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Time Has Been Up: Why Your Firm Shouldn't Just Be 'Talking' About Diversity and Inclusion

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It's not surprising that most efforts surrounding workplace diversity come in the beginning of the year when Americans celebrate Black History Month in February and Women's History Month in March, which also coincides with International Women's Day on March 8. While both celebrate the achievements and historical contributions made by African Americans and women, as employers, our conversations shouldn't be starting—or ending—there. In fact, “conversations” around workplace diversity and inclusion aren't enough, they need to be backed up with action. With the recent #MeToo and #TimesUp movements aimed at sexual harassment in the workplace, and employers facing more and more discrimination lawsuits, it is time that employers face the fact that we *need* diversity and inclusion in our workplace in order to succeed. To clarify, workplace diversity means representing a wide range of backgrounds and



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perspectives, while inclusion means including and integrating all types of individuals into your organization. It's important to understand both of these because while one can happen without the other, neither are successful alone. To put it simply, Vernā Myers, acclaimed author, speaker and diversity and inclusion consultant said it perfectly when she said, “Diversity is being invited

to the party. Inclusion is being asked to dance.”

Andrew Glincher, CEO and managing partner of Nixon Peabody, said “Diversity is the future; embrace it or you're obsolete.” Yet it's been just 15 months since Glincher spoke with Bonnie Marcus for her Forbes article and it seems that for most law firms, nothing really has changed. Marcus's article, written in

October 2016, still included this disappointing law firm diversity statistic: “Over 75 percent of firm partners are still white male, with women at less than 20 percent and minorities just slightly over 5 percent.” According to the National Association for Law Placement (NALP) 2017 Report on Diversity in U.S. Law Firms, published in December 2017, while both women and African-American partners in law firms increased slightly in 2016 and 2017, their representative numbers are still lower than they were in 2009. The report also showed that lawyers with disabilities (regardless of race or gender) have, and continue to be, scarcely represented, while LGBT lawyers have showed a slight increase over the last few years.

Firm size and location pay a factor in how successful or unsuccessful firms are in their diversity and inclusion goals. NALP Executive Director James Leipold stated in the report that “there are significant differences by law firm size and geography, and there are many jurisdictions where the disparities in representation are stark. Consider, for instance, that in Miami 33 percent of partners are minorities while in Boston the figure stands at just 5 percent, or that in New York City 27 percent of associates are minorities while in the racially diverse city of Charlotte minorities

make up just 14 percent of associates.” Finally, while most categories saw small increases in 2017, minority women continue to be the most underrepresented group at the partner level in law firms, regardless of firm size or jurisdiction.

But the fact of the matter is, while many firms are finally recognizing the achievements of their diverse workforce, many law firms still lack significant diversity around their management tables. So what can firms do in order to meaningfully implement and develop a governing body that accurately reflects their diverse employee body? First, top management has to be willing to support the firm’s diversity and inclusion initiatives. Without direct, and public, support from managing and other partners it will be hard to affect change. Like all policy and culture changes, without top management’s support, it’s a very hard sell. Second, because promotions and other opportunities need to be earned and not just given, firms need to ensure that their diverse lawyers are provided ample opportunities to be in a position for promotion. For instance, if your firm still derives partner compensation from origination credit, diverse lawyers need a seat at the table by participating in those client pitches and in other such opportunities that determine that piece

of attorney compensation. Third, while a mentoring program can do wonders, it does nothing if it’s in name only. Mentors need to be *actively* engaged with their junior mentees whether that be from a practice standpoint to business development to firm governance. Without interest and involvement from both parties mentor programs rarely work. Law firms have no excuse to not only be embracing diversity but to be ensuring that decision-makers and other top influencers at the firm are diverse and that their voices are heard and valued.

But for firms still struggling to find ways to successfully incorporate diversity and inclusion in their workplace, there are many outside resources available. The American Bar Association, NALP and the National LGBT Bar Association all have online resources, committees and in-person conferences on diversity and inclusion. The Association of Legal Administrators (ALA) diversity and inclusion committee “aims to increase awareness of and sensitivity to the differences among our workforce and to advance the concept of inclusiveness and acceptance.” Law firm members have a cadre of information and tools available to them including educational programming, publications, speakers, monthly tips and “scorecards.” ALA’s scorecard helps law office

administrators identify best practices (and areas for which their firms need improvement) and is broken down into seven categories: formal firm leadership; firm culture; firm policies and workplace inclusion; professional development; organizational diversity and inclusion competency; community involvement; and supplier diversity.

There are also several associations geared toward supporting and promoting diverse and women attorneys within your law firm. Founded in 2009, the Leadership Council on Legal Diversity (LCLD) has more than 275 members, who serve as either general counsel of major corporations or law firm managing partners. Law firm members can participate in any one of the organization's many programs that are geared towards junior associates, senior associates who are on the track to partnership, and current firm partners. For those lawyers that have founded, or work at, minority-, women- or LGBT-owned law firms, additional options are available. The National Association of Minority and Women Owned Law Firms (NAMWOLF) is a nonprofit trade organization with over 180 minority- and women-owned law firms across 40 states that is dedicated to promoting diversity and fostering relationships between Fortune 500 companies

and diverse outside legal counsel. Women Owned Law, which was founded here in Philadelphia in 2016 by attorney Nicole Galli, is a "national networking group for women-owned law and legal services firms" whose "mission is to provide opportunities for women legal entrepreneurs to come together, support each other and help our businesses prosper." Then there is Gay and Lesbian Lawyers of Philadelphia (GALLOP) which is "an organization of gay and lesbian legal professionals serving the Philadelphia metropolitan area."

It's clear that changes in the legal profession are long overdue and the time is up for those who are not taking advantage of and fostering their diverse workforce. Firms can no longer buck the trend of workplace diversity because without these initiatives there could be no future for your firm. Employees are no longer willing to tolerate, work at or support employers that do not support them. Hopefully, there will be a time when diversity isn't a trend but just a way of life. Kerra Bolton's recent article for CNN discusses whether or not we need to revisit the idea of Black History Month. Bolton states that we need to ensure "that Black History Month is not a one-time event, but a sustainable practice throughout the year." Bolton is right. We shouldn't need a reason

to celebrate the history of certain individuals who changed our way of life. We should be living every day celebrating, participating and enhancing the path of those individuals. As the saying goes, actions speak louder than words—so now it's time to see some action.

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