

# **DIVERSITY IN THE LEGAL PROFESSION**

**Florida Bar Symposium  
2004**

**Final Report and Recommendations**

**Presented to The Florida Bar Board of Governors  
this 13<sup>th</sup> day of August 2004**

**by Chair**

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The Diversity in the Legal Profession Symposium was the brainchild of the Immediate Past President of the Florida Bar, Miles McGrane III.

The Symposium took shape when then President McGrane was invited to “sign the wall” at the St. Thomas University School of Law. During the orientation of the incoming class at St. Thomas, Dean Bob Butterworth invited the faculty and the students to express their commitments to teach, to coach, to lead and to learn by signing their names on the wall in the Moot Court Room. It was that day that Mr. McGrane asked, “What do you think about conducting a Symposium on diversity in the legal profession?” That question led to a Symposium with attendees and presenters from the Bar, voluntary bar associations, the bench, and universities and law schools from all over the state. The Diversity participants also “signed the wall” signifying their commitment to diversity in the legal profession by the year 2014.

The St. Thomas University School of Law, ranked in 2004 as the second most diverse law school in the country by U.S. News and World Report, hosted this 1 ½ day symposium.

The enthusiasm and commitment of the talented volunteers who came together these two historic days could never have been generated without the type of commitment demonstrated by then Bar President, Miles McGrane III, then President-Elect Kelly Overstreet Johnson and then President Elect Designate Alan Bookman.

## **THE MISSION**

The Mission Statement, distributed to all panelists and participants, laid the foundation for the Symposium. It clearly directed us to look beyond aspirations to action. Our mission was as follows:

*To develop a number of concrete proposals and recommendations that can be used by the law schools, The Florida Bar, the profession as a*

*whole and those responsible for selecting the judiciary to achieve the goal that the legal profession in the State of Florida, in all of its parts, will accurately reflect the makeup of society within ten years.*

This goal, while simple to state, is to be achieved through the difficult, complex, and honest discourse begun at this first Symposium. The lessons learned from the inequities and mistakes of the past must guide, rather than control, our actions in shaping our future.

## **THE PLAN**

The Symposium planners outlined five critical areas to be addressed:

Defining Diversity  
Diversity in Legal Education  
Diversity in Employment  
Diversity in the Bar  
Diversity in the Judiciary

The selection of these five issues was made on the assumption that work in one area of the system would only fail or flail unless all areas of the system were working toward the same goal.

The event was structured to allow the participants to hear from a panel of “experts” who had knowledge of the diverse landscape in Florida, as well as the problems and successes associated with attempts to diversify a relatively non-diverse landscape. Each panelist was asked to come prepared with meaningful input on the state of diversity in the Florida Bar and all of its parts. Their role was to put helpful information on the table so that a meaningful interactive dialogue could ensue.

The backdrop for much of the discussion was a power point presentation that laid out the statistical makeup [by ethnicity, gender, and race] of the following categories:

Population of Florida, according to the 2000 census  
The Florida Bar, as a whole, according to voluntary member surveys  
The Young Lawyer's Division  
Florida Bar Committee Members  
Florida Bar Section Members  
The Judiciary

Copies of these slides are attached at Appendix A.

## **THE OUTCOME**

The enthusiasm and commitment given by the volunteers was in response to the promise of commitment to action by the Bar. The result was a blueprint to transform the face of The Florida Bar to a mirror reflection of Florida's richly diverse population. Not in theory. Not as an aspiration. But with a firm commitment to achieve success in 10 years.

We have met the goal of creating concrete proposals and recommendations to increase diversity for consideration and implementation by the law schools, The Florida Bar, the profession as a whole and those responsible for selecting the Judiciary

We must continue to develop these programs and recommendations to effect change by the year 2014.

## **RESULTS AND RECOMMENDATIONS**

The recommendations that follow are not road maps to implementation. They are recommendations which will require dedicated study, effort and commitment to achieve.

This will ultimately be the job of the **Diversity Affairs Officer**, committees and sub-committees that are appointed or selected to carry out some or all of these recommendations.

