

2021 Black Lawyers Matter ConferenceSM: Best Practices in Lawyer Retention and Career Development

FULL TRANSCRIPT

Voiceover: 2021 Black Lawyers Matter ConferenceSM presented by LSAC, University of Houston Law Center, and SMU Dedman School of Law, in collaboration with the conference planning committee. Recorded October 15, 2021. Session 4: Best Practices in Lawyer Retention and Career Development.

[Upbeat music plays and fades out]

Carla Pratt: Thank you, Dean Collins. I want to thank you and Dean Baynes and LSAC for hosting this very important conversation and thank you all for, including me in the planning committee and having the privilege to moderate our final panel for today. We have a very distinguished panel as our final capstone panel, and I'll offer a very brief introduction of each of our panelists in alphabetical order and just to let you know them as people a little bit, I'm also going to offer a fun fact about each of them. So starting first with John Lewis, Jr. John is an equity partner at Shook, Hardy & Bacon in the business litigation practice group. He's resident in the firm's Atlanta and Houston offices and he chairs the firm's national bankruptcy practice while engaging in commercial litigation investigations and advising clients on environmental and social governance matters. John also chairs Shook's firm wide Diversity and Inclusion Council. A fun fact about John is that he has traveled to over 30 countries and loves ethnic foods of all types and he's an amateur cook who tries to cook many of those ethnic foods at home.

Next we have Denelle Waynick. Denelle is currently the Chief Legal Officer of Saniona, a bio pharmaceutical company listed on the Swedish NASDAQ with offices in Copenhagen and Boston. Immediately prior to her current position, Denelle has held various senior executive roles with global bio pharmaceutical companies and she is the proud mother of a son, Dwayne, who resides in New Jersey, which is her home state. Denelle's fun fact is that she is an avid Formula One racing fan.

Next we have Joseph West. Joe is a partner in the law firm of Duane Morris, LLP in the firm's trial practice group, where he practices in the area of commercial litigation. He is also a member of the firm's partners board and serves as the firm's chief diversity and inclusion officer. He also chairs the firm's diversity and inclusion consulting practice, which has been cited for its innovative approach to crafting sustainable DEI programs and solutions for corporate entities. His fun fact is that like many native New Orleanians, which he is, he is an outstanding cook. So we might have to have a cook-off between Joe and John.

Joseph K. West: Bring it John.

Dean Pratt: Next we have James William's. James serves as the Seattle office managing partner for Perkins Coie, LLP, one of Am Law's top 50 law firms with more than 370 lawyers in its headquarters in Seattle. James has more than 30 years of courtroom victories, arbitrations, mediations, and complex litigation management experience. James' fun fact is that he was a licensed barber while in high school and college and he spent his summers working in his father's barbershop. So James'

family were one of the few families that probably had decent hair cuts during the pandemic. Welcome to all of you, thank you for making time to join us today. So I want to start out, you've heard the introduction, so you know that each of these lawyers is well accomplished and has had quite a bit of experience and so each of you have accomplished a lot and so I want to ask you to share what helped you as a Black lawyer get to where you are today when you were a young lawyer? John, what helped you when you were a young lawyer just starting out?

John Lewis Jr.: So well first, thanks for the opportunity, to both participate in this great discussion with this distinguished panel. I did join about halfway through the prior panel and had so many things to say about what they were talking about as well, but it was a great discussion, and kudos to that panel for really sort of framing these issues, particularly these issues, as we attempt to confront them in the large firms space. I have lived, as those of you who know me a bit, know a bit of a circuitous, if not a sort of a magic carpet ride of a legal career. Not having known a lawyer growing up, I was able to go law school and sort of sort through that and after 10 years of practice and 15 years in-house hiring and firing a lot of these large firms that we talk about and really trying to use the bully pulpit of a litigation role that I had to try to drive some of the cultural change that we're trying to address today. Coming into law school was obviously a bit of a cultural and a technical disadvantage. I came to GW Law School in the mid 1980s from an HBCU. So it was sort of the definition of culture shock to sort of get to that environment. But there were a few things that I think sort of really allowed me to kind of get my footing in the practice and the first was the recognition that our profession is relationship based. And the capital that those who were the most successful in it — have aggregated over time — is relationship capital. Everything else can be learned. We can find magna cum laude guys to do the cases that we bring in, but at the end of the day, the thing that really sort of drives our success quotient as lawyers is how we build relationship capital, how we insinuate ourselves into the teams, because our profession is also a team sport. And the first thing I ask young lawyers, who were talking and I've talked over the years, a lot of young lawyers who were struggling in firms is I ask them, what team are you on? Because the first red flag of a lawyer in trouble, particularly a lawyer early in career, is when they're not affixed to or associated with one of the important teams, one of the marquee clients that the firm services. The law is also a contact sport. I learned that, my friends who were writing code and doing other things probably had the luxury of sort of minimal interaction with the outside world, but that's sort of the kiss of death, particularly as young lawyers. So I've encouraged people, both vertically, a lot of people sort of recruit and network upstream, but encourage young lawyers to network vertically as well. There's somebody in this room, associates who are going to be an in-house counsel, who are going to be a law school dean, who's going to be a judge. And it behooves you to sort of get to know and sort of develop a rapport with them now. So I think it was those things, I mean, obviously being on point and being technically driven in terms of sort of the legal principles, but I think it was these other competencies that sort of made a difference from the early days.

