

A Call to Action: Cleveland Should Respond

by Karen L. Giffen

Last year, 72 major companies signed “A Call to Action,” which demands that outside counsel demonstrate a commitment to diversity. So far, there has been a positive response to this call. Cleveland and its legal community can and should take the lead in responding to the Call to Action.

Haven't We Heard All This Before?

The first public call for more diversity among those who provide legal services to business came from large corporations in 1988. In 1999, the chief legal officers of almost 500 major corporations again issued a call by signing a statement entitled “Diversity in the Workplace: A Statement of Principle.” There were measurable changes in the legal profession that resulted from these and other diversity efforts. Notably, the number of women and minorities entering the profession and becoming part of first year associates' classes increased. However, the statistics continued to show that women and people of color were consistently compensated at lower levels and were significantly less likely to make partner than their male majority counterparts.

The American Bar Association's Commission on Racial and Ethnic Diversity has been tracking these issues since 1986. The Commission issued an August 2004 report that found minority representation in the legal profession was significantly lower than in most other professions. The Commission based this conclusion on the 2000 U.S. Census information that minority doctors were at 25 percent and accountants at 21 percent as compared to minority lawyers who comprised only 10 percent of all practicing lawyers. The number of women lawyers in private practice is better than it is for people of color, but it is still not at the levels one would expect. The National Association of Law Placement reported in 2004 that 48 percent of the summer associates at top firms were women but only 17 percent of the *partners* were women. This is barely better than the 2000 statistics that showed that women associates comprised 46 percent of all associates and only 16 percent of partners. The ABA's Commission on Women in the Profession found that for women minorities the attrition rate at large firms was 12 percent in the first year of practice and a whopping 75 percent in the first five years.

What is this New Call to Action?

The new Call to Action was authored by Sara Lee's General Counsel, Roderick Palmore. Palmore states that diversity efforts among lawyers has reached a disappointing plateau. Unlike the prior requests and statements of position, the new Call to Action requests that corporate counsel encourage participation in the process by using their purse strings. The 72 companies that signed the Call to Action pledge to do more than just require and promote diversity in their own departments. They pledge to end or limit their relationship with firms whose “performance consistently evidences a lack of meaningful interest in being diverse.”

What are the Responses to the Call to Action?

There are at least three major ways in which the legal community has been responding to the request of business that their lawyers demonstrate a commitment to being more diverse. Each is an important part of the solution.

1. Efforts by majority-owned firms.

The first and most obvious way for lawyers to demonstrate a commitment to diversity is increasing the participation of women and people of color throughout the profession. There have been many excellent efforts by majority-owned firms to foster that participation. At the national level, in May of last year, the ABA held a Leadership Summit on diversity where managing partners of the largest firms and general counsel of the Fortune 500 companies came together to discuss the business model for diversity and the best practices for recruiting and retaining women and minorities. It was clear at the meeting that many firms were working hard to achieve diversity. The Council on Diversity in the Profession has begun a new initiative to address the critical need to diversify the “pipeline” into the practice of law for people of color. The Minority Corporate Counsel Association recently released a survey of law firms that may be used by corporate law departments in evaluating the diversity efforts of law firms.

In Cleveland, efforts by majority-owned firms to increase participation by women and minorities are easily visible. Law firms have begun to make clear and prominent statements about their commitment to

diversity on their websites and in other public information. Many have named a partner-in-charge of diversity efforts and hired various consulting firms to assist in the effort to maximize participation. The Cleveland Bar Association and The Norman S. Minor Bar Association have led many efforts to encourage and promote diversity at the majority-owned firms.

2. The Growth of Minority-owned and Women-owned Law Firms.

Of course, there are already many women or minority-owned firms. The concern expressed in the past by business, particularly large companies, was that such firms were too small or too inexperienced to handle the work of big business. The trend is for female lawyers and lawyers of color to directly address those concerns. In 2001, the National Association of Minority and Female-Owned Law Firms (NAMWOLF) (www.namwolf.org) was formed to promote both minority-owned and women-owned firms and to build the critical mass necessary to compete on a national level for the work of large corporations. NAMWOLF has a pre-screening and certification process that ensures its member firms are minority and women-owned and have a proven track record representing corporate clients. NAMWOLF currently has more than 85 companies signed as partners, including many of the Fortune 500 companies. Other organizations that serve a similar purpose are springing up around the country, such as the National Minority Law Firm Association.

There are tremendous examples of minority-owned firms which have already reached a critical mass on their own. In 1986, the Miami minority-owned firm, Adorno & Yoss, was founded by three lawyers. It now has 250 lawyers and 10 offices nationwide. It is the largest minority-owned firm in the country. In Cleveland, the success demonstrated by local minority and women-owned firms has generated the birth of new firms that now have large corporations with diversity initiatives among their clients.

3. Partnering Between Majority and Minority or Women-Owned Firms.

Recently, a new trend has emerged. The affiliation of majority and minority or women-owned firms for the

purpose of jointly representing their clients. In Chicago for example, one of the larger firms, Sonnenschein, Nath & Rosenthal, decided to affiliate with a minority-owned firm in order to help it maintain the work it does for larger companies that have diversity requirements or requests it could not yet meet on its own. These alliances are a way for majority-owned firms to be immediately responsive to the demands of business and a way for women and minority-owned firms to get the necessary experience with the support of a larger firm. Current alliance partners report that business was obtained that they would not have had but for the alliance. It is likely that firms in Cleveland will begin to form similar alliances to meet the growing demands of corporate clients.

Action in Response to the Call Must Continue

All three of the responses in Cleveland have led to increased participation by women and people of color in the profession. More improvement is needed. The Cleveland legal community has the ability to think outside the box to provide the business community excellent legal services and demonstrate a real commitment to diversity. Of course, it is not just about meeting the demands of clients. It is about creating a strong legal community that accurately reflects the culture in which we live and work. Cleveland can and should take the lead in promoting creative solutions that will attract business and that will be of interest to other legal communities. 

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