

# CLI Works to Remove Hidden Barriers to Retaining Diverse Attorneys

by Jennifer Daniel Collins

According to the results of the 2011 Associate Survey conducted by the Center for Legal Inclusiveness (CLI), as well as the sentiment of a June 2011 CLI focus group comprising diverse law firm partners, a key discovery was made that may shed light on why diverse attorneys leave law firms at higher rates than their non-diverse counterparts. The results found that diverse attorneys encounter hidden barriers in legal organizations that operate to exclude them from career advancement opportunities at greater rates than non-diverse attorneys. A similar conclusion has been reported in numerous national research studies.<sup>1</sup>

This article discusses the results of CLI's 2011 Associate Survey and June 2011 retention event, which identified hidden barriers to retention for diverse attorneys at their firms and at law firms generally.<sup>2</sup> It also discusses CLI's national campaign, "Step Up For Diversity: Take Action to Build an Inclusive Legal Profession,"<sup>TM</sup> which provides concrete ways for individual attorneys to help reduce hidden barriers for diverse and female attorneys.

## 2011 Associate Survey

In January 2011, CLI conducted a follow-up survey to its 2009 Associate Survey. Both the 2009 and the 2011 surveys were designed by CLI's Retention Working Group and were administered anonymously to Colorado law firms of all sizes to gauge whether diverse associates and white heterosexual female associates have encountered hidden barriers, which national research identified as often leading to earlier departure from employment for diverse associates than for non-diverse associates.<sup>3</sup>

Given CLI's limited resources, CLI focused both surveys on the relatively few diverse associates<sup>4</sup> working in its member law firms throughout Colorado.<sup>5</sup> For CLI-member firms without diverse attorneys, white female associates from their firms were asked to participate in the survey.

The 2011 survey reveals serious issues with respect to the retention of diverse associate attorneys and white female associates. Overall, nearly half of the 2011 Associate Survey participants indicated they planned to leave their law firms within the next eighteen



months. This represents a 100% increase from the 2009 Associate Survey's findings. Also, a large number of those associates reported having been affected by hidden barriers, such as: lack of sponsors and mentors, limited opportunities to participate in formal/informal networking, unfair evaluations, unclear standards for advancement, and lack of help with business development. The fact that Colorado diverse associates are experiencing some of the same issues identified in the national research may be

expected. Noticeable in the 2011 survey, however, was the consistent gap between white female and diverse associates participating in the surveys.

For example, 56% of diverse associates versus 42% of white female associates said they plan to leave their firm within the next eighteen months. Diverse associates disproportionate to white female associates cited lack of mentors (23% diverse/7% white female); adverse climate and firm culture (21% diverse/11% white female); unfair or inadequate evaluations (18% diverse/7% white female); and lack of advancement opportunities as reasons for leaving (18% diverse/4% white female). Also, diverse associates disproportionately reported feeling they must assimilate to the dominant culture in their firm (59% diverse/28% white female).

Only half of all survey respondents think morale is high among diverse attorneys in their firms. Seventy-five percent of white female associates provided the optimistic answers, while two-thirds of diverse associates do not think morale is high among diverse attorneys. The survey also found that, due to lack of work, 49% of diverse associates are not meeting their billable hour requirement, compared to 14% of white female associates who are not meeting their billable hour requirement.

The 2011 Associate Survey results and subsequent recommendations will be discussed at a CLE-accredited program entitled "Navigating Hidden Barriers: Are You Maximizing Your Career Potential?" that will take place on February 3, 2012 in Denver.<sup>6</sup> The program will include a discussion about key findings from CLI's 2011 survey related to hidden barriers and how some organizations are addressing this issue. It also will include a panel of distin-



### About the Author

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guished diverse senior attorneys who will speak about their personal success and offer advice to diverse and female attorneys.

## Diverse Partner Survey and Retention Event

On June 30, 2011, a CLI focus group gathered in Denver to address the retention and advancement of diverse and female attorneys at the law firm partner level. The group comprised diverse law firm partners, corporate counsel (including eight general counsel), and law firm managing partners.

Before the meeting, CLI conducted an anonymous survey of diverse law firm partners from CLI member organizations. The survey identified the following hidden barriers to retention for diverse attorneys at their firms and at law firms generally:

- limited opportunities to develop business
- limited access to clients/prospective clients
- stereotypes
- lack of meaningful work assignments
- lack of inclusion/integration
- unfair evaluations
- limited relationships with others in the firm
- lack of mentoring
- lack of training.

Focus group participants were asked to give their reactions to the hidden barriers identified in the diverse partner survey. The group concluded that bias still exists, and that non-diverse attorneys receive more opportunities due to affinity bias (non-diverse attorneys naturally gravitate toward those who are like them, which

leads to unintentional marginalization and exclusion of diverse lawyers).

