



Why Diversity?

By Kelly-Ann Clarke – April 4, 2011

Lately, the word “diversity” is met with mixed emotions. The [term](#) means “the state or fact of being diverse; difference; unlikeness; variety; multiformity”; however, when used in the workplace, it is often misunderstood. It does not mean pretending people are identical and ignoring differences. It also does not mean excluding one type of person to accept another person. Diversity simply means creating a culture that fosters inclusion, but inclusion does not refer to race, gender, or ethnicity. Recognizing, accepting, and embracing differences is what diversity is all about. I like telling the story of my godchildren as an example of the goals of diversity. Grace and Grant are precocious, blond-haired and blue-eyed six- and three-year-old children who look very different from me. One day, over bowls of ice cream, they asked me why my skin was brown like chocolate and theirs was like vanilla. I explained that it was just how we are made. They said, “oh,” and asked for more sprinkles and for me to play some games with them. They recognize that we look different, accept it, and love me despite those differences. Diversity Nirvana!

In the workplace, as a woman of color, I want to be given the same level of respect and caliber of work as any other lawyer at my stage of practice. What I do not want is for the firm to be color- or gender-blind; I want the firm to be conscious. There are times when my physical attributes can be an asset or a detriment based on other people’s behaviors. My first year in practice, I worked on a case in a small town where most of the witnesses were African American women. Talking about the car accident that involved a prominent doctor’s son was not easy for these witnesses, but they felt more comfortable talking to me than they did to the white male attorney on the case. On the other hand, a few years later, I worked on a case where our client was being portrayed as the foreign company from another state preying on the good people of that town. In three years of traveling to that city, I had seen four black people; I was a foreigner too. I made the decision that when it came time to argue the case, the company was best served by having the locals be the face of the company. In both situations, what I brought to the table provided the best service to the case and to the client.

Young attorneys are the changing of the guard. Most young lawyers graduated from a law-school class that was 50 percent or more female, had classmates who were out and proud, had a reasonable percentage of persons of color in the class, and probably had a person with a disability in the class. Today’s law students and young lawyers simply look different from the previous generation. While our generation may anecdotally understand the benefits of diversity, what does it mean in practice, and why is it important?



Whether it is doing the right thing or doing the right thing for the bottom line, the face of firms is changing. Corporate clients have spent millions of dollars trying to build a better mouse trap. After years of studies and testing, they recognize that when people of different backgrounds are at the table, problems are tackled from a variety of perspectives, solutions flow faster, and a better mouse trap is created! As a result of this revelation, more and more clients are requiring law firms to staff their ranks with diverse lawyers to encourage the best all-around service. Many Fortune 500 companies require law firms wanting to work on their cases to submit a diversity résumé that outlines recruiting efforts, hiring practices, and current statistics for associates and partners. These companies continue to monitor the diversity activities of the firms and discharge those firms that fall below acceptable standards. Diversity in a firm is *not* just good business, it is *big* business.

Some firms have embraced diversity on their own, as they are aware that clients in their criminal cases, small-business cases, or family cases want to see a lawyer that looks like them or relates to them in some other way. In doing a presentation to school children, a little boy named Quinton looked at me and said, “I didn’t know lawyers came in black.” Many adults think similarly. The technicalities of business for a firm are no longer the selling features because there is another similar law firm down the street or in the building; to set a firm apart from its competitors requires making a connection with clients on different levels with a number of X-factors. The client base is broadening, and not having a female lawyer or a lawyer of color can lose the client as quickly as not having a lawyer that practices a certain type of law.

While the bottom line is a fantastic motivator for change, some firms change their culture to recruit the best minds (which eventually leads to the bottom line). Savvy lawyers want a career in an environment that prospers, promotes a specific lifestyle, and reflects society. Firms that lack diversity cannot hire or retain lawyers who seek a diverse environment. Several young white men have commented to me that they could not work at a place that was not diverse because that firm culture was unrealistic and short sighted.

While there are a number of correct answers to the question of why diversity is important, the one that hit me recently is that associates expect it and talk about it at lunch. I was at lunch with a few young lawyers, and the conversation took a surprising but interesting turn to the issue of diversity. Out of all the things we said, the one that stuck with me was “if firms keep doing what they have always done, then they have already missed the boat!” Behaviors that were acceptable in the past—when the practice of law was white-male-dominated and fostered camaraderie to provide a means to mentoring, encourage positive achievement, or assess performance—will not achieve the same result today. But, any firm that is just realizing that is too late. That is not to say that certain time-honored traditions should cease to exist, but there should be additional means of achieving the same goals.



Women have different motivators from men (golf and cigars may not always be the best mentoring environment), different people maintain different standards (happy hour may not be the ideal firm bonding for a teetotaler, or lunch at the gentlemen's club may not be as exciting for the gay associate), and different people bring different assets to the table (if you are the first professional in your family, bringing in business through past connections may not happen, but allowing time for involvement can bring new relationships). Enhancing firm culture to acknowledge different life experiences and to be open to changing based on those differences will foster a culture of inclusion.

Sometimes in trying to be sensitive to diversity issues, we miss something, and lawyers with disabilities often are missed in the diversity conversation. Technology and changing attitudes allow people with disabilities of all types to practice law. While there have been employment laws in effect for years to protect people with disabilities, law firms still struggle with how to accommodate these practitioners. The traditional practice, even in modern day, is made for the sighted, hearing, and those with certain mobility. Several years ago, I worked with a young lawyer who lived his life in a wheelchair. He was open to explaining the accommodations that he needed to practice law. As he explained it, once in his wheelchair he was fully independent. We had a deposition in Florida; he was at a firm in Los Angeles. He had to bring his aunt and mother because they helped him get ready in the morning and set him up in his chair. Although he took notes, he could not read his own writing and neither could I. He explained that he remembered a lot and sometimes could decipher a sentence or two. Typically at the end of the day, he would dictate to his computer via a special program, but on this trip, his mother had to serve as his scribe. We could eat lunch in the hotel or across the street because no one on the team had a van that was accessible (and his aunt and mother were at Disney World). He opened my eyes to the boundaries of our profession. I wondered who paid for his mother and aunt to fly to Florida, and why didn't we have an accessible vehicle? Having worked with him made me conscious of certain issues to which I would not have otherwise been exposed. Now I ask questions to make sure that clients, local counsel, or opposing counsel I have never met have the appropriate accommodations they need when visiting our firm or working with us.

Creating a culture of inclusion is what the American jurisprudence system is technically about (you know, "all men are created equal . . ."). It simply makes sense that within our profession we would act and behave in accordance with the laws we seek to enforce. While it is a constant challenge to match our rhetoric to our reality, it is something we must continue to do. When asked "why is diversity important," after I tell people that it is good for business, it is good for the profession, and it is good for society, my answer is: because it is who we are.

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