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**How Transitioning from Traditional Firm Business Models to a Resolution-Oriented Model Promotes Diversity & Increases Firm Revenue: Empowering Law Firm Management to Embrace A Cultural Shift**

## I. Introduction

Understanding the interplay between firm diversity and generating revenue requires a cultural shift in firm management. It necessitates actively setting forth various models of success as viable and financially rewarding for associates. Beginning this cultural transition requires critical thought as to how the traditional law firm business model serves as a handicap to firm growth and health. Specifically, how the traditional law firm model serves to defeat true diversity and specifically, promotion and retention of women and millennial attorneys. The tradition model is not an attractive model for insurance clients and has a negative impact on firm revenue. It often serves to undermine the importance and use of legal metrics as a tool to collaborate with insurance company clients. And most importantly, it impacts attorney development, growth and success.

Consequently, we will provide interactive strategies for firm management to successfully embrace firm business models that promote a resolution-oriented litigation model removing emphasis off billable hours and onto key performance indicators; specifically rewarding resolution-oriented litigation practices. We will explore models that incentivize alternative work schedules and client development plans that capitalize on the strengths of diverse lawyers. Show managing partners how to incorporate the needs of diverse lawyers into a firm practice and actively model that for associates. We will also discuss how Prioritizing the use of legal metrics as an integral part of attorney success. This in turn creates a culture that stabilizes and grows firm revenue, solidifies relationships with insurance clients, promotes a healthy and balanced practice for lawyers.

## II. The Traditional Law Firm Model: Why It Fails Attorneys & Clients

### A. Clash of Cultures: Legal versus Corporate

It is first imperative to understand the underlying “culture” of a traditional law firm model and how that differs from the insurance industry culture. “Culture” describes the values, philosophy, shared objectives, and interactions—internal and external-- of its members. Corporate culture, like the insurance industry, at its best, aligns the interests of the enterprise with customers and empowers workers with a collective and collaborative mindset.

This type of collaborative, customer-focused culture is clearly demonstrated in the practices of the insurance companies defense firms work with. Most companies have a structure in place that prioritizes team work, team building and open communication from top management down to the line adjuster. Likewise, insurance companies are constantly re-assessing and aligning their business practices and services to meet the needs of their customers.

Although law firms, like the insurance industry, are client/customer based, the traditional culture of the law firm looks nothing like that of other customer based corporate culture. Rather than legal culture being client or customer based, its culture is centered around lawyers. Specifically, one type, or model, or lawyer.

### B. Diversity in Firm Management is the Key to Initiating Cultural Shift

Legal culture was forged by white, middle-aged lawyers for their peer group. This type of culture is insular and homogeneous. The traditional law firm model tends to foster a culture that is rigid, hierarchical, pedigree-centric, internally-focused and cautious. It relies on self-regulation, in the form of billable hour requirements, to not only maintain the status quo, but foster competition between lawyers. Again, it is lawyer-focused.

This culture promotes territorialism and competition by obtaining clients and keeping that client relationship insular. There is a lack of proactive succession planning when it comes to clients: they are often seen as clients that belong to a particular lawyer; not firm clients. This of course is for the benefit of the lawyer, not the client.

Diversity is conspicuously absent from the traditional law firm model, especially in firm management. There is a constant undercurrent of maintaining a homogenous composition of lawyers; despite the fact that our clients explicitly tell us they not only want, but often times require, diverse panel counsel.

As justification for this traditional model, firms promote and perpetuate “lawyer exceptionalism.” Lawyers are trained to be “right,” risk-averse, and to identify problems. Lawyers are not trained to be collaborative, reasonable, weigh risk versus reward or be resolution-oriented. Rather, law creates its own standards of excellence that are based on: reputation, ratings and for defense lawyers – the sheer number of billed hours annually. Most lawyers believe it’s better not to make a mistake than to be creative in solving a problem. Lawyers are not trained or encouraged to be innovative – neither in their approach to handling cases nor to firm management. The result is that the lawyer stays squarely at the center of this model; not the client.

All of the above take precedence over client-satisfaction and metrics. This model is reward a continued adversarial approach to litigation, which serves only to increase legal spend, increase cycle times of cases and does not foster trust with insurance clients. Perhaps most devasting to revenue and client satisfaction, is that this model rewards a singular type of attorney and does not promote diversity. In order for defense firms to begin to change the culture, we need to listen and follow the lead of our corporate clients. Not only do we need to prioritize clients at the center of our business model, but we need to follow their lead in re-shaping the legal culture.

