

By Thomas L. Sager
and Bonnie Mayfield

While progress to date has been incremental at best, there is reason for optimism.

Tangible Results Speak Louder Than Well-Intentioned Inclusion Words

Research reveals that women and women of color still have uphill challenges in the field of law. In April 2014, “[o]f the roughly 160 leadership positions at the top 100 firms on the Law360 400, just seven women currently h[e]ld the top

leadership positions at their respective firms.” Linda Chiem, *Only 7 BigLaw Firms Have Women Running The Show*, Law360, (Apr. 21, 2014). As Harvard University labor economist Claudia Goldin’s research documents, “[f]emales earn less than males, even in the same occupations,” including the legal profession. Claudia Goldin, *Close the Gender Pay Gap, Change the Way We Work*, Jan. 21, 2014, <http://www.bloombergview.com/articles/2014-01-21/close-the-gender-pay-gap-change-the-way-we-work> (last visited July 10, 2014); Claudia Goldin, *A Grand Gender Convergence: Its Last Chapter*, 104 *American Economic Review* 1091–1119 (2014), available at http://scholar.harvard.edu/files/goldin/files/goldin_aeapress_2014_1.pdf. See also

Pay Gap Is Because of Gender, Not Jobs, The Upshot, Apr. 23, 2014 <http://www.nytimes.com/2014/04/24/upshot/the-pay-gap-is-because-of-gender-not-jobs.html?hpw&rref=business&r=1> (reporting that “women who are lawyers and judges make 82 percent” of men’s wages). Practices such as the origination fee have had a disparate impact upon women and attorneys of color and have resulted in a continued gap in compensation. See generally Ida Abbott, *Sponsoring Women: What Men Need to Know 21* (Attorney at Work 2014).

One National Association of Women Lawyers (NAWL) study concluded that “[t]he gender composition of law firm governing and compensation committees

■ Thomas L. Sager is Senior Vice President and General Counsel for DuPont Legal in Wilmington, Delaware. He is a past chair of the Minority Corporate Counsel Association and the MCCA’s Thomas L. Sager Award was established in his name and given in recognition of his individual efforts and achievements to promote diversity in the legal profession and will be presented annually. Bonnie Mayfield, is a member of Dykema Gossett in Bloomfield Hills, Michigan, where she focuses on labor and employment, product liability, arbitration, and class action matters. She is the vice chair of the IADC’s Diversity Committee and member of DRI, the ABA, and the NBA. Any views, opinions, and conclusions expressed in this article by Ms. Mayfield are those of Ms. Mayfield and do not necessarily reflect the opinion or policy of Dykema Gossett.



impacts the extent of the gender pay gap within a firm” and “[w]omen continue to lag behind men with respect to credit for rainmaking and client revenue.” Nat’l Ass’n of Women Lawyers, *Report of the Eighth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms* at 5 (2014), http://www.nawlfoundation.org/pav/docs/surveys/Eighth_Annual_NAWL_Survey-Final.pdf.

The NAWL study seems to indicate that firm planning has neither pinpointed nor prepared “women leaders.” *Id.* at 6. (“[f]ormal succession planning has not been a means of identifying and grooming women leaders.”) (original emphasis removed). And women, white and minority, do not advance in large firms in proportion to their law school graduation rate. *Id.* at 4.

Notably, minority women advance “less often” than minority men in large firms. *Id.* at 6. (“In the 100 largest law firms, female minorities occupy 2 percent of equity partnerships compared to 6 percent male minorities.”) (original emphasis removed); Triedman, *supra* (“For black female associates, advancing to partnership inside a firm (as opposed to moving in laterally) is so difficult that ‘almost 100 percent of black women leave by the eighth year of practice,’... [A] 2009 study by Catalyst, a nonprofit group promoting opportunities for women in business, showed that three-quarters of black female associates left their firms by the fifth year, and five in six before their seventh year.”) (internal citations omitted). See also ABA Comm’n on Women in the Profession, *Visible Invisibility—Women of Color in Law Firms*, Executive Summary 5 (2006), http://www.americanbar.org/content/dam/aba/migrated/women/woc/visible_invisibility.authcheckdam.pdf. (“[w]omen of color experience a double whammy of gender and race, unlike white women or even men of color who share at least one of [the]... characteristics (gender or race) with those in the upper strata of management. Women of color may face exclusion from informal networks, inadequate institutional support, and challenges to their authority and credibility. They often feel isolated and alienated, sometimes even from other women.”); ABA Comm’n on Women in the Profession, *Visible Invisibility—Women of Color in Fortune 500 Law Departments*, Executive Summary

VII (2012), http://www.americanbar.org/content/dam/aba/marketing/women/visible_invisibility_fortune500_executive_summary.authcheckdam.pdf (“female attorneys of color in the corporate sector face many of the same issues and obstacles as their women of color counterparts in law firms, including the negative impact of bias and stereotypes on their careers”). The experience of female minority partners does not appear to be overwhelmingly different even with tenure beyond the eighth year mark. Nat’l Ass’n of Women Lawyers, *Report of the Eighth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms* at 6, 15-16, footnotes 19-20.