Dean Pratt: Thanks, John. Joe, do you have any additions to what John just spoke about in terms of what helped you when you were a young lawyer, just starting out, trying to navigate the profession?

Joseph K. West: Yeah first of all, thank you for inviting me. I'm honored to be here particularly on such an amazing panel. I will give a response that sounds counter-intuitive, but it's one word and that's mistakes. You know, when I was a young lawyer, particularly trying cases early on, I was, clients were a lot less risk averse than they are now. Baby lawyers could learn on the client's dime oftentimes, and the ability not just to make some mistakes, but learn and grow from them and to have someone who was a mentor and/or a sponsor — sometimes it's the same person, oftentimes it's not — who could both help with honing my skill set in my craft, but also, spending capital on my behalf to sort of facilitate my growth and development. And the fact is I made mistakes, but I didn't make the same mistake twice and I use that as capital in and of itself to grow and develop and learn.

And I think because, particularly if you're a trial lawyer, the opportunities to do that now are fewer and not as prevalent in live fire, but I think there are still opportunities when we are mentoring younger lawyers for us to be able to engage with them in a way that allows them to grow and learn and develop from their mistakes. So more than anything else, to be honest with you, it was the times that I made mistakes that have most facilitated my growth and development as a lawyer and maybe even as a person, Carla, to be honest with you.

Dean Pratt: I love that and we're going to circle back to that because I think it's really important for young lawyers to be in a space where they can make mistakes without them having detrimental consequences. So I want to go back to Denelle. Denelle do you have any —

Denelle J. Waynick: Are the Air Pods better?

Dean Pratt: Perfect much better.

Denelle: Finally it figures, right? No, I don't want to echo or repeat anything, but I have to tell you for me, what really made the difference early on — and quite honestly now — is just establishing those deep relationships and I will say that with people of color and majority men and women in that regard, I feel like the larger your network is, but with intentionality, the better you will be, and that has served me well.

Dean Pratt: Awesome and James?

James Williams: Yeah I should give you some context before answering that question and I should tell you, my journey starts in the very deep South. I'm originally from South Carolina. I grew up on a farm in the middle of nowhere. So my reality and the socialization process that I went through was very race intensive. So I, for example, remember segregated waiting rooms and my pediatrician's office, where we had the Black section and the White section and the Black nurse and the White nurse and I remember that I probably didn't see my first White face in a class till I was in seventh grade. And I remember vividly my grandmother saying how White people in the South did not want Black people looking them in the eyes because that was seen as disrespectful. So I started from a place of a hostile work environment in the South where I came from and in that context, I decided to come up with my own coping mechanisms and a way to make success for myself and the first factor for me is always to recognize that unfairness probably should be expected. It's going to happen, people aren't going to treat you fairly.

So the solution is to get ready for the fight for equality. That means putting on your armor, recognizing that the fight is there and just being ready for it when it happens and I think that always allowed me to not have my expectations unfairly doused, and I was always ready for and anticipated the issues of race when they came up and I think it made me more comfortable on a firmer footing when I did have those racial challenges that were presented to me. So the second factor I would say is I recognized at an early stage that most White people didn't have much experience or exposure to African Americans. Didn't know much about the culture, didn't know much about how to interact with them. So as a consequence that creates this fear and questioning about how do we engage. And I guess this ties into what Denelle was saying earlier about the relationship thing and what John was saying about relationships. How do you start that conversation? And I decided that for me, the most productive way would be to bear the burden of comfortability. That means, I know it's unfair, it's a task that's put on me, but I decided at an early age, early in my career as well that I needed to be the person who broke the ice to start the conversation and to create those points of commonality in the conversation, so that people who are not Black would feel comfortable with me. They wouldn't have to worry about what I'm going to say, Am I going to be hypersensitive? Am I going to overreact every

microaggression? I took the responsibility of making sure they understood that this is a place where we can have a civil conversation and all of a sudden the race issue becomes secondary. And the third thing I would say is I always would strive to under-promise and over-deliver, there's always this expectation. Every time I have a new, fresh relationship, it's always the same thing, they come in with low expectations and I take that as an opportunity and I leverage it because I want to deliver more than they ever could have anticipated from an African American lawyer. So when they get that net result from me, it's unquestioned that they've got the right lawyer, they've hired the right person.

Dean Pratt: Okay so thank you all for sharing that as an educator and we have a lot of deans participating in the conference today. So we've been thinking a lot about what should we be doing differently to prepare all students, but in particular Black students for high-level practice that each of you has enjoyed and so, James, I want to follow up with you. I know you prepared a slide for us.

James: I do have a slide.

Dean Pratt: For today so.

