

Colorado Bar Association President's Message to Members

*Diversity Matters*¹

by Elizabeth A. Starrs



When I see the opening ceremonies for the Olympics, I am struck by the diversity of American athletes. American participants can be light-, medium-, or dark-skinned; have blonde, brown, red, or black hair that may be straight, wavy, or curly; and they can be blue-, hazel-, brown-, or green-eyed. It is likely that behind each face lies a complex cultural heritage.

This country is wonderful in so many ways. I believe a source of our strength is our diversity. Although the differences among us can be the stated basis for some of the country's internal conflicts, and although we struggle with immigration issues, I think we are better and stronger for being more diverse.

The Legal Profession and Diversity

Diversity is a vital element of our profession. We who are trained to manage and protect the legal system of our increasingly diverse nation must be representative of those we serve. Moreover, we cannot realistically expect people to be invested in, much less to value, the rule of law, if it does not include them.

Unfortunately, there is not much diversity in the legal profession. Attempts to marginalize lawyers and the entire third branch of government will be more appealing to American citizens if we continue on this track, because lawyers and judges will not reflect the population at large. We risk becoming viewed as elitist and irrelevant.

In 2005, 49.5 percent of Colorado's population was female.² According to the Colorado Supreme Court, approximately 25 percent of registered and active Colorado lawyers are women. (According to numbers from the Colorado Bar Association Membership Services, approximately 35 percent of current CBA members are women). It is more difficult to obtain accurate demographic data as to other characteristics, such as ethnicity, extent of disabilities, sexual orientation, and the like, than it is to cull gender data, in part because that information traditionally has not been gathered.³ However, all the estimates garnered from the National Association of Legal Professionals⁴ reveal what is obvious: the legal profession is not keeping pace with the changes in our world when it comes to diversity.

Diversity on a National Scale

Bar associations around the country have implemented diversity programs. In 2003, the King County (Seattle, Washington) Bar Association and its Foundation created a "Future of the Law Institute."⁵ This program encourages minority and economically disadvantaged high school students to pursue higher education and law-related careers, thus broadening the pool of persons entering the legal profession.

Also in 2003, the California State Bar formed its "Pipeline Task Force." A comprehensive report of this effort was issued in 2006 and is available online.⁶

Recently, the Arizona State Bar recommitted to its statement of goals, originally adopted in 1993, to promote diversity in the profession.⁷ The Arizona Bar created a Diversity Task Force whose goals included, among other things, to determine the need for a Diversity Director for the State Bar of Arizona. The task force recommended that the State Bar of Arizona hire a Diversity Director in 2007, and that process is underway.⁸

In fact, the State Bars of California, Oregon, Washington, Texas, Michigan, and Wisconsin each have one full-time staff position dedicated to promoting diversity in the profession, as do the city bar associations for New York and Los Angeles. It is a trend we are likely to see grow countrywide.

The Colorado Bar's Diversity Effort

The CBA has long recognized the importance of having minority and specialty bar associations in the state. It has made concerted efforts to encourage diverse attorneys to join and actively participate in the CBA.

Diversity in the Legal Profession

Since 1987, the Colorado and Denver Bar Associations have had a joint committee called "Minorities in the Profession." In 1998, the Committee was renamed "Diversity in the Legal Profession" (DILP). Cindy Hyman and Damien Arguello are the Committee's current co-chairs. The mission statement of DILP is "to break down the long-standing barriers that have prevented diverse attorneys from succeeding in the legal profession."⁹

The DILP Committee's "Pledge to Diversity" program includes a mentor/mentee project and a summer clerkship program. The pledge, which states as its purpose, "to set forth clear, realistic, and attainable goals for the enhancement of diversity in Colorado law firms," originally was signed in 1993¹⁰ and has met with much success.

The "Rocky Mountain Diversity Summit" is the DILP Committee's most ambitious effort to date. The 2007 Summit will introduce to legal organizations ways "to enhance and embrace diversity" and suggest how to recruit diverse students and lawyers.¹¹ Among the issues national leaders will be addressing are: the importance of diversity in the legal profession; the value of mentoring; creating an inclusive workplace; finding qualified attorneys; enlarging the pipeline of diverse attorneys; and examining the subconscious bias within us.¹² I encourage you to attend this program.

The Rule of Law and Diversity

Gary Jackson, of DiManna & Jackson LLP in Denver, is one of the founders of the Sam Cary Bar Association.¹³ Recently, I had engaging conversations with Gary and Sonny Flowers¹⁴ about the rule of law and diversity. Gary told me he never knew a lawyer personally until he met the father of Sonny Flowers, who was his college roommate. Sonny's father was a civil rights lawyer—and leader—in the 1960s. Sonny did not think of the late Supreme Court Justice Thurgood Marshall as anyone but an ordinary guy—one of his father's friends. Sonny told me: "It wasn't until much later that I recognized how important they were to the community."

When Sonny was growing up, the concept of lawyer-as-social-engineer was in its infancy, and although the "Separate But Equal" doctrine was perceived to be a sham, the civil rights leaders believed in the rule of law. That is what gets Sonny through some days now. He recently said, "If my father could believe in it so strongly in 1935, how can I not believe in it today?"