Overall, compared to government and corporate legal departments today, large law firms have the “worst” diversity records. Julie Triedman, *The Diversity Crisis: Big Firm’s Continuing Failure*, *The American Lawyer*, May 29, 2014, <http://www.americanlawyer.com/id=1202656372552> (last visited July 10, 2014). Unfortunately, “[t]he law continues to fall further behind other professions in the inclusion of black professionals, according to a recent study by Microsoft Corporation.” *Id.* And as reported in a recent May 29, 2014, article,

[f]or black partners, The Am Law 100 is a lonely place. More than a quarter-century after the first national efforts to boost the presence of black lawyers at large firms, African-American partners remain so rare that at most firms, they can be counted on one hand, even though the average Am Law 100 firm has more than doubled in size in the past two decades.

Triedman, *supra*.

Even with gains made in the legal profession, the profession obviously still has more work to do to achieve tangible diversity and inclusion *results* that we can measure with empirical data demonstrating sustained hiring, retention, promotion, and compensation of women attorneys and women attorneys of color. *Results* always speak much louder than well-intentioned diversity and inclusion words and initiatives.

Certainly, no one strategy will build a legal profession that is more open, diverse, and inclusive of women and women of color. Each law firm, legal department, and individual lawyer has to handle the particularities, including culture, organizational

structure, and other aspects in ways that take a particular firm, department, and individual into account.

Still, several strategies can be used to help build a diverse and inclusive legal profession. This article identifies some of those strategies, although it does not offer an exhaustive list.

Some Strategies to Help Include Women and Women of Color Through Sustained and Positive Outcomes

Not every strategy works in every situation, but taking your position in your firm and your personal characteristics and background into consideration when selecting strategies can achieve results that chip away at the state of affairs for women attorneys and women of color attorneys in your firm. Leaders, men, clients, women, and women of color all have the power to effect change.

Leaders

It all starts at the top and with you: “A leader leads by example, whether he [or she] intends to or not.” Author unknown, *The Quote Garden*, <http://www.quoteagarden.com/leadership.html> (last visited July 10, 2014). Through individual and personal action, top decision makers—male, female, minority, and every other—can help build legal organizations inclusive of women and women of color and can drive sustained and positive outcomes.

Of course, as Dr. Arin Reeves of Nextions notes, “creating diversity and inclusion initiatives” is different from creating “actual diversity and inclusion.” Arin N. Reeves, *Diversity in Practice, Outputs v. Outcomes*, *Chicago Lawyer* (July 2013), <http://www.nextions.com/wp-content/uploads/2013-07-01-13-DIP-Outputs-vs.-Outcomes-Chicago-Lawyer.pdf>. Leaders, therefore, need to focus on the desired outcome and establish “outcome-oriented goals.” *Id.*

Leaders also can take real, tangible, personal, and *individualized* actions designed to help build, *by example*, diverse legal organizations inclusive of women and women of color. For example, each leader in a legal organization can ask himself or herself the following questions, which can lead to outcome-oriented action.

- Are you an effective and *personal* mentor to and champion of women or women of

- color who are truly diverse in thought and action, and do you consider how business has changed and will require “new” leadership models that reflect that change? See *Visible Invisibility—Fortune 500 Law Departments*, *supra*, at V; Abbott, *Supporting Women*, *supra*, at 8.
- Do you meaningfully participate in diversity and inclusion events or simply

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- send representatives *in lieu* of your personal participation?
- Do you work with the same one or two women or women of color with whom you have become comfortable, or do you widen your scope of influence to include additional women and women of color with equal, if not superior, talents, skills, and abilities and who have truly diverse perspectives?
- Do you obtain input from women or women of color and implement their suggestions that make sense for your particular legal organization?
- What are the demographics of the individuals in your business lunch and business social circles?
- Do you create opportunities for women or women of color to develop or to inherit business and also to ensure that they receive credit for the business that they generate to counteract the way that women in law firms “continue to lag behind men” in receiving credit for “rainmaking” and generating revenue? See Nat’l Ass’n of Women Lawyers, *supra*, at 5.
- Do you identify women or women of color for promotion and prominent roles within your legal organization and then

personally groom or have them groomed for those roles as part of succession planning? See *id.* at 6.

