

**THE BUSINESS CASE FOR DIVERSITY**  
**Orange County Coalition for Diversity in the Law**  
**California Minority Counsel Program**

**January 19, 2016**

**11:00 a.m. – 12:00 p.m.**

**Irvine, CA**

**CA MCLE: 1.0 Hour Recognition and Elimination of Bias Credit**

**Program Overview & Key Findings**

- Numbers of minority attorneys including equity partners have been in decline or limited growth over the last five years (data based on 2009 – 2014):
  - The percentage of minority (Black, Asian, Hispanic) law firm partners has moved from 6.05% to 7.33%
    - Minority Women Partners = 2.45%
    - African American Partners = 1.72%
    - Asian Partners = 2.74%
    - Hispanic Partners = 2.16%
  - The percentage of minority (Black, Asian, Hispanic) law firm associates has moved from 19.67% to 21.63%
    - Minority Women Associates = 11.51% (down from 11.02% in 2009)
    - African American Associates = 4.01% (down from 4.66% in 2009)
    - Asian Associates = 10.8% (up from 9.28% in 2009)
    - Hispanic Associates = 3.95% (up from 3.89% in 2009)
- Nationally, among equity partners, about 85% were men, 15% were women, and just under 5% were racial/ethnic minorities or women. (NALP 2013 study)
- In Orange County (2015) the percentage of Minority Partners = 13.21%
  - 3.77% Minority Women
  - 7.72% Asian
  - 1.18% African American (0.84% African American Women)
  - 4.05% Hispanic (1.01% Hispanic Women)
- In Orange County (2015) the percentage of Minority Associates = 26.64%
  - 11.47% Minority Women
  - 8.60% Asian
  - 0.69% African American (0% African American women)
  - 3.26% Hispanic (0.51% Hispanic Women)

**Panel Discussion**

Hypothetical 1: a minority attorney has been unsuccessful pitching to a legal department which boasts of its commitment to diversity but sends most of its work to a majority firm. What should the attorney do?

Hypothetical 2: a company has enjoyed a great relationship with a majority firm but notices that (a) although the number of minority attorneys at the firm is relatively stable, that actual attorneys seem to change from year to year, i.e. the firm is not retaining minorities; and (b) the more complex work on the company's matters is not being done by minority attorneys – the firm cites that there are a limited number of minority attorneys with the requisite experience. What can/should the company do?

### Sample Questions for Panel:

- Why talk about the business case for diversity versus doing the right thing?
- What are specific examples you have seen where diversity was turned into a competitive advantage?
- Altman Weil reported that 40% of Chief Legal Officers plan to decrease their spend on outside counsel in the next 12 months: what does this mean for minority attorneys?
- How can diverse attorneys leverage their diversity with clients?
- What is the role of corporate legal departments in driving diversity in the legal field?
- Is the business case for diversity different when we are talking about a minority-owned law firm?
- What are potential challenges for minority in-house counsel giving work to other minority outside counsel, and how do we overcome them?
- Does a broader definition of diversity make it easier or harder to make the business case for diversity?

### **Next Steps/Recommendations**

Best practices and new ideas for corporations and firms:

- Connect diverse outside counsel to in-house colleagues
- In-house counsel set diversity metrics for law firms
- Attach economic incentives and consequences for in-house and firm lawyers' diversity efforts
- Educate minority outside counsel on company culture and business to prepare them to pitch successfully (Example: "Walmart Ready")
- Encourage minority-majority law firm collaboration
- Implement a public standardized rating system for law firms' diversity effort
- Implement a "Rooney Rule" (NFL beginning in 2003) requiring interviews of minority candidates for employment positions and for outside counsel retention for matters over a certain amount

### **Resources**

2015 Goals and Timetables for Minority Hiring, Advancement, and Retention Report  
[www.sfbar.org/2015-goals-timetables](http://www.sfbar.org/2015-goals-timetables)

ABA Legal Profession Statistics  
[http://www.americanbar.org/resources\\_for\\_lawyers/profession\\_statistics.html](http://www.americanbar.org/resources_for_lawyers/profession_statistics.html)

"Banking on Diversity: Diversity and Inclusion as Profit Drivers – The Business Case for Diversity" by Sheryl L. Axelrod, posted on American Bar Association website June 12, 2014  
[http://www.americanbar.org/groups/litigation/committees/diversity-inclusion/news\\_analysis/articles\\_2014/diversity-inclusion-profit-drivers.html](http://www.americanbar.org/groups/litigation/committees/diversity-inclusion/news_analysis/articles_2014/diversity-inclusion-profit-drivers.html)

Diversity Action Matters: Innovative Action to Improve Opportunities for Diverse Business Lawyers, Davis Wright Tremaine & CMCP (2015)  
<http://www.cmcp.org/?page=cmcpreports>

Diversity Business Matters: Corporate Programs Supporting Business for Diverse Outside Counsel, Davis Wright Tremaine & CMCP (2011)  
<http://www.cmcp.org/?page=cmcpreports>

Diversity Matters, McKinsey & Company (2015)  
<https://www.mckinsey.it/download/file/fid/3103>  
[http://www.mckinsey.com/Insights/Organization/Why\\_diversity\\_matters](http://www.mckinsey.com/Insights/Organization/Why_diversity_matters)

The Business Case for Diversity: Reality or Wishful Thinking?" Institute for Inclusion in the Legal Profession (IILP) (2011)

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

"Good Business: A Market-Based Argument for Law Firm Diversity" by Douglas E. Brayley and Eric S. Nguyen in *The Journal of the Legal Profession* (2009)