

Diversity – Law Firms

Diversity Is Important To The Justice System And To Corporations

The Editor interviews **Elizabeth Holtzman**, counsel to Herrick, Feinstein LLP.

Editor: Would you please summarize your professional background?

Holtzman: After law school, I first practiced law with Wachtell Lipton and then went to work as an assistant to Mayor John Lindsay of New York. I returned to the private practice of law by joining Paul Weiss.

I then ran for Congress and served on the Judiciary Committee of the House of Representatives at the time when that committee held impeachment hearings about President Nixon. I also played a very active role in the drafting of the federal Rules of Evidence. In fact, the first bill that I wrote that was enacted prevented the rules that the federal courts had transmitted to Congress from becoming effective. Sam Ervin was the bill's sponsor on the Senate side, a fact of which I am very proud.

After leaving Congress, I taught at NYU Law School as a visiting professor. For eight years, I was then District Attorney of Kings County, New York, which is more familiar to most people as Brooklyn. I was then elected Comptroller of New York City for four years. In 1994, I joined Herrick, Feinstein.

Editor: What are your thoughts on the importance of diversity to the legal system?

Holtzman: In the summer of 1963, I worked in the South in the civil rights movement in support of voting and other basic rights for blacks. I later was one of the founders of the organization that became known as the Law Students Civil Rights Research Council, a not-for-profit organization that brought law students from across the United States to work for African American civil rights attorneys in the South. It was a dangerous time to be working on those issues in that region, since shortly after I was there three students from the North were killed in Mississippi for their involvement in the civil rights movement.

So I am personally very committed to the need for justice in our legal system. One important effort that I undertook was during the time that I was District Attorney in Brooklyn. When I took office, I discovered that some women attorneys had been in that office for many years but had never been promoted to head any of the bureaus in the office and one of the major departments in the office had never had a black attorney at all. I was able to change that and begin opening the senior levels of the department's staff to lawyers who were female, black and representative of various other groups. For example, I hired Zachary Carter, who subsequently became United States Attorney for the Eastern District of New York, and Barbara Underwood, who later served as Deputy Solicitor General of the United States.

What was the consequence of the presence of those attorneys and others from previously underrepresented populations? First, it improved morale for many people who had been passed over on account of their gender or had not been assigned to specific bureaus on account of their race by giving everyone a sense that only professionalism counted within the office. It also gave us an ability to understand issues that we might not have recognized otherwise. For example, my office played a key role in litigation against the racially based use of peremptory challenges in jury trials. Had we not opened the leadership ranks of the office to women and minorities, our understanding of the importance of such divisive matters would not have been as great.

Our pursuit of that issue was not simply an exercise in pursuing the right result, either.



Elizabeth Holtzman

I had received a letter from an individual who had been dismissed from jury service solely on account of his race. The writer expressed his alienation from the justice system that excluded him for that reason. The letter became part of the record in the *Batson* case, in which the United States Supreme Court ruled unconstitutional the use of peremptory challenges to dismiss potential jurors simply on account of their race. For a prosecutor, alienation of citizens from the justice system is very disturbing, and that letter was very instructive in that regard.

Another area in which we tried to broaden the range of the office's population involved our prosecution of sex crimes. The presence of women in the prosecutorial team allowed people who had valuable insights into the real-life impact of the procedures for such prosecutions to contribute those insights to the office's efforts. I was the first district attorney in New York to appoint a woman bureau chief for these and other prosecutions.

Diversity means that you have access to a broader array of ideas and perspectives. The person running an agency such as a district attorney's office gains access to dimensions of experience and sensitivity that are very valuable, so it is not only the right thing to do but it is of considerable practical benefit. It also improves morale by demonstrating that professional competence and personal performance are the critical standards rather than membership in a racial, gender or ethnic group.

Editor: Is it important also for corporate law departments?

Holtzman: I think that it is also extremely important for a corporate law department to have a diverse staff. Otherwise, you deprive yourself of talent. If you do not promote people of caliber on account of race, sex or ethnicity, you will create serious morale problems. You also open yourself to potential liability by failing to address diverse issues properly.

Having in-house lawyers who are female or members of minority groups will also assist the law department and the company in dealing with the issues of diversity by raising the importance of it to the company and helping the company to become more diverse. With a more diverse marketplace and population in this country and in the market worldwide, it is increasingly important for a company to reflect that diversity in its own employee population and workforce.

Editor: You've held a number of positions in the public arena when you were among very few women in such positions. How would you assess the progress of the profession in that regard?

Holtzman: There are many more women lawyers now than there were only two

decades ago. When I attended Harvard Law School, there was a quota for women at the law school. It was a very unpleasant experience for the women students when I attended Harvard because some professors shamelessly discriminated against us. The school recently celebrated the fiftieth anniversary of women among the student population, so there has been considerable progress in that regard.

There were some women practicing law when I was an associate at Wachtell Lipton and Paul Weiss, but there are many more now. Even now, however, there are not many law firms whose leaders are women.

There has been some progress. There is, however, a long way to go in that regard.

Editor: What, in your view, are the most effective means of increasing the number and, perhaps more importantly, the influence of women and minority attorneys in the profession and in law firms?

Holtzman: With regard to women, the greater number of women graduating from law schools means that the issue is not finding them, but more with respect to hiring, retaining and promoting women. I think that can come from general counsel who are sensitive to that and from the companies themselves. Corporations that do business with the government will find themselves subject to pressure to make such changes also.

I think that the pool of minority lawyers is not as great as that of women lawyers and there is a great deal of competition for the best of that smaller pool. Nonetheless, I think that the issue is a willingness to look for

appropriate candidates, to make it clear to employment agencies or headhunters that you are seriously looking for qualified minority candidates, and a willingness to hire and promote minority lawyers. Zachary Carter, who worked for me at the Brooklyn DA's office, said that one of the best ways to increase minority hiring is to insist to the headhunting firms that you really want them to bring minority candidates to your attention.

Once the hiring takes place, mentoring is extremely important. I saw when I was District Attorney that some of the external standards for hiring and evaluating individuals required that we put more effort into identifying qualified candidates because the individuals' quality may not have been fully reflected in the objective criteria that accompany graduates from law school, for example. If you have difficulty finding enough minority candidates, in light of the smaller pool of minority lawyers and law students, perhaps a consultant with experience and contacts that demonstrate an ability to identify such lawyers may be appropriate.

Eliminating gender and ethnic discrimination on the job is also critical, of course. Zachary Carter, as a member of my staff in the DA's office, was able to provide a perspective on these issues that I did not otherwise have. For that reason, I believe that it is important to include in the hiring and promotions process any minority lawyers who are already on staff. They will be able to identify any obstacles to hiring or advancement for minority lawyers that might not be obvious to a non-minority lawyer.

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