- Do you make real, tangible changes to the practices and personnel who impede hiring, retention, promotion, and compensation of attorneys who are women or women of color?
- Do you understand that “[i]mplicit bias—attitudes or stereotypes that affect our understanding, decision-making, and behavior, without our even realizing it” is real, affects how people see each other and how they behave, is present in the legal arena, and can have real-world, negative consequences in the sustained hiring, retention, promotion, and compensation of attorneys who are women and/or women of color? See Kang, Bennett, Carbado, Casey, Dasgupta, Faigman, Godsil, Greenwald, Levinson, & Mnookin, *Implicit Bias in the Courtroom*, 59 U.C.L.A. L. Rev. 1124, 1126 (2012), available at <http://faculty.washington.edu/agg/pdf/Kang&al.ImplicitBias.UCLALawRev.2012.pdf>. See also Jerry Kang, *Implicit Bias—A Primer for Courts*, Nat’l Ctr. for State Courts, http://www.americanbar.org/content/dam/aba/migrated/sections/criminaljustice/PublicDocuments/unit_3_kang.authcheckdam.pdf. See also Jerry Kang, *Getting Up To Speed On Implicit Bias*, Tedx San Diego, <http://jerrykang.net/2011/03/13/getting-up-to-speed-on-implicit-bias/> (collecting various resources) (last visited July 10, 2014); Arin N. Reeves, *Diversity in Practice, What Does Your Brain ‘See’?*, *Chicago Lawyer* (Nov. 2012), http://www.nextions.com/wp-content/files_mf/1352727388_magic-fields__attach_1_1.pdf.
- Have you carefully scrutinized the assignment of work? This is precisely where “implicit bias” (*i.e.*, unconscious bias) can appear and the playing field becomes decidedly unlevelled and biased. See Triedman, *supra*. As one writer has pointed out, “It’s not enough to recruit more black associates if you don’t deal with pervasive bias.” *Id.*
- What are the tangible diversity and inclusion results that you want to achieve and measure?
- Do you frankly discuss with non-diverse colleagues and subordinates the tangible, diversity and inclusion results to be achieved and measured?
- Have you changed the compensation system metrics to reward those who obtain tangible results that include women and women of color? As Vernā Myers explains, “[s]tructural issues” can get in the way despite good intentions. See Vernā Myers, *Why Effective Retention Requires Attention to Our Implicit Biases*, in *Law Practice Management* (ABA 2012), available at http://www.americanbar.org/groups/litigation/committees/diversity-inclusion/news_analysis/articles_2014/effective-retention-implicit-biases.html (last visited July 10, 2014).
- Have you made sure that your organization provides flexible work hours, family care policies? Has your organization invested in technology permitting virtual work, when needed, so that there can be a work-life balance of personal obligations and interests with a challenging, cutting-edge, and lucrative career?
- Have you made sure that the women and women of color that you have mentored or championed also have done so and continue to do so for other women and women of color and have not merely “arrived,” become window dressing, or gatekeepers barring the gates to others with equal or perhaps superior talents? See Abbott, *supra*, at 22.
- Have you taken a good, hard look at yourself and your organization, its culture, and how it really treats and evaluates women and women of color—again not just the same one, two, or group of women or women of color with whom you have become comfortable or who have “arrived”? See *Written in Black & White, Exploring Confirmation Bias in Racialized Perceptions of Writing Skills*, Nextions, http://www.nextions.com/wp-content/files_mf/13972237592014040114WritteninBlackandWhiteYPS.pdf.
- Have you gotten behind the statistics of the revolving door of, or sudden or trickling loss of women or women of color? Have you established an *external* and *independent* board of advisors to help hold your organization accountable and to make suggestions for improvement?
To assist the firm with its diversity and inclusion efforts, in 2011, Steptoe & Johnson LLP constituted an external Diversity Advisory Board (DAB).

