

PUBLICATION

Diversity Begets Diversity: General Counsel Perspectives on DEI Initiatives in Law Firms

Fall 2022

Diversity, Equity, and Inclusion (DEI) are continuing concerns in both the business and legal communities. While a successful DEI initiative will undoubtedly benefit a corporation or private law firm, many companies struggle to seamlessly weave DEI into their existing cultures. As a result, effective DEI programs are a moving target for law firm managing partners and corporate general counsel. These dynamic and evolving efforts warrant a deeper dive into how we can set an achievable target.

We assembled a panel to discuss the importance and challenges of integrating effective DEI programs. The panel included:

- Danielle Agee, Market General Counsel for the Southcentral Market at Verizon
- Marcus Brown, Executive Vice President and General Counsel at Entergy Corporation
- Chris Walker, Associate General Counsel at Jacobs Engineering Group

The panel was moderated by Kennard Davis, an associate in Baker Donelson's New Orleans office.

The panelists offered their advice to corporations and law firms on best practices for focusing on DEI in their legal operations. The panelists emphasized that companies should adopt sustainable policies and protocols to promote DEI. From attracting minority counsel to creating a nurturing environment for young attorneys, the panelists agreed on fundamental characteristics of a sustainable DEI program, chief among the best practices discussed was the principle that "diversity begets diversity." Excerpts from the panel discussion are recounted below, but you may also listen to the full discussion on the [Diversity Ever After](#) podcast.

Kennard Davis: What is your goal, as general counsel, with your company's DEI efforts?

Marcus Brown: Sustainable change. There are things that we can drive through our positions or by the force of our personalities, but when that is the case, once we move on, the change will not last. General counselors are trying to build policies, values, and processes that are sustainable in the long term. What flows through all of this is general counsel get and keep these jobs internally because we deliver value to our internal clients. When we are looking for outside lawyers, at the top of the list is who can help us deliver that value to our clients, because we keep our own jobs by selectively picking people who can do things well for us, and that is always a consideration in hiring outside counsel.

When it comes to diversity, it is important to be intentional about creating it. Anytime there is a job, there are a handful (or more) of people who can all do that job. However, somebody must decide who gets the opportunity. And if you are trying to drive diversity in your organization, then that becomes a factor. Now, if you do not want to get to a diverse environment, and you take that out of the equation, then you could end up with a homogenous result every time. That intentionality helps us build a sustainable foundation. We are trying to find the right kind of people with the right kind of mindset,

first because you can have all kinds of people who will help you get there or will prevent you from getting there. Then you want teams that reflect what you want to accomplish. You want them to have policies and metrics in place to help make sure you are measuring and driving towards that. And then, if you put all those things in place, you can create something that is sustainable long-term. Along the way, general counsel will make decisions about individuals who will help drive that process faster. But that cannot be based on the strength of our personalities alone because that is not sustainable.

Another important aspect of diversity is what companies, general counsel, and law firms put in place that allows them to keep it going for a long time. That is why I talk about a tipping point, because in these corporations, it is no longer about individuals trying to drive change on their own. Companies are facing the expectation that the organization will drive change. As an example, one of the most important things boards of directors do is hire the CEO. The people who work for the CEO are not hired by the board. They are selected by the CEO. Boards are now under tremendous pressure by these groups that follow them closely, like ISS/Glass Lewis, BlackRock, and other institutional investors and others, who are saying, boards need to change and be more diverse. Therefore, they are making board turnover happen faster, and they are driving boards to have a higher reflection of gender and minority representation. Then you get different looking boards, different looking CEOs and different looking leadership teams.

Danielle Agee:

I agree with everything that Marcus said, and I guess the one piece that I would add is that we spend a lot of time at Verizon on the pipeline. How do we increase the pipeline of black and brown lawyers, more diverse lawyers, coming into this profession? To that end, we have a legal internship program that we run every summer in five offices where we host law students who have completed their first year of law school. It is a unique program, as there are not many in-house legal internships. But it is giving diverse law school students some exposure to the practice of law from a corporate counsel perspective beyond the many different opportunities in law firms. Also, this year, we created an HBCU internship program to increase the pipeline of black students interested in the profession of law. Juniors and seniors who attend an HBCU, who plan to go to law school, are eligible for this HBCU internship program. Both internships are paid because we know that it is important to students.

