



FORMULATING DIVERSITY AS A CORE VALUE

June 6, 2012

Summary of Key Findings

The following research has been collected to inform the process of formulating diversity as a core organizational value. The research summarizes (1) the business case for diversity, (2) strategies for successfully operationalizing diversity as a core value, and (3) law firm examples of diversity and other core values. The business case is critical in establishing diversity as one of the organization's core values and includes potential cost savings and/or incremental revenue resulting from the following: reduced turnover, consistent client relationships and the possibility for new relationships. Once diversity is established as an organizational core value, successfully embedding the core value into the operations of the organization is the next step including senior management commitment, adequate resources, and accountability. Industry examples of diversity and other core values illustrate that diversity is critical to almost all firms but is embedded into organizations in different ways including core values, corporate social responsibility goals, and the employment brand.

(1) The Business Case for Diversity

The business case is critical in establishing diversity as one of the organization's core values and includes potential cost savings and/or incremental revenue resulting from the following: reduced turnover, consistent client relationships and the possibility for new relationships. The reason that law firms are focused on increasing levels of diversity is because women, racial minorities and LGBT attorneys have been under-represented at major law firms despite law school diversity. Firms serving corporate clients who value diversity have received some incremental revenue as a result of their diversity efforts. The increasingly diverse population will enable firms which diversify to better compete in diverse talent and competitor markets. Minority and female attorneys leave law firms at higher rates than other attorneys. One of the reasons many women and now men leave firms is to better achieve work-life goals. The lost recruiting and training costs for attorneys is high, and corporate clients absorb much of these turnover costs due to the leveraged business model of law firms. Clients are now challenging firms to focus on value delivered rather than hours worked through alternative billing and employment arrangements.

California Law Firm Critical Mass Best Practices Diversity Research

Talent Advisory Board, 1/18/2010

[http://talentadvisoryboard.com/TAB - Fenwick Critical Mass Report - Final.pdf](http://talentadvisoryboard.com/TAB_-_Fenwick_Critical_Mass_Report_-_Final.pdf)

This research study establishes benchmarks based on NALP (National Association for Law Placement) data which demonstrate the gap between minority, female and LGBT representation in law schools versus major US law firms. Although California outperforms the nation for Asian attorneys at law firms, especially in Silicon Valley, a gap still exists for under-represented minorities including African Americans and Hispanics. Although women are fairly represented at the non-partner level in California law firms, there is a persistent gap at the partner level despite the passage of many years of a relatively even distribution between women and men in law school. The research study illustrates best practices which some firms have used in California to outperform relative law firm benchmarks.

The Business Case for Diversity: Reality of Wishful Thinking?

Institute for Inclusion in the Legal Profession (IILP) and the Association of Legal Administrators, 2011

<http://www.theiilp.com/resources/Documents/IILPBusinessCaseforDiversity.pdf>

The Institute for Inclusion in the Legal Profession (IILP) published a report revealing findings on the business case for diversity as measured by incremental business gained by law firms and diverse partners from corporate counsel who are committed to increasing outside counsel diversity. The report was based on data responses collected by surveying three constituencies that are directly impacted by the business case for diversity – corporate clients, law firms, and diverse partners. Some corporate counsel have used the “carrot” to provide more business to firms who advance diversity, and others have used the “stick” to take away business from firms which do not demonstrate increased diversity. Of approximately 50 corporations surveyed, 69% use diversity as a criterion in selecting outside counsel. Of these firms, 12.5% changed their relationships with firms due to poor diversity performance mostly through reduced usage (83%) and in fewer cases through terminated relationships (17%). Of 189 firms which responded 6% said they were told their RFPs were unsuccessful in whole or part because the firm

did not meet diversity expectations. Of 165 firms which responded 20% said they had received business from clients in whole or part because of diversity, and the highest frequency response of 187 firms which reported the percentage of the firm's business received because of diversity efforts was 1-5%. More than one thousand diverse partners responded to the survey, and 23.5% said they received business from clients before those clients signed a diversity pledge while 40% said they receive business from clients after those clients expressed a commitment to diversity. The highest frequency response for the amount of business received by diverse partners from such clients was \$50,000 to \$100,000 annually. While the incremental revenue from diversity efforts has limited impact in aggregate today, it does appear that diverse partners at firms which service large corporate clients can benefit financially from diversity efforts.

