Upgrading the Track: Forging a Path to Success for Minority Attorneys

February 4, 2020
Agenda

- Why Diversity Matters
- Biases
- Four Challenges
- Mini Hackathon
Why Diversity Matters
Diversity & Inclusion = Better Solutions

- Diverse teams bring different information, opinions, and perspectives
- Studies have demonstrated that diverse teams are more accurate and make less mistakes
- Racial and ethnic diversity promotes better critical thinking

“A diverse team supported by an inclusive environment that values each individual will outperform a homogenous team every time.”

- David Taylor, CEO, President, and Chairman of Procter & Gamble Co.

Sources:
- Katherine W. Phillips, How Diversity Makes Us Smarter, Scientific American (October 1, 2014)
Diversity & Inclusion = Enhanced Financial Performance

- Companies in the top-quartile for gender diversity on their executive teams were 21% more likely to have above-average profitability than companies in the fourth quartile.

- Companies in the top quartile for ethnic/cultural diversity on their executive teams were 33% more likely to outperform on profitability than companies in the fourth quartile.

Likelihood of financial performance above national industry median by diversity quartile.

Financial performance = average EBIT margin

Law Firm Demographics

Minority lawyers represented 17% of lawyers employed by firms in 2017, but 22% of the attorneys who left their firms. These are the highest reported percentages in 11 years.

46% of white attorneys are partners, compared to only 24% of minority attorneys.

Source: 2018 Vault/MCCA Law Firm Diversity Survey
A Story
Unconscious Bias
We are exposed to as many as 11 million pieces of information at any one time, but our brain can only functionally deal with about 40.
What are Unconscious Biases?

- Hidden reflexive judgments that shape our perceptions
- Formed by experiences, beliefs, values, and associations
- “Cognitive shortcuts” that make up 70-75% of our thoughts
Dispelling the Myths: Unconscious Biases …

- **Are only held by some**
  - **FALSE**
  - *Everyone* has unconscious biases.

- **Are intentionally discriminatory**
  - **FALSE**
  - They happen without intention or awareness.

- **Are inherently bad**
  - **FALSE**
  - Biases can be positive or negative. Bias is a necessary trait for survival.
## Common Types of Biases

<table>
<thead>
<tr>
<th>Bias</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Confirmation Bias</strong></td>
<td>Paying more attention to information that confirms your existing beliefs and disregarding information that is contradictory to those beliefs.</td>
</tr>
<tr>
<td><strong>Attribution Bias</strong></td>
<td>More favorable assessments of behaviors and circumstances for those in your “ingroup” and less favorable assessments for those in your “outgroup.”</td>
</tr>
<tr>
<td><strong>Affinity Bias</strong></td>
<td>Gravitating towards and developing relationships with those who are more like you.</td>
</tr>
<tr>
<td><strong>Availability Bias</strong></td>
<td>Relying on easily accessible information to enable quick decisions and judgments, and avoiding challenging fact-checking and analysis.</td>
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A Detrimental Effect

- Unconscious biases can have a detrimental effect
- They may unintentionally impact:
  - **Perception** – how we see people and perceive reality
  - **Attitude** – how we react towards certain people
  - **Behaviors** – how receptive/friendly we are towards people
  - **Attention** – which aspects of a person we pay most attention to
  - **Listening** – how much we actively listen to what certain people say
  - **Micro-affirmations** – how much or how little we embrace people in certain situations
Four Challenges
1. Limited Room to Fail

- Failure is **critical** to growth, innovation, and success
- Underrepresented attorneys are **highly scrutinized** for errors and sometimes held to a **higher standard**
- With limited room to fail, underrepresented attorneys are **less likely to take risks** and **less likely to try stretch opportunities**

**Prove It Again (PIA):** a pitfall where underrepresented groups are often forced to prove themselves over and over

35% of women of color, white women, and men of color report “**Prove it Again**” bias at a higher level – **35%** higher than white men

75% of black women reported dealing with “**Prove it Again**” bias

Source: 2018 Vault/MCCA Law Firm Diversity Survey
2. Inconsistent, Irregular, and Biased Feedback

Underrepresented attorneys have **less access** to consistent feedback and that feedback is often **rife with potential bias**.

