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Diversity in the Practice of Law: How Far Have We Come?

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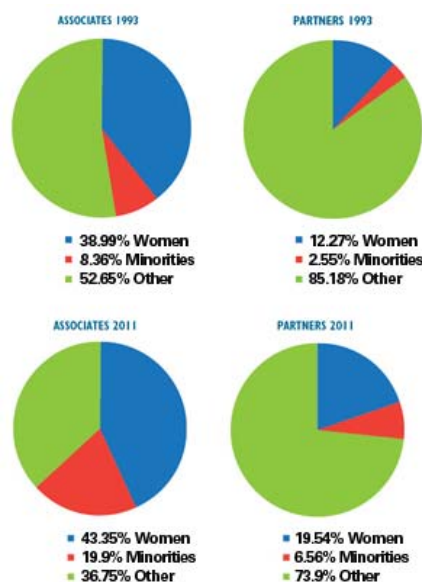
By Aviva Cuyler

[Aviva Cuyler](#) is founder and CEO of JD Supra.com, which helps members of the legal community showcase expertise by publishing, distributing, and promoting their articles, newsletters, filings, and decisions online.

Almost 50 years ago we enacted the Civil Rights Act of 1964, the watershed piece of legislation that outlaws discrimination based on race, color, religion, sex, or national origin. With our legal system at the forefront of this country's efforts to achieve equality, one might assume that legal practitioners would, themselves, be at the forefront in their treatment of minorities in the workplace. The stats and anecdotes, however, tell a different story.

The Stats

Twenty-five years after the Civil Rights Act of 1964, even in one of the most liberal states in the country, California, there was still an enormous disparity between the percentage of minorities in the population and the state's business lawyers—prompting the foundation of the California Minority Counsel Program (CMCP). And, according to Marci Rubin, executive director of the CMCP, “while strides have been made, and the numbers of minority law firm partners and



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associates and corporate counsel at all levels has increased, the legal profession is far from reflecting the diversity demographics of those admitted to the Bar, let alone the population as a whole.” A comparison of the 1993 versus the 2010–2011 data from the Directory of Legal Employers Diversity and Demographics Report of the NALP (National Association for Law Placement) fully supports this conclusion. (See the charts at right.)

Clearly, while the percentages of women and minority associates have grown over time, a disproportionately small percentage of these attorneys achieve partner status at their firms.

According to Rubin, things recently got even worse:

Minority attorneys were disproportionately impacted by the downturn in the economy. Approximately 1,300 of the 5,834 attorney layoffs between September 30, 2008, and September 30, 2009, were minority attorneys. Though minority attorneys accounted for only 13.9 percent of attorneys at firms surveyed, they accounted for 22 percent of the layoffs. The percentage of African American attorneys dropped by 13 percent (462), Asian Americans dropped by 9 percent (556), and Hispanics dropped by 9 percent (282).

The Stories

Although the numbers may seem disheartening, the women and minority attorneys we interviewed do not seem to be disheartened themselves. Perhaps it is the nature of pioneers, but when asked about their experiences, these attorneys, though clearly facing challenges, focused primarily on their sources of strength, growth, and opportunity. Their experiences may have varied considerably, but, as the series of vignettes below reveals, one theme pervades: Access to mentors is a key to success.

On Law School and Entering the Legal Profession

Yery Marrero. *Marrero is a partner at Marrero Borzorgi and received her JD from Loyola University New Orleans College of Law in 1988. Her practice focuses on criminal defense litigation, with a special focus on white-collar criminal defense, murder, capital cases, drug cases, subpoena representation, grand jury representation, and criminal investigations.*

When I graduated from law school in 1988, there were fewer women than men obtaining law degrees, and even fewer Hispanics. In law school I helped start a group for Hispanic law

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students, the first organization of its kind at Loyola University New Orleans College of Law. Then I received my JD and headed back to Miami to start practicing; you would think that Miami would be filled with Hispanic lawyers, but that just wasn't the case. At that time, even in Miami, it was still rare for Hispanics to hold positions of power in the legal community. Hispanic partners at larger law firms were few and far between, and there were only a handful of Hispanic judges.

I was welcomed and supported by the small and growing Hispanic legal community, which became critical to my growth as a lawyer. At the time, one of the only Cuban judges introduced me to a Cuban supervisor at the public defenders office, where I was starting my first job. That supervisor became one of my most important mentors. I felt lucky to be supported and encouraged by my fellow Hispanic colleagues, but I was also keenly aware that things weren't the same in other parts of the country.

