Diversity changes: corporate clients and law firms

by Neil Hamilton and Sarah Gillaspey

Harvard Law professor David Wilkins recently gave the Fredrickson Law Firm Lecture at the University of St. Thomas School of Law on “What Diversity Can Teach Us About the Changing Relationship between Companies and Law Firms.”

Wilkins reported that since the late 1970s, large corporate law firms have increased in size, scope and disciplinary reach. At the same time, large corporate clients have become increasingly demanding and focused on the bottom line, resulting in fierce competition among law firms for both clients and talent. Law firm practice has transformed into a “hard-edge twenty-first-century global business.” Law firms are constantly on the search for a competitive edge.

Increase in initiatives

Coincidentally, the last 15 years have seen a sudden increase in corporate diversity initiatives.

Large corporations have put an increased emphasis on the value of diversity within their business as well as the diverse nature of the organizations they employ. Wilkins cited to a “Call to Action,” organized by General Mills general counsel Rick Palmore, which urges corporate lawyers to “commit themselves to putting pressure on law firms to increase diversity and to stop doing business with firms that fail to show progress on this issue.”

Hundreds of general counsels have signed onto this initiative.

Wilkins went on to state that these diversity mandates are coming from corporations whose legal departments are far more diverse than their law firm counterparts.

“Women comprise more than 15 percent of all general counsel at Fortune 500 companies, and … almost a third of all lawyers employed in corporate legal departments,” Wilkins said. Minority lawyers represent 6 percent of all general counsel and 12.5 percent of the corporate legal departments. Where women and minorities are well represented in law firms, diversity becomes a first order concern.

Wilkins stated that where women represented at least 10 percent of a firm’s population, the firm is more than 10 times likely to make a commitment to diversity. Diversity begets diversity. As a result, these organizations commit both the time and the money required to maintain a diverse work setting and expect the same from the law firms they employ.

Additionally, many large corporations now employ “diversity consultants” to promote the value of diversity generally and to help identify barriers inside the workplace that make it difficult for women and minorities to succeed. Similar to Palmore’s “Call to Action,” many companies have adopted supplier diversity programs that evaluate suppliers based on their compliance with diversity initiatives. Law firms, as “suppliers” of services to corporations, are generally subject
to these diversity programs. Wilkins argued that law firms competing for large corporate clients now have a market-based incentive to diversify.

**Struggling with diversity**

However, many law firms struggle with promoting and maintaining diversity.

Wilkins’ research finds that minorities and women often report feeling “excluded and alienated from the prevailing culture of many law firms.” Consequently, women and minorities often fail to reach their “full potential because of what they correctly perceive as the firm’s oppressive and exclusionary culture,” he reported.

Wilkins discussed how law firms have traditionally used a “tournament” method to groom and select partners. In this tournament, where associates compete against each other to be selected for partnership, those lawyers that are able to best demonstrate their ability and commitment to the firm are selected for partner positions. The rest of the lawyers are then either let go or allowed to stay within the firm as permanent associates. However, “success in large law firms is less a matter of innate ability and hard work (most of those who get hired by elite firms possess these qualities) and more a function of gaining access to valuable, but limited opportunities — opportunities that are invariably mediated through relationships.”

The most valuable work and mentoring opportunities are usually in short supply, so the success of an associate depends on his or her access to those opportunities.

Wilkins stated that minorities and women often lack meaningful access to those opportunities due to the law firm partners’ own inadvertent personal biases. Unintentionally, individuals tend to favor people who are most like themselves.

Wilkins states, “Given that most lawyers in large law firms continue to be both white and male, particularly at the partnership level, this unsurprising but nevertheless powerful tendency means that minorities and women are less likely [to succeed within the tournament model].”

Minority lawyers can feel left out, unnoticed and under-appreciated. As a result, many of the large firms’ diverse lawyers end up leaving the firm without ever reaching partner. Wilkins stated that the high attrition rates within large law firms not only affect the ability of these firms to maintain a diverse population of lawyers, but will affect their ability to compete for large corporate clients.

**Essential focus**

Wilkins argued that a focus on diversity has become essential to the business of corporate law firms that depend upon corporate clients for their continued existence.

Firms must work to “redefine both cultural norms and established organizations structures” in order to successfully promote, increase and maintain diversity. They cannot simply wait for the
passage of time to produce the integration and innovation necessary for them to succeed in today’s legal market.

Additionally, acknowledging our natural tendency to be drawn to people “just like us” is critical because only then can we take action to counteract its effect.

Laura Witte, Cargill’s general counsel for the United States, suggests firms start first by ensuring their hiring committee reflects the diversity they are trying to achieve and training this committee to recognize bias. Then, firms must rethink their hiring criteria and elevate the importance of diversity in the selection process. It is important to specifically and explicitly seek out and select candidates that can bring unique talents, perspectives and life experiences to an organization.

Val Jensen, the executive director of Twin Cities Diversity in Practice (a co-sponsor of the Wilkins’ program), suggested that “in order for all people to break down the barriers that exist based on human nature, [we] must first be willing to acknowledge the existence of the other person and then be conscious of how the ‘difference(s)’ manifests itself in [our] behavior.” She said, “Often times we gravitate to someone based on a set of assumptions that may or may not be true.”

In actuality, Jensen stated, “the person who looks least like me, may have more in common with me than the person who looks most like me.”

There is no silver bullet to remedy the situation. Jensen believes it is very hard work we each need to do individually, but it can and must be done.

Wilkins ended by stating that the question is not, therefore, whether or not diversity is “good for business” but rather whether law firms can successfully adapt to an ever-increasing competitive environment that will by any measure become more multicultural, multidisciplinary and multidimensional.