James: This is what I came in and talked to you about. I know you have me on the panel, but I want to make sure the folks in the law school environment understand what I think is important for our young lawyers to know. I see them all the time and they come in without any context and without understanding where they stand in the universe of the law environment. So the first thing I would say, if you're in a law school environment, make sure these young students understand the difference between public and private sector practice. They come in with these expectations, not understanding that there are fundamental differences in lifestyle and compensation related to the course of practice that you decide to follow. I'm always surprised by them, by the ones in the public sector, in particular, who are disgruntled and disappointed because they had this vision of being a lawyer, allowing them to have enormous wealth and enormous resources, when that simply isn't the case across all practice areas. So there needs to be a level-setting. There needs to be a reality check that if you really want be rich, be an entrepreneur. You're never going to be rich practicing law. You can live a very comfortable lifestyle. You'll be paid a lot of money, but you're not going to be rich, Jeff Bezos is rich. The folks who manufacture things are rich.

So if money is a driver, I don't know whether or not the practice of law used to be the primary focus, but in any event, if the young Black lawyers are interested in corporate practice, here's what I think they need to know. Those arrows show you the types of things they need to be told about while they're in law school. I'm always surprised at the number of law students, when they finish, they come to me and they say, I'd really like to get into a large AmLaw 50 law firm, corporate environment, where I'm practicing law and I will ask the question, tell me about your curriculum and many of them will say they never took some of these basic courses. They don't know what a corporation is. They don't know anything about partnerships. They don't know anything about LLCs, and they don't understand the flow of business, that major corporate law firms are involved in representing. They also surprisingly come in with a civil rights, social justice bent, which is diametrically opposed to capitalism. They come in thinking that large law firms are thinking about pro bono and that that's what they do and that they can command high salaries in the marketplace just by doing that and they fail to recognize that what we do is we represent large corporations that are for-profit. We represent "the Man".

And if you're uncomfortable with that, you have to understand that and decide whether this is the kind of life you want to be engaged in. The other thing is little things like LLCs, federal tax law, all of those kinds of courses. I wish our young Black lawyers were pushed towards so that they could come out camera-ready to start if they really want to get into a large corporate practice for an

AmLaw 50 or AmLaw 100 law firm. Another thing that I think would be helpful is talking to them about the language of large corporate law firms. Accounting is so fundamental because we represent publicly traded companies and they don't get that and they don't understand that and sometimes they're lost. They're playing catch up. I think one of the earlier panels talk about the disparity between how African Americans are raised and how their White counterparts are. They truly are at a disadvantage because their White counterparts may have been exposed to the language of business throughout their lives. Their parents might be lawyers, their parents might be business people. Their parents may be deeply immersed in some industry, and they actually became subject matter experts through osmosis — sitting at the dinner table on a nightly basis — hearing their parents talk about all the things that they were doing so that when they come into a law firm environment, it's not foreign. But if you are our kids and all they're talking about are things that are not at a business level. It's like a new language. They've got to get up to speed. They got to get a firm understanding. It is not a question of intelligence. It is totally a question of exposure. So accounting for lawyers is something I would recommend if they have that kind of thing at their law school, great. If they don't hire some accountants that do public company accounting to come in and teach some classes and I would highly recommend those students do that.

Another thing that I think would be helpful is again, this disparity and exposure. I have etiquette on the list because I can't tell you how many times I've seen kids who are frightened or uncomfortable because they don't know which fork, spoon, et cetera, to use at a dinner. They feel this anxiety unnecessarily, and it interferes with their ability to be their best self. Why don't we just take that off the table? Matter of fact, if Kellye Testy on the line, she knows we've got a leadership training program in the state of Washington called the Washington Leadership Institute and one of the things we're teaching these young lawyers is actually formal etiquette so that they don't have that anxiety anymore and they can be their very best selves. Last thing I would suggest is a Toastmasters class. There's no substitute, whether you're in the business side or the litigation side, there's no substitute for having competence in how you present. Because lawyers are judged on two things, how you speak and how you write, that's it. And you've got to master both of those, I think, to be in good standing, especially in one of the larger law firms that do the corporate work like I've seen, so those are my comments.

Dean Pratt: Thank you so much, James. I think you just accurately described me as a law student. I was in all of those clueless categories. So I want to come back — and this is not a question that was on my list of questions to the panelists, I do apologize — but I want to follow up on one thing that James said, and I want to pose this question to you, John, because one thing that James said was that he represented "the Man". And as a dean, I oftentimes have difficulty convincing Black students to represent "the Man" because they do come with this social justice mindset that James referred to and so what is the case for why we need more Black lawyers representing "the Man"?

