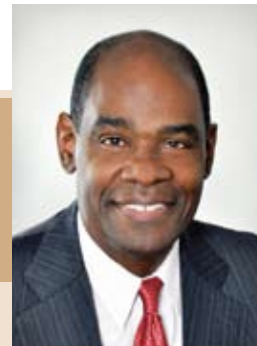


Diversity Matters

Here and Now



W. Anthony Jenkins

In my previous President's Page, I shared with you highlights of my personal story to illustrate the importance of learning to step outside of the silos that we all so often become comfortable living in, embracing a larger and more diverse slice of life, and challenging ourselves and others to do likewise. The bottom line is that stepping outside of your personal comfort zone and learning to accept, respect, and value people who differ from you—those who come from different backgrounds, experiences, cultures, and the like—can yield great personal benefits in the form of rich and rewarding experiences. I believe that, as a profession, we will all benefit if we work at becoming more diverse.

Since beginning my term as SBM president, I have met and visited with hundreds of lawyers and judges across the country. Many have asked me whether and why diversity still matters for our profession. My answer is: it absolutely does, and here's why.

Why Diversity Matters

Recent studies show that although the legal profession is far more diverse and inclusive today than at any time in our nation's history, obstacles to equal access and opportunity for success in the profession remain:

- Between 1993 and 2008, approximately 3,000 first-year students were admitted to U.S. law schools, but the percentages and numbers of African-American and Mexican-American students declined during that period despite the fact that both groups improved their respective college grade point averages and LSAT scores.¹
- Women comprise just over 50 percent of the U.S. population and nearly half of those entering law schools today, but comprise only 33 percent of the U.S. law-

yer population, 20–25 percent of the judiciary, and approximately 18 percent of law firm equity partners.²

- Racial and ethnic minorities are approximately 33 percent of the U.S. population, but represent only 10 percent of the U.S. lawyer population, less than 10 percent of judges, and approximately 6 percent of law firm equity partners.³
- Approximately 25 percent of all medical doctors, 21 percent of all accountants, and 18 percent of college professors are people of color, but, again, the figure is 10 percent for the U.S. lawyer population.⁴
- The attrition rate from law firms for women of color is nearly 100 percent after about 8 years.⁵
- The proportion of attorneys of color in the country's largest 200 law firms has decreased for the first time in the past 10 years; between September 2008 and September 2009, such firms lost 5 percent of their nonminority attorney population, 9 percent of their Asian-American and Hispanic attorneys, and 13 percent of their African-American attorneys.⁶

The trends in Michigan are just as bleak:

- Among all active SBM members in Michigan who reported their race and ethnicity (24,594 or 74.3 percent of respondents),

lawyers of color make up merely 15 percent of Michigan's lawyer population.⁷

- Although they comprise nearly 50 percent of the general population and 50 percent of first-year law school classes, women comprise just 31 percent of SBM membership.⁸
- In 2008, a total of 596 individuals became SBM members. Of this number, 3.5 percent were African American (in 1985, it was 7.8 percent) and 1.5 percent were Hispanic Latino-Americans.⁹

These trends are striking. They run counter to recent U.S. demographic trends showing that the U.S. population is more ethnically and racially diverse than ever before, and increasingly so.¹⁰ They also run counter to the growing need for broad and diverse cultural competencies in business settings with rapidly expanding technological and financial links across borders and into niche markets.¹¹ Moreover, the trends run counter to the fundamental notion of fairness and equality that are the hallmarks of our legal heritage and undercut public confidence in our justice system and in the rule of law and other important rationales.¹²

Modest Proposals

The big-picture challenge is to shift the diversity paradigm. The dialogue about diversity must move beyond its traditional

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borders of race, gender, and ethnicity to include persons with disabilities; the lesbian, gay, bisexual, and transgender (LGBT) community; and seniors. And the dialogue must go beyond measuring success by sheer numbers alone; rather, the focus must be on building cultures inside workplace environments where diverse perspectives are respected and valued based on how those perspectives contribute to the mission and work of an organization and, in some cases, how they contribute to the bottom line. In addition, more effort and success is needed on diversity in the “educational pipeline”¹³ and informal and formal mentorship programs—first to get more diverse students admitted to and graduated from law schools, and then to train and groom them for successful careers. Scholarships and loan forgiveness are important tools that make it easier for people with diverse backgrounds to undertake legal careers. Mentorships are essential to success for any new law school graduate and perhaps more so for people with diverse backgrounds who often lack role models in their places of employment.