Metrics for Success: Measurement in Diversity Initiatives

Minority Corporate Counsel Association (MCCA), 2003

<http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=615>

This report provides extensive examples of metrics that can be used to measure diversity which are important in communicating the business case for diversity in financial terms. The report introduction refers to an increasingly diverse population which will make those firms who can best service diverse populations most successful. Those firms which diversify may experience higher levels of competitiveness in the diverse talent market, a higher return on recruitment costs of diverse attorneys who stay at the firm longer, and higher client service levels through diverse perspectives. Diversity metrics enable firms to measure the impact of their efforts, communicate such impacts and make necessary adjustments to improve return on investment.

Diversity Retention Best Practices Research Study Report

Talent Advisory Board, June 2011

http://talentadvisoryboard.com/Diversity_Retention_Best_Practices_Research_Study_Report_FINAL.pdf

This best practice research study, conducted by Talent Advisory Board Inc., illustrates that minorities and women at law firms have lower retention rates than other attorneys. Despite the recent economic downturn, when the total percentage of minorities and women at large firms decreased for the first time in recent history, the California Law Firm Diversity Retention Best Practices study report shows that some best practice firms were able to outperform at least one Talent Advisory Board 2009 California Large Law Firm Retention Benchmark. The practices that have been implemented by best practice firms in order to maximize satisfaction among minority and women attorneys include the following: the assignment of associates to a stable group of partners who provide work and sponsorship; the incorporation of role models who have utilized work-life programs to lead business groups; the focus on monitoring turnover metrics for diverse attorney segments by diversity committees; the development of formal career tracks to fit the changing needs of diverse attorneys; and, the use of internal surveys and affinity groups as feedback on competency based models

The Business Case for Reduced Hours

Project for Attorney Retention (PAR)

<http://www.attorneyretention.org/Publications/BusinessCase.shtml>

The Project for Attorney Retention (PAR) estimates that on average \$200,000 is lost when an attorney leaves a firm. This metric is based on a Deloitte and Touche internal study which found that the firm lost about 150% of a departed employee's annual salary due to lost recruiting and training costs. Recent statistics developed by Professor Joan Williams indicate that most women become mothers, and only 7% of mothers aged 24-45 work over 49 hours per week. Referring to full-time positions including billable and non-billable hours, Williams says, "...law firms generally require associates to work in excess of 49 hours per week." While nearly half of married attorneys have stay-at-home wives, the increase of dual income couples and same sex couples makes it more difficult for both men and women to meet both work and family demands, so they often leave law firms for more balance.

Value Comes From Better Work-Life Balance

ACC Docket, Laura Stein, July/August 2011

http://www.attorneyretention.org/Publications/F_Stein.pdf

In this article, Laura Stein, SVP and General Counsel of The Clorox Company, refers to the PAR business case for work-life balance as an effective strategy for reduced turnover. She refers to the Association of Corporate Counsel (ACC) Value Challenge which found that corporate clients often pay increased costs due to law firm employee turnover and the leveraged business model of law firms. She suggests that the traditional law firm focus on “hours worked” needs to shift to a focus on “valued created.” She says, “The core business goal is not to work as long and hard as possible. It’s to create value. Value for any organization is not based on the amount of labor, but on the efficient accomplishment of business objectives.” Steins says that corporate counsel and law firms are actively exploring “...value-based fee structures, alternative staffing, process and project management, and greater deployment of outsourced and automated processes...” to increase efficiency levels.

(2) Operationalizing Diversity as a Core Value

Once diversity is established as an organizational core value, successfully embedding the core value into the operations of the organization is the next step including senior management commitment, accountability, and adequate resources. Leadership commitment is itself important, and communication, involvement in diversity activities, and the diversity of leaders all demonstrate such commitment. Accountability for diversity objectives is critical to make progress, and tracking of time spent on diversity activities, measurement tools, and feedback from diverse attorneys are important for holding parties accountable. Finally, adequate resources are needed to make progress including a senior level diversity professional who is dedicated to diversity initiatives with an adequate diversity budget.

