

Current US statistics on the underrepresentation of lawyers from diverse backgrounds in the legal profession illustrate the severity and pressing nature of the problem.

**7%**

The number of Asians working as in-house counsel.

# Effective Diversity Initiatives: The Case for Collaboration

By Alex A. Toribio and Kevin T. Merriman Much has been said and written about the importance of effective collaborations between corporate clients and their outside law firms, particularly with regard to cost management and the creation of efficiencies. Similarly, much has been said and written about the lack of diversity in the legal profession, with considerable focus on what corporations and law firms, separately and individually, should and can do to address the problem. By contrast, examples of collaborations between corporate legal departments and law firms to specifically address the lack of diversity in the workplace is scarce. This article highlights one such example: a successful partnership between the Corning Incorporated law department and one of its outside law firms, Ward Greenberg Heller & Reidy LLP. Based on the positive results for Corning and Ward Greenberg, the authors believe that more emphasis and resources should be invested in such partnerships to simultaneously increase the recruitment and retention of lawyers from underrepresented populations while creating a corporate environment that is diverse, equitable, and inclusive.



**4%**

The number of African-Americans working as in-house counsel.

**5%**

The number of Hispanic/Latinos working as in-house counsel.

**49.5%**

Women now represent 49.5 percent of in-house counsel.

#### CHEAT SHEET

- *The business case.* Statistics on the underrepresentation of lawyers from diverse backgrounds show staggering values in the low single digits for both corporations and law firms.
- *Turning a new leaf.* Law firm Ward Greenberg Heller & Reidy LLP developed the Diversity Scholar Program, through which law students were selected to join the firm as summer associates immediately after their first year of law school. This attracted a diverse pool of talent to the law firm.
- *Collaboration consideration.* Following the selection of their first scholar in 2016, Ward Greenberg pitched the idea of a secondment to the Corning law department. This would kick-start a new phase of their scholarship program, in which the scholar would spend time with both Ward Greenberg and Corning Incorporated.
- *Key takeaways.* The partnership created by Corning and Ward Greenberg showcases the success of encouraging collaboration to increase diversity initiatives, fostering a unique pool of diverse talent that is actively invested in the success of both legal departments.

## Why diversity matters

The American Bar Association has identified four rationales in favor of a more diverse legal profession:

**The democracy rationale:** Lawyers and judges have a unique responsibility for sustaining a political system with broad participation by all its citizens. A diverse bar and bench create greater trust in the mechanisms of government and the rule of law.

**The business rationale:** Business entities are rapidly responding to the needs of global customers, suppliers, and competitors by creating workforces from many different backgrounds, perspectives, skill sets, and tastes. Ever more frequently, clients expect and sometimes demand lawyers who are culturally and linguistically proficient.

**The leadership rationale:** Individuals with law degrees often possess the communication and interpersonal skills and the social networks to rise into civic leadership positions, both in and out of politics. Former US Supreme Court Justice Sandra Day O'Connor recognized this when she noted in *Grutter v. Bollinger* that law schools serve as the training ground for such leadership and therefore have access to the profession must be broadly inclusive.

**The demographic rationale:** Our country is becoming diverse along many dimensions and we expect that the profile of LGBT lawyers and lawyers with disabilities will increase more rapidly. With respect to the nation's racial/ethnic populations, the US Census Bureau projects that by 2042, the United States will be a "majority minority" country.<sup>1</sup>

For a company like Corning, with global customers, operations, and employees, diversity is paramount. As explained by Corning's CEO Wendell P. Weeks:

"Diversity is one of Corning's greatest strengths ... We depend on diversity of ideas, experiences, and perspectives to develop solutions to

tough problems, identify opportunities for growth, and unleash new capabilities that make a positive difference in the world. Diversity is an integral part of Corning's identity, and it is essential to our ability to create life-changing innovations."<sup>2</sup>

Ward Greenberg has similarly focused on the importance of diversity for more than a decade. The law firm has worked with other regional partners on initiatives designed to attract lawyers who will enhance internal diversity as well as that of the entire legal community in Western New York.