The mission of the DAB is to serve as a conduit through which Steptoe can import current information on innovative inclusion strategies, business trends, and challenges in the legal market, as well as to ensure accountability and to advocate for Steptoe's success. The general counsel of one of the firm's major clients chairs the DAB, and its membership includes a former associate general counsel of a major corporation, as well as high-level officials of leading national and international corporations and nonprofits, a law school dean, and a noted author. Steptoe's leadership confers with and has adopted DAB recommendations.

See Diversity, Steptoe & Johnson LLP, <http://www.steptoe.com/about-diversity.html> (last visited July 10, 2014).

You cannot just dabble in and punt diversity and inclusion to a subordinate; instead, *you* have to drive it.

- Have you read the data proving that “diversity and inclusion are enormously profitable”? Sheryl L. Axelrod, *Banking on Diversity: Diversity and Inclusion as Profit Drivers—The Business Case for Diversity*, ABA (*emphasis in original*), http://www.americanbar.org/groups/litigation/committees/diversity-inclusion/news_analysis/articles_2014/diversity-inclusion-profit-drivers.html (last visited July 10, 2014).

These questions can generate “outcome-oriented goals” and outcome-oriented actions. See Reeves (July 2013), *supra*. In turn, those actions and goals can help move leaders from having well-intended thoughts and words to individualized as well as concrete, organization-wide actions with positive outcomes in the building of a more open, diverse, and inclusive legal profession.

The uphill challenges that attorneys who are women and women of color face are not new phenomena. Indeed, they have been studied and written about for years and the business case for diversity and inclusion is obvious and well established, and others have written about it extensively elsewhere. See Triedman, *supra*. See also Axelrod, *supra*. “To the extent that your legal organization is out of step, it’s going to be a competitive disadvantage.” See Triedman, *supra*.

So, leaders, you can lead, powerfully, by example and with data from multi-

ple sources that demonstrate the negative effect of exclusivity on the bottom line for productivity, profitability, entrepreneurship, and ingenuity. The examples of your personal omissions (neither having “outcome-oriented goals” nor taking outcome-oriented actions) or your personal commissions (creating “outcome-oriented goals” and taking outcome-oriented actions strategically designed to build a more open, and diverse legal profession, inclusive of attorneys who are women and women of color) will help determine the culture, practices, and profitability of your organization. Which path of action or inaction do you choose? Which path are you on already? Which path does your personal action or inaction inspire those in your organization to follow? Have you personally taken the lead in advancing diverse women and women of color, both inside and outside of your organization?

Clients

You have the power to drive tangible results in the legal profession; you “have power of the dollar.” *General Counsels Make the Case for Diversity*, <http://labroots.com/user/news/article/id/159023/title/general-counsels-make-the-case-for-diversity>. For example, if a client decides to refrain from sending legal work to a law firm that is not inclusive of women and women of color and also lets that firm know why the work is no longer being sent, what do you think will happen? Change will occur. The client will have created an economic incentive. The firm’s diversity and inclusion reality will become something that affects the bottom line of revenue.

As Joseph West, President of the Minority Corporate Counsel Association, recently told an audience at the New York City Bar Association *General Counsels Diversity and Inclusion Forum*, “[I]f clients start saying, ‘I’m not going to send my work to that firm,’ you’ll start to see” behavioral changes that can motivate an organization to be more diverse and inclusive. Andrew Strickler, *Turning Up Pressure Will Improve Firm Diversity*, *GCs Say*, *Law360* (Apr. 30, 2014). Ida Abbott, author of *Sponsoring Women: What Men Need to Know*, has explained that if clients do not push diversity and inclusion, then “firms will not make it the priority it must be. Clients have to drive this. Most people running firms want fair-

ness, but that is a far cry from taking action to accomplish it.” H. Gwen Marcus, Executive Vice President and General Counsel of Showtime Networks, Inc. agrees: “in-house counsels must use their leverage to push firms to take a more aggressive approach to promoting diversity.” Strickler, *supra*.

Of course, a step in that motivational process is to identify, collect, and analyze

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pertinent information. Excerpts from the *DuPont Legal 2013 Benchmark Survey for Primary Law Firms* provide examples of information that can be collected and analyzed. For example, Section 8 of the survey asks about women and minorities representing DuPont. In question 33 of the survey, firms are asked to provide the number of equity partners that worked on DuPont matters in the last three years. Questions 34–36 go on to ask for the same information about nonequity partners, senior attorneys with the titles “counsel,” “of counsel,” or “senior counsel,” and associates. Question 37 then asks for the names and titles of the specific attorneys, as well as the number of hours billed, and question 38 requests that respondents “[p]lease describe any significant breakthrough in your firm in the area of diversity such as retention, career development, hiring and reduced hours during the past year.” Question 39 asks this: “If your firm is not satisfied with the current level of participation of women and minorities in DuPont matters, please pro-