## **DEFINING DIVERSITY**

Defining diversity was challenging, engaging and enlightening. Our conclusion was that the definition of diversity must include gender, race and ethnicity concerns as well as the unique issues related to sexual orientation and physical and mental disabilities. The greatest challenge to articulating a global definition and developing diversification strategies is that barriers to inclusion are similar in the different categories listed above, but the scope and breadth of moving beyond those barriers is so often very different. While an African American female may be recognized as a diverse member of the population, that may not be the case for a white male with a non-visible disability.

The barriers are both systemic and cultural, with the latter being more difficult to address. Both the cultural and systemic barrier must be dismantled for the successful inclusion of all. The tools to dismantling those barriers are communication, consistency and commitment to change.

### ***Our Definition Of Diversity:***

Diversity is the inclusion of differences that include gender, race, ethnicity, sexual orientation, and physical and mental disabilities.

### ***Diversity in Legal Education***

- I. Expand the pool of qualified diverse applicants in Law School*** by developing and using non-traditional criteria to evaluate potential successful students despite low traditional indicators. Summer conditional programs should be encouraged and expanded.

- A. Develop and use non-traditional criteria to evaluate potential successful candidates, to include performance in summer conditional programs, work or family responsibilities while attending college, community service, etc.
- B. Expand Summer Conditional programs to provide academic support to diverse students.

## ***II. Expand the pool of qualified applicants with disabilities in Law School***

By educating primary and secondary schools on opportunities for the disabled in law, an open door is created. By asking lawyers with disabilities to reach out to children and undergraduates with disabilities, the Florida Bar can be instrumental in attracting this diverse class of persons to explore law as a career and can inspire mentor relationships between these groups. By creating literature that can be used in different educational settings, the Bar can effectively reach out to students with disabilities.

- A. Identify attorneys with disabilities to educate primary and secondary schools on opportunities for the disabled in the legal profession.
- B. Expand and/or develop Law Day Programs for primary and secondary schools to include attorneys with disabilities.
- C. Reach out to non-traditional schools that have an emphasis on teaching students with disabilities.
- D. Develop mentoring programs for secondary and college level students.
- E. Coordinate these efforts through the **Diversity Affairs Officer** as well as Bar Sections and Committees such as the Equal Opportunities Law Section and the Center for Professionalism.

- F. Create publications in different formats such as large print, audio tapes, and Braille to be accessible to potential applicants with disabilities.

### ***III. Support for minorities in bar exam preparation***

Law Schools should offer programs to diverse students during the final year of law school aimed at improving the skills needed to pass the Bar exam. The Bar can assist in the creation of these programs and/or provide support for them. The Bar could sponsor bar preparation course scholarships to diverse students who would otherwise have to work during their preparation for the Bar examination. Funding is to be generated by the Bar and it was suggested that the Bar offer pro bono hours for attorneys who assist in this effort.

- A. Offer programs during the final year of law school to improve skills needed to pass the Bar exam.
- B. Assist students with disabilities to determine the accommodations required and available for the Bar exam.
  - 1. Bar preparation programs should provide instruction and test taking strategies for students with disabilities.
  - 2. The Bar, the Florida Board of Bar Examiners and law schools should work with the Bar Preparation companies to develop these programs.
- C. Sponsor Bar preparation course scholarships for diverse students with financial needs.
  - 1. Solicit members of voluntary Bar associations for Bar exam preparation assistance.

2. Approve pro bono hours for attorneys who assist in these efforts.

***IV. Monitor the impact of changes in bar exam passage rates for diverse students***

The Florida Bar has gradually increased its pass rate from a minimum score of 131 to 133 (in February 2004) to 136 (beginning July 2004). It is unknown at this time how the increase in scores will affect diverse test takers. Information that will help law schools identify which of their students pass the bar should be compiled and made available, on a confidential basis, to the law school where the student attended. The Florida Board of Bar Examiners should closely monitor the success rate of these test takers during this increased score period. Any impact should result in notification of those results to the law schools to allow them to make improvements and/or changes in existing programs.

- A. Compile performance data on individual students and release that data, on a confidential basis, to the law school where the student attended.
- B. Develop the format for information requests.
  1. Confidentiality and other privacy issues must be considered.
- C. Closely monitor the success rate of these test takers during this increased score period.
- D. Notify the law schools of the results.
- E. Make improvements and/or changes in existing programs if necessary.

- F. The **Diversity Affairs Officer** and the Florida Board of Bar Examiners should work closely together on this issue.