**Gender Bias**
A study of performance reviews from companies of all different sizes found that women were more likely to receive **personality criticisms** than men.

**Racial Bias**
Identical memo sent to law firm partners at various firms. Half of the partners were told the associate was **white** and half were told he was **black**.

<table>
<thead>
<tr>
<th>Personality Criticisms in Reviews</th>
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<tbody>
<tr>
<td><strong>Men</strong></td>
</tr>
<tr>
<td>![Graph]</td>
</tr>
</tbody>
</table>

**4.1 out of 5.0**
“generally good”
“has potential”
“good analytical skills”

**3.2 out of 5.0**
“need lots of work”
“can’t believe he went to NYU”
“average at best”

**Sources:**
- “Written in Black and White,” Nextions
- “The Abrasiveness Trap: High-Achieving Men and Women are Described Differently in Reviews,” Fortune
3. Limited Access to Critical Information

- Underrepresented attorneys often lack regular access to critical information and social capital, which stunts their professional growth.
- Growth in organizations is accelerated by access to critical information.
- In the workplace, people tend to trust and connect with those who are similar to them.
- Because minority attorneys are not often adequately represented in leadership, they are disadvantaged.

99% | 70%

99 percent of interviewees received 70 percent of the jobs they held over their lifetimes with the extra help of friends or family members who could give them inside information, use influence on their behalf or offer them opportunities, such as jobs or promotions, not available to others.

Sources:
- “Diversity and Authenticity,” Harvard Business Review
- “If Diversity and Inclusion is Working, Why are White Men Still Getting the Best Jobs?” DiversityInc.
4. Lack of Meaningful Investment and Sponsorship

Sponsorship occurs when an influential leader within an organization advocates for, protects, and proactively develops his/her protégé. Underrepresented individuals generally have less access to organic sponsorship relationships.

Employees Who Are Satisfied With Their Rate of Advancement

<table>
<thead>
<tr>
<th></th>
<th>Without Sponsors</th>
<th>With Sponsors</th>
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</thead>
<tbody>
<tr>
<td>Men</td>
<td>57%</td>
<td>70%</td>
</tr>
<tr>
<td>Women</td>
<td>57%</td>
<td>68%</td>
</tr>
<tr>
<td>People of Color</td>
<td>34%</td>
<td>56%</td>
</tr>
</tbody>
</table>

Source: “The Sponsor Dividend,” Center for Talent Innovation
Mini Hackathon
Mini Hackathon

• **Hackathon**: a competitive event in which groups work together to “hack a problem” with the goal of developing a solution

• **Hack the Challenge**:
  - You will be divided into **four groups**
  - Each group will have a **facilitator** and will be **assigned one of the four challenges** to hack
  - Each group will have approximately 60 minutes to **discuss the challenge and prepare one or more solutions**
  - Each group will then return here and will have a couple minutes to “**pitch**” their **solution** to **Robert White (CMCP)** who will serve as the judge

• **Ground Rules for Discussion**:
  - **Speak Your Truth**: be open about your thoughts and feelings
  - **Be Vulnerable**: be prepared for uncertainty, risk, and emotional exposure
  - **Listen for Understanding**: listen to others to understand, not necessarily respond
  - **Experience Discomfort**: discomfort can create space for learning and growth
Our Facilitators

Stacey Wang  
Partner, Holland & Knight  
Assigned Challenge: Irregular and Inconsistent Feedback  
Room: 1

Marie Maurice  
Director, Ivie McNeill Wyatt Purcell & Diggs  
Assigned Challenge: Lack of Meaningful Investment and Sponsorship  
Room: 2

Lucas Bailey  
Senior Counsel, Peacock/NBC Universal  
Assigned Challenge: Limited Access to Critical Information and Social Capital  
Room: 3

Anne Haley  
Managing Assistant City Attorney, Los Angeles Office of the City  
Assigned Challenge: Limited Room to Fail  
Room: 4

Date of Activity: February 4, 2020  
Time of Activity: 6:30pm - 8:00pm  
Location: Los Angeles, CA