



VIRTUAL ROUNDTABLE:
**Diversity and inclusion in
the legal community**

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WARD AND SMITH, P.A.
ATTORNEYS AT LAW

Diversity and inclusion are words often heard in discussions about our society. Giving people of every race, religion, culture and belief an equal voice and opportunity is one of the cornerstones of a working democracy. Nowhere is that concept more crucial than the legal community. Without diversity and inclusion, laws are in danger of being applied and dispensed unfairly, law firms operate under too narrow a vision, and bias encroaches on the basic concept of blind justice.

A diverse and inclusive law firm, with lawyers from many backgrounds and experiences, is crucial to meeting the needs of a widely varied client base. Juries are selected from the broadest expanse of cultural, racial and ethnic ranges, so it is vital for trial lawyers to have a thorough understanding of each potential jury member's world view. Judges are as varied and culturally diverse as the juries they oversee.

With that in mind, N.C. Lawyers Weekly recently asked practicing attorneys active in diversity and inclusion in the legal community to share some thoughts and advice on the subject. Following is a question-and-answer session featuring Tricia Derr, of the Charlotte firm Lincoln Derr, and Hayley Wells, with the Asheville office of Ward and Smith.

Why is it important for law firms to focus on diversity?

TRICIA DERR: Lincoln Derr's focus is litigation. The end result of litigation usually means a jury will resolve our clients' disputes. A jury of "one's peers" is a constitutional bedrock of our justice system. Like our communities, juries are made up of individuals. While we may share a city and area code, we rarely share life experience. Gladly, homogenous communities no longer exist – neither should homogenous juries.

Judges, like our juries, come from within our communities. Judges are empowered to make critical decisions in our clients' cases. A lawyer who doesn't appreciate the background and perspective of their jurist can miss critical opportunities to communicate effectively with a powerful decision maker. Any law firm failing to focus on diversity fails to focus on their client. Any law firm viewing diversity as an obligation rather than a benefit misses the point.

HAYLEY WELLS: Law firms must focus on diversity to expand the base of experience that its attorneys and staff bring to the firm and to ensure that they are recruiting and retaining top talent. Diversity promotes greater creativity in problem solving, which in turn generates better results for a firm's clients. In the Ward and Smith Diversity and Inclusion Advisory Group, we look at internal and external opportunities to impact change in diversity and inclusion.

How does the focus on diversity and inclusion impact business?

TD: As corporate America begins to understand what diversity is not, it brings into focus ideas and concepts that "vendor diversity policies" never touch. "Diversity policies" are integral, however, in our experience, most of the well-intentioned "policies" are form over substance. When the client sees the impact of human connection in outcome measures, values inevitably change from an "inclusive environment" to a "integral decision." So many people still see diversity as an obligation rather than an asset. "Diversity policies" are eye-opening and inspiring. However, when a client realizes that hiring a diverse law firm is a real advantage rather than a quota, word of mouth travels fast and business booms.

HW: Our clients are diverse. They, in turn, expect their matters to be handled by a diverse group of professionals. As research has shown, teams of individuals with various perspectives generate broader ideas and innovation. This approach fosters creative thinking, which helps law firms deliver the best value of

MEET OUR PANELISTS



Tricia Derr
■ ATTORNEY, LINCOLN DERR PLLC

Derr and Sara Lincoln left a large Charlotte law firm about 10 years to form their own private, complex litigation firm. Their specialties include commercial litigation, business and contract disputes, health care litigation, and labor and employment law, including noncompete contracts.



Hayley R. Wells
■ ATTORNEY, WARD AND SMITH, P.A.

Wells is an attorney in Ward and Smith's Asheville office, and is a member of the firm's Diversity and Inclusion Advisory Group. As a litigator, she represents companies in employment law matters and civil litigation issues. She is also part of the firm's Alcoholic Beverage Group, and works with brewery and craft alcoholic beverage clients across the state.

legal services to clients. Additionally, more clients include diversity requirements in the RFP process or in the formal engagement agreement for legal services. In essence, if you want to be invited to the table for choice work, demonstrate your diversity and inclusion efforts.

How does organizational culture influence a firm's diversity and inclusion strategy?

HW: There must be a commitment from the top of the organization when it comes to promoting diversity and inclusion. A culture that promotes respect for individuals in an innovative work environment typically wins out on talent. An organization that fails to focus its efforts will either lose top talent or miss out entirely on the chance to recruit top talent.

TD: Organizational culture must be consistent with firm values. Sadly, many firms bring a diverse lawyer "to the table" in order to close the deal. Clients no longer tolerate these patronizing efforts. Firms must promote and include. "Talking the talk" must be followed by "walking the walk."