## The lack of diversity in the legal profession is real

Current statistics on the underrepresentation of lawyers from diverse backgrounds in the legal profession illustrate the severity and pressing nature of the problem. The percentage of ethnic minorities working as in-house counsel is predominantly in the low single digits, with African-Americans representing four percent, Hispanic/Latinos at five percent, and Asians at seven percent.<sup>3</sup> The demographics at law firms are not much better, with African-American and Hispanic/Latino associates each representing four percent, and Asian associates representing 11 percent.<sup>4</sup> The numbers do not improve when looking at the overall population of lawyers in law firms, with African-American lawyers accounting for only three percent, Hispanic/Latino four percent, and Asian lawyers seven percent.<sup>5</sup>

Diversity in leadership positions in law firms, when defined as partner-level lawyers, is also lacking, with African-Americans representing just two percent, Hispanic/Latino two percent, and Asian three percent.<sup>6</sup> The numbers are better for those leadership positions in corporate legal departments, with 56 companies in the Fortune 500 list employing minorities as general counsel:

The 56 general counsel consist of 34 men and 22 women ... The racial breakdown is 28 African-Americans, 13 Hispanics, and 15 Asian-Pacific Americans, one of whom is South Asian. That's three more African-Americans and two more Hispanics than a year ago.<sup>7</sup>

Ethnicity is not the only way in which the legal profession is lacking diversity. Women are making great strides and now represent 49.5 percent of in-house lawyers;<sup>8</sup> and represent 22 percent and 45 percent, respectively, of law firm partners and associates.<sup>9</sup> Unfortunately, the same cannot be said regarding sexual orientation, where only two percent of LGBT lawyers comprise law firm partners and three percent of law firm associates.<sup>10</sup>

## Turning good will into action

Merely espousing the importance of diversity is not enough to solve the well-documented lack of diversity in the legal profession, and there is no panacea. Progress only comes when individuals, law firms, and corporations take affirmative steps within their own orbits of influence to effect



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positive change. This is precisely how the Corning-Ward Greenberg partnership came into being.

Like many corporate legal departments and law firms, Corning and Ward Greenberg struggle to attract and retain lawyers from diverse backgrounds — including racial, gender, and other affinity groups. For them, the problem is amplified by their geographic locations: Corning is located in Corning, New York, in the western part of the state, while Ward Greenberg is located in Rochester, New York, approximately 100 miles northwest of Corning. As a result, both must compete with the larger legal markets — New York City, Chicago, Washington, DC, and elsewhere — for top talent. In view of the challenges, the Corning law department and Ward Greenberg independently set out to find solutions and implement strategies resulting in the successful recruitment and retention of talent.

The Corning law department began researching and evaluating a broad range of diversity initiatives to identify elements of success that it could incorporate into its own strategy. Many successful programs surfaced, including the diversity fellowship program offered by K&L Gates and the University of Pittsburgh School of Law; the Gregorie Fellows Program offered by the University Of Washington School of Law in partnership with corporations such as Microsoft, Amazon, and Starbucks; and, the MassMutual clerkship program in partnership with Boston- and Hartford-area law firms. The common element among these successful initiatives appeared to be the collaboration between and among corporate law departments, law firms, and/or law schools. As a result, Corning began considering and studying potential opportunities for partnerships with its law firms.

At the same time, and after years participating in local bar diversity initiatives, Ward Greenberg developed

an innovative plan focused not simply on the recruitment of diverse talent, but also retention. The result was the Diversity Scholar Program — through which law students are selected to join the firm as summer associates immediately following their first year of law school. The selection process requires candidates to explain how they would further Ward Greenberg's objective of a diverse, inclusive workplace. The firm does not define diversity; that responsibility is left to the applicants, who are expected to persuasively make their case based upon national origin, religion, ethnicity, gender, disability, sexual orientation, or other circumstances.