Gary Jackson also pointed out to me that today's best law schools have a very diverse student body and many different cultures are represented in their student and faculty populations. Gary believes that this diversity is part of what makes them top-rated educational institutions.

Deans' Diversity Council

In 2006, the Deans' Diversity Council (Council) was created by the University of Colorado Law School and the University of Denver Sturm College of Law. Deans David Getches and Beto Juárez formed the Council to bring together the leaders of the Denver legal community to actively address a number of issues pertaining to diversity in the legal profession. The Council is focusing on three primary issues: the diversity pipeline, recruitment, and retention.

The Deans point out that, despite concerted efforts by legal employers, especially those in the private sector, the rate of employment of non-white male attorneys in law firms has remained relatively low. According to information compiled by the Council, at large law firms in the United States, 5 percent of all law partners are minorities. Comparable Denver firms maintain a rate of 5.23 percent—tracking the national average. Curiously, the national average for minority associates is nearly 17 percent, but that average is lower in Denver at 12.39 percent.

In partnership with the DILP Committee, the Council is conducting a major diversity survey of practicing attorneys in the six-county Denver metropolitan area. The data and information collected from the survey will be critical to the Council's work in addressing issues that may act as barriers to achieving diversity in the profession. If you or your law firm is randomly selected to participate in the survey, I sincerely hope you will take the time to provide the information requested. The more responses received, the more valid the ultimate conclusions will be.

A Corporate Perspective of Diversity

One of the speakers at the Rocky Mountain Diversity Summit in September 2007 will be William T. McLain, general counsel for ConocoPhillips (CP) in Houston. According to McLain, CP has decided it would be at a huge economic disadvantage if the company's in-house and outside counsel were not to reflect the diversity of the communities in which they live

and work. Because CP never takes a case to trial without using outside counsel, it requires them to mirror the diversity of the communities.

In 2006, CP "graded" its outside firms. It narrowed the field to fifty law firms and selected the "Top 5" and "Bottom 5" firms in terms of diversity. McLain traveled the country and met with the managing partners at these ten firms. McLain told me that these are all excellent law firms, but there was a huge difference between those that understood the importance of diversity and those that did not. Manhattan firms are not very diverse; and they are in one of the most—if not the most—diverse cities in the world. Only one of the Top 5 firms was in California, which is a very diverse state.

It became clear to McLain, through his discussions with law firm managers, that some people simply don't value diversity—they just see it as a compliance issue. "You have to want this as a value," McLain said in a recent conversation. "None of the people in the 'Top 5' said [achieving diversity] was a struggle," and some of them were in middle-America, where the population is less diverse than on the coasts.

Conclusion

The legal profession will become obsolete if we don't make some changes in our demographics. Women and ethnic minorities are underrepresented among our ranks, as are lesbians and gays, attorneys with disabilities, and Muslims, to name just a few of those groups who comprise our citizenry. "Diversity" is not some politically correct notion of the early twenty-first century; it is a reality—and the future strength of our profession.

NOTES

1. See Walton, President's Letter: Why Diversity Matters," 29 *The Advocate* 2 (2006–07 Winter). Vanessa D. Walton is the first African-American and woman of color to serve as President of the Colorado Women's Bar Association.

2. See <http://quickfacts.census.gov/qfd/states/0800.html>.

3. The National Association of Legal Placement (NALP) has some data. See www.nalp.org/content/index.php?pid=143.

4. *Id.*

5. Visit <http://www.kcbf.org/programs/diversity.html> for information about the King County (Seattle, Washington) Bar Association's diversity programs.

6. For more about the Pipeline Task Force, visit http://calbar.ca.gov/calbar/pdfs/reports/2006_Diversity-Pipeline-Report.pdf.

7. Leadership Institute Committee Report, State Bar of Arizona Diversity Task Force, Oct. 23, 2006.

8. To view the Nov. 20, 2006 Committee Report of the State Bar of Arizona Diversity Task Force, visit <http://72.14.253.104/search?q=cache:P714Hh8pUwMJ:www.myazbar.org/SecComm/TF/DivTF/Files/3BarStaffingCommitteeReport.pdf+State+Bar+of+Arizona+Diversity+Task+Force&hl=en&ct=clnk&cd=2&gl=us>.

9. See <http://www.cobar.org/group/index.cfm?EntityID=CMIP>.

10. For an explanation of the "Pledge to Diversity," visit <http://www.cobar.org/group/index.cfm?category=541&EntityID=CMIP>.

11. The 2007 Rocky Mountain Diversity Summit will be held on September 19–21 in Denver at Invesco Field at Mile High. For complete information, visit <http://www.cobar.org/group/index.cfm?EntityID=CMIP>.

12. An interesting article to read is by Peggy McIntosh, "White Privilege: Unpacking The Invisible Knapsack." It is available online at <http://seamonkey.ed.asu.edu/~mciaac/emc598ge/Unpacking.html#daily>. Thank you, Marla Williams, for letting me know about this.

13. Visit <http://www.samcarybar.org>.

14. Sonny Flowers is the 2006–07 Boulder County Bar Association President-Elect. ■