

Articulating the business case for inclusion

By Jane DiRenzo Pigott¹

The business case for diversity is well established and directly relates to any legal organization's ability to compete for the best clients and talent. Abundant research, practical experience, and media stories support the business case for diversity. Ensuring that diversity is achieved requires committed leadership and rigorous assessment so that change is both measurable and sustainable into the future.

Client demands. In 2004, Roderick Palmore, General Counsel of Sara Lee, issued A Call to Action: Diversity in the Legal Profession, a statement pledging the support of corporate chief legal officers in holding their outside law firms accountable for hiring, retaining, and promoting diverse lawyers. It has been signed by 110 general counsels who pledged to "make decisions regarding which law firms represent our companies based in significant part on the diversity performance of the firms."

Clients use a variety of mechanisms to focus the attention of law firm management on diversity:

- retain firms with a strong performance in diversity and restrict relationships with firms lacking that track record
- hold regular meetings with firm management and billing partners to discuss diversity best practices
- require annual reports on diversity statistics and measured progress from the baseline
- award annual bonuses based in part on achieving diversity objectives
- expect legal service providers to have legal staffs that mirror the significant diversity within the in-house legal department

Law firms are getting a clear and consistent message: If they successfully increase their diversity at all levels, they will get more work from important clients; if not, they will lose work from long-term clients.

Business development. Tremendous business development opportunities are available to legal organizations that achieve meaningful and sustained diversity within their leadership ranks.

One of the most obvious results from corporations that sever their long-standing relationships with law firms that fail to demonstrate a commitment to diversity. In addition, because many law firms have not demonstrated significant progress in this area, firms that achieve diversity will have a competitive advantage in obtaining significant new engagements.

Diverse attorneys bring valuable attributes to their organizations and their clients; in addition, they may provide unique marketing opportunities for their organizations. For example, E. I. du Pont de Nemours and Co. (DuPont) established networks for women lawyers and attorneys of color within its legal department and at the firms and companies it uses for outside legal assistance. Women lawyers and attorneys of color who are part of the network send business to other members in DuPont's legal service provider network, and outside counsel form stronger relationships with in-house attorneys.

Maintaining talent and increasing revenue. Organizations are hurt financially when talented professionals leave for the wrong reasons. Diverse attorneys depart at a higher rate than do similarly situated white male attorneys. Law firms that fail to create an environment in which diverse attorneys succeed lose valuable personnel and the associated financial investment in their training and recruitment. This loss requires additional expenses for hiring and training, costs firms additional fees to bring attorneys up to speed on matters, and risks client goodwill. The firm also may lose key people essential to their leadership succession ranks.

Reducing legal risk. High turnover and increased recruiting expenses are not the only increased expenses of non-inclusive organizations. There are legal implications to failing on the diversity issue. Discrimination and workplace harassment lawsuits are embarrassing; damage the organization's reputation; detrimentally impact the organization's ability to recruit; use critical attorney time in non-revenue-producing ways;

and cost the organization money for legal fees, settlements, judgments, training, and lost opportunities.

Enhanced reputation. An organization's reputation is critical to every aspect of its business: client demands, business development opportunities, the talent pipeline, and retention and promotion of its attorneys. Via its reputation, an inclusive organization creates a competitive advantage in maintaining client relationships, attracting new clients, recruiting talented lawyers, and increasing financial performance.

The legal profession's progress on creating and retaining leaders who are also diverse has been slow. Material progress is lacking in the percentages of equity partners, office heads, managing partners and practice group leaders who are female, of color or openly gay or lesbian. Educating people about the business case for diversity is an essential step in leveraging the organization's diversity efforts. It is only when the entire organization understands the strategic rationale of diversity that individuals realize they must personally contribute to the organization's goals.

1. Jane Pigott is the Managing Director of the R3 Group LLC and specializes in providing leadership, change and diversity/inclusion consulting to organizations.

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