The scholar receives a salary and tuition stipend; however, in Ward Greenberg's experience, money has never been a key factor for long-term retention. This is where the two novel aspects of the Diversity Scholar Program come into play. The first is a secondment of the scholar to a Ward Greenberg client, so that he or she may work directly with the in-house team, develop relationships, and gain an understanding of client expectations and how to exceed them in a real-world environment. While the seconded scholar has access to the full panoply of the firm's resources (both human and technological), they are in every sense part of the client's team. Ward Greenberg has found that the trust and confidence it places in the seconded scholar to work hand-in-hand with a valued institutional client goes a long way to solidifying a long-term relationship between the firm and the scholar. Second, the Scholar is expected to think long term. A successful scholar is a presumptive favorite to return as one of Ward Greenberg's second-year summer associates the following year. In this second iteration, the scholar has the opportunity to build on the relationships he or she built the prior summer, as well as to work with lawyers in other Ward Greenberg offices in

different states. A scholar who is as successful in their second year as they were in the first will be hired as a full-time lawyer upon graduation, having already established themselves both within and outside the firm.

Ward Greenberg's Diversity Scholar Program shares similarities with the ACC Chicago Chapter's longstanding Diversity Summer Internship Program, which places diverse law students from Illinois law schools in internships with corporate legal departments. Interns work for 10 weeks, and are assigned company and ACC Chicago Chapter mentors, who direct workload, provide seminars and networking events, and ensure a positive learning experience.<sup>11</sup>

It was the secondment aspect of the firm's Diversity Scholar Program that brought Corning and Ward Greenberg together. Following the selection of its first scholar in 2016, Ward Greenberg outlined the program and pitched the idea of a secondment to the Corning law department. Having already identified collaboration as a key ingredient for successful diversity initiatives, the law department jumped at the opportunity. With the blessing of the general counsel, the rest of the law department leadership, and Corning's global diversity and inclusion office, a working team was put in place to develop and implement the collaboration. The team, consisting of lawyers at Ward Greenberg and Corning law department, and operations personnel at both entities, jointly developed the parameters for the collaboration:

- The scholar would spend the first few weeks of the program at the firm, during which the scholar would be introduced to members of the Corning law department.
- The scholar would receive assignments from lawyers within the firm, and also directly from lawyers at the Corning law department.
- The scholar would then spend a week at Corning's headquarters,

continuing to work on assignments within the law department. While there, the scholar would have the opportunity to meet with law department leadership, including the general counsel, and other lawyers within the law department, and also would participate in events and programs being offered to other corporate interns as part of the company-wide summer internship program.

- The program ends with the scholar returning to the firm for the remaining weeks to continue working on assignments received from the Corning law department, in addition to other assignments received from the firm.

The collaboration was a complete success; a “win-win-win” for everyone involved in the program. For the scholar, the secondment significantly broadened her exposure to the legal profession: she was given legal assignments in a variety of practice areas in both the law firm and in-house settings. The experience provided an opportunity, uncommon for a first year student, to gain a better understanding of how legal practice integrates with the overall corporate mission, and how to support that mission internally and as outside counsel. Furthermore, the scholar met with Corning general counsel and attended a luncheon featuring Wendell P. Weeks, chairman and CEO of Corning, as the keynote speaker.

For Corning, the benefits were many. First, the presence of a diverse student within the law department contributed to Corning’s own on-going efforts to maintain a diverse and inclusive environment, thus directly contributing to diversity in thoughts, ideas, and experiences in solving its legal issues. Second, by encouraging such programs through its participation, Corning has contributed indirectly to law firm diversity, which benefits Corning in at

least two ways: (1) ensuring that the law firms that support its law department are staffed with lawyers that reflect and support Corning’s diversity goals; and, (2) creating a more diverse pool of lawyers destined to make the transition in-house, since the vast majority of the law department’s hires come from law firms.

The collaboration also benefitted Ward Greenberg. First, the initiative assisted Ward Greenberg in attracting top-notch legal talent to further Ward Greenberg’s ongoing efforts to develop and maintain a diverse and inclusive workplace. Second, the scholar’s acceptance of an offer to work with the firm for a second summer suggests that the firm’s objective of retaining diverse lawyers — a significant challenge for firms in general — will be met. Ultimately, this ensures that the program will become a pipeline of candidates to create a diverse legal team for global clients, like Corning. Third, the program afforded the firm another opportunity to strengthen its relationship with an existing client, Corning, by positioning itself to meet Corning’s diversity goals.