Table 1 – Question 33

33. Please provide the number of EQUITY partners in your firm that worked on DUPONT MATTERS in the years below:			
	2011	2012	2013
Total number
Women
African Americans
Asians
Hispanics
Other Minorities (please define)
Attorneys on Reduced Hours

Table 2 – Question 37

37. Please provide the attorney name, title and the number of hours billed by your firm’s attorneys on DuPont matters during the past year. (If you need more space than is available on this survey, please send a spreadsheet including your firm’s name to Kelly.K.Burns@dupont.com.)			
	PLF Attorney Name	Attorney Title	# of Hrs Billed Per Attorney
Billings by Women
Billings by African Americans
Billings by Asians
Billings by Hispanics
Other Minorities (please define)
Attorneys on Reduced Hours

Table 3– Question 40, Parts 1 and 2

40. If your firm sent attorneys to, or sponsored, any of the activities listed below in the past year, please complete the below information:				
Matrix: part 1 of 2				
	Minority Counsel Conference	Mid-Year Women’s Conference	DuPont Minority Job Fairs	DuPont Network Annual Meeting
Number of Attendees
Number of Presenters
Level of Sponsorship

40. If your firm sent attorneys to, or sponsored, any of the activities listed below in the past year, please complete the below information:		
Matrix: part 2 of 2		
	DuPont Marketing and Referral Conference	Other Programs and Events at DuPont’s Request (please specify in this space)
Number of Attendees
Number of Presenters
Level of Sponsorship

Table 4 – Question 45

45. Please provide your firm's retention rate (%). (% must equal 100%):			
	2011	2012	2013
All Associates
Women
African Americans
Asians
Hispanics
Other Minorities (please define)
Attorneys on Reduced Hours

Table 5 – Question 47

47. Please provide the following information concerning attorneys who left your firm:			
	2011	2012	2013
Total Number
Women
African Americans
Asians
Hispanics
Other Minorities (please define)
Attorneys on Reduced Hours

vide suggestions for improvement.” Two-part question 40 assesses firm attendance at, or sponsorship of, certain activities, such as the Minority Counsel Conference, the Mid-Year Women’s Conference, and the DuPont Minority Job Fairs, among others. And Questions 41–44 ask as follows: “In 2013, did your firm support financially or through pro bono services any NEW diversity initiatives? Please describe,” (question 41); “Please state the race and gender of the membership of your firm’s governing committees (including Executive Committee and Compensation Committee),” (question 42); “Please state the race and gender of the leadership of your firm’s practice groups,” (question 43); and “Please state the method by which origination credit is assigned for DuPont billing,” (question 44). Regarding retention rates, Section 9 of the survey asks firms to provide information on their three-year associate retention rate, as well as information about any

attorneys who left the firm (Questions 45 and 47), and also asks other pertinent questions: “To what does your firm attribute any change in retention in the past year?” (question 46); and “What affirmative steps could DuPont take to help your firm’s retention of attorneys? Please describe.” (question 48).

Section 10 of the survey asks about work-life programs. Question 49 asks, “Please describe any NEW work/life programs and/or policies to balance work/life issues in order to retain attorneys, paralegals, staff, or other professionals that were initiated within your firm in 2013. ONLY PROGRAMS INITIATED IN 2103.” Question 50 asks, yes or no, “Does your firm have proportional policies for salaries, promotions, bonuses, and benefits for attorneys working under reduced work hours? If No, please explain why.” **Tables 1–5 provide illustrations of how these questions appear in the DuPont survey.**

In addition to gathering and analyzing pertinent information, as Evelyn Brantley, Chief Productivity Officer of DuPont Legal, believes, clients also must look for every opportunity, big and small, to promote diversity and inclusion in their law provider ranks. Clients must know their law firms and know them well, according to Brantley, and also analyze the pertinent law firm data on a granular level more than once a year. We agree. Law firm and client collaboration is one key and cannot stop with the mere collection of law firm information.

An additional motivator is recognizing the law firm’s diversity and inclusion successes. As the co-author of this article and a senior vice president and general counsel writes: “The power of the pen is one forgotten art. A handwritten personal thank you note from a client to a law firm leader and/or diverse lawyer will go a long way in aiding diversity and inclusion efforts.” Having

been the recipient of that kind of unsolicited communication, the law firm equity member and other co-author of this article knows the power that recognition by clients and fellow counsel can have..