2009 Diversity Best Practices Guide

The Association for Legal Career Professionals (NALP), April 2009

<http://www.nalp.org/uploads/DiversityBPGuide09.pdf>

In order to advance legal community diversity efforts the 2009 NALP Guide (an updated version of the 2006 NALP Guide) was developed by the Diversity Advancement Committee of NALP’s Diversity Section and based on industry research and interviews with law firm professionals nationwide. The Guide has four sections: (1) Leadership, (2) Retention, Culture and Inclusion, (3) Professional Development, and (4) Recruitment. The most relevant section to this research brief is the Leadership section which opens with the following statement: “There are some universal tenets that have proved essential to a successful strategy for enhancing and embracing diversity in law firms. First, there must be a strong demonstrated commitment from firm management. Second, diversity must be defined as a core value of the organization and woven into all that the firm does. Finally, specific goals must be identified and metrics must be utilized to ensure accountability and progress. Effective and innovative leadership is critical on all of these fronts.” The Leadership section highlights the importance of communication, involvement of leadership in day-to-day diversity work, representation of diverse lawyers at all leadership levels, leadership training and accountability of leaders. The subsequent three sections are helpful for implementing diversity programs.

Sustaining Pathways to Diversity: The Next Steps in Understanding and Increasing Diversity & Inclusion in Large Law Firms

Minority Corporate Counsel Association (MCCA), 2009

http://www.mcca.com/_data/global/images/Research/5298%20MCCA%20Pathways%20final%20version%202009.pdf

Based on a survey of over four thousand attorneys at 217 law firms, this report highlights the importance of (1) specifying the reasons why leadership is committed to diversity, (2) not only “talking the talk” but also “walking the walk,” and (3) soliciting honest feedback directly from diverse attorneys. Survey results demonstrate that the vast majority of all attorneys believe that leadership at their respective firms have communicated a commitment to diversity, but the reason for the commitment was not clear – whether because of strategic imperative or simply because it’s the right thing to do. While many white men felt that diversity initiatives were implemented at their expense, many minority attorneys agreed with the statement that “most law firms ‘talk the talk’ but few ‘walk the walk.’” Recommendations on Strategic Leadership and Commitment include the following: (1) emphasizing the strategic importance of diversity, why it is a priority and using measurement tools to track progress, (2) emphasizing the inclusion of white male voices and why inclusive workplaces are better for everyone, and (3) collecting feedback from attorneys on a regular basis to modify efforts based on such feedback. Additional recommendations in

the report focused on the following topics: Perceptions of Meritocracy, Inclusion and Work Environment, Professional Development and Retention, Personal Involvement in Diversity Efforts and Women of Color.

A Set of Recommended Practices for Law Firms – Creating Pathways to Diversity: An Overview
Minority Corporate Counsel Association (MCCA), 2002

<http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=613>

Although this report is dated, it covers a number of topics which are important for formulating diversity as a core value – including adequate resources and the authority to make a difference. The report has three sections: (1) Business Case for Diversity, (2) Barriers to Success, and (3) Critical Success Factors. The business case includes the ability to compete in legal talent markets, reduced turnover costs, reduced discrimination litigation costs, strategic advantage in increasingly diverse markets, and the ability to meet client requests for diversity. The barriers identified include the following: (1) no clear relationship between diversity and the bottom line, (2) the myth of the meritocracy, (3) high turnover for diverse attorneys, (4) lack of senior partner commitment, (5) insufficient resources and infrastructure, (6) a lack of viable work-life programs, (7) stereotypes, (8) a singular emphasis on recruitment, (9) incremental change, and (10) lack of internal buy-in for strategies developed by external consultants. Critical success factors include the following: (1) understanding the business case, (2) senior partner commitment, (3) collaboration among partners, staff and experts, (4) firm-wide ownership, and (5) participation and confidential resources for all attorneys. The report also provides a model for change for firms in moving from compliance to diversity to inclusion as well as a step-by-step guide for operationalizing diversity.