In addition to counting its many benefits, another way to measure the success of any endeavor is by determining whether the endeavor is worth repeating. By that measure also, the partnership was a success: the scholar has agreed to return to Ward Greenberg as a second-year summer associate; Ward Greenberg and Corning repeated the collaboration this past summer with a new scholar; and Corning is planning on expanding the program for the 2018 summer by adding at least a second diverse law student from another law firm.

The benefits derived from such partnerships go beyond the specific rewards enjoyed by Corning, Ward Greenberg, and the scholar. Such partnerships permit the participants to draw on each other’s resources to attract and retain diverse lawyers and to enhance diversity within the legal profession.

Corporate legal departments can rely on and take advantage of the recruiting and hiring infrastructure already in place at law firms (e.g., on-campus interviewing, summer associate classes). By participating with a client, law firms, on the other hand, strengthen the relationship with that client, which is critical in the highly competitive market for legal services. In addition, with more clients unwilling to pay for a summer associate’s time, law firms can find a steady stream of work that can be given to a summer associate without hurting the firm’s bottom line, thus contributing to the professional development of its future associates.

### Lessons learned

The partnership created by Corning and Ward Greenberg is unique, but provides a framework that can be used by other corporate legal departments and law firms. Elements of a successful program include:

- **Incentives:** Attracting diverse talent with financial and/or opportunity-based incentives, with the opportunity of secondment at the corporate legal department as the leverage;
- **A selection process:** Vetting qualified applicants by considering indicators for success, including law school performance, writing samples, and a personal diversity statement;
- **Feedback:** Working closely with the intern at the firm and during the secondment at the corporate legal department to facilitate the development of relationships and lawyering skills;
- **Close collaboration:** Between the firm and the corporate legal department to ensure commitment by the corporate legal department to provide meaningful work and mentorship to the intern; and,
- **Future opportunity:** Goal and expectation that successful intern will return.

The success of the partnership required creativity, collaboration, and commitment. Above all, however, the success required individuals in the Corning law department and at Ward Greenberg to take the initiative to seek creative solutions to address the lack of diversity in the legal professional in general, and their respective workplaces in particular. Rather than waiting for others to act or for initiatives at the macro level to be implemented, it was a group of individuals looking to champion, promote, and live up to the values of diversity within their own spheres of influence that set the stage for the partnership to be created. And, this is the big lesson: Lawyers at every level have the capacity and ability to create programs, initiatives, and partnerships that will enhance and improve diversity within the legal professional. While each individual initiative is small and has localized benefits, the sum of all such initiatives, happening throughout the country, in big and small corporate departments, and from “big law” to the two lawyer law firm on main street, will fundamentally change the face of the legal profession. **ACC**

**NOTES**

1 American Bar Association, Presidential Diversity Initiative, Diversity in the Legal Profession the Next Steps, Report and

Recommendations, April 2010, page 5, available at [www.americanbar.org/content/dam/aba/migrated/2011\\_build/diversity/041511\\_aba\\_nextsteps\\_authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/2011_build/diversity/041511_aba_nextsteps_authcheckdam.pdf).

2 2016 Corning Incorporated Diversity & Inclusion Annual Report, page 2, available at [www.corning.com/media/worldwide/global/documents/2016\\_Diversity\\_and\\_Inclusion\\_Annual\\_Report.pdf](http://www.corning.com/media/worldwide/global/documents/2016_Diversity_and_Inclusion_Annual_Report.pdf).

3 2015 Association of Corporate Counsel Global In-House Counsel Census, page 26, available at [www.acc.com/vl/public/Surveys/loader.cfm?csModule=security/getfile&pageid=1411922&page=/legalresources/resource.cfm&qstring=show=1411922&title=2015%20ACC%20Global%20Census%20Executive%20Summary&recorded=1](http://www.acc.com/vl/public/Surveys/loader.cfm?csModule=security/getfile&pageid=1411922&page=/legalresources/resource.cfm&qstring=show=1411922&title=2015%20ACC%20Global%20Census%20Executive%20Summary&recorded=1).

4 National Association for Law Placement 2016 Report on Diversity in US Law Firms, page 8, available at [www.nalp.org/uploads/Membership/2016NALPReportonDiversityinUSLawFirms.pdf](http://www.nalp.org/uploads/Membership/2016NALPReportonDiversityinUSLawFirms.pdf).

