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LEGAL AFFAIRS

New tack to solve D&I shortcomings

Consortium aims to solve old problem

BY JEREMY NOBILE

As its name implies, the new Ohio Legal Diversity Consortium (OLDC) has set its sights on tackling aspects of one of the legal field's greatest flaws since its inception centuries ago: diversity and inclusion.

And its mission becomes all the more critical amid the COVID-19 pandemic.

As law firms contracted amid the Great Recession, shedding positions as work slowed in a financial downturn that forced clients to scrutinize legal spends like never before, women and minority lawyers felt an outsized impact.

According to groups like the Leadership Council on Legal Diversity, layoffs at the time tended to slant toward the newest hires who wouldn't have the same established networks or lucrative clients as more veteran colleagues. That happened to include a lot of diverse and female lawyers as firms worked more intentionally on building ranks with more than just white men in the preceding years.

Caren Ulrich Stacy, CEO of Diversity Lab, told The National Law Journal earlier this year that the industry's overall diversity numbers dipped for the first time in two decades in 2008.

The population of Black associates in firms didn't rebound since then, she said, until last year.

Meanwhile, although a recession may be a good time to enter law school — the thinking being a student could ride out a downturn while enrolled, graduate a few years later and find a good-paying job in the economic rebound — many diverse students dropped out amid the financial crisis because of personal hardships and the lack of a support network, said Delanté Spencer Thomas, director of JD Advantage Advising & Outreach for Case Western Reserve University School of Law.

Attempting to not just prevent a repeat of these trends today, but possibly improve legal diversity in the coming years, is where the OLDC comes in.

Its first program was held at the end of August. The OLDC reflects a partnership between what so far includes Cleveland-founded Thompson Hine, which is spearheading the initiative, and Northeast Ohio's three law schools — Case, the University of Akron and Cleveland State University. All are collaborating on programming with young and diverse lawyers and law students particularly in mind.

While law firms are feeling challeng-

es in today's market, outright layoffs have so far been less common amid today's pandemic-induced recession than they were in the last downturn. The simmering worry, though, is whether there could be eventual fall-out like there was back then, once again setting back the industry's work in diversity and inclusion.

"Around 2008-2009, there was a disproportionate negative impact on underrepresented communities, and in the legal profession, they were particularly affected," said Nirvana Dove, diversity, equity and inclusion manager for Thompson Hine who worked on similar collaborative diversity initiatives with Georgetown University. "We saw underrepresented law students drop out of the legal market completely or drop out of the pipeline for legal employers. Some hung their shingles or pursued other opportunities because the opportunities they had were slim. With this knowledge, we were compelled to take some proactive steps to combat the negative effects COVID-19 could have on our own diversity and inclusion efforts and in the profession generally."

The slate of programming so far includes online workshops, panels and webinars on topics ranging from conducting virtual job interviews to

maintaining personal wellness in times of uncertainty. The OLDC is compiling its own list of possible mentors and other related volunteers to connect people with.

If successful, the program could be expanded over time and broadened into other markets besides Northeast Ohio. The initiative has coalesced here because of Thompson Hine's Cleveland roots and general presence in Ohio, where the firm has four offices, Dove said.

OLDC's offerings may not be wholly novel or groundbreaking. They tend to be topics and efforts addressed by schools and bar associations.

But what makes it unique is both how its bringing otherwise competing law schools together to collaborate under one umbrella and how that's all happening with a law firm as the driving force.

"It's one thing for the law schools to push these messages. It's another for a bar or affinity bar association to push diversity and inclusion," said Spencer Thomas, who is also first vice president with the Norman S. Minor Bar Association, an affinity bar for Black lawyers. "But with the OLDC, we find it encouraging a firm, an employer, wants to address some of these issues and help work with our diverse students to make sure they are well-equipped. And what we hope is other employers will be involved and we continue to grow our partnership and this matriculates into some substantial change."

Majeed Makhoulf, a Cleveland attorney and vice president of the newly formed Arab American Bar Association, said D&I initiatives tend to take a back seat to other priorities when law firms are in tough times. It's akin to schools ditching art and music programs when facing funding shortfalls. But just as those subjects shouldn't be viewed as luxury items to be cut or neglected when times are tougher, he said, neither should D&I efforts in the legal profession.

"We are in a major economic crisis and the fact (Thompson Hine is) rising up and saying let's not lose track that we have these issues in the profession we need to pay attention to, I take my hat off to that," Makhoulf said.

Efforts to improve diversity in the legal profession in the past have simply not led to material change. Why that is could be due to a variety of longstanding and nuanced reasons. But correcting those trends will only happen with a "seismic cultural" change, Makhoulf said.

According to the American Bar Association, in 2019, only 5% of lawyers were Black, 5% were Hispanic and 3% were Asian.

Among all in-market attorneys accounted for in the 2020 Crain's Cleveland law firms list, which covers all of the market's largest players: 71% are men; 29% are women; 94% are white; 6% are minorities. Among local partners: 79% are men; 21% are women; 96% are white; 4% are minorities.

"It's vitally important that the diversity of the legal profession reflect the diversity of the society that it serves, and that still is not the case despite many years of attention to the issue," said C.J. Peters, dean for the University of Akron School of Law. "While diversity across the board is important, I believe it is particularly important that we find ways to attract more Black law students and lawyers to the profession and to support and retain them once they become law students and then lawyers. We need to be actively facilitating Black and other minority leadership in the legal profession, not just entry into that profession."

Peters pointed to the dearth of diverse representation in partner positions among law firms that doesn't square with the growing levels of minority law students as an indicator of issues within firms themselves.

"This indicates that something is happening between the time these lawyers are being hired and the time they become eligible for partnership that is preventing them or deterring them from attaining that status," he said. "I believe it is the firms' responsibility to focus on identifying and redressing these issues, and I am very glad to see Thompson Hine taking a leadership role in this regard."

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