Mentoring and coaching are cru-

cial. Over my career, I've seen many women and minority lawyers encouraged to assimilate. We are told good associates keep their mouth shut, learn, and stay out of the way. This "old school" training hinders thought innovation and leadership skills and damages self-confidence. Quality training should be adjusted for each personality. This means the coach must also learn from the player. Identify a young lawyer's passion. Promote it. Encourage growth in areas congruent with passion and firm values. Empower the individual and you will unleash their talents.

How can a law firm go about efforts to change the culture to embrace diversity and inclusion?

HW: Effective communication and commitment from leadership is the cornerstone to building a solid culture around diversity and inclusion. With support in place, law firms must demonstrate how they apply the diversity and inclusion lens to legal operations in areas such as employee benefits, recruiting strategy and the staffing of client matters. When diversity and inclusion are incorporated into legal operations, it naturally flows into the business'

culture.

TD: The decision-makers must be diverse. Period. While I am reluctant to imply that white men cannot cultivate diversity, I do believe it is impossible to see the bigger picture when your experience is a narrow snapshot. Instead of "walking a mile" in someone else's shoes, ask them to come down to the board room – and to bring their shoes with them. Diversity and inclusion must have a voice. Otherwise, it is a burden - a box to check and a quota to fill.

D&I strategy: What can be accomplished in one, three and five years?

TD: It should have been accomplished already. If not, you are behind. If you are behind, it's OK. Commit to the forward momentum that action creates.

HW: It is not enough to just make D&I a committee or initiative; measurable goals and benchmarks should be established. The achievable results really depend on where an organization is with respect to its D&I efforts. An organization in the early stages of D&I efforts may need to focus on raising awareness, uncovering implicit (or explicit) bias, and implementing policies that support greater D&I. An organization that has overcome these hurdles can focus on D&I recruiting, retention and leadership opportunities.

Where do Employee Resource Groups fit into the strategy?

HW: A sure way to maintain a strong, cohesive work environment is to provide opportunities where professionals feel they belong. ERGs provide that platform for employees with shared life experiences and characteristics to come together under the professional development umbrella. Also, ERGs are employee-led groups, so the existence alone creates an opportunity for leadership development. This is especially helpful in organizations where leadership paths may seem out of reach.

What is the best use of quantitative vs. qualitative data?

HW: Qualitative effort is useful as it demonstrates a strategic effort to achieve a goal. The results of such efforts certainly impact quantitative data. In the end, there is value in looking beyond the numbers to assess strategy, intent and commitment.

TD: In my mind, data doesn't change the world. Let's go nitty gritty – actions matter. Initiatives are great tools and starting points. Dedication and hard work cannot be measured by statistics. We all know what needs to be done, and we all

see exactly what has been done. If you don't see it, a diversity consultant would be a great start. Actually, I'll be impressed if you see that you don't see it. Usually, that is the root of the problem.

When the numbers don't tell the whole story, where is the opportunity to add anecdotal information when companies are so focused on ROI?

TD: Our numbers always tell the whole story. There are really no other options at Lincoln Derr. You are going to get a diverse team – no matter what. Diversity is what every client gets – and we like it this way. If you believe your firm's "numbers don't tell the whole story," I have a question for you ... why? The key to cultivating an inclusive atmosphere lies in an honest answer to this question.

HW: Morale. Culture. Pride in the Workplace. These intangibles add value to the employee experience. When a law firm is trying to focus on diversity and inclusion through intentional actions, people notice. And, when these efforts are discussed broadly throughout an organization, eventually becoming a part of doing business, employees gain a sense of security that deepens the connection to the organization.

How do you turn the numbers into actionable, successful D&I initiatives?

TD: Talented attorneys are seeking out firms that authentically invest in diversity. Your return on

investment in D&I initiatives can be measured, in part, by the quality and number of attorneys looking to join your legal team. Expectations vs. initiatives are where we need to start. "Inclusion" is not just inviting someone to lunch nor is it mere involvement. "Inclusion" means investment in training, time, opportunity, participation and emotion.

What does successful D&I look like?

HW: Success is unique to each organization based on their goals and program structure. Of course, commitment, effort and enthusiasm also affect success. That said, organizations that have achieved success have a solid system in place to support their diversity and inclusion efforts. Common elements of those systems include 1) clear strategic goals, 2) buy-in and consistent communication from leadership, 3) awareness education and training, 3) open and inclusive discussions, 4) integration into firm policies, hiring practices and promotion considerations, and 5) monitor, measure and reassess.

TD: Before diversity was a buzzword, we understood its value. When we formed Lincoln Derr PLLC, few colleagues or clients recognized the acronym D&I. As a pioneer of a law firm brand deep seeded in the value of diversity, our business model continues to evolve, and we will continue to dig even deeper.

Being asked to participate in this roundtable article is a prime example that diversity is a visible com-

ponent of our brand. Externally, we are committed to educating and mentoring others in the profession. (Firm co-founder) Sara Lincoln recently lent her voice to a panel of female attorneys at a Continuing Legal Education (CLE) program hosted by the Mecklenburg County Bar entitled, "Powerful Women in the Law." Attorneys Gwendolyn W. Lewis and Maria Ortiz coordinated a diversity-focused CLE program entitled "White Like Me." Internally, we will continue to mindfully grow our firm with attorneys and staff that reflect our diverse firm culture.