Our hope is that we can increase the pipeline of people who are interested in law, who see that a career in law is achievable, and then they can take that experience and move forward in a way that they otherwise would not have, but for those experiences. We do that in partnership with a handful of firms, which allows us to increase the number of interns that we have every summer. We encourage others to get engaged in pipeline programs as well, because we think that is equally important. We certainly want to see people developed and promoted, but just from a sheer numbers standpoint, black people still only make up five percent of the legal profession. Black women only make up around two percent and there are similar numbers for other demographics. Increasing those numbers is an important goal of ours.

Christopher Walker: I agree with Danielle and Marcus that sustainability is one of the most important aspects of this. As for creating the pipeline of candidates, naturally we are going to have very good and qualified candidates coming out of law schools. But then once they get to the law firms, we must continue to drive them to be included on the files, working on the files, creating, and developing expertise in a variety of areas. And as Kennard pointed

out to us earlier, if they are not getting the chances to bill to the files, and then, at some point, to have direct contact and control of matters, or at least serve as second chair of the litigation, or help draft or negotiate the contract, then those attorneys will not succeed in law firms long-term. If all they do is the grunt work, they still do not have the development or satisfaction that Danielle mentioned, where they feel that they are an important part of the organization and want to stay, develop, and grow. Otherwise, they move on, and then you start over from scratch. Therefore, I think that we must continue to work on the sustainability element.

Kennard Davis: Chris, what questions do you have for Marcus and Danielle about their companies' DEI programs that will help you develop and implement your company's program?

Christopher Walker: First, I would like to know what they track, and how they track it, and then if they use those same metrics for the law firms and their partners. Is it done by electronic surveys or some other way? A lot of that background information is what I want to be able to create for our organization, because having that information will allow us to help drive that conversation. However, I would note that the best program will only go as far as the people in the company that buy in. If there is no buy-in internally from people who want to implement the program, then the program will not work.

Kennard Davis: What do you all hope to accomplish with these programs?

Marcus Brown: If you look at our diversity, inclusion, and belonging statement, we say publicly that we want our employee base to reflect the rich diversity of the areas we serve. But we are mindful that when we try to achieve that, we cannot set quotas. We understand some of the limitations but, to me, a mature plan for achieving these outcomes is one that has these policies and processes in place, and it is going to have the metrics to measure them.

The next step is that those metrics will be tied to the pay and performance of the people who are driving these efforts. Our compensation is, at some level, tied to the organization's success in creating and maintaining diversity because people measure what matters and we get paid for that. If you have somebody who does not do it just because they think it is the right thing to do, but it becomes part of how their performance is evaluated, then that is going to be a driver for that person to help with these diversity efforts. And that is the mature piece of this, when you get to that point, because you will get the biggest fights in a company about tying people's pay to these kinds of outcomes. But that is where we are now, as well as what you will see a lot of companies do.

I think that maturity is what we are after, and I think that the opportunity for things to be different is sitting in front of us. I do not know how different it can be, but I think it can be different.

Kennard Davis: Why is it that we do not see more African American and other minority rainmakers or relationship partners?

Christopher Walker: Well, when I talk to young attorneys that are coming out of school, I always say to them that it is not just being a great lawyer that is going to get you positions like we have or a

law firm partnership. It is your mentors and the relationships you build along the way. But, also, it is the buy-in of the other partners that you come into the law firm with. Minorities do not have the luxury of inheriting a book of business or being groomed to be a relationship partner because minorities lack the necessary relationships. Building that book of business is not just the ability of those lawyers, it is the access that has been passed down to them that a lot of our minority candidates, women, and others, do not have. And so, that is the issue with the law firms, and that is why we drive it with the programs that we are talking about today, to try to give those minority and other candidates access to that system and if they have access to those people, then, naturally, they have a chance to build their own network/book of business too.