Tania Carreno-Mederos. *Carreno-Mederos is a partner at Hellman Mederos & Yelin and received her JD from Cornell Law School in 1993. Her practice is focused on health law, and she has been recognized as a "Top Up and Comer" and "Top Lawyer" in Health Law as published in the South Florida Legal Guide (2008–2012).*

Having grown up as a Cuban American in Miami, Florida, I never really felt that I was treated differently because I was a minority. I attended public schools in my neighborhood, where I was actually not a minority. Most of the students were of Hispanic descent. The only barriers I encountered were the lack of financial resources and unfamiliarity with the process for accessing higher education. Nonetheless, my father's words held true—"if someone else can do it, you can, too, so long as you set your mind to it and work hard."

With scholarships, financial aid, and hard work, I was the first in my family to graduate from a university and attend graduate school. My father was right—despite any disadvantage, my efforts afforded me not just the opportunity to attend college and graduate school but the opportunity to attend an Ivy League law school.

Up until I first left home and moved out of state to attend Cornell Law School in 1990, I had never felt or considered myself a minority, despite the fact that I was Hispanic and a woman. Once I arrived there, however, the student body never let me forget it. Unfounded comments and remarks to the effect that I was only accepted to the law school to fulfill the law school's minority quotas or that special exceptions must have been made to allow me attend the law school were common. I was even on one occasion told by a fellow law student that it was a good thing I

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planned to return home to Miami after law school so that my accent, in her opinion, would not hinder me.

Despite their misconceptions, I proudly earned my Cornell Law degree, worth just as much as those of my fellow law students. The Cornell Law and Ivy League branding, despite my minority status, opened job placement doors that were frankly not made available to others who had attended local schools. Of course, once in, at either the Miami-Dade County Attorney's office or even at the international law firm of K&L Gates, I had to work hard and prove my value.

Diane Whitney. *Whitney is an attorney at Pullman & Comley and received her JD from the University of Connecticut School of Law in 1985. Whitney is chair of the firm's Environmental Law Group and previously served as assistant attorney general for the state of Connecticut.*

I graduated from law school in 1985—at the age of 40. I did not feel any discrimination in law school, but I did when looking for a job. Though near the top of my class in grades, the top jobs went to young men with significantly worse grades. I don't know if the reason was my sex or my age, or a combination.

Essence McGill Arzu. *McGill Arzu is a partner at Foley Hoag and received her JD from Columbia Law School in 2000. She has a highly varied business law practice advising public and private company clients on numerous transactional and organizational issues. In 2011 she was selected to participate in the Women's Leadership Initiative, established by the Women's Bar Association to bring together senior women attorneys and up-and-coming stars of the legal profession for mentoring and leadership development.*

I attended law school from 1997 to 2000. I was lucky to be in an environment at Columbia that was fairly diverse. We had a strong contingent of African American students, a wide array of foreign students from the LLM program, and a number of students who had prior experiences in diverse environments. Our affinity organizations were very active (Black Law Students Association, Women Student Group), and students and faculty supported each other through the good, bad, and ugly of law school.

However, when I went out into the world of law firm practice, diverse lawyers

from my law school were spread to the wind, and we all found ourselves to be "one of only a few" or "the only one" in our respective firms. Most attorneys of color were either relegated to the less trendy or lucrative practice groups or left to languish doing endless document review or other lower-level work. I was again lucky that, although one of only two African American attorneys at my firm, I was at a smaller firm and was staffed on

some of the larger deals in the corporate group. I was given significant mentors who took me under their wing and made sure that I didn't get lost in the shuffle. This guidance was critical in helping me train, excel, and ascend in that firm and, when I moved to Boston, in my next firm.

Vikram Reddy. *Reddy is an attorney at Wu & Cheung, LLP, and received his JD from the University of Southern California Gould School of Law in 2003. He practices in business and intellectual property litigation.*

As a young Indian American attorney, the biggest challenge I found was overcoming my inexperience, not the color of my skin. Although I encountered my fair share of opposing counsel who attempted to use my inexperience to their advantage or otherwise underestimated me as a young lawyer, I never felt any disparate treatment as a result of being a minority.

Marlon Hill. *Hill is a partner at DelancyHill and received his JD from Florida State University College of Law in 1995. He is immediate past president of the Caribbean Bar Association.*

My success is directly connected to having a relationship with both minority and non-minority mentors who are committed and invested in my progression. In fact, they benefit from my success through referrals and professional fulfillment.

When you come out of law school, mentors are not immediately available. As a newly minted minority lawyer, you have to be proactive. In addition, as law school was out of my hometown, I had to re-acclimate myself to the market and business environment.

