

# Challenge the Paradigm by Reaching Out to Diverse Attorneys for Your Bet-the-Company Matters

By Diane E. Lifton, Hughes Hubbard and Reed

**A**fter law school, I joined a big firm in New York City and quickly discovered the love of my professional life: product liability, the perfect combination of science and law. Product liability, though, resembled the Wild West, so much so, that when I joined my second firm six years later, everyone referred to the experienced trial attorneys that made up the product liability practice as “the Cowboys.”

Needless to say, the promotion of women was not one of their priorities, and there were virtually no people of color at any level. I saw two paths—walk away from private practice altogether, or stay, fight my way to partnership, and take on the inequities in opportunity and in leadership. I decided to stay and fight, beginning with joining my

then-firm’s hiring committee and focusing on building as diverse a summer program and fall class as possible.

In 2000, when I joined Gibbons PC as a partner in the litigation department, I became a member of the existing (and very active) Women’s Initiative, ultimately becoming part of its Executive Council. Through that experience, I began to understand the critical role that affinity groups could play in the advancement of diverse attorneys. As a first-time partner, I also began to see the association between the “origination” of new client relationships and the law firm power construct.

When I joined Hughes Hubbard & Reed in 2008, I became involved in the Women’s Roundtable, eventually serving as a co-chair.

Our programs, have addressed many topics over the years, including setting and achieving professional goals, business generation, sexism in the profession, financial health, and the expectations of our clients.

In 2015, I became a co-chair of the firm’s Committee on Diversity and Inclusion, which we expanded through the addition of associates and counsel throughout the firm. We created a Mentoring Task Force to provide oversight and accountability to our mentoring program to provide associates with additional support in their advancement at the firm. Our Asian, Latino, Black, and LGBTQ Attorney Affinity Groups have expanded, and recently were joined by an Interfaith Attorney Affinity Group. Our 2018 summer

program and incoming fall class are 35 percent diverse.

Still, in 2017, nearly twenty years after my journey into the world of diversity and inclusion initiatives began, a Vault/MCCA *Law Firm Diversity Survey Report* concluded that the profession had stalled, with women making up only about 20 percent of equity partners, people of color 3 percent or less, with even fewer equity partners self-identifying as LGBTQ. (2017 Law Firm Diversity Survey Report, available at <https://www.mcca.com/wp-content/uploads/2017/10/Women-Leaders-in-the-Law.pdf>) (last visited on Feb. 22, 2019).

In January 2019, more than 170 general counsels and chief legal officers wrote an “Open Letter to Law Firm Partners,” demanding that firms hire, retain, and promote diverse associates to “reflect the diversity of the legal community and the companies and the customers we serve” or risk losing their in-house clients’ business. (“GCs’ Open Letter To Firms Serves As Ultimatum On Diversity,” *Law360*, <https://www.law360.com/articles/1122640/gcs-open-letter-to-firms-serves-as-ultimatum-on-diversity>) (last visited Feb. 24, 2019).

The future of diversity and inclusion in law firms lies with some of the same fundamentals firms put in place in the 2000s—building a pipeline of diverse associates, providing opportunities for their growth and advancement, and supporting our clients with talented diverse teams. But we need more. We need a revolution in the way we think about the objective, a shift in the paradigm so that diverse attorneys become leaders with the power to shape the future of private practice both in corporations and at firms.

First, the bet-your-company litigation and deal work has to come directly from in-house counsel to diverse attorneys, because having clients that generate revenue will always be central to having power in the business of law. Company boards of directors and CEOs must become more diverse, and they, along with their in-house legal teams, have to call and email diverse lawyers and give them their “bet-the-company” matters, or we will continue to lose ground.

Don Prophete and Nathaniel Lampley, Jr., two Black men who are law firm equity partners and trial lawyers, wrote compellingly of their frustration with pronouncements like those set forth in the “Open Letter” in light of the silence of their phones, despite their many accomplishments. D. Prophete, “A Black Partner Responds to GCs on Law Firm Diversity,” *The American Lawyer* (Jan. 30, 2019) (available at <https://www.law.com/americanlawyer/2019/01/30/a-black-partner-responds-to-gcs-on-law-firm-diversity/>) (last visited Feb. 24, 2019); N. Lampley Jr., “The Diversity Discussion: Big Law Partner Shares His Experiences to Help Change the Norm,” *Law.com* (Feb. 2, 2019) (available at <https://www.law.com/corpcounsel/2019/02/07/the-diversity-discussion-big-law-partner-shares-his-experiences-to-help-change-the-norm/>) (last visited Feb. 24, 2019).

Second, lasting change cannot occur until senior management at both corporations and law firms recognizes implicit bias and ensures that diverse attorneys do not struggle in isolation. As commentators have noted in response to the Nextions, LLC study, regular training and close monitoring of associate hours and assignments,

are critical to overcoming implicit bias in how work is assigned and reviewed. See, e.g., E. Hoover, “Confronting Implicit Bias: What Law Firms Can Learn from Starbucks,” *Before the Bar*, May 29, 2018 (available at <https://abafor-lawstudents.com/2018/05/29/confronting-implicit-bias-what-law-firms-can-learn-from-starbucks/>) (last visited Feb. 24, 2019). Even that, though, is not enough. Partners and senior management at companies must reach out to create one-on-one connections with diverse associates, and sponsor them for key opportunities for advancement.

Last, we can achieve greater results if those attorneys who contribute to a more diverse business through training, mentoring, sponsorship, and creating opportunities for advancement receive recognition for that work, reflected in their compensation. Firms and their company clients often seek support in their partnerships for Diversity and Inclusion initiatives by describing them as “good for business” but do not explicitly acknowledge and reward such activities. Everything law firms do to prepare diverse attorneys for success as accomplished lawyers and firm leaders IS our business.

**PDJ**



**Diane E. Lifton**

*Co-Chair of the Product Liability Group and a member of the litigation department,*

*Ms. Lifton has represented*

*a broad spectrum of product manufacturers in the coordination and trial of high stakes pharmaceutical, medical device, and toxic tort product liability, patent, and commercial litigations.*

*The views and opinions expressed in this article are those of the author, and do not represent the views or opinions of HHR.*