



LEGAL EAGLES

Diversity has lagged in the legal profession, but smart strategies can create better workplaces

BY KIMBERLY OLSON

As a fresh-faced attorney at the beginning of her career, Toya Gavin was assigned to a criminal case in New Jersey. Donning a suit, she arrived at the jail to meet with her client, then joined the other attorneys in the designated line. One by one, they were ushered through, except for Gavin.

The jail staff didn't believe that she was a lawyer. "They let every other attorney who was not Black in with no problem," Gavin says. "They thought I was trying to see my boyfriend."

Gavin's colleagues sent over a statement confirming her profession, but jail personnel remained skeptical, so she had to get a court order to gain admittance. "That was my first experience in recognizing, oh, this profession isn't going to protect me from classism, sexism, racism, ageism—all the isms and phobias," she says.

The rigors of the legal profession are compounded for women of color. After

working as a city government attorney and as a prosecutor, and then launching her own practice, Gavin experienced burnout.

At the time, she penned a piece for Solo Practice University, a networking and education site for lawyers. "I wrote, 'I'm a Black woman, I'm an attorney, and I have a mental health challenge. I don't know if I'm ever going to work again, and I don't know what this means for my life,'" she remembers. "It was a very scary moment. But I got so many messages from women, primarily, who were lawyers and said, 'Can we get on the phone? Thank you for writing this.'"

Bias from all directions

Most women lawyers of color—around 70 percent—consider leaving the legal profession. Research shows that they find themselves in unwelcoming workplaces where they feel undervalued. In a report on female lawyers of color from the American Bar Association

(ABA) Initiative on Achieving Long-Term Careers for Women in Law, titled *Left Out and Left Behind*, nearly all participants said they experienced bias and stereotyping at work.

"Women of color experience micro- and macroaggressions from peers, supervisors, clients, court staff, and even security," says Genesis Fisher, founder of Fisher Law Practice PC, which helps businesses address office tension and conflict to create healthier workplaces.

The difficulties range from basic obstructions to entry—comments like "only attorneys are allowed in this area"—to double standards in promotion. "Every indignity can leave a residue," Fisher says. "Those residues can build over time."

Double standards, double bind

Lawyers who are women of color begin facing hurdles during the job search. "Many recruiters, if they are honest, will tell you that it's not as easy to place a woman of color because



there's that skepticism about how well [she] is going to do," says Paulette Brown, a partner at Locke Lord LLP, the ABA's first Black female president, and coauthor of the *Left Out* study. "There are usually—and I've seen this firsthand—additional questions that will be thrown up as barriers. And people don't necessarily see those as barriers. 'Just doing extra diligence,' they might say."

Once the candidate is hired, the hurdles often keep coming. While working at one firm early in her career, Genesis Fisher noticed that new associates of color minded their p's and q's, while the new white associates felt more comfortable letting their hair down. "One [white] guy was a lot more familiar in his approach, and that was lauded," she remembers. "The leadership invited him out to drinks."

The response to transgressions of professionalism can differ depending on who's crossing the line. "If there's already trust, those transgressions are tolerated and even make you a person of interest," Fisher says. "If there's not already trust that you can do your job well—and if you're a woman of color coming in, that might be the case—transgressions of decorum are not tolerated."

As a result, women of color tend to be on guard, continually assessing which behavior might seem palatable. But that approach has its own consequences. "People want to recommend people they can trust," Gavin says. "And that requires a level of connection and vulnerability that women of color don't feel safe enough to do."

Tough road to the top

The ability to connect is important because meaningful relationships spur a legal career. Women of color at law firms are actually more likely than their peers to have mentors or sponsors. But they often have less access to *influential*, well-connected mentors or sponsors

who can effectively advocate for them. Analysis by the ABA, for example, found that women lawyers and attorneys of color have historically not been mentored by partners, who dish out the choice assignments.

Meanwhile, they frequently work harder than their peers for the same opportunities. One participant in the *Left Out* study, for example, noted that all the Black associates at her firm had at least two Ivy League degrees, while white associates did not.

Research shows that women attorneys of color face persistent obstacles to career advancement. The demographic comprises more than 14 percent of associates yet makes up fewer than 3.5 percent of partners. "Less than 2 percent of equity partners are women of color," Paulette Brown says. "That statistic has been the same for about 20 years."

While Brown managed to scale the ladder to partner, the rungs were slippery. Despite her success in big cases, colleagues would question her ability to handle the next case. They might ask about specific strategies she used, hoping to replicate her success, yet wouldn't invite her to join their team. She was often the last attorney to get internal referrals. "Not to boast, but I know I'm a better lawyer than [some others] who have had opportunities that I didn't have," Brown says. "So pretty much everything I ate, I had to kill it."

The costs of homogeneity

Historically, the legal profession has been among the least diverse. "The reputation of law firms as an industry isn't great," Genesis Fisher says. "Some of the most brilliant people, including

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women of color, don't see them as a place to belong. Some of my [NYU] classmates are on TV every day. Many didn't want to go to firms."