John: I don't know, if I could sort of unpackage it more elegantly than James did, but as you know, Carla, before I returned to private practice, I was 15 years at a Fortune 100 company. I had Coca-Cola as the head of litigation. My own kids would come home from school and talking about PET and sustainability and water and all the awful things that the company that was sending them to private school was doing to the environment and so forth and certainly it's not to diminish those legitimate questions about sustainability and the responsibility we all have to be stewards of our societies of our scarce resources. But the reality is that, and I think this was if I may sort of, sort of piggyback what James has said, that the idea is that they're really two vantage points that we have as lawyers, as we attempt to sort of address those concerns. We can do it as an outsider critique sort of protester, or we can enmesh ourselves in the system, such that we understand how to affect change from the inside. Once it occurred to me as a first-generation lawyer, that I was the head of litigation at Coca-Cola, I began to start asking difficult questions about the representation of people

who were underrepresented in the law firms that we were using. I had the prerogative of a client. I have the backing of a storied brand and I was able to bring those conversations to life. I think Joe said it a second ago, anybody who didn't know when they came to make a pitch to me, that I also was the architect of an internal diversity initiative within the law department was a miss. If you brought me a non-diverse pitch team, it was a miss. But if you brought in an otherwise non-diverse pitch team with the one Black associate who didn't know that Frito-Lay is a Pepsi company or who didn't understand, that part of what I needed outside counsel to be able to do was to understand that the law was just another tool to drive the business objectives of the company and that we were not unlike law firms, where the lawyers are the kings and queens of the realm. We were another cost center within the company.

So to understand that dynamic becomes important. I hired a young woman out of a large law firm a couple years after I got into the role and as you can imagine, we posted a job for three to five years in-house, et cetera, et cetera, as you can imagine, hundreds of resumes. But as I tell people, the full candidate, the young woman who got hired did one thing that no other candidate did, she read the 10K, and guess what's in the 10K a whole section about important litigation to the company. So she was able to speak specifically about the cases that were on our desks and then she was able to marry that to the experience that she had gotten as an associate in a firm. That's the next-level skill and those are the connectivities that the sooner young lawyers get them, the sooner that they're able to sort of demonstrate both to their firm and to the marketplace, that they've got a heightened level of understanding of how this work we do as lawyers fits into the bigger piece.

Denelle: Carla can I add?

Dean Pratt: Absolutely Denelle, and then Joe.

Denelle: Okay I literally just wanted to put a pin in what he just said about the 10K components. Each individual has got to take ownership and accountability for his or her own, quite honestly, destiny. And despite the, the sort of, the parameters that we're giving in the suggestions that we have in the framework that we will share and are putting in place, there is no substitute for a candidate, an individual, for educating him or herself to quite honestly be in a position to differentiate him or herself, as he just mentioned in general, there's no substitute for that. So if there is a takeaway from all of this, it really is in order to set yourself apart, you have got to think strategically and take those types of intentional actions and steps.

Dean Pratt: Thank you, Joe?

Joseph: Yeah, Carla, I'll agree with everything that the three of my colleagues mentioned, but John's point I think is really salient. I had a similar experience as his at Coca-Cola. I spent five years at Walmart, Fortune One, and part of that time, I was the head of the global outside counsel management function. I was responsible for managing the company's relationships with all of its law firms globally and during that time period, we undertook to diversify the ranks of our relationship partners to spend more of our outside counsel spend with both women- and minority-owned law firms, as well as women and minority relationship partners with majority firms. And we shifted about \$60 million worth of business to the control of women and minority lawyers and one of the things that we did after that, I went back and I started looking at the extent to which the relationship partners we put into place were actually receiving origination credit for the work at the larger firms. And what we learned is that a good number of them were not. And so I changed our outside counsel guidelines to require all of the firms, all 600 firms that did business for Walmart domestically to certify in writing that the relationship partners we were selecting were, in fact, receiving origination credits and that kind of thing is life altering in the career trajectory of a woman or a minority in a large firm. And I say

all that to say, it's possible to effectuate change when you're "the Man" by simply looking at ways in which you can utilize the influence consistent with the company's values in a way that effectuates that change. And you sometimes the best way to fight "the Man" is to be "the Man" for lack of a better term. But to John's point, effectuating that change from the inside, is something that can be done. Those things are not mutually exclusive. I'll just make this point and then I'll stop. I'm the co-chair of the Lawyers' Committee for Civil Rights Under Law, despite being an equity partner at a global law firm and what that means is that I utilize that portion of the time that I have allotted to me in the course of a day, to do that which I can to make things better. And I know everyone else on this panel does the same.

Dean Pratt: Thank you guys, I really appreciate that and I hope all of our students who are listening today heard that message that representing "the Man" means that you get to be an insider. You get power to make systemic change and have an impact and I think all of our panelists today have done that in terms of directing business, and setting the requirements for directing corporate business so thank you all for that. So one of the things I want to turn now to is thinking about retention in the workplace and what policies and processes have you seen that are effective at ensuring that junior lawyers get the quality of work that they need in order to be successful and thrive long-term in the employment context — whether that's big law or a corporate setting — what policies or processes or practices have you seen that are effective at ensuring that junior lawyers of color get the quality of work that allows them to grow and develop and succeed. So I'll start there with John.

