

# An Update to My June 1985 President's Page

By Dennis W. Archer



The June 1985 *Michigan Bar Journal* focused on black lawyers. In my President's Page in that issue, I wrote about the work of the American Bar Association's Task Force on Minorities in the Legal Profession. I shared my views and those of others for why prompt action was needed to hire black lawyers.

In the 30 years since, much has been accomplished. But much more remains to be done.

In 1986, the American Bar Association adopted Goal 9 (now Goal 4), making diversity and inclusion the ABA's highest priority. At the same time, the ABA Board of Governors created the Commission on Opportunities for Minorities in the Profession. I was privileged to be its first chairperson.

From its beginning, the commission has raised the level of consciousness and commitment to diversity of ABA sections, divisions, task forces, commissions, committees, and staff. Within the ABA, we observe that lawyers of color are chosen to teach or present on CLE programs, selected to become judicial clerks following graduation from law school, placed on tenure track as law professors, and elected and appointed to leadership positions in ABA sections and divisions and as chairs of committees, commissions, and task forces.

In 1987, the Commission on Opportunities for Minorities in the Profession created the Minority Counsel Demonstration Program for which I also served as the first chairperson. The corporate general counsel leaders were Steve Middlebrook (Aetna Insurance), Roy Richie (Chrysler), and Harry Pearce (General Motors). The goal was to have six Fortune 500 companies, six large majority law firms, and 21 minority-owned law firms participate in a program that would prove general counsels could use the services of lawyers of color in large firms and minority-owned firms and receive outstanding, cost-effective legal services without reducing their quality standards. Two Detroit law firms—Dickinson Wright and Lewis, White, Clay and Munday—participated. When I stepped down as chair a few years later, the program had attracted 139 corporations, 39 large law firms, and 59 minority-owned law firms. Roy Richie documented that the general counsel spent \$77 million for legal services provided by program participants and other firms outside of the program while receiving quality, cost-effective legal services.

Veta T. Richardson is the first person of color to be president and CEO of the Association of Corporate Counsel. The first person of color to be elected chair was Jim Jenkins, former general counsel from Dow, now at John Deere; the second was Richard White of AAA Michigan in 2007. Today, the association has 55 chapters and more than 30,000 corporate counsels around the world and has become a working partner with the Minority Counsel Demonstration Program. It is committed to promoting and increasing the diversity of the legal profession. As the voice of the in-house bar, it provides members with resources to identify diversity initiatives and support diversity within their legal departments.

In 1997, the Minority Corporate Counsel Association was founded to advocate for greater hiring, retention, and promotion of minority attorneys in corporate law departments. Joseph West, a former member of Walmart's general counsel's office, is its president and CEO. This association was among the first to advocate that law firms institutionalize the role of the diversity professional and give the position sufficient resources to lead and manage change in law firms. It has more than 200 corporate general counsel members and upwards of 100 participating large law firms. If you recall back in 1982–1983, social scientists and demographers were writing about a phenomenon they called the “browning of America,” predicated on the basis of birth rates and relaxed immigration rules. They predicted that by 2056, the majority population in America would be people of color, and Hispanics would become the largest single ethnic majority group. Satisfied that those predictions had merit, corporate America started to change in order to earn its market share of the emerging majority-minority population with discretionary money to spend. The Census Department declared in 2003 that Hispanics were the largest ethnic majority group in the U.S., and in 2008 it predicted that between 2035 and 2042 the majority population in the U.S. would be people of color.

In 2001, the Billion Dollar Roundtable was created to recognize and celebrate corporations that spent at least \$1 billion a year with minority- and women-owned suppliers. Its vision was to “lead, influence, and shape supplier diversity excellence globally.” Current corporate membership in the roundtable includes AT&T; Avis Budget Group,

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Inc.; Bank of America; The Boeing Company; Chrysler LLC; Dell, Inc.; Ford Motor Corporation; General Motors Corporation; Honda North America; IBM Corporation; Johnson Controls, Inc.; Johnson & Johnson; Kaiser Permanente; The Kroger Company; Lockheed Martin Corporation; Microsoft; Procter and Gamble Company; Toyota Motor North America, Inc.; Verizon Communications, Inc.; and Walmart Stores, Inc. Having served on the board of directors for Johnson Controls for 12 years and as a consultant on Walmart's Employment Practice Advisory Panel from 2006 to 2010, I know that both companies—as well as other companies I worked with while serving as mayor of Detroit—are very serious about their intent. Indeed, it was widely talked about when Walmart general counsel Tom Mars removed more than \$60 million of work from law firms that did not exercise their discretion to hire the diverse legal talent Walmart needed to represent its interests.

