms and Women of Color in Law Firms* (2008), p 8.
9. *Id.*
10. *Women of Color in Law Firms*, n 2 *supra* at 11.
11. *Women of Color in Fortune 500 Legal Departments*, n 3 *supra* at 8.
12. *Id.*
13. *Women of Color in Law Firms*, n 2 *supra* at 11.
14. *Id.* at 10.
15. *Women of Color in Fortune 500 Legal Departments*, n 3 *supra* at 9.
16. *Id.*
17. *Success Strategies for Law Firms and Women of Color in Law Firms*, n 8 *supra* at 12-16.
18. *Id.* at 7.
19. *Id.* at 14.
20. *Id.* at 14-16.