John: Sure well, the idea and, with appropriate difference to all of the great lawyers representing all of the greatest law firms in the world who are assembled and who participated today, the truth is no big law firm has nailed this yet. No big law firm has figured out — there are firms at various stages along the way and who brought in talented people, like James and Joe, to kind of guide them — but law firms still struggle with a lot of the structural barriers and a lot of the eliteism and a lot of the country club facets that have sort of caused people to move up in firms and have operated whether intentionally or otherwise to exclude people who are not part of those circles. So you've got two ends of the spectrum. You've got to have a law firm that sort of recognizes this, and that's kind of where clients come in and that was to Joe's point to the point that I made in there, a lot of people out there of all races, candidly, who were working diligently within these law departments to try to change this paradigm a bit.

So a lot of this work, I've always maintained, has to be client-driven because it's the client prerogative that is what is going to move the leadership of firms. But the individual has a responsibility as well. I joined my first law firm, many, many moons ago. I tell people I was Jackie Robinson in a Midwestern law firm and I called my dad in Houston. He's 86 years old now. In fact, I'm in Houston now. And I told him, again — I have no lawyers in my family — he said, "You're the only one?" I said, "I'm the only one." He said, "Not even a secretary?" I said, "Not even a secretary." And he said, "Well, I don't know anything about law, but it just sort of seems to me, you ought to be turning on the lights in the morning and turning them off at night." That was the career legal advice and probably some of the best career legal advice that my dad gave me, which is just to say that, it may be possible in the world of magnas and summas that you can be out-thought, but it's a choice to be outworked and if you come in with that spirit that sort of running through brick walls, and you become that sort of indispensable protégé that partners know, look, John, he didn't know anything about basket weaving law, but you know that guy's here at 7:00 in the morning and here's what he's doing and here's where we see him show some acuity for doing. So I think you kind of do it both ways.

The trick-bag of the associate track is, and I tell our associates this, is that the people who the firm wants as partners are the people who actually exhibit some instinct for entrepreneurial-ism. They

look like the people who want to go start their own firm. They look like the people who are always involved in four or five other detours or involved in other activities, or trying to develop clients, that at the end of the day, who these firms want, because what we know is that there will reach a point of diminishing returns in our ability to do the technical work, to write the briefs and to do those things, there'll be a point of diminishing returns where you've got to exhibit some higher level set of skills to really sort of ascend to that next level and the only way you do that is by being rigorous and being conscious about making sure that you're driving those relationships that we talk about. But you can't eat your peas, then eat your rice and then eat your meat. You got to be able to integrate all of this into a program of action that you wake up every day, just deciding that I'm going to learn something new. I didn't know I'm going to read something. I tell my outside counsel, I said, don't tell me about the ninth circuit case. Tell me about every time my company has been mentioned in the paper this week. Because that's what I'm going to be asked about. So having a sense of that and having a sense of how this connects to a bottom line, listening to the earnings calls, being able to tell a client, "Oh, by the way, I saw you announced great earnings last quarter, congratulations!" or "I saw that merger went through." I'm not a deal lawyer, but if I see that you had some transaction that has obviously occupied your C-suite and your board, then I'm going to be a person that sort of calls out that as part of my effort to be indispensable counsel. I'm going to have some higher level sense of all of those things. And that's not necessarily a Black lawyer retention device. I think that's what you will see is if you study the behaviors of the people who are at the top of this profession, those are the kinds of daily rituals and behaviors you'll see them exhibit.

Dean Pratt: Thank you, Joe what has Duane Morris done in terms of institutional policies that are aimed at ensuring equity in the allocation of assignments to young lawyers so that they get the kind of experience that they need to succeed?

Joseph: Yeah, you've actually touched upon one of the things that really is an issue, that's important at our firm and all firms, actually. And I will tell you when I joined the Duane Morris at the beginning of 2016, having spent time as the CEO of the Minority Corporate Counsel Association, one of the things I knew is that there were certain sort of choke points in the career lifespan for most diverse associates where bias could have an impact on both their ability to be retained, to do good work and to be advanced. And so we looked specifically at those issues and I chose as the chair of our diversity and inclusion committee — which is a very active committee by the way — to look at specific ways in which we could have an impact. The first thing is that I'm involved in the recruiting and the onboarding of all diverse lawyers who come into the firm, whether they are baby lawyers coming up through the ranks, associate laterals, partner laterals, of counsel laterals, you name it, I'm involved in that process, both to give them information about our ecosystem and what we are doing around diversity and inclusion, but also so that we can gain some information about them and so that I can sort of mitigate any biases that might be at play as part of the recruiting process. I heard the panel that came before us, my friend Tony Upshaw, talking about that whole recruiting process and how something like that can get factor in. You talked about the assignments system.