In 2009, Robert J. Grey Jr., a partner in Hunton & Williams and my successor as ABA president, became the executive director of the Leadership Council in Legal Diversity. The council has more than 200 members and is the result of Rick Palmore's call to action when he was general counsel for Sara Lee (Palmore is now general counsel at General Mills). The council advances diversity in the legal profession, focusing on recruiting, retaining, and promoting talented individuals from diverse backgrounds. Its members are general counsels for the leading corporations in America and the managing partners of the nation's most prominent law firms.

The Census Department in 2011 predicted that somewhere between 2015 and 2019, the majority of the people living in the United States 18 years of age and younger would be people of color. Today, the majority of all babies born in America are babies of color. Our K–12 systems, followed by undergraduate colleges and universities, will educate this new majority. Eventually, so will law schools. Corporate America, led by the Billion Dollar Roundtable, will clearly step up its efforts to earn a bigger share of this emerging majority-minority population with discretionary money to spend.

In an article entitled "The Diversity Crisis: Big Firm's Continuing Failure" in the May 29, 2014 issue of *The American Lawyer*, Julie Triedman wrote:

For black partners, The Am Law 100 is a lonely place. More than a quarter-century after the first national efforts to boost the presence of black lawyers at large firms, African-American partners remain so rare that at most firms, they can be counted on one hand, even though the average Am Law 100 firm has more than doubled in size in the past two decades.

In 2013, only 1.9 percent of partners—one in 54 at the 223 firms that submitted data for our Diversity

Scorecard—were black, a percentage that hasn't changed in five years. For black women partners, the numbers are even worse: They average just one in every 170 partners in our surveyed firms, half the number of black male partners, according to data collected by the National Association for Law Placement.

For black associates, the situation is not much better. The recession was a disaster for lawyers of all minorities at large firms; they were almost twice as likely to be laid off as their white peers. Between 2008 and 2009, the numbers of minority lawyers at the nation's largest firms dropped by 9 percent, mostly associates.... The percentage of black lawyers at the largest firms is now at a level not seen since 2000: 3 percent of all lawyers, down from 3.1 percent in 2012.<sup>1</sup>

Given the imminent demographic shift to people of color with flexible dollars to spend, I wonder what the general counsel of the corporations who belong to the Billion Dollar Roundtable and the general counsel in the Minority Counsel Demonstration Program, Association of Corporate Counsel, Minority Corporate Counsel Association, and Leadership Council in Legal Diversity will do in their efforts to assure that their corporations earn market share of the dollars that will be spent in the future. As for large law firms, I know what Dickinson Wright is doing. General counsel have let it be known what they want and expect by way of legal talent to provide services for which they are willing to pay. They will not incentivize. I also know what the State Bar of Michigan and the American Bar Association are doing. The State Bar has had four presidents of color since 1983. The ABA, since 2003, has had three presidents of color. In August, it will add a fourth—the first woman of color, Paulette Brown. At our 2015 ABA mid-year meeting in Houston, four lawyers ran unopposed for national office: three were women, one African American and one Native American.

What is your firm doing? ■



*Dennis W. Archer is chairman and CEO of Dennis W. Archer PLLC and chairman emeritus of Dickinson Wright PLLC. He was the first person of color elected president of the American Bar Association (2003–2004) and the State Bar of Michigan (1984–1985). He served as mayor of Detroit (1994–2001), on the Board of Trustees of the U.S. Conference of Mayors, as president of the National League of Cities (2000–2001), and associate justice of the Michigan Supreme Court (1986–1990).*

## ENDNOTE

1. Triedman, *The Diversity Crisis: Big Firms' Continuing Failure*, *The American Lawyer* (May 29, 2014).