

Minnesota FBA Diversity Committee Task Force

by Tim Bernadt and Natalie Bernadt



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Leading the charge to diversify the legal profession by infusing the pipeline with people of diverse backgrounds, the Minnesota Chapter of the Federal Bar Association (FBA) is working with Minnesota law schools to change the face of Minnesota's legal community through matriculation and enrollment of a diverse student body. In 2018, the number of lawyers in Minnesota was 25,252,¹ 79 percent of whom self-identify as white/Caucasian.² This speaks to one of the major issues within Minnesota's legal community: lack of diversity. Although slightly better than the national average, the lack of diversity in Minnesota's legal community greatly decreases the effectiveness to truly serve the residents of Minnesota. The national voice of the legal profession, the American Bar Association (ABA), has four goals—Goal III is to “eliminate bias and enhance diversity” in the legal profession. In 2016, the ABA's Diversity and Inclusion 360 Commission reported the existence of a “crisis in confidence that many Americans—particularly young Americans—feel about the fairness of our justice system.”³ The ABA passed Resolution 113 in an effort to address this crisis head-on while advancing Goal III. Resolution 113 explains that when organizations are diverse and inclusive at every level, the public and clients are better served and the legal profession is improved. The Minnesota Chapter of the FBA is working tirelessly to do just that and is successfully paving the way to change.

The Minnesota Chapter created its Diversity Committee to help address the lack of diversity in Minnesota's legal community. The committee believes that diversity enriches us and inclusion empowers us, articulated in their value proposition: “Diverse membership generates diverse ideas. Diverse ideas inspire targeted action for the betterment of our judicial system. The commitment to diversity and inclusion is part of our collective duty as lawyers to uphold the rule of law and ensure that our justice system considers and reflects the diverse nature of our society.”⁴ This past year, one large focus of the committee has been developing ways in which the FBA can assist law schools with their diversity initiatives, according to Danielle Mair, the committee's co-chair. The committee started

having a dialogue about ways they can help the legal community increase the number of diverse attorneys in Minnesota. Committee members realized in order to increase the number of diverse attorneys, they needed to address the pipeline issue, which is a lack of diverse Juris Doctor (J.D.) students enrolled in law schools. The committee created a task force to discuss and brainstorm ways to increase the diverse pool of law school students in Minnesota.

Task Force

Chris Pham, a member of the Diversity Committee and graduate of Mitchell Hamline School of Law (MHSL), was selected to co-lead this task force. He explained the task force's first step was to engage with the deans of three local law schools—MHSL, the University of Minnesota Law School, and the University of St. Thomas School of Law—to help begin an active relationship of support and encouragement between the Minnesota Chapter and each school. Additionally, this effort allowed the task force to learn what each school's current initiatives are and what the Diversity Committee's task force members could do help with those initiatives.

The task force aims to build community through action. Pham explained that one effort to accomplish this goal is to host FBA-sponsored networking events that bring practicing Minnesota lawyers together with enrolled and prospective students for each of the law schools to help foster networking among minorities. Additionally, the Minnesota Chapter will participate in “Admitted Students Day” to discuss educational and career opportunities with minority students accepted to law school but are undecided about which school to attend. Ideally the task force will begin implementing these events this summer.

Mentorship List

Another idea the task force has developed is creating a volunteer program in which practicing lawyers provide mentorship to prospective and current law school students. The Diversity Committee will maintain a list of Minnesota Chapter members who volunteer to be

mentors. The schools can then submit a request through the FBA for things such as a mentor for a specific student and subject or a complete list of attorneys willing to serve as mentors for their IL cohort. Elizabeth Odette, an integral member in the task force, explained that this mentorship list provides a range of support. Mentors are available to help students study for finals, assist students with finding summer internships, help graduates prepare for the bar exam, or just provide answers to general questions from practicing attorneys. FBA chapter member mentors will also visit with prospective students and help them decide which law school to attend. “The idea is to give students additional network support from people outside their law school,” said Odette.

The task force’s goal is to strengthen and expand the diversity pipeline from law school application to establishing a career as a lawyer. Rather than focusing on what is not working, Odette explained, “the task force focused on how the Minnesota Chapter for the FBA can help existing initiatives at each of the schools and help generate new ideas and new initiatives to support recruitment of diverse students and help support existing diverse students at those law schools.” Task force members wanted to do more collectively to help with the diversity pipeline issues by increasing the pool of diverse students going to law school.