## III. Diversity in Firm Management is the Key to Initiating the Cultural Shift

We know intuitively that diversity matters. It’s also increasingly clear that it makes sense in purely business terms. The latest research finds that companies in the top quartile for gender diversity are more likely to have financial returns above their national industry medians. Companies in the bottom quartile in these dimensions are statistically less likely to achieve above-average returns. Diversity has been shown to be a competitive differentiator in attracting and maintain new client relationships.

While correlation does not equal causation (greater gender and ethnic diversity in corporate leadership doesn’t automatically translate into more profit), the correlation does indicate that when companies commit themselves to diverse leadership, they are more successful. More diverse companies attract top talent and improve their customer orientation, employee satisfaction, and decision making – this in turn leads to increased revenue. Given what we know about gender diversity in management, this then suggests that other dimensions of diversity also bring competitive advantage for companies. If they are able to first attract, then attract and retain diverse talent.

### A. Firm Diversity Will Drive Financial Performance for Law Firms and Reduce Costs for Insurers

Three Studies that were published in 2018 add to the growing body of evidence in favor of diversity and inclusion, finding that gender parity and racial diversity, particularly in decision-making roles, has a meaningful impact on companies’ innovation, productivity, and profitability. In relation to a defense firm, the innovation and productivity impacts the way in which cases approached and litigated. Such innovation generally promotes a resolution-oriented approach which drives down legal spend for clients.

### 1. Study No. 1: Diversity Impacts Innovation.

The first study[1] was conducted by Richard Warr, Professor of Finance at North Carolina State University and Jing Zhao of Portland State University. The Study's finding is that companies that score well on indicators of diversity tend to be demonstrably more innovative.

"The study looks at the performance of 3,000 publicly traded companies in the years 2001-2016 across nine measures of diversity. That includes whether firms have women and minority group CEOs, whether they promote women and people of color to "profit and loss responsibilities," whether they have positive policies on gay and lesbian employees (say, offering benefits to domestic partners), and whether they have programs to hire disabled employees.

The big takeaway: Companies that fulfill all nine positive diversity requirements announce an average of two extra products in any given year, which about doubles the average for a major company (those that tick fewer boxes are less innovative proportionally). Moreover, the research finds that companies with pro-diversity policies were also more resilient in terms of innovation during the 2008 financial crisis."

These findings support long-standing research that diverse management and businesses are more likely to: challenge their assumptions and biases; more likely to engage in productive debate; and able to access a wider range of perspectives. When this is applied to law firms, it is clear how increased diversity would necessarily begin to shift the firm culture towards innovative, collaborative, resolution-oriented service for clients.

### 2. Study No. 2: Diversity on Executive/Management Teams Impacts Performance and Increased Profitability

The second study[2] was conducted by McKinsey Organization and served as a supplemental study that was conducted in 2015. The new analysis used a larger data set of more than 1,000 companies in 12 countries, measured both immediate-term profitability and long-term value creation, and takes a broader view of diversity. The key findings of that study show that diversity on executive teams has a particularly strong impact on company performance:

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[1] Do Pro-Diversity Policies Improve Corporate Innovation? R. Mayer, R. Warr, J. Zhao. Dec. 18, 2017. www.doi.org/10.1111/fima.12205

[2] Diversity Matters. V. Hunt, D. Layton, S. Prince; McKinsey Org. January 18, 2018.

The 2018 McKinsey Study found that

> "having gender diversity on executive teams, specifically, to be consistently positively correlated with higher profitability across geographies in our data set, underpinning the role that executive teams—where the bulk of strategic and operational decisions are made—play in the financial performance of a company.
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> In our 2017 data set, we looked at racial and cultural diversity in six countries where the definition of ethnic diversity was consistent and our data were reliable. As in 2014, we found that companies with the most ethnically diverse executive teams—not only with respect to absolute representation but also of variety or mix of ethnicities—are 33% more likely to outperform their peers on profitability. That's comparable to the 35% outperformance reported in 2014, with both figures being statistically significant."

The McKinsey report also finds that companies with low scores on gender and ethnic diversity tend to underperform their peers, suggesting that not only is Diversity and Inclusion profitable, a lack of attention to it is costly.

### 3. Study No. 3: How Diversity Drives Innovation and Profits

The third study, by the Boston Consulting Group[3], attempts to narrow down precisely where and how diversity drives innovation by looking at more than 1,700 companies of various sizes and industries in eight countries. The findings of this study were reported in the *Harvard Business Review*.

