

THE **Legal Navigator**

SPRING 2019

Insight into leading legal talent and
issues affecting the legal market

Ernest Greer

**Co-president
Greenberg Traurig**

Challenging the status quo

MOMENTUM

Career insights from legal mavericks

360

*Making diversity and
inclusion a priority*

5 THINGS YOU DIDN'T KNOW

Jennifer Carrion

*Manager of
Diversity Recruiting
at Morgan Lewis*

TO LEAD

John Cashman

President

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04



TOC

Cover Story

- 04 **Ernest Greer**
Co-president
Greenberg Traurig
Challenging the status quo

SPRING
2019

09



Standards

- 09 **Momentum**
Career insights from
legal mavericks
- 12 **360**
Making diversity and
inclusion a priority
- 16 **5 Things You Didn't Know**
Jennifer Carrion
Manager of Diversity Recruiting
at Morgan Lewis
- 18 **To Lead**
John Cashman
President
Major, Lindsey & Africa

12



18



16

CHALLENGING THE STATUS QUO

INTERVIEW WITH
**Ernest Greer, Co-president of
Greenberg Traurig**

When Ernest Greer joined Greenberg Traurig in 2000, he quickly realized he had found a home. One where he would have a voice to drive change and help shape the vision of the firm. Nearly 20 years later, Ernest is still at home at Greenberg Traurig, serving as the firm's co-president and championing the firm's culture of inclusion. >>>

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COVER STORY



| What inspired you to become a lawyer?

The summer before high school, my godmother suggested that I attend private school, but my family didn't know that student acceptances were decided a year in advance. When we arrived at the school to apply, the receptionist turned us away and advised us to come back the following fall. However, as we started to leave, she stepped out briefly and returned with the principal, who suggested I take the admissions test while I was there. So I did, and three or four days later, we got the call that I was admitted.

My freshman class was small, only about 50 students, and I realized within a few days that I was the only black kid in the class. But I didn't let that stop my success.

After high school, I attended Harvard. I didn't know exactly what I wanted to do in life because until that point I hadn't been exposed to many of the professional career options. What I did know was that I wanted to earn a certain income and accomplish certain goals. I initially decided to go into investment banking, but I applied to law school because I've always believed in having a plan B.

In following the investment banking path, I planned to go to a firm in New York, but my wife, whom I met the first day of undergrad, received an offer from a company in St. Louis, Missouri, so I decided to accept a job in St. Louis. That spring, however, I got accepted to Northwestern Law School as a Northwestern Fellow, where not only did I get a scholarship for tuition, but they also gave me a \$10,000 yearly stipend.

After graduating from law school, I clerked for Judge Damon J. Keith, United States Court of Appeals for the Sixth Circuit, before entering private practice. I was never focused on making partner, so I diversified my interests by owning a couple of businesses. I've always had a desire to run and own a business, and in each business I owned, I made sure the quality of operations and delivery of services were first rate.

| Having gone to Harvard and Northwestern, did you ever feel pressure to prove that you were educated enough or feel you didn't belong?

I've never felt pressure to prove anything to anyone other than to my wife. I was raised to provide for my family—and for me, family extends to my friends' families.

As it relates to the impact of having gone to Harvard and Northwestern, the reality is no one was offering me a handout or promising me a future as the first black executive committee member or managing shareholder of an office. What I learned was that if I proved myself worthy, I would become all of those things and more. All I have ever asked for is the opportunity to excel.

Harvard and Northwestern give you the training to be successful in this business, but it's what you make of it. A student from a second-tier law school has just as much opportunity as I did to succeed and excel. Saying that I am where I am because Harvard and Northwestern gave me a leg up would not be true. At this point in my career, it doesn't matter where each of us went to school. What matters are the contributions that we make to allow our clients to be successful.

| How did your parents, and the environment in which you grew up, influence your personal and career successes?

My parents made a combined \$44,000 and had two kids in college at the same time. It was expensive. I saw my parents make sacrifices, and in making sacrifices, they taught me some tenets that have guided me.

First, I work every day to reward my family, my parents and my father's legacy for all the sacrifices that they made. I am grateful to my brother who also made a sacrifice—he would work a summer job and give my parents his earnings for my tuition before he bought anything for himself.

Second, my parents taught me deference to my elders. I will share with you that during one of the most difficult times in my life, Melba Hughes guided me through my decision regarding which law firm to join when I was ready to leave my first firm. I joined that firm and my career took off. To this day, I have never made a professional decision of importance without speaking to her.

Last, my parents also taught me not to be beholden to any institution. I'm very grateful to GT and love the firm, but I realized early on that to stay at any institution I needed to add value and be comfortable being my authentic self.

| You're global officer of the firm. From a business of law perspective, what keeps you up at night?

