

DIVERSITY AND INCLUSION IN THE LEGAL PROFESSION



Joel Stern is the CEO of the National Association of Minority and Women Owned Law Firms (NAMWOLF). He has been involved with NAMWOLF since 2003 when he first brought them into Accenture as Deputy General Counsel. Stern says he has seen significant change in the way that the legal services profession approaches diversity and inclusion in that time.

“[At NAMWOLF], we want minority- and women-owned (MBE/WBE) law firms to have every opportunity not only to survive but thrive,” Stern says. “Supplier diversity is focused on giving minority and women-owned businesses the opportunity to compete for and win business from Fortune 500 companies and governmental entities.

“NAMWOLF extends the notion of supplier diversity to the legal profession by giving corporations and governmental entities the opportunity to meet high quality and high value law firms that are all 51 percent or more minority-, women- or LGBTQ-owned.”

Why Diversity Programs Are Necessary

Stern says, “Diversity programs are necessary in our profession because we are dead last, in terms of other professions, with respect to the hiring and retaining of minorities and women, and that is embarrassing to me – and I assume many others.

“We must devise programs that lead to positive and sustainable change. We also must be more innovative in our approach because the programs put in place the past 30 plus years are not accomplishing what they need to do. The numbers make that clear, unfortunately.”

Why Haven’t Past Programs Been Successful?

“Ten years ago, I would have blamed our lack of success on curmudgeons and – even worse – bigots,” Stern says. At that time, he thought that those individuals were responsible for the lack of equity in opportunity for women, minorities, and LGBTQ individuals within the legal profession.

“Now, I know that I was wrong to a great degree. I’m convinced that the biggest impediment to equity is not bad people making bad decisions but good people making bad decisions based on their unconscious biases,” he says.

Stern encourages everyone to take the [Harvard Implicit Bias](#) tests to understand where their unconscious biases lie. “A lot of well-intentioned people are trying to do the right thing, and they don’t realize they aren’t because their views are being distorted [by unconscious bias],” he says.

“You’d think lawyers would have less unconscious bias,” Stern says. “But, paradoxically, we have more.” He suggests that the reasons for that include lawyers’ personality types (“Type A for the most part”), as well as an unfounded belief that they are “more self-aware.”

“We’re more stubborn,” he says. “We’re trained to be persuasive. The things that make us great lawyers add to the likelihood that we think we know our own weaknesses.” But most people don’t. He says that the legal profession will be stuck “until we know our biases and take steps to remediate them.”

During the last five years, he has seen positive moves toward understanding that unconscious bias exists and correcting for it within the legal profession. And, understanding unconscious bias has changed his approach to speaking.

“Now, I focus on those in the audience who are ‘on the fence’ [about the importance of diversity and inclusion initiatives], rather than on those in the audience whose minds are already made up one way or another. When they

understand they have these implicit biases, they are much more likely to act to change, and I have been much more successful in galvanizing folks to action.”

Supplier Diversity and Pipeline Diversity

Stern says that the corporate diversity initiatives that focus internally on big firm diversity are good and should continue, but corporations should also put programs in place that focus on supplier diversity.

Big firm diversity inclusion (or working with large firms that have women or minorities on their rosters) is very different than supplier diversity, he says, but “[o]ur mission and vision are complementary to big firm diversity initiatives.” And, utilizing minority-, women-, and LGBTQ-owned law firms aligns perfectly with corporate supplier diversity initiatives.

To support supplier diversity initiatives, NAMWOLF vets MBE/WBE law firms. “It’s an onerous process for the law firms, but we want corporate buyers to be comfortable that they’re connecting with firms that are not only diverse but already doing work for Fortune 500 entities,” Stern says. “Once the law firms are in NAMWOLF, we create a friendly environment for law firms and in-house counsel to meet and develop relationships.”

NAMWOLF law firms must be women-, minority-, or LGBTQ-owned as certified by WBENC, NMSDC, or the NGLCC. Among other criteria, they must have an AV rating of 4.5 or higher and three Fortune 500 references. “We interview those references in detail to ensure that these law firms can handle the complex needs of the hundreds of corporations that are active in NAMWOLF and attend our meetings,” Stern says.