In addition, although gaining access to current and prospective clients can be difficult for many attorneys, it can be especially difficult for diverse partners because of hidden barriers in their legal organizations. This may be partially due to the general structure and compensation system of many law firms, which discourage partners from introducing other attorneys to clients.

The business case for diversity is also undermined when corporate counsel do not select diverse attorneys to work on their matters or follow through with law firms on diversity in general. Law firm managers, like their counterparts in corporate law departments, are responsible for the development of attorneys they supervise.

Diverse partners perceive that the ability to develop business and gain access to clients are the most significant factors in improving morale and retention of diverse attorneys. Focus group participants brainstormed initial ways corporate counsel, law firm management, and diverse attorneys could assist diverse law firm partners in building crucial relationships. CLI has expanded those action items and created a national grassroots campaign for all attorneys based on the action items.

## Step Up For Diversity

CLI has developed a campaign called “Step Up For Diversity: Take Action to Build an Inclusive Legal Profession.” This Web-based action initiative was launched in October 2011 at the Association of Corporate Counsel’s Annual Meeting in Denver. The

campaign's goal is to help diverse and female attorneys build crucial relationships for success and create a more inclusive legal profession.

Law firms and other legal organizations cannot afford to leave diverse and female attorneys on the sidelines. Hidden barriers that limit the ability of diverse and female attorneys to build relationships must be eliminated. The only way to do this is through awareness and action.

CLI created a list of action items for inclusiveness-building for three groups of attorneys: corporate counsel, supervising and managing attorneys, and other attorneys. The action items vary in degree of difficulty. For example, corporate counsel are encouraged to report their personal invitations to diverse and female attorneys who work at outside firms to make substantive presentations in their law department. Supervising and managing attorneys can create a team of attorneys, including a diverse or female attorney, on a pitch to prospective clients. The full list of action items can be viewed at [www.stepupfordiversity.org](http://www.stepupfordiversity.org). All lawyers can participate in a friendly competition to build an inclusive profession by logging their progress on the website. Participation is free and can be anonymous or public. If more attorneys step up to take action, more diverse and female attorneys will be retained and advanced to leadership positions in their organizations. As extra incentive, winners of this friendly competition will be recognized at CLI's 2012 Legal Inclusiveness & Diversity Summit on May 7, 2012 in Denver; will be granted free registration to the 2012 Summit with seating at a VIP luncheon table; and will be recognized on CLI's website and in "Step Up for Diversity" promotions.

Finding and eliminating hidden barriers for all attorneys, as well as closing the gap between diverse and non-diverse attorneys, is critical to increasing diversity in the legal profession in the long-term. Firms and other legal organizations seeking to retain talent can do so by addressing hidden barriers through inclusiveness efforts. Learn more about inclusiveness at CLI's February 3 CLE, "Step Up For Diversity Campaign," and CLI's other Retention Initiatives.

## Additional Information on CLI Leading Retention Initiatives

CLI is a Denver-based nonprofit organization committed to increasing diversity and inclusiveness in the legal profession. It also has developed the only "how to" manual on inclusiveness for the legal profession: *Beyond Diversity: Inclusiveness in the Legal Profession*. The manual, which is available at [www.legalinclusiveness.org](http://www.legalinclusiveness.org), helps legal organizations go beyond surface-level diversity efforts and create cultures of inclusion for diverse and female attorneys, as well as for non-diverse attorneys. CLI's innovative retention initiatives have made the organization a national resource in this area. More information about CLI and its retention initiative can be found at [www.centerforlegalinclusiveness.org](http://www.centerforlegalinclusiveness.org). Survey findings can be viewed at [www.centerforlegalinclusiveness.org/initiatives/retention-working-group](http://www.centerforlegalinclusiveness.org/initiatives/retention-working-group).

### Notes

1. Among the studies that speak to hidden barriers that diverse attorneys encounter in legal organizations are: American Bar Association (ABA) Commission on Women in the Profession, "Visible Invisibility:

