

Diversity at Work: Fortifying Your Inclusion Efforts in the Current Climate
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Recently, the American Bar Association provided a syllabus for the 21-Day Racial Equity Habit Building Challenge, which was a concept conceived several years ago by diversity expert Eddie Moore, Jr. to advance deeper understandings of the intersections of race, power, privilege, supremacy and oppression. The Challenge invites participants to complete 21 short assignments over 21 consecutive days, which include readings, videos, TED Talks, poems and podcasts. The assignments seek to expose participants to perspectives on Black history, identity and culture, and to the Black community's experience of racism in America. The completion of the 21-Day Challenge has led many of us to understand just how important diversity and inclusion are in the workplace. Not just talking the talk, but actually walking the walk. We have identified five priorities that have been helpful in navigating how we approach our view of the legal profession and the role we can play in not just believing in the spirit of diversity but being an effective advocate and leader.

1. Understanding That Diversity And Inclusion Are Not Identical

It is imperative to understand that diversity and inclusion are not the same thing. Inclusivity is not just being allowed to be there. It is being valued, listened to, engaged and given every opportunity to thrive. Put another way, "Diversity is the mix. Inclusion is making the mix work." The numbers do not lie. Black men and women are leaving law firms at much higher rates than their white counterparts. This statistic makes clear that many law firms (and corporations) may hire diverse faces, but do not take the time to actually work on retention and inclusion or provide attorneys with the tools, opportunities, and relationships necessary to be successful.

2. Diversity And Inclusion Are Good For Business

There are multiple reasons why diversity and inclusion are good for business. These include higher employee engagement, reduced employee turnover, better company reputation, a variety of different perspectives, and better decision making.

3. Identifying Baggage That Impedes A Culture Of Inclusion

Many of us have baggage that are contributors to the challenge of creating a culture of inclusion. These include, but are not limited to, family influences, personal experiences, peer influences, stereotypes, microaggressions, lack of knowledge, media influences, and bias (both conscious and unconscious). Many people do not understand that even unintentional microaggressions create environments and cultures, which do not allow true inclusion. For example, describing Black people as "articulate" is offensive and a microaggression. The implication is, "wow, you are so well-spoken for a Black person. I didn't expect that."

4. Getting Comfortable Talking about Race

We can all agree that caring, as well as having a good heart and a true intent, will help us to effectuate not just diversity, but also inclusion, and will also help us learn how to talk about it. However, equally important is actually listening and really hearing what our diverse colleagues have to say. For example, because of increased communications on race in our workplace, the

firm made Juneteenth a paid holiday, and Black partners in the firm provided historical background and a written explanation that many of us used as our “out of office” response for the day. Engaging in conversations about race provided insight on how law firms and corporations can damage their cultures by not taking into account potentially divisive decisions. Saying, “I don’t see color” is offensive and untrue. Of course you see color. In addition, it can be interpreted to mean, “I have no desire to understand where you’re coming from or what your experiences are” or “I choose not to see that side of you because it makes me more comfortable.” These are just a handful of examples where having meaningful discussions and being open to learning and changing can make a difference in the professional journeys of attorneys in your workplace and create a more inclusive culture.

5. Taking Action And Making Change

In addition to listening and talking, action must be taken. Systemic racism persists because leaders allow it to persist or fail to acknowledge and address it. We need to ensure that everyone is given equitable opportunities to thrive, advance, and be a part of the group. Last month, Lindsey Dates, who is a Black man and partner at Barnes & Thornburg, posted on LinkedIn. His post was addressed to “Dear In-House Lawyers.” It read as follows: “Do you want to know what institutional racism looks like in your legal department?” The fictional response from the In-House attorney was as follows: “I know that my current team lacks diversity, but I really can’t switch counsel. There is just way too much ‘institutional knowledge’ at that firm. The firm has represented the company for decades and maybe even since its inception. I just don’t have any power to change.” Mr. Dates translated what the fictional In-House attorney said: “I would love to switch counsel but can’t. This group has an unfair advantage over you because they began working on our matters during a period when Black lawyers weren’t even allowed at their law firms. That also happened to be the same time wherein your grandmother wasn’t allowed to learn how to read during the height of Jim Crow. ... But stay in touch because one day if you are really nice and stay persistent, I may eventually give you some scraps from the table that was built from racism, [and] reinforced by racism. ...”

It is incumbent upon leaders to make real changes in the workplace. Leaders should strive to develop and implement programs and policies around antiracism. In this rapidly changing business landscape, the ultimate goal is to recruit and retain a diverse workforce. To commence the process of increasing diversity and inclusion in the workplace, some employers have found success with implementing the following steps: (1) ensure that a more diverse group is aware of the company’s employment opportunities; (2) periodically review the leadership structure within your company and take steps to ensure diversity; (3) periodically analyze internal advancement mechanisms to ensure that unconscious biases are not factoring into employment decisions; (4) create a policy against racism, similar to policies in place to prevent sexual harassment; and (5) conduct regular trainings to promote an antiracist culture, minimize microaggressions, and address unconscious biases. Just as important, employers that initiate steps to improve diversity and inclusion must also hold leaders accountable for the results.

We have the opportunity to create change and inclusion in our firms and companies. We have the opportunity to better our firms and our companies. The time is now to start both the dialogue and the actions necessary to do that.

About the Authors

Jennifer Robinson

As lead defense attorney in dozens of complex class action lawsuits, Jen Robinson has favorably resolved business-critical litigation for her clients. Her insightful guidance, legal solutions and amicable demeanor have earned distinctive praise from clients and unexpected admiration from opposing counsel. Jen's extensive legal experience includes numerous courtroom achievements on behalf of employers, as well as high-level investigations of supervisors, managers and C-suite employees. She works with a wide range of industries, including manufacturing, hospitality, retail, and healthcare.

Beyond her litigation, investigation, and advisory capacities, Jen has been instrumental in the growth of the Nashville office and establishing its presence throughout the state. She is regularly recognized as a business leader in the community and frequently quoted in the press as an authority on labor and employment matters.

Pamela Irons

Pamela R. Irons represents management in Title VII, ADA, FLSA, FMLA, ADEA, USERRA and retaliation claims, as well as other federal and state employment laws. She also represents employers in Equal Employment Opportunity Commission, Department of Labor and state administrative proceedings in responding to charges of discrimination, fact-finding conferences and on-site investigations. In addition, Pamela assists clients with preparing and updating employment applications, company policies and employee handbooks to ensure compliance with applicable laws. She also conducts harassment prevention training and devotes a portion of her practice to noncompetition matters.

Joycelyn Stevenson

Joycelyn Stevenson is a native of Macon, GA. She graduated from Howard University in Washington, D.C. and received her law degree from Vanderbilt University Law School. Joycelyn currently serves as the Executive Director of the Tennessee Bar Association ("TBA"), where she manages operations, supports the board of directors as well as the Association's members across the state. She joined the board of the National Association of Bar Executives in 2019 and was recently confirmed as a new Commissioner on the Metropolitan Nashville Airport Authority in June 2020. Prior to joining the TBA, Joycelyn worked 16 years in private practice as a litigation and employment attorney in two Nashville law firms including serving as a Shareholder in Littler's Nashville office. She previously served as president of the Nashville Bar Association, the Lawyers' Association for Women-Marion Griffin Chapter and the Council on Aging of Middle Tennessee. She was also selected by her peers for inclusion in The Best Lawyers in America® 2016, 2017 in the field of Litigation – Labor and Employment. In addition to being a past recipient of the Nashville Chamber's Emerging Leader Award in the legal services category, Joycelyn was

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