However, the task force acknowledged each law school has different needs. Each law school is at a different juncture in its efforts to address the diversity pipeline issue. In order to meet those unique needs, the task force assigned different members to work directly with each of the schools, mainly members who are alumni from the school. As a 2009 cum laude graduate, Pham will be working with MHSL. The school “has been innovative in their ideas for growing enrollment at the law school with respect to engaging more students of color,” said Pham.

The Gateway Program

Great in theory. Even better in practice. These words are more than just the motto at MHSL. They are an axiom continually proven true by the institution’s multitude of innovative programs that are changing the legal profession by opening avenues for legal education and breaking down barriers. The school offers a range of J.D. enrollment options that provide expansive access to an extremely diverse group of students. These enrollment options range from the traditional full-time student to a variety of part-time programs, including the first ever part-time on-campus/online ABA-approved program known as the Hybrid J.D. program and its sister program, the Executive J.D. program. The Hybrid and Executive J.D. programs provide high-quality legal education through an abbreviated intensive in-person learning portion combined with a robust online coursework to students from all over the world. These programs allow individuals who are serving in a variety of career fields and have work obligations or those that have family responsibilities to earn their J.D. while still meeting those work and family commitments.

Starting in 2019, MHSL will break down the door once again by launching the “Gateway to Legal Education” program, which offers free, online, law-related classes to undergraduate students.

The Gateway program is an extension of MHSL’s existing online learning structure. MHSL is reaching out to historically black colleges and universities, Hispanic-serving institutions, tribal colleges, and institutions with a high proportion of first-generation college students to offer the Gateway program to their students for free. “The idea

of the program is to reach out to undergraduate students who come [from] populations traditionally underrepresented in legal education and the legal profession,” said MHSL Dean Mark Gordon. Being the only law school in the country having experience in teaching law in an online environment coupled with being an independent law school (allowing MHSL to engage with other colleges and universities to develop relationships with them) made Mitchell Hamline the perfect platform for pioneering this initiative. “What we realized is we could develop a series of undergraduate online introduction to law courses,” said Gordon, where students will earn undergraduate credit for the course. Students will also have an opportunity to come in the summer for a one-week immersion course that earns undergraduate credits. Students who attend the one-week immersion course will also get online LSAT prep from Kaplan for free and be provided air travel and lodging. Everything is at no-cost to the student. The Gateway program is funded by generous donors, not current students’ tuition.

Undergraduate students who participate in the Gateway program will be linked with a current law student, a member of the legal community, and a member of the admissions office to use as mentors. This is one of the opportunities for the FBA task force to get involved with the local law schools on the diversity initiative, explained Pham. This will be the same list of mentors that the task force will provide to the other two Minnesota law schools.

Students in the Gateway program will also be paired with a strength-finders coach and given the opportunity to do a strength-finders assessment. Current law student mentors can be volunteers from any of MHSL’s enrollment programs, allowing for a wide pool of diverse students available to provide mentorship and guidance to these undergraduate students. Essentially, the current student mentors can range from local traditional full-time students to active duty military serving overseas to medical professionals, paralegals, or a variety of executives, all of whom are working toward earning their J.D.s.

Dean Gordon expressed how for some first-generation college students, it is often such a huge step to be going to college that they are not typically thinking about law school or any graduate-level education. “The Gateway program is simply a great opportunity to allow undergraduate students to explore different options and get the type of mentoring and support they may need to be really successful,” he said.

“What we really tried to do was think of every possible barrier that somebody from a nontraditional or underrepresented population in the legal profession might face and tried to eliminate the barriers,” said Gordon.

The Gateway program’s advisory board is chaired by Kevin Warren, the chief operating officer of the Minnesota Vikings. Currently, Delaware State University, a historically black university and Notre Dame College of Ohio, which has a high proportion of first-generation college students, have both signed on. Dean Gordon is optimistic that many other colleges and universities MHSL has engaged with will also be signing on. The first course started in January 2019, with more courses planned for the fall and next spring. This program, like countless others at MHSL, is great in theory. Even better in practice.