Women of Color and Women

You are the masters of your fate. You are the captains of your souls. This is a twist on the poem *Invictus* by William Ernest Henley: “It matters not how strait the gate, How charged with punishments the scroll, I am the master of my fate, I am the captain of my soul.” The Poetry Foundation, <http://www.poetryfoundation.org/poem/182194> (last visited July 10, 2014). But the twist is grounded in truth. You have to take your careers into your own hands. Without a doubt, there are potential obstacles, and they sometimes include people, institutions, workplaces, and other situations. Despite the obstacles, *you* must push your own progress forward. Do not wait for anyone else to do it for you. Own and accelerate your career, success, and what Dr. Arin N. Reeves identifies as “the business of *you*.” Arin N. Reeves, *The Business of You, Attorney at Work* (Oct. 2, 2012), http://www.nextions.com/wp-content/files_mf/1349198036_magicfields__attach_1_1.pdf.

You need to be able to articulate your value and persuade buyers that the product you are selling—you—is better than others available to them. And the marketing and selling of yourself does not stop when you secure a position. The business of you continues as you grow and seek advancement opportunities—and it plays a significant role if you strive to ascend to leadership positions.

Id.

So, speak up and start discussions about the issues that concern you. Push for changes and suggest realistic solutions. Ask for the particular type of work or the specific case that you want to handle; you cannot get what you want if you do not ask for it. It’s your life. It’s your career! It’s your “business of *you*.” *Id.*

At the end of the day, you must take charge of your future and not view differences as barriers, but instead as hurdles that *you* have to help make sure do not become stumbling blocks. See also Arin N. Reeves, *Leadership Expert Dr. Arin N. Reeves Offers Five Tips to Kick Start a Career in 2011*,

PRWeb (Dec. 2, 2010), <http://www.prweb.com/releases/2010/12/prweb4850884.htm> (last visited July 10, 2014). Everyone has hurdles, including men, and whether those hurdles are different or interjected, you have to find a way around them.

Find and cultivate mentors and champions. See Abbott, *Supporting Women, supra*, at 13–19 (distinguishing between mentoring and championing although using the words sponsors and champions interchangeably). In fact, you must seek multiple mentors and champions. The legal landscape is dynamic and constantly changing so you should be forever sensitive to this changing environment. Having multiple mentors and champions will not leave you vulnerable should one or the other leave your organization or clients.

Your mentors and champions should be both inside and outside of your organizations, geographic areas, and even your fields of expertise. Finding mentors and champions can be pivotal to the success of women of color. See Triedman, *supra* (“Black lawyers come into firms thinking that ‘the best thing is to keep their nose down and grind out good work product, which is important,’ says the MCCA’s West. ‘But they never develop relationships beyond their cubicle, which is a critical mistake. White males immediately go about developing relationships inside and outside of the firm.’”).

Sponsors are especially critical for women of color, who face stereotypes and biases both as women and as members of racial and ethnic minority groups. But they, too, are often ignored by the power brokers who could help them. White professionals are 63 percent more likely to have sponsors than professionals of color.

Abbott, *Supporting Women, supra*, at 22.

Mentors and champions do not have to be the same gender, race, ethnic group, age, or creed. The important part is that your mentors and champions are willing to invest in you and you are willing to invest in them.

Develop a niche, an expertise, and a book of business, all of which allow you to have independence and to stand out from the crowd. Bonnie Mayfield, *Rainmaking: Business Development and Retention Techniques, The Practical Lawyer*, (Feb. 2005), available at http://files.ali-cle.org/thumbs/datastorage/lacidoirep/articles/PL_TPL0502-MAY-

FIELD_thumb.pdf. For example, your niche or expertise could focus on a particular industry, a specific legal subject, or even a newly emerging subject. You can identify legal needs that are not served or are underserved. Either way, proactively find solutions to problems and potential problems specific to clients and their industries. See generally Renee Knake, Professional Responsibility, Class #1 Fall 2012, PowerPoint, (Knake’s scholarship includes innovations in providing legal services).

There are two critical aspects to advancing in the legal profession. You must demonstrate superior legal acumen. You also must demonstrate your leadership abilities. See generally Ida Abbott, *Women on Top: The Woman’s Guide to Leadership and Power in Law Firms*. These two talents separate the best from the rest.