The fact is, Carla, there's a ton of bias at work when it comes to the assignments and so we actually completely revamped our assignment system. We started with our trial practice group, which is the largest in the firm, and we do a blind rotating assignment system. We have all associates in the firm do a skills matrix, so that partners are relieved of the excuse that, well, I don't know what this associate does or what that person's experience is it sort of, it sort of democratizes that knowledge based around that and then if you are a partner and you have a book of business or you're over a practice group or new manage a particular office at the end of the year, a portion of your bonus is tied to the extent to which you have engaged all of those associates, with whom you work, in work. And the other thing that I do is our diversity inclusion committee meets once a month. Every member of the diversity inclusion committee's table stakes is to mentor, a group of diverse associates who

are assigned to you. I evaluate them based on the extent to which they are engaging with their mentees, engaging with the practice group heads who manage the work of their mentees. I also have our finance group prepare for me once a month, what we call our top 50 list, which is the top 50 matters by revenue. Because what we want to do is to make sure that diverse associates are getting opportunities on the matters that matter to the firm. So it's not just about ensuring the quality and the quantity of work because we go through the hours report for all of the diverse associates as well. It's not just about the quality of work, but the quantity of work, but the quality of the work as well. We want people to be engaged with the Coca-Cola's and the Walmarts. Every firm knows who those clients are that really, really matter to the firm. We want to ensure that people are engaged with that because the fact is there is the chance for bias to have an impact at various junctures in the career lifespan, from the recruiting, to the assignment of work, the evaluation of work, the mentoring and sponsorship, who actually gets pushed or pulled along the way towards leadership opportunities. Even when, how, and under what circumstances people are separated from the organization, there's no diverse lawyer at our firm — partner, of counsel or associate — who can have any adverse job action lodged against them without my sign-off. So that acts as kind of a guard rail to that type of bias and has had a dramatic impact on increasing our retention.

Dean Pratt: Awesome, so I want to turn now to evaluation of work, which you mentioned, Joe, and I want to ask Denelle in the corporate context, what best practices have you seen, Denelle, in terms of the policies, or practices for evaluating young lawyers' work so that you mitigate the amount of bias that filters into that evaluation process?

Denelle: Yeah but first of all, I just have to give a shout-out. I was sitting here taking notes, and this is my new favorite phrase. "It's the choice to be outworked." I'm loving that. That's going to be a mantra. And so you're right that, I have not been a part of an organization that has institutionalized these things. So there isn't a policy but it is, in fact, a practice and there are a couple of things that have to actually happen. First of all, in my opinion, it starts with me being hired, right? So with me being in a position, of authority and influence and power so that I can ensure that there is at least minimal bias, right? So some of the questions that we went over and when we had our pre-conversation, it was a, what's being done to eliminate, to get rid of. It's not right, it's not eliminated. It really is to mitigate the bias that actually happens there. But one of the things is to actually ensure that there's diversity in the type of work that anybody that's a member of my team would do. So rather than, you have these biases where people want to continue to go to the same people over and over and over. It's not as formal, as Joe talked about with respect to a blinded rotation, but it is the same concept. It is making sure that my attorneys have the opportunity to work with different stakeholders within the organization, so that therefore everybody can't be biased, right? I guess they technically could, but everybody can't be. So that at least there is a leveling of the playing field and that if there is bias, that's going to be an anomaly that will be obvious that I then as their leader, as their mentor, as their manager can challenge with respect to that. And so that's just sort of a practice that I've implemented within all of the organizations and companies that I work to. I did want to also just sort of touch on a couple of other practices and that really does talk about exposing my attorneys internally and my outside counsel associates as well, to make sure that, you talked about Joe, the top matters that matter. All of my matters, from a corporate perspective, matter.

And what I challenged my outside counsel is to ensure that the teams that are representing me are diverse and if they can't be, I have actually moved my matters to a firm where you can ensure that there is meaningful diversity. I have had law firms that have put the, quote, unquote, "token" person of color on the transaction and deal and wanted to bury them and due diligence where I had no interaction. I didn't even know who the individual was. That's not acceptable to me and I have no issue at all with making sure that my outside counsel is fully aware of that and challenging it. So both internally with my team, I make sure that my team members have visibility with the higher individuals

internally and externally with my outside counsel, I challenge my outside counsel to make sure, particularly on a large transaction, that I've got people of color of that law firm who will get credit for that matter, that matters.

Dean Pratt: I love that, I love that all of you have, in position to have the power, to make some structural change, to make things better, for people who are marginalized and minoritized. So I want to move to the concept of racial isolation, because we see in the literature that people actually underperformed both in law school and in the workplace when they experienced racial isolation. And so in law schools, we're often talking about trying to develop a critical mass of students who have a shared identity so that they don't experience racial isolation. I went to Howard Law School. I had the privilege of having lots of other Black people around me in law school. So I didn't not experience racial isolation. It was not something that was a part of my education, but I did experience it when I joined a large law firm and so how do you address that issue to ensure that students of color and Black students or Black young lawyers in particular are not feeling like they're on that island by themselves? And they start to wonder whether this is the place for them to work. And I'll start that with Joe, since I know Joe is addressing this.

Joseph: Yeah, our employee resource groups or affinity groups people use that term interchangeably, I think has been very, very helpful for our lawyers of color and frankly, Carla, for staff as well. When we launched our employee resource groups — and we have African American, Latino, Asian American, LGBTQ which is our pride group, and disability — we also have, Carla, you'll be interested to know, Native American ERG. There are two members of that, but you know what, it's a group and they enjoy it. It's been a tremendous resource, both for acting and serving as kind of a gathering place for people of color, particularly African Americans and the fact that we started an ERG for staff, they meet separately, but occasionally meet together so that they can share an exchange and that has the effect of sort of lessening the isolation that the lawyers feel because, there are fewer lawyers than there are Black staff. The other thing we started doing during the pandemic, because the big concern that I had, particularly for the African American lawyers and especially African American associates is, in a number of our offices there's already isolation when people were seeing each other every day, but the pandemic and the lockdown created even greater sense of isolation.