Enhancing Diversity in the Pipeline

In Resolution 113, the ABA stated “the legal profession and society are best served when the makeup of lawyers reflects the community

in which legal services are provided.”⁵ People of color make up 19 percent of the Minnesota population, which is continuously growing.⁶ The current Minnesota legal profession is an accurate representation of the population it serves, with 21 percent of Minnesota lawyers identifying themselves as a person of color. However, the future workforce outlook is not so promising, especially within the Twin Cities. According to the 2018 ABA Standard 509 Information Report for each law school, people of color make up 15.6 percent of the University of Minnesota Law School student body and 16.1 percent of the University of St. Thomas School of Law student body. MHSL is faring better with 23.4 percent of its student body being people of color.⁷ These numbers are an indication of a less diverse legal workforce in the future, which is contrary to the ABA’s Goal III and Resolution 113. This lack of diversity in the pipeline for lawyers can be overcome through programs like MHSL’s “Gateway to Legal Education” and the initiatives of the Minnesota Chapter’s Diversity Committee task force. Increasing diversity within the legal pipeline is the key to eliminating bias, enhancing diversity, and growing and maintaining a legal workforce best suited to serve the people of Minnesota. ☺

Endnotes

¹AM. BAR ASS’N, ABA NATIONAL LAWYER POPULATION SURVEY (2018), <https://www.americanbar.org/content/dam/aba/administrative/>

[market_research/National_Lawyer_Population_by_State_2018.pdf](https://www.americanbar.org/content/dam/aba/administrative/market_research/National_Lawyer_Population_by_State_2018.pdf).

²Mike Mosedale, *Minnesota Lawyers: At Least 79% are White*, MINN. LAW. (Mar. 15, 2017), <https://minmlawyer.com/2017/03/15/minnesota-lawyers-at-least-79-are-white>.

³Letter from Diversity and Inclusion 360 Commission, ABA, to Chief Legal Officers, Fortune 1000, Requesting Your Assistance in Implementing ABA Resolution 113 to Help Promote Diversity in the Legal Profession (Sept. 7, 2016), at 1 [hereinafter A.B.A. Res. 113 Letter], https://www.americanbar.org/content/dam/aba/administrative/racial_ethnic_diversity/ABA/letter-from-the-signatories-general-counsel-implementation-of-aba-resolution1.pdf.

⁴*Diversity and Inclusion*, FED. BAR ASS’N, <http://www.fedbar.org/Chapters/Minnesota-Chapter/Diversity-and-Inclusion.aspx> (last visited Apr. 8, 2019).

⁵A.B.A. Res. 113 Letter, *supra* note 3.

⁶*Age, Race, & Ethnicity*, MINNESOTA STATE DEMOGRAPHIC CTR., <https://mn.gov/admin/demography/data-by-topic/age-race-ethnicity> (last visited Apr. 8, 2019).

⁷*Standard 509 Information Reports*, AM. BAR ASS’N, <http://www.abarequireddisclosures.org/Disclosure509.aspx> (last visited Apr. 8, 2019).

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the statutes that one relies on. Why, for example, attempt to rely on the consumer code’s prohibition of *bait-and-switch advertising* in a complaint that has nothing to do with such a practice? Why disregard the Utah UCC’s clear warning that failure to notify the seller of a breach is a bar to any remedy?

Similarly, a plaintiff who sues in federal court must abide by the rules of that forum: The Federal Rules of Civil Procedure. And Rule 9(b) could not be plainer in its requirement that a plaintiff alleging fraud must plead it *with particularity*. Callegari’s complaint was so intent on global, generalized allegations on behalf of the universe of Blendtec purchasers that it failed this requirement miserably—not even identifying who sold the plaintiff his blender.

And that’s the tale of the blender atop the cabinet of Mr. Callegari. (OK, maybe it was a counter.) ☺

Endnotes

¹⁴“The Cabinet of Dr. Caligari,” a silent film produced in 1920 Germany, is widely considered the first true horror film. The author concedes that the title of this article is a stretch.

²Because the case, *Callegari v. Blendtec Inc.*, Case No. 2:18-cv-00308-EJF (D. Utah 2018), was disposed of on the basis of defendant’s motion to dismiss, this article assumes the truth of the factual allegations in the complaint.

³Utah Code §§ 13-11-1 13-56-302.

⁴Utah Code §§ 70A-2-313 & 70A-2A-210.

⁵Utah Code §§ 70A-2-314 & 70A-2A-212.

⁶15 U.S.C. §§ 2301-2312.

⁷Memorandum Decision and Order, Nov. 6, 2018 (Decision).

⁸*Id.* at 9 (quoting *Wood v. World Wide Ass’n of Specialty Programs & Sch.*, 2007 WL 1295994 (D. Utah 2007)).

⁹*Id.* at p. 10.

¹⁰Utah Code § 70A-2-607(3)(a).