5 2016 Vault/Minority Corporate Counsel Association Law Firm Diversity Survey Report, page 9, available at [http://archive.mcca.com/\\_data/global/downloads/research/reports/VaultMCCA\\_Survey-2016-v01.pdf](http://archive.mcca.com/_data/global/downloads/research/reports/VaultMCCA_Survey-2016-v01.pdf).

6 National Association for Law Placement 2016 Report on Diversity in US Law Firms, page 8, available at [www.nalp.org/uploads/Membership/2016NALPReportonDiversityinUSLawFirms.pdf](http://www.nalp.org/uploads/Membership/2016NALPReportonDiversityinUSLawFirms.pdf).

7 Minority Corporate Counsel Association 17th Annual GC Survey, available at [www.diversityandthebardigital.com/datb/november\\_december\\_2016?pg=16#pg16](http://www.diversityandthebardigital.com/datb/november_december_2016?pg=16#pg16).

8 2015 Association of Corporate Counsel Global In-House Counsel Census, page 26, available at [www.acc.com/vl/public/](http://www.acc.com/vl/public/)

[Surveys/loader.cfm?csModule=security/getfile&pageid=1411922&page=/legalresources/resource.cfm&qstring=show=1411922&title=2015%20ACC%20Global%20Census%20Executive%20Summary&recorded=1](http://www.nalp.org/uploads/Membership/2016NALPReportonDiversityinUSLawFirms.pdf).

9 National Association for Law Placement 2016 Report on Diversity in US Law Firms, page 8, available at [www.nalp.org/uploads/Membership/2016NALPReportonDiversityinUSLawFirms.pdf](http://www.nalp.org/uploads/Membership/2016NALPReportonDiversityinUSLawFirms.pdf).

10 National Association for Law Placement 2016 Report on Diversity in U.S. Law Firms, page 16, available at [www.nalp.org/uploads/Membership/2016NALPReportonDiversityinUSLawFirms.pdf](http://www.nalp.org/uploads/Membership/2016NALPReportonDiversityinUSLawFirms.pdf).

11 The ACC Chicago Chapter’s Diversity Summer Internship Program provides another example of a successful pairing of diverse legal talent with corporate legal departments. The Diversity Summer Internship Program places diverse law students from Illinois law schools in internships with corporate legal departments.

**ACC EXTRAS ON...** Diversity

**ACC Docket**

The Ugly Truth: Diversity in Fortune 500 Companies Unmasked (May 2017). [www.accdocket.com/articles/ugly-truth-diversity-fortune-500-companies-unmask.cfm](http://www.accdocket.com/articles/ugly-truth-diversity-fortune-500-companies-unmask.cfm)

Driving Diversity and Inclusion from the Inside Out (March 2017). [www.accdocket.com/articles/driving-diversity-and-inclusion-from-inside-out.cfm](http://www.accdocket.com/articles/driving-diversity-and-inclusion-from-inside-out.cfm)

A Personalized Approach: Kim Clancy’s Simple Secret for Bringing Diversity into the Boardroom (Jan./Feb. 2017). [www.accdocket.com/articles/kim-clancy-secret-bringing-diversity-boardroom.cfm](http://www.accdocket.com/articles/kim-clancy-secret-bringing-diversity-boardroom.cfm)

Putting Its Money Where the Diversity Is: Corporate America’s Collaborative Actions to Increase Diversity in Law Firms (Nov. 2016). [www.accdocket.com/articles/resource.cfm?show=1441518](http://www.accdocket.com/articles/resource.cfm?show=1441518)

**Program Material**

Equality, Diversity, and Discrimination in the EU Workplace – What and How to Eliminate/minimize Bias (July/Aug. 2016). [www.acc.com/legalresources/resource.cfm?show=1434148](http://www.acc.com/legalresources/resource.cfm?show=1434148)

Diversity in the Workplace (June 2015). [www.acc.com/legalresources/resource.cfm?show=1405249](http://www.acc.com/legalresources/resource.cfm?show=1405249)

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