There are a lot of things that keep me up at night, but one is the tension between the law firm partnership and clients. Firms often eliminate underperforming practices, creating a tension between the firm and individual lawyers trying to serve their clients. GT has always had a client-focused approach and doesn't focus on metrics that only benefit the partnership. So, I stay up thinking about how to continue to be profitable and always put our clients' interests first.

The second thing is figuring out how to take a global law firm and make it feel smaller. Communications and collaboration have to be intertwined. Otherwise, you get inconsistent results that are not in the best interest of the client or the brand. It makes sense to have locations in strategic markets, and many clients like the advantage of a

global firm that can render services in multiple markets. But with growth comes challenges. How do you make every partner feel invested in the firm? How do you make sure that partners have key information at their fingertips whereby they can be responsive to the client? I spend a lot of time focusing on how to make a global law firm still feel small and nimble.

As a firm leader, how do you foster an environment that encourages, supports and cherishes the exchange of diverse ideas, and the equal treatment of attorneys?

I am fortunate to work for a firm that was formed when three Jewish men were denied an opportunity in 1967 to join traditional law firms in Miami. As we say, diversity is in our DNA. We hired one of the first Cuban lawyers at a prominent law firm in Miami: Cesar Alvarez, who went on to lead this firm for 13 years as CEO. We currently have a firm leader who at one point in time lived in a trailer park. I have another firm leader who went to law school at night. These varied backgrounds have created a real sense of humility and an inclusive culture.

“ [W]hen we talk about diversity and inclusion, we aren’t trying to tell people what to do. What we are saying is that you need to create an environment that provides people with the freedom they need to succeed. ”

What a lot of people don’t understand is that when we talk about diversity and inclusion, we aren’t trying to tell people what to do. What we are saying is that you need to create an environment that provides people with the freedom they need to succeed. The one fundamental thing that we share is that we want to do right by the client. Getting the best answers with the most creative solutions is how we succeed. And the more diverse people we have at the table, the more likely we are to succeed.

Diversity improves who we are internally in every aspect of the decision-making process, from carrying

out business plans to marketing to clients and approaching our recruiting efforts.

In your opinion, is diversity and inclusion truly a goal or is it a topic that allows law firms to pay lip service?

I believe that for most firms it truly is a goal. However, it is also expensive, especially when you start talking about effectively managing affinity groups, tracking retention rates and statistics, mentoring, and creating individual development



plans for lawyers—particularly diverse lawyers. Diversity is an investment. In today’s lateral market, compensation is a sensitive issue, and when you spend money on technology or on diversity, those are dollars that are not going to the partnership. The challenge is finding the right balance and the financial compromise needed to achieve the goal. We are absolutely dedicated to making the investment.

| Is diversity good for business? Why?

Putting aside my perspective as a black man in America, if I’m sitting at a table with somebody who’s grown up wealthy versus someone who has grown up poor, depending upon the issue, their perspectives are different. That doesn’t mean that one perspective is better than the other. Now put a woman, a black man and an Asian man at the table—by sharing those different perspectives, we are going to get to a better answer.

Remember this: Everyone knows what the law is. That’s not the challenge. The challenge is creating the strategy to accomplish the result that satisfies the client. If you bring together a team of people who have different perspectives, different upbringings, different backgrounds, it is more likely you will get to the right solution.

“Everyone knows what the law is. That’s not the challenge. The challenge is creating the strategy to accomplish the result that satisfies the client.”

A 2018 report on diversity in law firms shows that minority women continue to be the most dramatically underrepresented group at the partnership level. What do you believe can be done to increase the numbers?

First, firms need to stop making partner decisions based on the same productivity metrics. If you’re going to be measured through productivity, that means you’ve got to be at the desk, at the office, tied to a computer. However, women are often trying to juggle multiple aspects of their lives and may have fewer hours to focus on increasing their productivity. We need to create a system that allows the partner decision to be made on an individual basis.

Second, a minority woman may feel culturally at odds with many of her non-minority colleagues. Even when she succeeds in the partnership ranks, eventually she may leave because she never feels accepted into the club. That needs to change.

Last, if we increased our retention rates of minority candidates, we would eliminate many of the diversity challenges. Retention is in every law firm’s best interest because attrition is an expensive proposition.

| In terms of recruiting, retention and hiring, what are your goals and your strategy?

Today, we have grown to 2,100 lawyers in 39 offices through organic growth and recruiting talent through the lateral market. We’ve done it with a philosophy of trying to grow out every office to become a full-service office. Our global practice group leaders play a strategic role in recruiting lateral candidates, focusing on what we have and what we need in terms of expertise. We want to bring in new partners in an effort to leverage our platform up, not just growth for the sake of growth.

| You’re like a part of the fabric of the community of Atlanta and you’re very involved and give back a lot. How has your role helped you do that, and how do you give back to others?