***V. Increase Minority Job Placement***

Mentor programs can facilitate the transition from law school to law firms. Firms should expand their outreach to look at students who have exhibited success in law school other than through law review. Career services in the law school should be personalized. There should also be an increased effort to place diverse students in internship positions so that firms have exposure to these students. The Florida Bar should keep the need to diversify the private sector in the forefront of its efforts by repeating it in its publications, seminars, and interactions with the private sector.

- A. Utilize mentor programs to facilitate the transition from law school to law firms.
- B. Open membership to Bar Sections and Committees to third year law students and waive any fees associated therewith.
- C. Increase the placement of diverse students in internship positions.
- D. Encourage attendance of and offer financial support to diverse students in all Bar activities.

***VI. Financial Assistance***

- A. Increase resources to provide financial assistance to eligible diverse students.

- B. Identify potential scholarship sources and encourage contributions from Florida Bar members and voluntary Bar associations to Florida law schools to support existing scholarships.
- C. Utilize the Young Lawyers Division and other Bar sections to assist the Bar and the law schools in identifying funding sources.

***VII. Early Childhood Mentoring to Lead to Law School***

- A. Create mentoring programs in secondary schools.
- B. Provide grants through the Florida Bar to support mentoring programs and activities such as mock trial and debate teams in the high schools.
- C. Approve pro bono hours for those attorneys who participate in these activities.

***VIII. Create a Welcome Environment in Law Schools***

- A. Increase diversity among the faculty, the student body, and in student activities.
- B. Conduct diversity-teaching workshops to improve the classroom experience for all students.
- C. Create a process for the Bar to assist law schools in searching for qualified candidates for open faculty and administrative positions.
- D. The **Diversity Affairs Officer** should create a survey to determine the makeup of the law schools' current faculty and students.

- E. The **Diversity Affairs Officer** together with various sections of the Bar should work with the law schools to create diversity teaching workshops.

***IX. Create Academic Support Programs in Law Schools***

Law schools should offer academic support programs that can be utilized to identify at risk students early enough to intervene on their behalf. Such programs should not be used to stigmatize, but should be offered to all students and incorporated into the curriculum in such a way that it encourages students to participate to the fullest.

- A. Create programs to identify at risk students.
- B. Develop programs to assist these students to succeed in law school.

## **DIVERSITY IN EMPLOYMENT**

Barriers to broad based employment of diverse members of society include:

- Narrow hiring criteria
- Hiring primarily by the numbers [class rank, moot court, law review, etc.]
- Narrow definitions of “the qualified candidate”
- The economic structure of law firms
- Non-flexible work arrangements for the successful balance of work and family
- Disparity in pay/conditions/advancement
- High attrition rates
- Change of employment from private to public sectors
- Low percentage of minority partners resulting in few mentors or in-house role-models
- Failure to integrate lawyers into *all* aspects of the work place

- including social, hiring and management

The recommendations to increase diversity in legal employment include:

***I. Pre-Employment Education for Students***

During the pre-employment/law school phase of a minority lawyer's career, the Florida Bar should work with both law students and legal employers to prepare students for the hiring process. Programs can include preparation for interviews, hiring criteria, employment trends, etc.

- A. Create programs and provide training for interview and job search strategies, etc.
- B. Utilize the **Diversity Affairs Officer**, Young Lawyers Division as well as the various sections of the Florida Bar to assist in coordinating these programs.

***II. Pre-Employment Education for Employers***

The Florida Bar should encourage employers to broaden their hiring criteria to ensure that a broad pool of applicants is considered for employment and hired. Hiring partners /employers can be invited to present data from their practices to private and public employers on why hiring attorneys of diversity is profitable. Meetings of career services personnel and professional recruiters should be convened to provide local and regional perspectives on employment barriers. The Florida Bar News should include articles on hiring and other employment issues.

- A. Utilize various experts in the field to create broader hiring criteria.
- B. Develop a seminar to present data on the success of diverse law firms.

- C. Convene a meeting of career services personnel and professional recruiters to provide local and regional perspectives on employment barriers.
- D. Solicit articles for The Florida Bar News from voluntary Bar associations as well as sections and committees of the Bar.

### ***III. Employers***

Employers should be aware of and avoid selection criteria and standards that tend to screen out Attorneys of Diversity. Employers should ensure that their work policies do not exclude or limit Attorneys of Diversity because of a job structure or because of communication, procedural or attitudinal barriers.