2010 Law Firm Diversity Professional Survey

Minority Corporate Counsel Association (MCCA) and Associate of Law Firm Diversity Professionals (ALFDP), May 2011

http://mcca.com/data/global/images/Research/2010_LawFirmDiversityProfessional_Survey.pdf

This report summarizes the findings of the 2010 MCCA/ALFDP Annual Survey of Law Firm Diversity Professionals. The annual survey solicited information from law firms in order to quantify the amount of resources that law firms dedicate towards advancing diversity. The survey also serves to identify the new information and resources that diversity professionals may need in order to develop and implement diversity initiatives. Ninety-eight law firms responded to the 2010 survey, which was sent to approximately 249 law firms through an electronic invitation. The survey reported that the percentage of law firms using a separate billing number to track diversity-related activities increased from 68 percent in 2009 to 85 percent in 2010. The majority of the respondents stated that attorneys do not receive billable credit for time devoted to diversity-related activities but do receive non-billable credit for such activities. Seventy-nine percent of the responding law firms have a law firm diversity professional, and half of these professionals are dedicated full-time to diversity initiatives. Specifically, the percentage of diversity professionals at the responding firms dedicating full-time to diversity initiatives increased from 44 percent in 2009 to 51 percent in 2010. Diversity professionals' responsibilities typically involve promoting awareness on diversity-related issues within firm management, developing diversity goals and strategies, designing programs to create an inclusive environment, and encouraging retention of all lawyers. Of all responding firms 65% had 201-800 attorneys, and the average diversity budget was \$0.63 million including internal and external spending as well as salaries for diversity professionals and staff.

(3) Law Firm Examples

Industry examples of diversity and other core values illustrate that diversity is critical to almost all firms but is embedded into organizations in different ways including core values, corporate social responsibility goals, and the employment brand. The websites of 15 law firms which are leaders in diversity and serve clients in the San Francisco Bay Area were researched to evaluate core values as well as the relevance of diversity to the organization. Of these firms, 7 publicly stated core values on their websites, and 3 specifically included diversity in those core values. Although diversity was not formally stated as a core value at 12 of these firms, 5 prominently included diversity as an example of another core value (respect, excellence, teamwork, etc.), 3 included diversity as an example of corporate social responsibility, and 3 included diversity as an important element of the employment brand (only one firm had no mention of diversity on the website). The following links illustrate these law firm examples.

Publicly Stated Core Values

Pillsbury: <http://www.pillsburylaw.com/index.cfm?pageid=53>

Orrick: http://www.orrick.com/about/core_values.asp

Cooley: <http://www.cooley.com/Vision-and-Values>

Perkins Coie: <http://www.perkinscoie.com/Firm/Firm.aspx?Section=mp>

O'Melveny & Myers: <http://www.omm.com/aboutus/ourvalues/>

Gibson Dunn: <http://www.gibsondunn.com/diversity/Pages/TheFacts.aspx>

Morgan Lewis: <http://www.morganlewis.com/index.cfm/fuseaction/content.page/nodeID/ad87e036-f336-485d-afe2-6ad4f734a03d/>

Diversity as a Core Value

Little Mendelson: <http://www.littler.com/diversity-inclusion>

Cooley: <http://www.cooley.com/diversity.aspx>

Farella Braun + Martel: <http://www.fbm.com/diversity/>

Diversity as an Example of Other Core Values

Orrick: <http://www.orrick.com/about/diversity/index.asp>

Perkins Coie: <http://www.perkinscoie.com/diversity/Diversity.aspx>

O'Melveny & Myers: <http://www.omm.com/aboutus/diversity/>

Gibson Dunn: <http://www.gibsondunn.com/diversity/Pages/TheFacts.aspx>

Morgan Lewis: <http://www.morganlewis.com/index.cfm/fuseaction/content.page/nodeID/26e5efc0-9347-472a-8f1b-76484f03d330/>

Diversity to Meet Corporate Social Responsibility Goals

Pillsbury: <http://www.pillsburylaw.com/index.cfm?pageid=58>

Fenwick & West: <http://www.fenwick.com/about/Pages/Diversity.aspx>

Manatt, Phelps & Phillips: <http://www.manatt.com/Diversity.aspx>

Diversity as an Employment Brand Element

Wilson Sonsini: <http://www.wsgr.com/WSGR/Display.aspx?SectionName=careers/diversity.htm>

Morrison & Foerster: <http://www.mofocareers.com/diversity/index.html>

Latham & Watkins: <http://www.lw.com/AboutUs/Diversity>