Because the law is also a business, it is not enough just to do excellent work. Excellent work and knowing the law are a given and just the price of entry for a high-stakes career, but neither may get you a seat at the table. You need to learn the business of law and also understand that clients and colleagues send work to and promote people with superior legal acumen and leadership abilities and whom they feel they know and can trust. So, strategically build many, different, and deep referral and relationship networks, both inside and outside of your organizations. Of course, handwritten, personal, thank you notes from you to each of your mentors, champions, and those in your referral and relationship networks will go a long way where you have been aided in your travels.

While building your networks and practice, invest in yourself and promote your talents and skills. See Reid Hoffman & Ben Casnocha, *the start-up of YOU* 4–7 (Feb. 2012), available at <http://www.thestartupofyou.com/>. See also, Knake, PowerPoint, *supra*. Even if your organizations will not pay for certain opportunities, deliberately invest your skills, time, and efforts nevertheless. See Hoffman & Casnocha, *supra*, at 4–7. For example, give public presentations no matter what your level of the organization. Join organizations and committees that interest you and that are external to your workplace and take a leadership role. Get exposure to the kind of work that you want to do, whether at your present orga-

nization, the organization that you may create, or the organization to which you may be headed. Develop an entrepreneurial mindset and do not rely upon inheriting business as “[i]t appears that female and minority partners are losing that competition” of inheriting business. Triedman, *supra* (quoting a social scientist who examined “two decades’ worth of individual billing records at three major law firms” revealing that women and minorities are not typically inheriting business). See generally Hoffman & Casnocha, *supra*.

Remember, you are as equally equipped as anyone to achieve success.

...Two arms, two hands, two legs, two eyes
And a brain to use if you would be wise.
With this equipment they all began,
So start for the top and say, “I can.”...

You can triumph and come to skill,
You can be great if you only will.
You’re well equipped for what fight you choose,...

You were born with all that the great have had,
With your equipment they all began,
Get hold of yourself and say: “I can.”...

See Edgar Guest, *Equipment*,

http://www.tuskegee.edu/about_us/legacy_of_fame/george_w_carver/carvers_favorite_poem.aspx (George Washington Carver’s favorite poem) (last visited July 10, 2014).

So, stay enthusiastic. Do not let the negative creep in and embitter you. Do not internalize the unconstructive behavior and thoughts of others. Remember, “[n]othing great was ever achieved without enthusiasm.” Ralph Waldo Emerson, *Circles* (1841), <http://www.bartleby.com/5/109.html> (last visited July 10, 2014). Know and internalize that “Good Lawyers are Made, Not Born.” David B. Wilkins & G. Mitu Gulati, *Why Are There So Few Black Lawyers in Corporate Law Firms—An Institutional Analysis*, 84 California Law Review 493, 524 (1996), available at <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1648&context=californialawreview>.

Men

Tangible and sustained changes in the hiring, retention, promotion, and compensa-

tion of attorneys who are women or women of color cannot occur without the engagement and allegiance of men.

Men hold 86 percent of corporate executive committee positions, 79 percent of senior management positions and 85 percent of law firm equity partnerships. Men make most of the decisions about who gets promoted, how much they are compensated, and how far they advance. Women executives and partners can (and do) also sponsor junior women, but there are too few of them to sponsor the large number of who aspire to leadership.

See Abbott, *Sponsoring Women*, *supra*, at 4 (footnotes omitted).

All men, therefore, at all levels of the legal workforce are an integral part of the building of a more open and diverse legal profession. Men, just as women and women of color, have to be change agents and champions of diversity and inclusion.

This includes white men especially. As Sandy Chamblee, the Chief Diversity Partner of Steptoe & Johnson LLP, which recently won the Minority Corporate Counsel Association 2014 Sager Award for the Mid-Atlantic Region, stated: “White men—as the power and majority of the workplace—are the key. They must embrace diversity and commit to an inclusive workplace....” Sandy Chamblee, *White Men Are Key to Inclusion*, in Ass’n of Law Firm Diversity, Diversity and Inclusion Report, Vol. 1, Issue 3, at 7 (Nov. 1, 2010), Indeed, according to Dr. Reeves, the responsibility for “[d]iversity and inclusion, by definition, cannot be limited to any one political affiliation.” Arin N. Reeves, *Diversity in Practice, The Politics of D&I, Chicago Lawyer* (Sept. 2012), http://www.nextions.com/wp-content/files_mf/1346769943_magicfields__attach_1_1.pdf. Nor can it be limited to any one gender. “The minute we limit who can champion inclusion, we limit our ability to make inclusion a reality.” *Id.*