Greenberg Traurig’s culture of giving has always been at the core of who we are. When you start with that culture, your ability to give is made easier.

Having said that, I’ve always had a perspective on community that a lot of people may not. My thought is that we are blessed, and we need to give value to the community, not simply money but time. And because I believe in those things, I do them. For example, I believe that if children have a robust arts education, they will do better in school, and as a result, I give to the educational community and the arts community. I also have the good fortune to have a 25-year-old and a 22-year-old, and early on I decided I wanted them to live in a safe community. I wanted them to be able to get a great education. I wanted them to be exposed to the arts. Those things—safe communities, arts and education—are things that can only be truly funded through philanthropy.

| What advice would you give to diverse attorneys who would like to follow in your footsteps?

Law firms create a myth—if you come in here, are smart and work hard, everything will work out for you. Instead of relying on this, I would say, bet on yourself. What I mean by this is, understand that you will eventually need to develop your own practice and your own business. Create a plan for yourself and don’t rely on others to provide you with work. Take control of your future and your career. To do this, you need to spend time in a community, develop your expertise, develop relationships and get to the point where you are self-sufficient. Ultimately, when you get to that point, the firm will recognize you as having greater value. ▲

MOMENTUM

Career insights from legal mavericks



WENDY BUTLER CURTIS

Chief Innovation Officer at Orrick, Herrington & Sutcliffe LLP

“The legal industry is evolving at an incredible pace. As chief innovation officer, I have a front seat to the transformation in technology, talent and all aspects of service delivery. And we’re training lawyers to think differently because of what we’re learning. At Orrick, we have more than 60 ongoing innovation projects and more than 70 partners actively working to transform their practices to adapt to this transformation.

As a practicing lawyer, which I still am in addition to my innovation role, I’m plugged into the needs of Orrick’s clients and lawyers. I know firsthand billing systems, outside counsel guidelines, alternative fee arrangements, profitability drivers,

the market for ALSPs and the emerging need for new roles and skills. This perspective allows me to be more effective in

my innovation role. Also, many of the disciplines of my eDiscovery practice carry over to innovation in legal services—namely, the trifecta of people, process and technology.

Our clients, and the innovations in their businesses, are really my greatest source of inspiration. By listening to and learning from our clients about the changes they are encountering in their industries, we—the innovation team—are empowered to see the world through a different lens. Our clients awaken our imagination! My team, without doubt, is my greatest influencer. We are a cast of characters with vastly different strengths and divergent opinions. We are constantly challenging our cumulative imagination to create new ways of delivering legal services, and especially value, to our clients. I am always learning from them and improving because of them. For this privilege, I am eternally grateful. I laugh a lot with my team. I cannot tell you what a huge difference this makes.”

BY LISTENING TO AND LEARNING FROM OUR CLIENTS ABOUT THE CHANGES THEY ARE ENCOUNTERING IN THEIR INDUSTRIES, [WE ARE] EMPOWERED TO SEE THE WORLD THROUGH A DIFFERENT LENS.

MALISSIA CLINTON

Senior Vice President, General Counsel & Secretary at The Aerospace Corporation



“I am told I decided I wanted to be a lawyer at age 3. I don’t remember this, but I can say that by middle school this idea had solidified for me. My grandparents were my personal civil rights icons; they founded the NAACP in AZ in the ‘50s. Truthfully, I didn’t know what a lawyer did, but I knew I wanted to be one.

What I’ve learned as a lawyer is that if you want to be a good lawyer, be prepared to work really hard for it. School gives you the skeleton; you have to put meat on the bones. I knew I wanted everything and had to be willing to take risks and create my own path. Corporate America is a gerontocracy, meaning you wait your turn for success. I am not that gal. I would go sideways off the beaten track to accelerate my career path. I landed in a GC role at 40 only because of those detours.

HEAR THE TOUGH CRITICISM AND TURN IT AROUND. THE CHALLENGE IS TO SEE THROUGH ALL OF THE NEGATIVITY AND RISE TO SEE ANOTHER DAY.

One of those detours came when Bill Gallos, the former vice president of legal at Northrop Grumman and one of the greatest mentors of my career, decided to retire. I applied for his job although I was only 35. I knew I wouldn’t get it, so instead I was ready with what I

wanted when they rejected me yet wanted to keep me at the company. In this case it was to enter the executive management program at UCLA. I knew that experience would help me to get where I wanted to go. Another time I was turned down for a job, I took on a corporate secretary role in the corporate office because I knew I needed that experience for the general counsel role I eventually wanted.