Should the recruiting process for new attorneys be changed and how?

TD: Of course. Consider having diverse attorneys lead the recruiting process. There is no secret in admitting part of humanity means we are drawn to others who share our values, experiences and backgrounds. Does your law firm show a commitment to welcoming differences and celebrating those varying points of view?

Start from the internet. What does your website say about your firm? What are the firm's values? How do you advertise? How do you promote? What do your blog articles say about your firm? Are you transparent about commitment to diversity? My mom always said first impressions were critical. Today, lasting impressions start with www.

HW: The approach to recruiting talent into law firms is unique to

each organization. Large law firms have more of an ongoing systematic approach to recruiting and hiring while smaller firms hire as needed. It is also common for larger firms to annually participate in regional and national diversity interview programs.

At a minimum, no matter the size of a law firm, organizations should embrace implicit bias training. It is not about pointing fingers but rather raising awareness to unintentional biases that inform our decision-making in the workplace.

Is the Mansfield Rule, which states law firms must affirmatively consider women and attorneys of color for leadership and governance roles, equity partner promotions and lateral positions, part of the answer?

HW: The Mansfield Rule represents intentional change. This approach to hiring decisions and promotions ensures that the diversity and inclusion lens is a regular part of the review process. I believe it is a solution that will enable law firms to transition from aspirational goals to successful outcomes. Presently, large law firms and corporate legal departments are participating in this initiative. I believe we have a lot to learn from their outcomes.

TD: We get it. Yes. I guess it's a good thing. But is it yet another checked box that is ignored? Inviting intent into interviews is a healthy reminder to be inclusive. However, is it a value or is it an objective? There is a big difference.



LINCOLN DERR



Lincoln Derr is a Civil Litigation Law Firm founded in response to client-demand for versatile, transparent, and efficient legal representation.

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☑ Labor & Employment Law

☑ Risk Management

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Tricia Derr,
Lincoln Derr PLLC



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Hayley R. Wells,
Ward and Smith, P.A.



Is retaining diverse talent an even bigger challenge than recruiting?

HW: Attracting, developing and retaining talent are all challenging. A significant hurdle to finding success is having management incorporate D&I practices in all decision-making from policy and benefits to hiring goals. Once D&I is incorporated into standard business practices, developing a strategy is the next step, which can be difficult if an organization is lacking in those efforts. To get results you must be intentional and have buy-in from leadership and management. If you have a solid foundation for investing, developing and promoting with diversity in mind, current and potential employees will notice and want to stay.

TD: Not if you cultivate, motivate and appreciate. Opportunities to

participate in a meaningful way for a client proves trust and promotes investment. And I don't mean partnership/firm investment – I mean personal investment in clients, career and long-term success.

What part should training play in ensuring the success of a D&I program?

TD: Trust. As hard as it may be for a seasoned attorney to relinquish power, it must happen. Not only do young lawyers need to feel invested in a firm, but the firm also needs to feel – and show – investment in them. You get back what you put in.

HW: In addition to demonstrated buy-in from the top, training is a critical component to any diversity and inclusion initiative. First, you must define diversity inside

the organization so there is a common understanding. From there, provide awareness and educational programs to help individuals and organizations understand their own tendencies and how those behaviors impact business decisions. It's a pretty simple concept when you think about it – once you know better, you do better. Training also generates meaningful dialogue around diversity and helps an organization identify their needs and goals while showcasing the value D&I brings to the organization.

Do you partner with professional organizations that promote D&I in the legal profession?

TD: We have organizations working to promote diverse representation and providing viable platforms

for identifying firms like ours. Groups like the National Association for Minority and Women-Owned Law Firms (NAMWOLF) carefully vet the diversity of law firms nationwide. Their research and background checks make it easy for clients to identify law firms that actually do “walk the walk.” With their careful vetting, corporate clients can find a congruent fit with a firm that identifies talent, promotes equity and ensures quality representation.

HW: At Ward and Smith, we partner with the NCBA Minorities in the Profession 1L Summer Associate Program. We also support programs with the NC Chamber and Raleigh Chamber of Commerce, such as “Women in Business” and Workplace Diversity and Inclusion” conferences.



WELCOME, ATTORNEYS RICHARD CROW AND PAIGE INMAN, NOW WITH THE WARD AND SMITH LEGAL TEAM

“Richard and Paige are great additions to our firm,” Ken Wooten, Ward and Smith's Co-Managing Director, declared. “Richard's significant business experience, coupled with his experience representing clients before state and federal tax authorities, bolsters the firm's business and tax practices. Paige is joining a seasoned family law practice and will be able to build our Wilmington brand in this area.”

SAY HELLO

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