

Beyond Black History Month: A Commitment to Inclusion

By Judge Booker T. Shaw

As usual, the initial euphoria I feel upon attending the Lawyers' Association Black History Month Dinner gives way to somber reflection.¹ While the association's dinner is an enjoyable opportunity to socialize with bench and bar friends, more importantly, it provides an invaluable forum for discussion of diversity issues. That discussion inevitably reminds us that, while much has been accomplished, we must continue to find ways to achieve greater minority inclusion in the legal profession beyond Black History Month.

Today, fewer blacks are attending law schools in Missouri² and black lawyers are less likely to remain at prestigious law firms or make partner when compared to their white colleagues.³ One hundred and fifty years since the Dred Scott case,⁴ gains made during the 1970s, '80s and '90s could tragically erode without thoughtful answers to these and other problems.

Inclusion has clear and profound benefits. In the global marketplace, a diverse workforce offers a competitive advantage and innovative solutions. In America, a country defined by diversity, inclusion bolsters the legitimacy and perceived accessibility of our courts and governmental institutions. Diversity makes good sense for legal business.

As in-house corporate counsel become increasingly diverse, they will expect the same of lawyers who represent their corporations.⁵ There were only three minority general counsel at Fortune 500 companies in 1996.⁶ In 2006, 32 were minority, including six women.⁷ Many large corporations require the law firms they retain to utilize diversity programs and expect that minority lawyers will work on their cases.⁸

Additionally, judges and jurors are becoming more diverse. In the 16th, 21st, and 22nd Circuits of Missouri, as well as on our appellate courts, there are unprecedented numbers of minority jurists.⁹ Census data, as well as anecdotal accounts, suggest that suburban juries are beginning to look more like urban juries.¹⁰ In light of these changing demographics, legal employers, including law firms and public entities, might reconsider the contributions a minority lawyer can make to their practices.

Carefully crafted diversity programs can improve minority inclusion in all areas of the legal profession.¹¹ Recruitment initiatives, diversity committees, mentoring, promotion and leadership opportunities are proven strategies in both public and private sectors. Outreach "pipeline" programs that recruit and prepare minority students for legal careers offer a wide range of opportunities, from high school mentoring to

LSAT preparation and college scholarships.

Of course, the desire for diversity should never overcome an insistence upon ability. Inclusion should not be an excuse for incompetence. Employers have every right to expect excellence because clients, constituents and the public demand and deserve quality legal service. Additionally, reduced standards for the sake of inclusion cause resentment, perpetuate stereotypes and set up systems destined to fail.¹²

On a personal level, the power of relationships cannot be ignored. There is some evidence that a significant barrier to inclusion is the absence of personal relationships, connections and a "comfort level" with persons of different cultural or ethnic backgrounds.¹³ For those of us who do not have personal cross-cultural relationships, we must challenge ourselves to reach out and cultivate relationships across these illusory barriers.

Finally, discussion of diversity issues is important, especially when dialogue leads to action. If we can make a commitment to inclusion this year, and act on that commitment, maybe at next year's dinner we can do more than discuss diversity. We can also celebrate our efforts and achievements in making inclusion a reality.¹⁴

FROM THE BENCH

FOOTNOTES

1. <http://www.lawyersassociationofstlouis.org/index.htm>.

2. Donna Walter, *Mound City study: Fewer blacks attending Missouri's law schools*, ST. LOUIS DAILY RECORD, Feb. 2, 2007, at 1.

3. Adam Liptak, *Lawyers Debate Why Blacks Lag at Major Firms*, N.Y. TIMES, Nov. 29, 2006.

4. *Scott v. Sandford*, 60 U.S. 393 (1856).

5. Deborah Epstein Henry, *The Business Case for Flexibility: Why Flexible and Reduced Hours are in a Legal Employer's Financial Interest*, DIVERSITY & THE BAR, March-April 2007, at 19.

6. *Id.*

7. *Id.*

8. Elizabeth Frater, *Forming Strategic Alliances: Creating New Opportunities for Diverse Attorneys*, DIVERSITY & THE BAR, March-April 2007, at 26.

9. Office of the Secretary of State, State of Missouri, Official Manual State of Missouri 2005-2006, 232.

10. Jake Wagman, *Census Shows Migration West and South of City*, ST. LOUIS POST-DISPATCH, August 17, 2005, at A1.

11. Vera Djordjevich & Ed Shen, *Measuring Progress: A Look at the Results of the Vault/MCCA Guide to Law Firm Diversity Programs*, DIVERSITY & THE BAR, March-April 2007, at 57.

12. Adam Liptak, *Lawyers Debate Why Blacks Lag at Major Firms*, N.Y. TIMES, November 29, 2006.

13. *Id.*

14. I gratefully acknowledge the assistance of my law clerk, Amany Ragab Hacking, and my intern from Saint Louis University School of Law, LaShonda Lambert, in preparation of this column.



The Honorable Booker T. Shaw is chief justice of the Missouri Court of Appeals for the Eastern District of Missouri. He is flanked in this photo by intern Lashonda Lambert (left) and law clerk Amany Ragab Hacking.