Don’t be tone deaf. You are in charge of your career and so much of it is subtle. Hear the tough criticism and turn it around. The challenge is to see through all of the negativity and rise to see another day. ”

BRIAN KIRKUP

Associate in White & Case’s Bank Finance Group



“My wife inspired me to come to New York from Australia. She’s very ambitious and had landed herself a job here. I had never been exposed to the idea of taking my skills to the United States, and perhaps I was a bit naïve in that respect. I really enjoyed my job in Brisbane—especially the people. But the opportunity was too great

to miss, so we bought one-way tickets to see what we could make of ourselves. I had never been to New York when we moved here. It was definitely the riskiest move I’ve made in my life—and has also been the most rewarding.

Ultimately the timing was perfect; you can’t come over as a first-year lawyer because you’re going up against law students coming out of some very prestigious law schools. I spent four years as a lawyer in Australia, gaining hands-on experience, so I had something to offer when I came here other than an education.

Many firms are willing to hire Australian lawyers who haven’t sat the bar—and are supportive while you prepare for the exam. They seem to like Aussies in New York; they acknowledge that we’re hard workers and thick skinned. These firms give us the opportunity to prove ourselves in the most sophisticated market in the world and live the New York life people dream about.

I’m not sure what I was expecting from working with a global law firm in the States—maybe a more cutthroat environment, and perhaps some firms are, but not in my experience. I genuinely enjoy seeing my colleagues every day, and we work with great clients. The work itself is quite similar, though there are different products and complexities, but that is just a function of how big the deals are. At the end of the day, lending money and taking security is a relatively similar process across the globe.

While I find it interesting that more people aren’t exploring opportunities in New York, I’ve also been in the position of simply not knowing it was possible. If you are a three-to-five-year lawyer doing any sort of finance or M&A work, this is an experience you truly can’t pass up. This city is a source of inspiration on a daily basis, and it rubs off on you. ”

THESE FIRMS GIVE US THE OPPORTUNITY TO PROVE OURSELVES IN THE MOST SOPHISTICATED MARKET IN THE WORLD.

SHINJI NIIOKA

Head of M&A Legal Asia
at Daimler AG



“I started thinking about becoming a lawyer when I was 15 or 16. My father was seconded by a Japanese company to Germany for a long time, and my parents could not speak the language, and did not know the culture and society, including the legal system, which I felt was a big disadvantage for us. I decided I would like to support the Japanese

people in Germany, so I started studying law and became a lawyer in Germany, and it was fantastic. I could contribute so much in Germany (Europe) and then also in Japan using my language, legal skills and cultural background.

I think the two cultures, German and Japanese, have a similar thinking mindset, so the roles I've held in those countries have been excellent fits, but I felt I needed to go beyond these two countries. They are both civil law countries, so I thought I should expand my knowledge and horizons to a common law country. Fortunately, an opportunity for an LLM program with a specialization in IP law in New York came up, and in addition to the U.S. legal system, I was able to learn IP law, which is an area you would not get to touch studying for the bar exam in Germany or Japan, so I gained some specialized knowledge.

YOU GAIN SUCH A RICH EXPERIENCE WHEN YOU ARE OPEN TO OTHER PARTS OF THE WORLD, ESPECIALLY DIFFERENT WAYS OF SEEING, THINKING, COMMUNICATING AND DOING THINGS.

I then also became a New York attorney and it opened up the international legal market for me quite significantly. Maybe, some companies would have not hired me outside of Germany if I was solely a German lawyer. It was and still is very important for me to be an international lawyer.

I think the fundamentals of the law are quite similar. You develop a certain feeling, experience and understanding for legal topics across different jurisdictions, no matter as a generalist like a global general counsel or specialist like an executive counsel for a specific area. You gain such a rich experience when you are open to other parts of the world, especially different ways of seeing, thinking, communicating and doing things. You are enriched by the differing cultures. I have been very fortunate being able to cherry pick what I wanted to incorporate into my practice and also being able to give back to the society. ”

ANTONIOUS PORCH

General Counsel at SoundCloud



“Growing up, I marveled at the way radio connected people. I competed in forensics radio news competitions in high school, making five-minute radio scripts with embedded ads. I then worked at a local college radio station during my undergrad years at Yale, working my way up from newscaster to news director general manager and

eventually to president and general manager as a junior in college. These experiences cemented my longtime interest in media and specifically the business of media.

Every job I have had has informed some piece of my career and who I am.

YOU HAVE TO BE PREPARED TO TAKE ONE STEP BACK TO TAKE TWO STEPS FORWARD.

In college, I did a couple of internships. I was lucky enough to earn one of those opportunities through the International Radio and Television Society Foundation (IRTS). IRTS is a fantastic organization for college students interested in entertainment and media.

My nine-week experience at ABC opened my eyes to the breadth of opportunity in the business. It was a great experience that put me at the intersection of law, media and technology. While at Columbia Law School, I worked at the Freedom Forum learning how technology was changing media and journalism. Then I began my legal career at Latham and Watkins and eventually moved to Morrison & Foerster. In both firms, I focused on technology transactions with a variety of tech clients, which positioned me well for a career in entertainment.

