



The Business of Law

By Jeffrey W. Larroca

For years, law firms sought to trumpet their own efforts at fostering a diverse workforce. For example, my own law firm - Eckert Seamans - founded a Women's Initiative at Eckert (WIE), which encourages and supports women at the firm by offering them opportunities for advancement, promoting them to leadership roles, and encouraging them to be voices of authority in the communities in which they live and work. The WIE is a critical component of Eckert's culture and it has been instrumental in several areas. For example, Eckert Seamans was recently named one of the top 50 law firms for women by *Working Mother* magazine. My emphasis on Eckert is not parochial. Nearly every large law firm has some formalized initiative or process to enhance and recognize diversity in its ranks, be it through initiative, platforms for work in diverse communities, the hiring of diversity counsel, or other endeavors.

A second force has influenced the legal profession externally -- the desires of clients. Numerous businesses have undertaken efforts to ensure that the law firms they use are committed to diversity. For example, Accenture -- a global management consulting, technology services and outsourcing company -- recently asked dozens of law firms it uses to complete diversity questionnaires, wherein each firm listed the numbers of minorities, gays, lesbians and women in its entire firm, on management committees, among student and lateral recruits, and among attorneys working on cases for Accenture. Each firm was also asked to explain its retention (or lack thereof) of minority lawyers. In December 2005, Wal-Mart, whose need for legal services is significant to say the least, issued the following statement:

At Wal-Mart, we believe we're in the unique position to be not just a leader for change, but a driver of change. Our commitment to diversity starts with our board of directors and extends throughout the organization. Wal-Mart is a leading employer of Hispanics and African Americans. Sixty percent of Wal-Mart associates and approximately 40 percent of our managers are female. We are committed to promoting minority and female involvement in all facets of our business, including our in-house legal

department. Currently, 26 percent of the attorneys in our U.S. legal department are minorities and 42 percent are women. Half of the officers in the legal department are women and minorities. We have worked hard to ensure that minorities and women hold key leadership positions - placing them in line for promotions. We expect nothing less from the firms we chose to represent us. . . In June 2005, we wrote each of our top 100 law firms, as determined by invoices for legal services, informing them Wal-Mart would end or limit our relationship if they failed to demonstrate a meaningful interest in the importance of diversity.

When Wal-Mart, the largest employer in the world with revenue in the hundreds of billions, speaks, law firms listen. As the *Wall Street Journal* noted, "the legal departments of Corporate America

“When Wal-Mart, the largest employer in the world with revenue in the hundreds of billions, speaks, law firms listen. As the *Wall Street Journal* noted, “the legal departments of Corporate America continue to pressure their outside law firms to diversify – or else.”

continue to pressure their outside law firms to diversify – or else.”

Institutionally, the legal world reflects the emphasis on diversity, as well. Organizations such as the American Bar Association's Commission on Racial and Ethnic Diversity and Minority Counsel Program are complemented by others, like the Minority Corporate Counsel Association, the National Asian Pacific American Bar Association, the National Association of Women Lawyers and the National Native American Bar Association. For each of these national organizations, there are a dozen state and local counterparts, such as the Massachusetts Association of Hispanic Lawyers, the Lesbian and Gay Lawyers Association of Los Angeles, and the African American Lawyers Association of Hawaii.

So, where does this drive for diversity stand? The answer is dependent on many factors, such as perspective, expectations and even how "diversity" is defined. For example, the Supreme Court just added a Hispanic female to its roster, but that was

right after the replacement of a white man and a white woman by two "white men." Indeed, the story of Sandra Day O'Connor and her replacement, Samuel Alito, offers insight into how far we've come and just how difficult diversity can be to gauge. O'Connor had a prestigious law school record and she even served on the Stanford Law Review. Regardless, upon her graduation, no law firm in California was willing to hire her as a lawyer due to her gender, although one firm did offer her a position as a legal secretary. As for Alito, he is indeed the "white man" who replaced O'Connor, but he is also the son of Italian immigrant parents.

In December 2009, Vault.com, a Web-based resource for career management, and the Minority Corporate Counsel Association unveiled a study of nearly 300 law firms nationwide. The study concluded that just

over 21% of associates and 6% of equity partners were minorities. According to the *National Journal*, in 2009 84% of federal judges were white, while women jurists comprised 20% of the federal judiciary, African-Americans constituted 8% and there were a mere 11 Asian-American federal judges. The ABA reported that from 2000 to 2004, law school applications increased 1.6% for African-Americans and 36% for Asian Americans.

Of course, numbers are just that. What to make of them, and the success or failure of diversity efforts in the legal world, depends (as stated) on your perspective, expectations and how you define "diversity." ●

Jeffrey W. Larroca is a member of the Eckert Seamans law firm in Washington, D.C., in the Litigation Division. He focuses his practice on labor and employment and litigation. If you have a legal question for Jeff, you can reach him via email at JLarroca@eckertseamans.com.