Women of Color in Law Firms" (2006), executive summary available at [www.americanbar.org/groups/women/initiatives\\_awards/women\\_of\\_color\\_research\\_initiative.html](http://www.americanbar.org/groups/women/initiatives_awards/women_of_color_research_initiative.html); Women's Bar Association of the District of Columbia, "Creating Pathways to Success for All: Advancing and Retaining Women of Color in Today's Law Firms" (2008), available at [wba.timberlakepublishing.com/files/Advocacy%20&%20Endorsements%20Files/Initiative%20Reports/Creating\\_Pathways\\_to\\_Success\\_for\\_All-March\\_2008.pdf](http://wba.timberlakepublishing.com/files/Advocacy%20&%20Endorsements%20Files/Initiative%20Reports/Creating_Pathways_to_Success_for_All-March_2008.pdf); Reeves, "From Visible Invisibility to Visibly Successful: Success Strategies for Law Firms and Women of Color in Law Firms" (ABA, 2009), available at [www.abanet.org/women/woc/VisiblySuccessful.pdf](http://www.abanet.org/women/woc/VisiblySuccessful.pdf); Minority Corporate Counsel Association (MCCA), "Sustaining Pathways to Diversity: The Next Steps to Understanding and Increasing Diversity and Inclusion in Large Law Firms" (2009), available at [www.mcca.com/\\_data/global/images/Research/5298%20MCCA%20Pathways%20final%20version%202009.pdf](http://www.mcca.com/_data/global/images/Research/5298%20MCCA%20Pathways%20final%20version%202009.pdf); Bagati, "Women of Color in U.S. Law Firms" (Catalyst, 2009), available at [www.catalyst.org/file/304/woc\\_law-report.pdf](http://www.catalyst.org/file/304/woc_law-report.pdf); Cruz and Molina, "Few and Far Between: The Reality of Latina Lawyers" (Hispanic National Bar Association (HNBA), 2009), available at [www.hnba.com/wp-content/uploads/2011/01/HNBA-Status-of-Latinas-September-2009.pdf](http://www.hnba.com/wp-content/uploads/2011/01/HNBA-Status-of-Latinas-September-2009.pdf); Cruz *et al.*, "Status of Latinas in the Legal Profession" (HNBA, 2010), available at [www.hnba.com/publications/status-of-latinas-in-the-profession-report](http://www.hnba.com/publications/status-of-latinas-in-the-profession-report); Fitzgerald *et al.*, "Sustaining Pathways to Diversity: The New Paradigm of LGBT Inclusion" (MCCA, 2010), available at [www.mcca.com/\\_data/global/images/Research/2010\\_LavBook\\_%20Final.pdf](http://www.mcca.com/_data/global/images/Research/2010_LavBook_%20Final.pdf); "The Perspectives of Women of Color Attorneys in Corporate Legal Departments" (Corporate Counsel Women of Color, executive summary available at [www.ccwomenofcolor.org/images/es-summary/CCWC\\_ES\\_Sample.pdf](http://www.ccwomenofcolor.org/images/es-summary/CCWC_ES_Sample.pdf)).

2. For purposes of this article, the term "diverse" applies to people of color and/or lesbian, gay, bisexual, or transgendered (LGBT) individuals, and the term "white female associates" applies to heterosexual white female associates.

3. In 2009, out of the 76 associates who received the survey, 63 participated as follows: 41 diverse; 22 non-diverse (white women); 45 female; 18 male. In 2011, out of 135 associates who received the survey, 67 participated as follows: 39 diverse; 28 non-diverse (white women); 52 female; 15 male. In the 2009 survey, associates were given a "neutral" option among the possible answers to some of the questions, which made analysis of the data difficult. To avoid this issue in the 2011 survey, the neutral option was removed and survey respondents were required to commit to a negative or positive response.

4. Overall, there are relatively few diverse attorneys in Denver law firms. The only statistics readily available on the numbers of LGBT and racially and ethnically diverse attorneys in Denver law firms are gathered by the National Association for Law Placement (NALP) and only for its member firms, some of which are not members of the Center for Legal Inclusiveness (CLI). For 2009–10, NALP member firms in Denver reported 1,819 attorneys overall, with 592 women (32.5%), 33 African American (2%), 52 Hispanic (3%), 3 Native American (.1%), 35 Asian (2%), 16 multi-racial (1%), and 24 LGBT (1%). There are 619 associates: 46% women, 2.7% African American, 4.6% Hispanic, .6% Native American, 2.9% Asian, 1.7% multiracial, 1.6% LGBT. There are even fewer diverse partners. Out of 864 total partners in NALP firms, there are 23.7% women, 1.2% African American, 1.7% Hispanic, .4% Native American, 1.5% Asian, .4% multiracial, and 1.2% LGBT attorneys.

5. CLI members are financial supporters of CLI and include more than seventy law firms, corporate law departments, government legal offices, law schools, and nonprofits throughout the state. CLI also has members outside Colorado.

6. "Navigating Hidden Barriers: Are You Maximizing Your Career Potential?" will be held on Friday, February 3, 2012, in Denver, from 11:45 a.m. to 1:15 p.m., at White and Steele, P.C., 600 17th St., Dominion Towers, South Tower, Ste. 2310. For complete information, visit [www.centerforlegalinclusiveness.org](http://www.centerforlegalinclusiveness.org). ■