The biggest risk I ever took was leaving BigLaw around my fourth year to take a job at an unknown entertainment company—at a 50% pay cut. You have to be prepared to take one step back to take two steps forward. The opportunities to break into entertainment were so few; you have to recognize when to take one. I don't think I would have gotten the deputy general counsel job at Nickelodeon—and later as general counsel at Shazam and now SoundCloud—if I hadn't taken that first opportunity and taken one step back. ”

Making Diversity and Inclusion a Priority



How would you describe the current state of diversity in the legal industry?

Su: I'm cautiously optimistic. For over 20 years, women have been graduating from law school roughly at parity and people of color have been graduating at slightly below their representation in the population. But what you see is that those same women and people of color aren't making their way through to the positions of power in the same ratios. The pipeline to power is leaky for women and people of color and that's heartbreaking. I will say, though, I think we're at an inflection point because the people who are in power are saying that it's not OK and they are demanding results. I see this at Intel, and it sparks optimism.

[W]hen you see a critical mass of legal service consumers demanding change, the firms that are going to thrive will change and adapt. – su suh

Law firms have lots of power, and those who are in power won't give up power unless there's a disruption—and the disruption is coming. I'm seeing a movement of in-house legal professionals saying the status quo is not good enough. And when you see a critical mass of

legal service consumers demanding change, the firms that are going to thrive will change and adapt. We certainly want to be their partners in doing that, but the pressure and the heat are on to change and so I'm cautiously optimistic.

John: From the law firm perspective, I think we are making progress. I also am optimistic and think the difference now, especially compared to perhaps over the past 10 years, is that we are seeing clients like Intel, like the members of the Diversity Lab, really pushing for this. The clients have been insisting on more diverse outside counsel. However, when it gets down to the more line-level attorneys who are actually doing the hiring, they are not always clearly

delivering the message to the outside firms that the reason why they didn't win that pitch or get selected on that RFP was because of the lack

of diversity of the team presented. So until all levels are continuing the message that diversity is important, some of the partners in firms may not quite believe it. We hear from the general counsel; we fill out the ABA diversity surveys. But to hear it on a day-to-day basis from line-level

in-house attorneys that their outside counsel teams need to be diverse, I think it would continue to progress.

Merle: As a diversity recruiter, what's frustrating is when employers say, "We don't want to lower our standards in order to achieve diversity." Clearly that is not something that needs to happen. The two are not mutually exclusive. What I say to law firms, in particular, is that this is a historical problem, and in order to fix it, something has to change, and what has to change is the process law firms are using. Firms can't keep doing the same thing the same way and expect a different result. They're going to have to reflect on how they make their hiring decisions now and think about what they can do differently in order to achieve the desired results.

Caren: The challenge that we're dealing with—the lack of diversity in law—didn't happen in one day. It happened over decades, so it's not going to get fixed immediately. I am glad to see that we are talking about business processes now as opposed to fixing people. We've moved away from this person is doing good things and this person is not, and now we're looking at business processes to see where the barriers exist, fixing those and removing the barriers so that there is equal access to the work and to the people who advance careers. >>>

Diversity and Inclusion Panelists



JOHN IINO, *Partner and Global Chair of Diversity & Inclusion, Reed Smith*

John Iino, a third-generation Japanese American, has served as Reed Smith's chief diversity officer for two and a half years. He has served in all levels of management at Reed Smith, including on the senior management team, on the executive committee and as global head of the business department.

"I'm a very calm, mellow guy, but I get upset when I've been judged based on the color of my skin.

So ultimately this passion for diversity comes from within; it comes from my family background—and the stories of the horrors of the forced incarceration of Japanese Americans during World War II—and it comes because it's something that when I think about what happened to so many, it just gets me really really upset. So that's how I've developed a passion for diversity."



SU SUH, *Chief of Staff to Allon Stabinsky (Head of the Legal Department), Intel*

Su Suh is a business advisor and commercial attorney. She's been practicing law and actively engaged in business strategy for over 20 years. At Intel, Su assists in running the legal department and leads the law department's diversity and inclusion program office.

"I identify as a businessperson and feminist even before identifying as a lawyer. Maybe you've heard the feminist expression 'the personal is political.' For me, the personal is business and my personal

experience tells me that firms don't get the benefit of the contributions of women, people of color or other minority groups when those folks are invisible, tokenized or not heard. The lack of diversity (or more pointedly, the lack of inclusion) is bad for business. Having diverse and inclusive business leadership is really about best business practices; the data is clear on that point. That's why I'm passionate about diversity and inclusion."