Nor can that responsibility be limited to any one gender or to any one gender’s membership or participation in workplace or other groupings designed to take purposeful diversity and inclusion actions: “The minute we limit who can champion inclusion, we limit our ability to make inclusion a reality.” *Id.* Similarly, the minute that we limit who can participate in a workplace or

other groupings designed to take purposeful diversity and inclusion actions, we limit the ability to engage in open, discussion that can be the starting point for contemplation and action that make diversity and inclusion a reality. Women, women of color, and men of all colors must work together, side by side, on the same committees and in the same organizations, taking purposeful

Your mentors and champions should be both inside and outside of your organizations, geographic areas, and even your fields of expertise.

diversity and inclusion actions and feeling comfortable with, and learning from, each other. As Ida Abbott, who “has been helping employers develop, manage and retain legal talent since 1995,” knows, getting men to work in the very groups designed to take purposeful diversity and inclusion actions will help advance those actions and with more deliberate speed and a greater likelihood of success. About Ida Abbott, Ida Abbott Consulting, <http://www.idaabbott.com/about> (last visited July 10, 2014). Abbott notes: “We have had thirty to forty years of women’s initiatives. If women’s only committees could have done it alone, it would have been done years ago.”

A study conducted by Catalyst, a non-profit organization with a mission to expand opportunities for women and business, demonstrates that including men in diversity and inclusion training positively affects the workplace and helps advance purposeful diversity and inclusion actions. Catalyst, *Calling All White Men: Can Training Help Create Inclusive Workplaces?* (2012), available at <http://www.catalyst.org/knowledge/calling-all-white-men-can-training-help-create-inclusive-workplaces>. The study surveyed a group of mostly white male people managers who worked for the North American sales division of Rockwell

Automation, “a global engineering company.” *Id.* at 1. The Catalyst study “examined the effect that a company-sponsored leadership development program had on these employees’ work lives as well as on the work lives of their closest colleagues.” *Id.* The men had participated in one of two “White Men as Full Diversity Partners” (WMFDP) learning labs—either the White Men’s Caucus or the White Men and Allies Learning Lab. *Id.* at 1. Rockwell’s leaders hoped that participation in the WMFDP labs would positively affect inclusion in the workplace. *Id.*

As the Catalyst study reveals, the diversity and inclusion training helped change the mentality and behavior of the participants. *Id.* For example,

Women and racial and ethnic minorities experience workplace incivility “more often” than men and whites, but “[s]everal months after participants attended the labs, there were early signs of a cultural payoff—especially in work groups that were not male-dominated. Even employees who had never attended a lab saw a decline in workplace incivility—specifically, gossip.” *Id.* at 3–4.

After attending a lab when asked whether “white male privilege” existed, the lab participants tended to agree that it did: “On average, agreement scores jumped 17 percent, from 4.8 prior to the labs to 5.6 four months after the labs.” *Id.* at 5.

Coworkers noticed that the participants were better able to approach diverse colleagues to discuss gender and race issues. *Id.* at 10, 12.

Changing the mentality of men is a key to successfully advancing women and women of color. Men must become mentors and champions, recognizing that legal organizations can only benefit from the sustained hiring, retention, promotion, and compensation of attorneys who are women and women of color. Of course, however, in addition to changing mentality, men must take concrete actions. See Abbott, *Sponsoring Women*, *supra* (identifying concrete steps that men can take to champion). Unless they take intentional and purposeful action, men will limit the opportunities of their organizations, including opportunities for profit and higher performance, and other organizational

benefits. See Abbott, *Sponsoring Women*, *supra* at 7, 7–11 (“Abundant research shows that companies with higher percentages of women leaders and senior-level managers tend to outperform their competitors”). See also Axelrod, <http://www.theaxelrodfirm.com/attorney.php?attorney=2> *supra* (diverse Am Law 200 firms “will generate **more than \$100,000 of additional profit per partner**”) (emphasis in original).

Conclusion

It pays to persevere: “Success does not consist in never making mistakes but in never making the same one a second time.” George Bernard Shaw, Brainy Quote, http://www.brainyquote.com/quotes/authors/g/george_bernard_shaw.html. Real diversity and inclusion lessons come as much from setbacks as successes in the sustained work to improve the hiring, retention, promotion, and compensation of attorneys who are women and women of color. While progress to date has been incremental at best, there is reason for optimism. And we hope that it is through articles such as this that advances in diversity and inclusion in the legal profession will accelerate. **FD**