- A. Encourage law firms to increase the number of clerkships and internships.
- B. Conduct diversity trainings and workshops for employers to create selection criteria.
- C. Conduct diversity trainings and seminars for employers to ensure that their work policies do not exclude or limit Attorneys of Diversity.
- D. Conduct diversity trainings and seminars for employers for development and implementation of job performance evaluations in order to establish objective criteria that would eliminate bias and recognize the value of diversity.

### ***IV. Voluntary Bar Associations***

- A. Implement summer internship programs through voluntary Bar associations.

## ***V. Florida Bar***

- A. Visit law schools and meet with minority student groups to promote participation in Bar programs and activities as a law student and after admission to the Florida Bar.
- B. Develop programs or conduct seminars that encourage employers to create programs for the placement and advancement of Attorneys of Diversity.
- C. Encourage fair and equitable treatment in all aspects of personnel management policies of employers without regard to race, color, national origin, gender, sexual orientation or disabilities.
- D. Enlighten employers and candidates through speeches, press releases, statistical data, workplace laws and any other related topics affecting Attorneys of Diversity.
- E. Educate The Florida Bar's work force regarding diversity issues.
- F. Encourage every attorney to join a voluntary minority bar association.

### **DIVERSITY IN THE BAR**

Barriers to diversity in the Florida Bar and its membership included the following:

- A lack of successful communication between the Bar and its membership
- A lack of successful communication between the Bar and its sections/committees
- A lack of successful communication between the Bar and voluntary bar orgs
- A narrow definition of diversity
- Lack of diversity in leadership

- Lack of mentors for up and coming diverse leaders
- Lack of comprehensive statistical data on diversity in Bar leadership, sections, committees, Young Lawyer's Sections, and membership as a whole

The Recommendations of the Bar Panel include:

***I. Diversity Affairs Officer***

Designate a full time bar person as a Diversity Affairs Officer. This person would be the primary vehicle through which many of the recommendations in this report would be studied and achieved. The Diversity Affairs Officer would oversee the effort of the Bar to mirror society by 2014. The job of the Diversity Affairs Officer would include coordination and direction of items listed below as well as those highlighted throughout this report.

- A. Develop and implement regulations and policies for equal opportunity.
- B. Submit annual action programs and plans and accomplishment reports.
- C. Develop a heightened long-term focus of increasing employment opportunities for Attorneys of Diversity.
- D. Assist with out reach programs and education
- E. Provide information training to Attorneys of Diversity

A sample job description prepared by Wilhelmina Tribble, of Lowe Tribble & Associates, is attached as Exhibit 1.

## ***II. Leadership Education***

To increase awareness of the diversity issue and to assist in enhancing participation from diverse segments of the Bar, the Bar President (and other leadership) should:

- A. Write letters to minority bar newsletters;
- B. Meet with the minority bar associations statewide;
- C. Examine Bar staff composition and make recommendations for improvement.

## ***III. Annual Diversity Symposium***

- A. Hold the Diversity Symposium annually.
- B. Invite wider audiences.
- C. Encourage attendance by all members of the Board of Governors
- D. Create a long-term plan for the Symposiums so that the goal of the Florida Bar mirroring society by the year 2014 is met.
- E. Implement recommendations contained in this Final Report by including topics in future symposiums.

## ***IV. Expand Mentor Programs***

Currently, there are mentoring programs for law students. There is a need for mentoring programs for attorneys.

- A. Develop mentoring programs for Attorneys of Diversity to identify potential future Bar leadership and assist them in attaining leadership positions.

***V. Minority Bar President***

- A. Undertake a commitment to have a minority Bar president within the next ten years.

***VI. Access for Persons with Disabilities***

By ensuring that all law school and Bar used facilities are accessible to those with disabilities, the Bar can reduce barriers to participation.

- A. Ensure that all Bar meetings are fully accessible to people with mobility impairments.
- B. Utilize sign language interpreters at all Bar seminars and sessions.
- C. Utilize only facilities that fully comply with ADA standards.
- D. Modify registration forms to include accommodation requests.