The first week after the lockdown we started having weekly, what we call our three Cs Zoom calls, the C stood for communication, continuity, and community. For the communication part, I'd have the chairman of the firm join for the first 15 minutes of the hour to answer questions. I mean, if we think back, I think we've gotten used to Zoom universe and we forget how things were that first week or two. I mean the fear was palpable, people were concerned about, am I going to have a job? Are my clients going to be viable? Is the firm going to survive this? So I'd have the chairman of the firm join and no question was off limits. He'd answer the questions, so people felt informed. But the continuity piece, we spend time every week talking about ways in which people can remain viable in the marketplace and in the firm. Connecting them with practice groups that had business and that sort of stuff and then the third piece, because I know the time is quickly upon us, was community. We would just give people the opportunity to talk about what was happening with them, and just testify "My kids are driving me nuts." "I had a dog barking on my last Zoom." whatever it was just to give people that sense of community. So those are just a couple of ways that we try to ensure that people are tethered to not just the firm, not just to the work, not just to the client, but each other in a way that they might otherwise not be able to do.

Dean Pratt: Thank you, Joe. So my next question is for John. John, Joe talked about employee resource groups or affinity groups, and sometimes those groups can cause racial resentment to happen, if let's say there's, White males who say, "Well, where's my ERG, where's my group?" How

do you deal with that pushback from people whose identities don't fit within an employee resource group in your workplace?

Joseph: It's a great question and the short answer is that care has to be taken in the messaging around why employee affinity groups are created as not to cause the dynamic of isolation. I was in between practice and an in-house lawyer actually seconded to HR for a few years at Coke — and I was the company's global chief diversity officer — and so I was the executive sponsor of resource groups and every so often we would get a resource group. We had a Christian resource group requested, we had a UGA, we had an Alabama resource group requested in University of Alabama, roll tide. So the question was where were the boundaries for, what we were trying to do and what we were trying to accomplish and with these affinity groups, and the best example I think that we developed, was this notion of allyship that we saw with the LGBT ERG. I happened to be the parent of a non-binary kid. So I had a special affection for our LGBTQ community and I explained, I said, to the extent that allyship is your stake with this community, then you should find your place in all of these. You should find your place with the LatinX community. The thing is, and there's great work here and we've talked around bias a bit, I've done a bit of bias training for some of our firm's law departments. And by the way, I would commend to you all the ABA section on litigation has done a fantastic job rolling out an implicit bias toolkit and there are slides. There are reading materials, it's available. If you can download the ABA's slides and give your own implicit bias talk for 90 minutes, but great reading. But the implicit bias materials talk about a couple of concepts. This whole notion of in-group favoritism, as opposed to out-group hostility. The the 20th century version of this talk was I don't like those people. We don't speak, in those terms anymore, but we do have these biases that favor "John reminds me of myself at that age", and so what we do when we begin to move people out of their cultural circles — when we begin to move them into other spaces — we expand them a bit. The Carol Dweck work — the growth mindset — we expand people's horizons and we help them better understand. I remember going to a national bar association conference that we had sponsored as a company and then a few of my White colleagues came and they were kind of clinging behind me and I said, what are you nervous? The only White guy here? I said, welcome to my law school okay? Welcome to the three years I spent as one of seven people, in a first year class of 500.

Dean Pratt: You should have come to Howard.

Denelle: I was getting ready to say you wouldn't have that issue.

John: Absolutely well, I sent a kid to Howard, so I do have the T-shirt. But the thing of it is that what we lack, and unfortunately, and I've said this to a lot of my partners, as well is everybody, even the most accomplished Magna, Law Review, Order of the cloth person, what he didn't take in law school, what she didn't take in law school was a class about how to develop and train talent. And that's precisely what we're asking relationship partners and practice group leaders to do — to take young people, not yet fully baked, the force is strong in them but they don't quite know what they're doing — and to develop and train them. So this whole model of we just throw them all in, and some will drown, and some won't drown. I think is giving way to this idea that there's talent embedded. It is a separate, distinct skillset to figure out how to draw that talent and identify that talent in it's rawest forms to begin to develop. So this is really more of the burden of partners and the people who own and run firms than it is of the talent. Because as I've told every associate at this firm, anybody who has made it through the process and has gotten into an AmLaw, you fill-in-the-blank firm, bring some level of talent, some level of initiative, some level of genius, some level of hard work. And it's incumbent upon us to figure out how to draw that out and to recognize again, we'll commend the ABA work to you, but the work that the ABA has done on the dearth of Black women in particular in large law firms ought to be must-reading for everybody, because it talks about this double-blind of

gender bias, this double-blind of racial bias and all of these things that Black women bring into law firms incremental to the pressure of being a big firm lawyer. And so there's a bit of empathy that comes into play and there's a bit of higher level of understanding of how to coach and incent and inspire talent, that I think is still a big opportunity for us. So the racial isolation is real and if you talk to lawyers, like the folks on this distinguished panel, they will talk about those moments where I had to leave the racial guy at home because I had to get this motion out. I had to I had to step away to do these other things. And it's not something that law school addressing either, at least not in the stone ages when I was there.