CAREN ULRICH STACY, *Founder and Chief Experimentation Officer, Diversity Lab*

Caren Ulrich Stacy has more than 20 years of experience as the head of recruitment, development and diversity with law firms. She is the founder of the Diversity Lab, which creates and invests in innovative talent management and diversity initiatives.

"I was given up for adoption right at the time when Texas was changing their adoption laws. I got caught in limbo, and even though I had been technically adopted by my adoptive parents, there was

not a signature from both biological parents on my birth certificate, so I got caught in the system and was sent back to foster care. A lawyer who did family law for pro bono reasons stepped in for my parents because they couldn't afford legal counsel, and he got me out of foster care within months. That wouldn't have happened without this gentleman who felt like his role as a lawyer was to service his clients but also to give back to the community that helped him go to law school and helped him become a lawyer. So I've always had a special place in my heart for lawyers. If we don't have a diversity of perspectives and backgrounds in law, we won't have people like him who have this desire to do something both for the benefit of the legal community and for the benefit of the humans within and outside of the legal community."



MERLE VAUGHN, *National Law Firm Diversity Practice Leader and Managing Director, Major, Lindsey & Africa*

Merle Vaughn joined Major, Lindsey & Africa in 2012 as a partner recruiter with a focus on diversity recruiting nationally. Since that time, she has been involved in several high-profile law firm partner and in-house placements across the country and has also been retained by organizations specifically for her expertise in the area of diversity recruiting.

"I developed a focus, as a legal recruiter, on diversity when I noticed a trend—I was getting referrals and being contacted by a number of diverse candidates. That's when I realized there weren't many other diverse recruiters out there for them to talk to, and I decided to help as many diverse lawyers as I could. It soon became apparent they weren't getting the same number of calls or the same attention as other candidates who were similarly qualified. I've always wanted to protect, help or pull for the underdog. I've been the underdog—but I've never remained the underdog."

How do we get the entire company—including our leadership team—on board with diversity and inclusion initiatives?

John: First it starts from the top, and to really effectively drive change and implement diversity programs, it has to have support from the very top and your leadership. For us at Reed Smith, diversity and inclusion are part of our core values and our strategic plan for 2020. So, to get the entire company behind it, we need so many people to really implement what we're trying to achieve—it's the partners, the marketing department, the recruiting department, the administrative support, HR, the accounting department, etc. And while they have other things to work on, when they know that diversity and inclusion are a top priority for the top management, they move these programs to the top of their priority lists—and that's how we can get things done.

Su: While there is always an undercurrent of "doing the right thing," the focus really should be

on the business impact. There's a mountain of data pointing to the business case for diversity and inclusion. So I'd start by making sure that everybody on the leadership team understands the business imperative and then set metrics and variable compensation to achieving diversity and inclusion results. At Intel, part of our bonus is tied to our representation goals. Similarly, as we look at how law firms are paid, we are exploring ways to tie compensation to a broad set of performance goals, including those around diversity and representation.

John: We do the same thing for anyone in management; we have a management bonus plan, and included in those metrics for whether or not you're going to get a bonus is your performance against our diversity and inclusion metrics. We publish for every member of management a scorecard measuring their performance and their group's or their office's performance on diversity and inclusion metrics, which includes not only the current headcount

but also attrition, recruitment and promotion of diverse talent.

Caren: There's got to be an alignment to the business of the firm, which is likely why the legal department nudges and push for outside counsel diversity have been beneficial. I think it's why investors pushing on corporate boards to be more diverse has been beneficial. However, you can't just align it and hope that the leadership will do something different because they likely don't know what actions to take to fix it. So in addition to business alignment, you've got to give them the tools they need to help the organization become more diverse. I think that's what the Mansfield Rule has done. It's not just saying to leadership, "Okay, you need to be more diverse because it's important to a lot of the members of your organization and your clients." Instead we've said, "Here are some techniques, policies, procedures and tools that will help you engage a broader pipeline for leadership roles than maybe you were looking at previously." To



create change, law firms need both alignment of business structures and tools to increase and sustain diversity.

Merle: The company or the law firm has to educate everybody within the organization to allay any fears about what diversity and inclusion means to them personally. Because generally speaking, the pushback that comes from people about change and particularly what it means with respect to diversity is based in fear. How does this affect me? How does this affect how much money I'm going to make? Will I lose my job? Will I not get a promotion? It is incumbent on leadership to actually explain to everybody in the organization that a rising tide lifts all boats. Help them understand that by doing this, they will be a better organization and a better service provider and will not take anything away from anyone.

Caren: This is really about getting past good intentions and moving to better processes. Better processes and business structures lead to better decision-making, and better decision-making leads to meritocracy. We all make biased decisions every day; the data is clear that the only way to get past implicit bias is to have business processes in place that allow for equal access and opportunity to work, social capital and pay.

What is holding people and organizations back from embracing diversity? What's the resistance?