Law firms that hire only attorneys who "fit the mold" miss out on strong candidates. A report by legal analytics company Premonition found that in court, for example, female partners were successful 70.19 percent of the time, compared with male partners, who won 57.47 percent of their cases.

Firms with more homogeneous teams may also put themselves at a competitive disadvantage. "Studies show that mixed groups create the best options and reach the best results, especially if you have women on the team," Fisher says. "There are tangible results—money results."

Legal organizations that aren't welcoming to women of color will find it increasingly difficult to attract the best legal minds. "A lot of younger people coming out of law school now—even if they are white, even if they are male—are concerned about diversity in law firms because they believe that if you are not progressive in that way, then you're not going to be progressive and innovative in other ways," Brown says.

Meanwhile, corporate clients—whose customers are diverse—expect their legal team to be diverse too. "Corporations recently have been much more engaged in making the point to their law firms that 'I want to see diversity on my [legal] team,'" says Eileen M. Letts, a partner at Zuber Lawler LLP and coauthor of the *Left Out* report. "I received an email from a client today that said, 'We want your first-quarter [diversity] statistics on the work done.'"

The Mansfield Rule

In 2016, the Women in Law Hackathon—“a *Shark Tank*-style pitch competition” according to Diversity Lab, which sponsored the event to help advance women in law firms—birthed an idea called the Mansfield Rule.

Named for Arabella Mansfield, the first woman to practice law in the United States, the rule measures the work undertaken by law firms to actively consider women, attorneys of color, and other underrepresented groups for leadership and governance roles, equity partner promotions, and lateral positions.

More than 115 law firms, as well as corporate legal departments, have now earned Mansfield certification. Mansfield early-adopter firms have boosted the racial and ethnic diversity of their management teams by 4.4 percent in two years—more than 30 times the rate of non-Mansfield firms.

Assess, plan, report

For myriad reasons, law firms need to prioritize diversity, equity, and inclusion (DEI). “We’re moving to a place in our work culture where you actually have to care about the people who are making your business work,” says Gavin, who, informed by her own experiences, founded Legally Bold, an online coaching and consulting agency that helps women in law redefine their careers and find better-fitting jobs. “You can’t just put the multicultural attorneys on your brochure and think that’s enough. The work is going to be listening and making changes so that everyone feels like they’re a part of the team.”

When firm partner Regina A. Petty became chief diversity officer at labor and employment law firm Fisher Phillips, she embarked on a listening tour to better understand employees’ needs. She also reached out to other CDOs. “I started to introduce myself and say, ‘Can I have an hour of your time to find out what you’ve learned?’”

The research is clear that attorneys who are women of color care about seeing others who look like them at work, including role models. Experts say law firms must review their people data. “All the data that I could think to ask for, I asked for,” Petty says.

A DEI expert can help firms conduct an assessment, craft clear goals, and create a strategic plan. Posting that plan and making leaders accountable will help ensure success. “It should be part of the compensation,” Brown says. “Tell me everything that you’ve done to promote women of color in the firm and give them opportunities. How many clients have you introduced them to? How much credit have you shared with them when they’re doing the bulk of the work?”

Fisher Phillips examined various areas of its business, from data collection to recruiting, and rolled out firm-wide DEI programming. Petty went on to lead her firm to earn Mansfield Rule certification (see sidebar) by considering historically underrepresented lawyers for top roles and outside counsel leadership. More than 30 percent of leadership roles at the firm are now held by lawyers of color and other diversity categories.

Honest conversations

Elevating understanding is also crucial to culture change. “Everybody has implicit bias—we all do,” Letts says. “Conversations need to be had between young lawyers of color and white lawyers and partners.” A 2021 ABA Practice Forward survey found

that 53 percent of older lawyers were having conversations with colleagues about racial justice issues more often than they had a year earlier, and one-third said those conversations had gotten easier.

Honest talks help reveal blind spots. While white women lawyers face gender bias, for example, the *Left Out* study found that they’re less aware than their Black counterparts of racial equity gaps in the workplace. As a result, they’re more likely to support policies focused on gender specifically than those addressing diversity more broadly.

Problems are often complex, so Fisher Law Practice offers its clients a multi-module approach to workplace education. “We start out with leadership or organizational change and move up to D&I or even religion,” Genesis Fisher says. “People become comfortable with the discomfort of not being able to solve problems, and just listen to each other. It’s really powerful.”

With research now spotlighting the challenges faced by attorneys from diverse populations, Letts hopes firms take bold action, and says, “We don’t want to be having this same conversation in five to ten years.”

“Law firms spend a lot of money to attract top law students,” Fisher says. “They wine and dine them, give them VIP tickets to ball games, and take them on yachts. If they could spend just a portion of that money creating more welcoming workplaces, it could go a long way.”

Toya Gavin says that the women attorneys who seek her coaching services have realized that, like justice itself, the legal industry isn’t blind—and yet she’s optimistic. “I’m not going to give up on myself and on this population of people who primarily get into this profession because they want to help people,” she says. “This is a time of change and movement forward, and we need those voices.” **IN**