“We’re not telling corporations to give these firms business *because* they’re minority- or women-owned. We are, however, telling these corporations to give these firms the opportunity to compete for the business. If that occurs, NAMWOLF and our firms are confident that they can win the business,” he says.

Pipeline diversity is also imperative. Stern says that pipeline diversity is the “only panacea to what ails our profession.” NAMWOLF has recently instituted a pipeline scholarship, where two \$10 thousand scholarships are given to minority or women law students each year. “Our children are our legacy, and NAMWOLF and other organizations must continue to do everything we can to make this world better for them than it is for us.”

NAMWOLF Programs

In 16 plus years, NAMWOLF has grown from “embryonic stages to an organization that is considered best in class,” Stern says, and it continues to expand.

“Any corporation can reach out to us and ask for help finding law firms on either an anonymous or known basis. It’s like a mini-RFI. We help corporations do their due diligence, which has led to hundreds of interviews and engagements,” Stern says. “We also have our annual meeting and business meetings (both no cost to in-house counsel), webinars, articles, and presentations. We create relationships 52 weeks of the year.”

NAMWOLF has a partner program that corporations can sign onto, where they aspire to commit five percent or more to MBE/WBE firms. “Once they sign on, they’re heavily motivated to measure their utilization by practice area and achieve results.”

Additionally, NAMWOLF manages the Inclusion Initiative that was started seven years ago by large corporations such as Microsoft, DuPont, and Prudential. “Thirty-two corporations set independent [diversity] goals that they share with us,” Stern says. NAMWOLF then aggregates those goals and shares the aggregated number in the press.

A year later, NAMWOLF reaches out to the same corporations to see what they achieved. “We keep individual numbers secret, but aggregate the data and share the results. It’s a great way to let the world know that corporations with complex legal needs are getting quality and value from diverse firms,” he says. “It excites companies that are on the fence to act.” In seven years, these 32 companies have given more than \$1.25 billion dollars to MBE/WBE firms.

NAMWOLF also uses a Practice Area Committee (PAC) structure that makes it easier for corporations to engage with it. “We have 10 PACs. Lawyers across our firms with similar expertise go out and tout what they can do, either individually or collectively,” Stern says.

At NAMWOLF’s Business Meeting each year, in-house counsel are aligned by practice area with NAMWOLF lawyers, and can “spend time seeing those that are directly related to them.” NAMWOLF also provides CLEs by PACs. “Our goal is to help in-house counsel get their CLE accreditations and be impressed by our attorneys.”

Stern spends a lot of his time debunking myths about using MBE/WBE law firms. “Nobody likes to talk about it, but MBE/WBE firms are held to higher standards for a lot of reasons, including unconscious bias and the challenges associated with

change. When they don't meet or exceed expectations, not only is their image tarnished, but the images of all MBE/WBE firms are tarnished.

“Majority-owned firms are not held to that same standard. In addition, MBE/WBE firms typically get one strike, and, if they don't hit it out of the park, they are most often not given another chance.”

Stern says there's also a “presumption that MBE/WBE firms are cheaper. But why should a lawyer be less expensive just because they're minority- or women-owned?” NAMWOLF's firms will, however, compete on great value along with outstanding quality of service.

NAMWOLF's next event is the 2018 NAMWOLF Business Meeting, which will be held in San Diego, California, near the end of February. As a WBENC-certified company, Lumen Legal supports NAMWOLF by being available to help its firms expand their capacity by adding contract attorneys and assisting with document review. It also aims to boost corporate diversity inclusion by staffing its openings and projects with a diverse set of people.

High Tide All The Time

Stern's dream is that diversity and inclusion in our legal profession be measured not as waves, but as a constant. He says he has seen way too many ebbs and flows with respect to this subject in the 34 years he has been an attorney.

When corporate legal groups get excited about NAMWOLF and what it can offer, he says his “eyes light up” because of his own excitement when he first encountered NAMWOLF.

Stern cites one healthcare legal group that he met during a meeting a few years ago. “When we first connected, they didn't have any diversity and inclusion programs in place,” he says. Six months later they created a diversity and inclusion committee, established goals, and put accountability in place. Three months later, they came to NAMWOLF meetings and started looking for firms. “That's the magic,” he says.

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