Su: Diversity and inclusion are hard work and take time and buy-in from those in power. For D&I best practices to be sticky, firms need to embrace improved processes like the Mansfield Rule. Frankly, these sorts of processes can be inconvenient and add what seems like unnecessary overhead for firms, but we're starting to see some of the positive results of these sorts of processes. Commitment to processes is important because it's the only demonstrated way of mitigating implicit bias. There's this

whole concept around slow and fast thinking and a lot of research on it. When it comes to people decisions, you want to make those decisions in a slow way. However, our inclination is always to make fast people decisions. We need a process to help us get past the natural inclination to select and promote people whom I'm most familiar and comfortable with. So to put in place a process like the Mansfield Rule and to be disciplined about following it will level the playing field over time. But it won't happen overnight.

It is incumbent on leadership to actually explain to everybody in the organization that a rising tide lifts all boats. Help them understand that by [supporting diversity and inclusion initiatives], they will be a better organization and a better service provider and will not take anything away from anyone. – MERLE VAUGHN

John: Change is hard for people to accept. For change to be effective, it has to be measured and it has to be accepted throughout the organization. Part of the challenge is that, as we said before, people feel threatened by some of the efforts because people wonder how this is going to affect them. Only when we convince the population that it is better for the entire organization, that the entire organization benefits from the diversity of people in different positions, diversity of thought and diversity of experience, that's where it will ultimately be successful. And while diversity is important, we really need to emphasize inclusion. To really be successful here at Reed Smith, we're really focused on inclusion and making sure that people feel they are included.

Merle: A lot of it comes down to money. These are businesses that are driven by economics, and historically

speaking, diversity and inclusion

have not been part of the equation in terms of whether you're going to make money at your specific endeavor. The fact is that there's an investment required in diversity and inclusion, which means it might take away from the bottom line initially. But if you invest in it, everyone will reap the benefits and it will improve the bottom line ultimately. Everyone has to believe that or it has to be proven by somebody. It takes people

who have courage to do this work, and it takes people willing to continue to do this work until change actually takes place.

Caren: One of the barriers is that, as a profession, we tend to be very risk

averse. But if our current actions aren't producing the desired results, we have to try new things. Our fear of failure seems to be outweighing our need for experimentation. To reduce risk, we tend to make changes on the edges—reorganized affinity groups, increased leave policies, etc.—but we're not making the big sweeping structural changes that are necessary to increase and sustain diversity and inclusion long term. In addition, we don't measure what we do in this arena. We measure every other aspect of our business, but we often skip doing a cost-benefit analysis of specific diversity initiatives to tell us what's working and not working. Implicit bias training is a perfect example. It costs companies millions per year for extensive training, but we don't measure if it actually reduced bias in our daily work. Were the training and its outcomes worth the effort and costs? Research tells us no generally, but yet we keep doing it. ▲

Jennifer Carrion

Jennifer Carrion is the Manager of Diversity Recruiting at Morgan Lewis. She oversees the firm's diversity recruiting efforts and collaborates with the firm's Diversity & Inclusion team and leadership to identify opportunities to attract, retain and develop a more diverse attorney pipeline. Here are five things you may not know about Jennifer or what a diversity recruiting manager does.



1 Morgan Lewis has a dedicated diversity recruiting role.

"A lot of firms have dedicated diversity retention resources. For us, our director of diversity and inclusion and our larger Associate Talent Team are very focused on the professional development and retention side. But to have someone that focuses on the recruiting side was something that was new to me and really piqued my interest. Morgan Lewis was recognizing the challenges they and all firms face in this very important space and realized that they had to put the resources behind it, so they created a dedicated role, 100% committed to diversity recruiting only. This role allows me to execute on the ideas the talent team and I have and really focus on moving the needle forward by looking at who we are bringing in the door."

2 It is hard to move the needle if you don't have allies who are just as much committed to diversity and inclusion as you are.

"Diversity and inclusion are not just the responsibility of those of us who are 'diversity heroes.' It takes a village, and so many of my successes in the D&I space have been because I've had allies who have been supportive and have been invested in the same initiatives that I've been invested in. And that's essential to success not only for me and my role but for others who have diversity roles."

3 Jennifer's family is from the Dominican Republic and her first language is Spanish.

"I was born and raised in Boston, but I spent every summer in the Dominican Republic and actually moved there for a year when I was 4. I also attended a Spanish immersion school in Boston, where I learned how to read and write in Spanish. My ability to speak fluent Spanish catches people off guard when they see me."

4 Diversity at Morgan Lewis is more than just numbers and data points.

“It really is about achieving true and real inclusion. The firm makes every effort to make sure everyone is welcome and that everyone feels empowered to speak. It really encourages everyone to offer their own views and experiences. I find that it’s really about creating an environment where people of all types feel included and can thrive. And I think ultimately it’s about encouraging authenticity and developing a culture where people can bring their best self to work.”