***VII. Bar Wide Diversity Survey***

The Bar President should commission a diversity survey of all members of the Bar to determine its true makeup. It will be a difficult task to mirror society without knowing our current composition. This survey must include all categories of diversity identified at the Symposium. The survey should include a letter from Immediate Past President Miles McGrane III, President Kelley Overstreet

Johnson, and President Elect Alan Bookman emphasizing the importance of participation.

- A. Gather accurate and reliable statistical information on diversity in the Bar.
- B. Include all areas of diversity in the surveys including sexual orientation and disability status categories such as visual impairment, hearing impairment, mobility impairment, speech impairment, learning disability, other.
- C. Determine what obstacles exist that prevent or discourage minority lawyers from greater participation in all aspects of The Florida Bar.
- D. Request that the leadership of the minority Bar associations assist in the completion of the surveys.
- E. Coordinate survey completion and data collection with the Bar Association Leadership. The **Diversity Affairs Officer** would head this coordination.

### ***VIII. Diversity Disciplinary Committees***

- A. Solicit diverse participation in Bar discipline committees.
- B. Create a plan to notify all members of the Florida Bar of discipline committee openings.

### ***IX. Diversity Web Page***

- A. Include a diversity page on Bar's website.

- B. Develop a diversity pledge for law firms.
- C. Include links to minority Bar associations.

**X. *Diversity Resource Database***

- A. Collect existing Bar diversity policies and studies in one place.
- B. Publicize the existence of the database.
- C. Create process for access to the database.

**XI. *The Florida Bar News***

- A. Include more articles about the need for and benefits of diversity in the legal profession.

**XII. *Equal Opportunities Law Section***

A concern was raised that the Equal Opportunity and Public Interest Law Sections may not always have enough members to maintain their existence under current rules.

- A. Waive some of the requirements of section membership so that these sections can continue to survive.

## DIVERSITY IN THE JUDICIARY

Barriers to diversification on the bench included:

- Low percentage of diverse judges
- Low percentage of diverse JNC members
- Difficulty in raising campaign funds
- Higher percentage of opposition for minority incumbent judges
- Lack of control by the Bar in making diverse JNC appointments
- Lack of diverse leadership in the Bar leading to fewer diverse judicial applicants with connections and experience at a high Bar level
- Lack of clarity in the financial disclosure rules

The judicial panel recommended the following.

### *I. Education on Election Process*

The Bar should fund seminars to be organized by the Equal Opportunity Law Section which should be aimed at educating minorities and minority bar leaders on the intricacies of the process. The seminars would provide information on fund-raising, campaign management as well as applications to the JNC.

- A. Hold seminars, to be organized by the **Diversity Affairs Officer** and the Equal Opportunity Law Section.

### *II. Encouraging Support*

- A. Encourage leaders of minority Bar associations to support qualified diverse candidates from their associations.

### ***III. JNC Applicants***

- A. Increase the number of minority applicants to the JNC.
- B. Have contact between the Bar and the minority voluntary Bar association leaders to show the Bar's commitment to diversity.

### ***IV. Board of Governors Support***

- A. Meet with local minority Bar organizations about upcoming openings in both the elected and appointed seats in each judicial circuit.
- B. Encourage diverse attorneys to apply for and/or run for these openings.

### ***V. Revision of JNC Application***

- A. Revise the application for judicial appointment to mirror that of the Governor's application.

### ***VI. Financial Disclosure Education***

- A. Provide a more detailed description of the financial disclosure requirement when advertising vacancies.

### ***VII. Statement to the Governor***

- A. Communicate with the Governor the interest and commitment of the Florida Bar in seeing qualified diverse appointments to open judicial seats.

***VIII. JNC Education***

If the bench is to represent the local community which it serves, the JNC should have an understanding of the diversity of its local community.

- A. Educate the JNC of the importance of the diversity of community in which they sit
- B. The **Diversity Affairs Officer** can head this initiative.

***IX. Minority Leadership Summit***

The Bar should fund a Minority Leadership Summit to be organized by the Equal Opportunity Law Section with the goal of facilitating contacts between minorities and members of the Bar and JNC Committee members. This seminar may include insight from Bar leaders and JNC members on how to run a successful campaign and the appointment process.

**CONCLUSION**

The legal profession in Florida is at a crossroad. While we have made progress, we need to do more, we must do more. We must demand diversity in all aspects of the legal profession.

***DIVERSITY IN THE LEGAL PROFESSION  
MUST BE OUR PRIORITY***