Significantly, management teams with above-average diversity reported earning nearly half their revenue from innovative products and services – that was 20% higher than most companies with below-average diversity on their management teams. Additionally, the findings revealed that with diverse management teams reported better overall financial performance. Earnings for those companies were 10% higher than companies with below-average diversity in management.

The BCG study also looked at more than 1,700 companies across 8 countries. The study revealed, "[d]iversity offers organizations a wide range of benefits, and our analysis shows that having a **more heterogeneous** team delivers measurable gains in innovation and financial performance. Multifaceted teams offer a robust range of perspectives, and this allows organizations to formulate strategic solutions that can help them efficiently

[3] How and Where Diversity Drives Financial Performance, CBG Consulting. Harvard Business Review, Jan. 30, 2018.

accomplish their goals, overcome challenges, bring new ideas to the table all while increasing profits."

### 4. Application to Law Firms

Not surprisingly, there are virtually no studies that are specific to law firms. In fact, it is well noted in multiple articles that the legal profession still ranks at the bottom for advancements in diversity, and it is dismal when looking at diverse firm management. This relates back to the pervasive, homogenous legal culture. Regardless, when looking at the metrics and advantages that diversity brings to the table for corporations, it is easy to see how incorporating diversity in law firms, particularly, defense firms would increase revenue, client relationships and attorney health.

For firms that put into practice diversity and inclusion, there is a noticeable shift from an adverse, billable hour driven model, to a resolution-oriented practice that places the client relationship at a premium. While the billable hour revenue may at first may not be as high, the longer this becomes a firm culture, the book of business, or client base, begins to grow. It is these innovative ways of viewing firm success, management and case outlook that results in long-term success.

## IV. How to Begin, Maintain and Succeed at Moving From a Traditional Law Firm Model to a Diverse, Resolution-Oriented Practice

If the challenge is to shift the culture and close the diversity gap, firms first need to know how big that gap is and what is causing it. Most firms have zero data on the diversity of their firm or talent pipeline over a period of time. Consequently, firms are wholly unable to accurately identify problems or implement interventions to solve them. Firms must approach diversity as they would any other business metric. Specifically, firms need to establish clear metrics regarding recruitment, retention, advancement and representation – in addition to equal pay.

In order to truly embrace diversity, it is imperative to also practice inclusion. In a traditional firm setting, this necessarily making that shift from homogenous lawyer-centered culture to hiring, encouraging and rewarding various lawyer models of success. Several ways which have been effective for defense firms are based in financial reward and flexibility in schedule. Firm management needs to be financially rewarding attorneys who successfully practice various models of success and then promoting those models that work. When managing partners begin to use different model of success – that do not look like the traditional adversarial, homogenous lawyer - that lends to representation of diversity in management. And as studies have shown, having representation in management is a key factor to retaining diverse talent.

It has also been crucial to incentivize alternative work schedules and client development plans that capitalize on the strengths of diverse lawyers. And perhaps most importantly, it requires that managing partners of all genders, race, etc… understand how to incorporate the needs of diverse lawyers into a firm practice - then actively model that for associates.

Finally, firms need to acknowledge that a strictly billable hour driven practice is an inhibitor to diversity -and to the health of client relationships. Firm management needs to curate and implement the use of applicable key metrics as an measure of success for lawyers. When key performance indicators such as: measurement of case cycle times, rate of resolution and average legal spend on specific file types is taken into consideration, the traditional firm model begins to break down and make way for other models of success. In fact, this type of firm management models and encourages innovation. When this occurs, there is a trend towards an innovative, resolution-oriented practice which meets the needs of a heterogenous and diverse group of lawyers.

## V. Why a Diverse Firm Benefits Clients

As discussed above, not only does a diverse firm increase revenue and profits, but it also benefits the client. Which in turn eventually will build and increase the firm's client base. But for the client, a diverse firm will encourage an innovative, often times resolution-oriented practice, which increases trust and communication between lawyer and clients. The innovative ways of viewing cases and the litigation process will serve to decrease in legal spend and cycle times, which is beneficial to the insurance company and the insured client.

Diverse firms provide for innovation and a collaborative approach to cases. This helps firms move away from a model that promotes an adversarial, billable hour churning approach to litigation. Rather, through different perspectives on cases and management, the focus is placed on innovative ways to resolve claims and cases.

And finally, a diverse firm reflects the values of insurance company clients. Not only do many insurance companies expect that firms will implement and practice diversity and inclusion, but some now require this of panel counsel. If a firm is able to shift the culture and embrace diversity in management and throughout the firm, this can be used as a solid marketing tool for potential clients.