How the State Bar is Helping to Meet the Challenge

Although racial and ethnic minorities, women, people with disabilities, the LGBT community, and seniors face less exclusion today than in the past, I borrow the words of poet Robert Frost to remind all of us that, as a profession, “[we] have miles to go before [we rest].”

Here is what the SBM is doing to help meet the challenge:

- The SBM Board of Commissioners has unanimously adopted Michigan’s Pledge to Achieve Diversity and Inclusion in the

Profession, which is a “Call to Action”¹⁴ on the part of individuals and legal organizations to renew commitments to achieve a diverse and inclusive workplace environment and adopt meaningful and culture-specific assessment tools by which to measure and recognize success.

- Creating an SBM Presidential Diversity Advisory Group comprised of diverse representatives from law firms, corporate legal departments, special-purpose bar associations, and governmental entities to provide input and counsel regarding appropriate survey mechanisms and assessment tools to be developed and used in connection with the pledge.
- Seeking diverse representation in the membership of the SBM Executive Committee and all committees and sections through the presidential appointment process.
- Issuing an SBM presidential “Call to Action” addressed to the chairs of all committees and sections to support the pledge and urge them, where appropriate, to form permanent subcommittees to undertake diversity-related initiatives and programming as part of that section’s or committee’s regular work.
- Using the SBM website as a centralized source of data collection and reporting, including plans for a calendar of scheduled diversity-related events and programs sponsored by Michigan-based bar associations and law schools.

An ancient Chinese proverb says that “any journey of a million miles begins with the first step.” As the SBM continues its journey toward diversity and inclusion, and as I continue my own personal journey during my term as president, I ask, again, that

you do your part individually or on behalf of any legal organizations of which you are a member. Visit the SBM website at <http://www.michbar.org/diversity/pledge.cfm> and become a signatory to the pledge, and do it today! ■

FOOTNOTES

1. A Disturbing Trend in Law School Diversity, a collaboration between the Society of American Law Teachers and the Lawyering in the Digital Age Clinic at the Columbia University School of Law <<http://blogs.law.columbia.edu/salt/>>. All websites cited in this article were accessed December 16, 2010.
2. ABA Presidential Initiative, *Diversity in the Legal Profession: The Next Steps* (April 2010), available at <<http://www.new.abanet.org/centers/diversity/PublicDocuments/Next%20Steps%20Final-Virtual%20Accessible%2004210.pdf>>.
3. *Id.*
4. See ABA Commission on Racial and Ethnic Diversity in the Profession, *Miles to Go Report: Progress of Minorities in the Legal Profession* (2004).
5. See ABA Commission on Women in the Profession, *Visible Invisibility: Women of Color in Law Firms* (2006), p 9, available at <<http://www.abanet.org/women/VisibleInvisibility-ExecSummary.pdf>>.
6. See Barker, *Diversity Scorecard 2010: One Step Back*, *The American Lawyer* (March 1, 2010), available at <http://www.law.com/jsp/tal/PubArticle1AL.jsp?id=1202444097605&src=EMC-Email&et=editorial&bu=The%20American%20Lawyer&pi=Am%20Law%20Daily&cn=am_law_daily_20100301&kw=One%20Step%20Back&slreturn=1&hblogin=1>.
7. See State Bar of Michigan Member Demographics Report (2009–2010).
8. *Id.*
9. *Id.*
10. U.S. Census Bureau <<http://www.usnews.com/articles/opinion/2008/08/18/data-points-changing-vs-demographics.html>>.
11. See Justice O’Connor’s opinion in *Grutter v Bollinger*, 539 US 306, 308; 123 S Ct 2325; 156 L Ed 2d 304 (2003). “Major American businesses have made clear that the skills needed in today’s increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.”
12. *Id.* at 308. “Moreover, because universities, and in particular law schools, represent the training ground for a large number of the Nation’s leadership [citing *Sweatt v Painter*, 339 US 629, 634; 70 S Ct 848; 94 L Ed 1114], the path to leadership must be visibly open to talented and qualified individuals of every race and ethnicity.”
13. The ABA Council for Racial and Ethnic Diversity in the Educational Pipeline provides services to increase diversity among students at various stages in the educational pipeline to the legal profession. Details on specific programs are available at <<http://www.abanet.org/centers/diversity>>.
14. See Palmore, *A Call to Action: Diversity in the Legal Profession* (October 2004), available at <<http://www.abanet.org/women/leadershipacademy/2010/handouts/calltoaction.pdf>>.