I advise associates to network with people they went to undergraduate and law school with, because they are going to end up in higher positions at some point, and they can build business there. But a lot of times, it is driven by the inheritance of a book of business down through the system. We, as in minorities, do not get that access sometimes and we are not brought under those partners' wings, and that is the real problem that you see where a lot of young and talented minority and women candidates leave and go inhouse, because they are not getting that cooperation and that access.

Danielle Agee:

I agree with everything that Chris said, which also reminded me of two things that Marcus said, "Diversity begets diversity," and "People like working with people who they feel comfortable with." As we know, with the black and brown people in law firms who aspire to reach those higher levels, those partnership levels, who are looking around for books of business, chances are they are going to get a lot of opportunities – if they are going to get any – from people that they are in social and professional networks with. One of the things that I often say to law students and now to those HBCU students, who will be coming through Verizon, is to make sure you are developing your network from the start. You are going to school with the people who are later going to become CEOs, CTOs, and other executive positions, and if you can continue those relationships over the years, when they find themselves in a position to start hiring someone, they will remember you. So that is the first thing, and that is a big part of this.

The other thing I would say about law firms is that many of them have a culture problem. Before you even get to the point where you are looking for business, you must feel comfortable where you are working every day, because you are working a lot of hours, as a lawyer, and especially as a young lawyer. If you are doing it in a place where you cannot bring your authentic self, you do not feel like you belong, no one is including you in all the important work and they are not including you in the social stuff that happens after work, why would you want to be there? That is, I think, in large part, the reason that lawyers leave law firms.

Therefore, creating a culture where everyone feels like they can thrive, where they are included, where they are given the interesting work, where they are given the access to the important work and the rainmakers, and where they are similarly developed is something that law firms which care about diversity, equity and inclusion need to work on. Of course, we all own our careers, but if the people in power do not want to give us an opportunity, the same opportunities that they are giving everyone else to be developed and to be successful, then we are probably not going to want to stay there.

Marcus Brown: It is an interesting dilemma. Law firms are challenging places and corporate law departments are different, but it is competitive to get into a corporate law department. There are a lot of different areas where you can find talent. When you start looking for lawyers, you can make the mistake of not having a diverse firm, because you can have your pick of the litter. Therefore, achieving diversity still requires the same focus, because you can use the same reasoning to not get there. But I do believe that, when we think about how we change on a broad level, it is about teaching people how to be successful, and a lot of that happens in a law firm. One trait a lawyer needs to be successful is figuring out how to talk to people at different levels in the organization who are looking for you to give them, in 20 minutes or less, the information they need to make the tough decisions. At the same time, you have pages of stuff in your head, should they ask for it. I have seen people unable to make the transition in how they communicate, as they go up the ladder. These are bright, capable people who do not recognize that they need to adjust to a different audience at every level, which is a small thing but a very important thing, nonetheless. This means that just because you are a smart, capable lawyer, at the individual, matricular level, it does not mean that you are going to successfully navigate your way up to the top in the legal industry. You will also have to make those communications adjustments. You can tell people how to do this, and most of the times they will understand it. You can show it to them, and many can adjust to it. But if you leave somebody on their own, they may never figure that out, and I have seen people not figure out why somebody else is getting an assignment and not them.

Therefore, there is a lot that we can do to educate people in ways to be successful. Being successful is not just about getting somebody to back up a truck to your firm and give you work. I must be comfortable that, when you talk to me, you understand what we are trying to accomplish. So, do you listen to earnings calls? Do you read annual reports? Do you know what the business strategy is? Are you trying to help the companies accomplish their goals? Those are things you can do before you sit down and listen to an earnings call. You could then talk to the general counsel in a way that matters to them and hits key points because you understand what the company is trying to accomplish.