Dean Pratt: So we've talked a little bit about employee resource groups as a mechanism for mitigating bias and racial isolation in the workplace. I want to turn to James and ask James, have you seen any other measures that are effective at creating an inclusive climate for Black lawyers, and differently able lawyers and lawyers on the LGBTQ spectrum? What measures have you seen that are effective at creating an inclusive climate?

James: Good question, I will say, let me go back to what John said earlier. My experience was similar to his, when I started at my firm Perkins Coie, I think I was the only African American in the litigation group anywhere and there were no secretaries, there were no paralegals. It was just me and I think there was another corporate African American associate about seven floors up. So it was a very isolated world and the kind of world where it's easy to feel that you're not a part of anything. So I made the concerted effort to create my own sense of community and inclusion. I turned to the African American Bar Association, the National Bar Association affiliate in Seattle is called the Lauren Miller Bar Association. It was created in 1968, really address housing issues in the city of Seattle. And I felt that I needed to have a connection to that Black community in order to feel like I had someone who knew who I was and where I was. And I ended up being the president of the Black lawyers because of that and that relationship, I think inured to my benefit overall in the firm, because it proved that I had bonafides within the minority community that I came from. So that was one thing that I think was very important for me in terms of being successful, deeply, immersing myself in being connected to the African American lawyers who were a part of the ecosystem. And then I would say, making sure that I continue to cultivate relationships for the people who I wanted to be sponsors within the organization, because in large law firms, you don't get promoted unless you have a sponsor. You got to have somebody who's going to stand up and raise their hand and say, this person has the requisite skill and capability to operate on their own and I will bet my book on him or her. It takes a long time to cultivate that relationship and you got to get started on early by delivering, again, outstanding work but also building the relationship over time and I think that helped me feel like I was more included as a part of the firm's team and I also felt that I had people outside of the firm, interested in my destiny and who would from time to time inquire about how I was doing inside of the firm.

Dean Pratt: Thank you so much, I love that, find your anchor outside the workplace, if it doesn't exist within your workplace and the ABA, I think has been an anchor for many of us. I love that and building a relationship with someone that you identify can serve as a sponsor, has the power, the reputation, the influence to be that person for you. Well, we're running out of time, but I do want to turn back to bias because we've talked a little bit about implicit bias, but I want to conclude by talking about what we can do in our workplaces to mitigate the impact of confirmation bias on the work of young associates or young lawyers in corporate settings. And so Denelle, have you seen anything that's effective at mitigating confirmation bias? Some of our students and our young lawyers, especially Black lawyers are laboring under the stereotypes assigned to their racial identity and for us as Black people, that stereotype is that we are less intelligent and so you're probably familiar with the study that shows that two memos having the exact same number of errors when the observers were told that it was, a Black lawyer, the assessment of the memo was much more critical than

when the group was told that it was written by a White lawyer. They were much more forgiving and thought, oh, this person, overall did a great job, but probably didn't have enough time to proofread carefully. So excuses were made to compensate. So how do we mitigate confirmation bias?

Denelle: Yeah, so I think given the short period of time, as we're getting this little nudge from Bo, is that we actually have touched on many things that have been happening from a practice perspective, a policy perspective, a guidance perspective to help mitigate that, not eliminate, but mitigate that. And again, it starts from my perspective with me, and it starts with me being that advocate, being that sponsor, making sure that the individual who I'm elevating, increasing their profile, or what have you, making sure they get those good assignments, making sure that they have the visibility of the C-suite in particular. So that those biases can be, quite honestly, torn down and eliminated because I'm certainly going to make sure that anyone that's a part of my team that I have brought on board, or it's still a part of my team is going to be top-notch and so I would have no issue putting them forward in order to be in a position to tear down those confirmation biases. But I take it personally because I need to be his or her champion. I need to be in a position to, quote, unquote, defend — or I shouldn't say "defend" — challenge those biases that I am seeing with my peers, even the higher C-suites or things along those lines, my internal stakeholders. So I take a personal perspective with respect to that. I feel like there is in fact, an obligation on each of us at our level to be in a position to challenge appropriately on behalf of our team members, our associates, our younger lawyers, our aspiring DCs and partners and things along those lines. So I'm short-cutting it a little bit because of the time and the little notification, but I really feel like it really is incumbent on us, in large part, to help challenge those biases.

Dean Pratt: Well, I think, that the theme that I heard today is that it's really important for Black lawyers to be in positions of power. Like each of you are to have that influence and have the ability to challenge structures that replicate the exclusion of Black lawyers from elite spaces. So thank you all for making time to join us today.

[bright upbeat music]

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