I connected to mentors through the local minority voluntary bar associations. Past leaders of these organizations understand the journey of being a minority lawyer. Mentors also provide great insights into the realities of the hometown market.

Christa D. Perez. *Perez is a partner at Friedman Stroffe & Gerard and received her JD from Southwestern University School of Law in 1995. She is a member of the firm's Corporate and Business and Intellectual Property Practice Groups.*

I attended law school from 1992 to 1995. At that time, there were just as many women attending my school (Southwestern University in Los Angeles) as men, if not more. In the school setting, I definitely did not view women as a minority at that time. Many, if not most, of the top students in our class were women, and many of the most coveted summer associate and externship positions went to women.

In law practice, however, I have seen that women are treated differently, largely owing to our roles as wives and mothers. In the school environment, everyone identified with each other as

students and there were fewer outside forces that influenced us or pulled us in different directions. Intellectually and academically, I think women are viewed and treated equally, but when you step into the workplace, the pull of family and home still affects women more negatively than men.

On How Things Have Changed (or Not)

Yery Marrero: Twenty-four years after graduating from law school, everything has changed. Today Miami has many Hispanics who are partners in large law firms, and our state and federal bench have both seen a considerable increase in Hispanic judges. The fact that we now have a Hispanic woman sitting on the U.S. Supreme Court speaks volumes. And these changes are no longer unique to Miami—things have begun to change throughout the country. There has been a drastic change in the diversity landscape over the last 24 years. It is a unique perspective to watch things changing slowly over time, but the reward is to know that this new, diverse landscape presents endless possibilities for the next generation of Hispanic lawyers.

Tania Carreno-Mederos: I do believe greater access is being given to women and Hispanics within the law profession. Once given the opportunities, I and other minorities have successfully proven our professional value in various settings. I do not believe that we are treated differently for being Hispanic, especially in Miami. We are, perhaps, only lagging in establishing the extensive networking and mentoring programs successfully employed by the non-minority lawyers. That is an issue we, as minority lawyers, should strive to improve.

With regards to being a woman, however, the barriers are, in my opinion, still quite high. More women are attending law school and being hired at large law firms. However, I dare say that those women who choose to be successful lawyers and also devote time to raising children still have to fight an uphill battle to fit into the male-dominated model of practicing law.

In my experience, many men and women lawyers who have not had children or are not interested in undertaking the daily activities of child rearing still insist that a woman lawyer must choose either to pursue the partnership track or the mommy track, but not both. If you choose the partnership track, then you are expected to have someone else take care of your children. If you choose the mommy track, you are expected not to aspire to gain equity partner status.

As a devoted professional and the mother of three wonderful children, I have sought and still continuously strive to have both. Despite the best intentions, attempts made at several of the firms

where I have worked to implement work/life balance initiatives or flexible schedules to allow women attorneys to pursue their legal careers and raise children have, for the most part, failed.

In my experience, despite the quality or quantity of your work, if you choose a “flexible” schedule as a woman attorney, you are actually choosing to be paid a lower salary and to be put on a slower partnership track, while still being expected to meet and be evaluated by the billable hours requirements of other attorneys who choose a regular schedule. For the “privilege” or “favor” of being allowed to occasionally, at the boss’ discretion, attend my children’s school functions or celebrations, I actually ended up working much longer hours, through the night, on weekends, on holidays, etc., while being paid and being treated as a less than equal associate or partner.

Diane Whitney: My impression is that there is now less discrimination against women; I don’t know whether there is still a problem for older law school graduates, but I suspect that there still is.

I believe that women law school graduates now receive close to equal treatment with male graduates, largely because female lawyers have proven their worth. However, there are still situations where new mothers receive what has to be considered punitive treatment.

Essence McGill Arzu: It feels as if we’ve taken three steps forward, but then owing to the 2008 recession we’ve taken two steps back.

Recruitment of attorneys of color at major law firms increased exponentially, with firms interviewing at law schools rich with students of color and engaging in partnerships with affinity bars. The ranks of junior associates swelled from 2001 through 2008, and it seemed as if the pipeline was increasing from college, to law school, to associate, and to partner.

However, there have been two major problems—one systemic and one a setback of the times:

1. Although associate ranks have swelled, the ranks of partner and equity party have remained stagnate and even decreased in certain cities. As an example, I am only one of two African American women partners in a major law firm in Boston. Attorneys of color are not in general getting matched with the kind of mentors or staffed on the kind of projects that lead to elevation within their firm.
2. As has been chronicled in many publications, the recession and layoffs in the legal field had a disproportionate effect on attorneys of color, and now we are faced with a wealth of trained attorneys flooding the marketplace. This also causes interruptions in the ascension of attorneys of color into positions of power within law firms.