5 Jennifer was on an episode of HGTV’s My First Place!

“They were looking to feature first-time home buyers in Boston and a friend sent me the announcement. I submitted an application on a Tuesday. By Wednesday afternoon, I had a call from them asking to come to my house that night to do a screen test. It was a super-fast process, but it definitely made the home-buying process way more cumbersome. I couldn’t step foot in the house or talk to my realtor before the camera crews were there. It was kind of crazy, but it was fun.” ▲



“ I find that [diversity is] really about creating an environment where people of all types feel included and can thrive. And I think ultimately it’s about encouraging authenticity and developing a culture where people can bring their best self to work. ”

A person's silhouette is walking on a brick floor, illuminated by blue light streaks. The text is overlaid on the image.

WITHOUT

INCLUSION

WE HAVE

NOTHING

Inclusion and diversity go hand in hand. When people ask the difference between the two, I sometimes quote Verna Myers: “Diversity is being invited to the party; inclusion is being asked to dance.” Although this quote has perhaps become a bit of a cliché, it provides a good visual for improving inclusion in an organization. There are many movies where the popular kids are on the dance floor and a handful of others are standing against the wall watching. We all feel the pull on our heartstrings for those left against that wall missing out on the fun on the dance floor.



By John Cashman
President,
Major, Lindsey & Africa

Employees find themselves on the outside looking in at work more than anyone wants to admit. Exclusion is often much subtler and less straightforward than a high school dance. Maybe we pick the people who look the most like us to assist on a new deal or we go back to the person who was most helpful most recently, instead of looking for new people to develop and include. Only by making a conscious effort to move beyond old habits, acknowledging and putting aside our implicit biases, will we open opportunities to a wider selection of people and create a truly inclusive culture.

TWO SIDES OF THE COIN

We hear leaders regularly talk a lot about diversity and the importance of hiring the broadest mix of people on our teams and in our organizations. It is vital that our employees come from different backgrounds, represent different racial and ethnic groups, and bring a unique perspective to the table. However, without an underlying culture of inclusion, diversity will not stick. If people do not feel included once they arrive, they will not stay and long-term diversity will not improve. Diversity is only the first step; inclusion is every step after that.

At Major, Lindsey & Africa, we believe in creating a work environment where people feel comfortable being their most authentic selves at work. In order for this goal to become reality, people need to feel welcome and accepted by the people with whom they work and in the broader environment in which they work. That requires everyone in the organization be an active participant in our inclusion efforts. John Lino of Reed Smith says it best in our 360 piece: “Only when we convince the population that it is better for the entire organization, that the entire organization benefits from the diversity of people in different positions, diversity of thought and diversity of experience, that’s where [our diversity efforts] will ultimately be successful.

And while diversity is important, we really need to emphasize inclusion. To really be successful here at Reed Smith, we’re really focused on inclusion and making sure that people feel they are included.”

FROM TOP TO BOTTOM

Yes, inclusion starts from the top. Leadership needs to look for every opportunity to involve groups that might not feel as included as others. It is leadership’s responsibility to ensure we have policies and procedures that support a spirit of inclusion. And first and foremost, leadership needs to make it clear that they live these values through the language they use, how and when they show up to meetings and events, and how they treat the individuals on their teams.

Leadership needs to set the right tone. But inclusion will only become a reality if everyone in the company supports the goal. That means diversity and inclusion are as much

“If people do not feel included once they arrive, they will not stay and long-term diversity will not improve. Diversity is only the first step; inclusion is every step after that.”

about the people you recruit and retain as they are about having inclusive policies or inclusive leadership. If we do not recruit people who are going to live our values, we will not be able to retain the people we really want on our team—and we won’t have inclusion. As Ernest Greer observes in *Challenging the Status Quo*, “What a lot of people don’t understand is that when we talk about

diversity and inclusion, we aren’t trying to tell people what to do. What we are saying is that you need to create an environment that provides people with the freedom they need to succeed.”

The business reality is that team members come and go—sometimes because they do not feel that they belong. To close where we started, people are left by the wall to watch everyone else move forward, possibly because they do not see how they fit in or add value to the broader organization. If we can all look for ways to promote an inclusive environment in our day-to-day experience, look for ways to help others fit in and truly feel they bring unique value, we have a chance to make our culture truly inclusive. Which means we have the chance to make long-term diversity a reality. Perhaps ask yourself, when was the last time you stopped to see who is standing against the wall and invited them onto the dance floor? ▲



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Thank you to our consultants for connecting us with our outstanding interviewees!

Brian Burlant
Amir Khan

Nathan Peart
Michael Shulklapper
Elizabeth Smith

Merle Vaughn
Mark Yacano

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