Kennard Davis: What advice would you give to a law firm, other general counsel, and attorneys at law firms who are a part of these diversity efforts and want to advance them?

Danielle Agee: My advice to the younger lawyers is to find someone who can show you the ropes, somebody who you can talk to, somebody who you can learn from. If you do not have that person in your firm, that is not the only place that you can look for them. You can meet people through bar associations, other friends, and professional organizations. But find someone that you can learn from, who can help identify your blind spots, who you can run things by when you need to, and vent to when you need to. Just find someone who can mentor, coach, or help support you through this profession, because as professions go, this is one of the tougher ones.

What I would tell law firms is, look at your culture and see if there are ways you can improve upon your culture that would allow everyone to feel like they can bring their authentic selves to work, that they will be valued for who they are and that they will get opportunities to do the interesting work, advance, have the kind of career that they

want, and feel valued at where they are.

For corporate legal departments, I would say use the opportunity to talk to your peers in other companies and get a sense of what their corporate or DEI best practices are. We have learned a lot and implemented a lot over the years, because we are constantly looking at best practices across the country and from different companies. We know we do not know it all. We are still improving and learning and growing in this space, and there is a lot of good stuff out there. Diversity is most successful when it starts from the top, and to have the leadership within your organization who cares about diversity, who is going to promote and support diversity, requires a diversity metric in your annual performance agreement. Those are the kinds of things that I think have allowed us to be successful in our diversity efforts at Verizon. Because our board cares about it, our CEO cares about it, and it is in our performance agreements now, so everybody must care, in some way. Whether they really do or not, they must act as if they do. And that is going to help us move the needle.

Marcus Brown:

I would add, that looking back over the last 30 years, the legal industry did not show any need to change in terms of diversity in the industry. But as we look forward, we know the industry must change. The difference is that the change that law firms used to be asked to make was something that they were going to do because they wanted to, or they felt like it was the right thing to do. Going forward, the law firms that work for big companies will have to care about the culture, diversity, and inclusion, and the long-term issues associated with them because companies care about them. Law firms will not be able to escape the scrutiny that is associated with being a service provider for a company that is under this level of scrutiny, and so general counsel will be looking for partners who value the same things we value.

If you want to be successful going forward, what matters to us must matter to you. And if you want to get ahead of that, then you will figure out ways to develop the kind of culture that tracks talent, to develop it and keep it. That is just a business imperative. We have been saying it is a business imperative for a long time, but it is just becoming one because now the people who are giving out the business are being watched so closely. It is not just because people are being watched, but it is changing the structure and the look of these companies, which is changing behavior, and all of that is for the right reasons.

My advice for associates is that when I look for people who I want to hire, I look for three things: 1) Is the person smart? 2) Do they work hard? and 3) Do they have the right values? We could teach you anything else if you have those three things. But, if you are smart and you do not want to work hard, it is not going to work. If you work hard, but you have the wrong values, it will not work. So, come to this profession with the expectation that learning is continuous, and that you cannot ever expect to get something without giving something.

What I see a lot of times is people who go into an environment, and want the environment to give something to them, which is a fair expectation, but you must get what you give. You must give something back. If you go into an environment with a hundred lawyers, and there are three African American lawyers in that pool, they need to figure out how to deal with you, but you have 97 other people in there and you must figure out how to engage with them, too. It is not a one-sided obligation. Success is a

two-sided coin, and all of us have been in situations where we are surrounded by people, and still we feel alone. And then sometimes we are surrounded by people, and you find mentors through friends. You must be able to function in those environments and figure out how to find your way, and that is not about being strident and aggressive. You must figure out how to find some footing because there is common ground with enough people in any environment for you to figure out a way through it. None of this is easy, but it is doable. When it comes to success in a law firm, in many cases, success is a hundred percent or a zero percent proposition. Either you are successful, or you are not. So, we must figure out ways to help diverse attorneys manage these things on their own, with some help from others, by having processes and policies in place.