Vikram Reddy: Prejudice and bias in the legal profession will always exist to some degree; however, because diversity has

become more and more the norm in law schools, law firms, businesses, and courtrooms over the last ten to 15 years, in my opinion attorneys need be less concerned today that they will be judged and evaluated on anything but their talent, productivity, and performance.

My experience has shown that attorneys who are best prepared and most committed will be successful, regardless of whether they are a minority.

Marlon Hill: There has not been an extraordinary change since I was in law school. We are still lagging in our broader diversity. There are opportunities for improvement.

It is my impression that the lack of change results from a lack of collective will in our bar leadership on a consistent basis. We have to raise diversity to a higher priority level and recognize that America is changing faster than we can establish initiatives.

As markets become more diverse, our profession needs to recognize that our cultural competency makes for more vibrant and profitable firms and organizations.

Christa D. Perez: In my view, the multiple roles that women play continue to result in unequal treatment in the workplace. Of course there are exceptions, and there have been improvements, but women's obligations to their children, for example, are tolerated rather than accepted. Perhaps people are not as overt or outspoken about their feelings because of political correctness, but if women have children, they are viewed in a different light than their male counterparts, even if those men also have children.

I think it is my perspective that has changed since my school days, especially now that I am a wife and a mom, rather than any real change in the overall treatment of women as a minority. In my experience, women have made great strides in terms of academic achievement and acceptance on an intellectual level, but in the workplace, the double-standard still exists. I see it more now because I am living it, but I think it has always been there.

On What Still Needs to Be Done

Marci Rubin (*Executive Director, California Minority Counsel Program*): To create sustainable and systemic change we need to:

- Increase the number of women and attorneys of color at all law firm levels, especially in decision-making positions; and
- Look beyond the numbers to diversity *and* inclusion.

This is the hard work, as it goes beyond simply hiring women

and attorneys of color. It requires a cultural shift within organizations, one that gives the same or higher priority to developing and retaining top talent once hired. Organizations that achieve this cultural shift will be those that:

- Recognize the impact of the implicit, or hidden, biases we all have—those attitudes, memories, and stereotypes that are outside of our conscious control—and the hidden barriers they raise for diverse attorney advancement, and take steps to understand those implications at every decision-making opportunity;
- Move from counting numbers to looking at the advancement opportunities for every attorney, assuring every attorney has equal access to work assignments that develop critical skills and to high-profile work assignments;
- Value diverse teams in reality by holding everyone accountable for making certain teams are diverse and all voices are heard;
- Involve senior management in all diversity efforts—leadership from the top is imperative for success;
- Make compensation, partnership or promotion expectations, and skills matrices transparent;
- Provide equal access to mentors and sponsors to all attorneys at all levels; and
- Involve women and attorneys of color in all levels of firm leadership.

Essence McGill Arzu: Focus on strategic partnering with attorneys of color (through mentoring, practice area expertise and access to key assignments, and early business development training and skill development) is critical to righting the ship. The apprenticeship model that helped generations of lawyers ascend in this profession is a good place to start for attorneys of color.

Marlon Hill: As markets become more diverse, our profession needs to recognize that our cultural competency makes for more vibrant and profitable firms and organizations. In order to pursue greater diversity in our profession, we must invest more resources in supporting legal magnet programs in minority communities and increase the numbers of law students, thus expanding the potential pool of minority professors, lawyers, and legal executives.

Vikram Reddy: During and since my time at USC, I have seen a major emphasis by law schools (particularly in California) to ensure diversity in each incoming class, including race, gender, and sexual orientation. In fact I recall certain classmates of mine that said the biggest factor for them in deciding which school to attend was a school's commitment to diversity. This type of widespread commitment over a long enough period of time ultimately leads to greater diversity in the pool of practicing attorneys, which benefits not just lawyers but our prospective clients as well.

Diane Whitney: In the future, I believe that firms have to continue efforts to facilitate young attorneys, both male and female, to manage their families responsibly while maintaining a vibrant law practice.

Tania Carreno-Mederos: In order to facilitate change to tap into the full potential of women lawyers who also choose to raise children, law firms have to recognize and reward the value of these women's contribution based on the quality and quantity of work, not solely on the number of hours billed or the "face time" at the office.

Conclusions

Where will we be 50 (or even 25) years from now? Will the percentage of women and minority partners at law firms fully represent the percentage who are practicing at these firms? As history shows, progress, however slow, is inevitable—but it is only through conscious, concerted effort that rapid change occurs.