

2010

LAW FIRM DIVERSITY
BENCHMARKING REPORT

REPORT TO SIGNATORIES OF THE STATEMENT
OF DIVERSITY PRINCIPLES

NEW YORK
CITY BAR



2010 Diversity Benchmarking Study:

A Report to Signatory Law Firms

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EXECUTIVE SUMMARY

The New York City Bar adopted a Statement of Diversity Principles in 2003 and subsequently began tracking diversity benchmark data for signatory law firms as a means to measure and accelerate the change process. This fifth reporting of diversity benchmark results – which spans years of great economic growth and great economic decline – highlights longer term progress mixed with perennial challenges and recent backsliding. The results call for a renewed commitment to diversity in the legal profession, for greater attention to retaining and continuing to develop the many diverse attorneys already practicing at signatory firms, and for strengthening the integration and implementation of existing diversity efforts.

Based on analysis of the benchmark data over several reporting periods for which the New York City Bar has tracked information, multiple ***persistent challenges*** emerged.

Overall Progress Slow, Turnover Erodes Diversity Gains and Steep Pyramid Remains Well Entrenched

While signatory firms have improved their collective diversity profile since the New York City Bar began collecting benchmark data in 2004, the slow rate of change is cause for concern. Women partners increased 1.9% (from 15.6% to 17.5%) while minority partners rose 1.6% (from 4.7% to 6.3%) over six years. At this average annual rate of change, it will be several decades before either women or minority attorneys are represented among partners commensurate with their total representation among all attorneys at signatory firms.

Despite clear, continuing efforts to bring in diverse attorneys at the entry level and to elect more diverse new partner classes, the elevated turnover of women and particularly minority attorneys erodes these gains. Since the New York City Bar began collecting voluntary turnover data in 2005, minority associates and partners have consistently had higher attrition rates than white attorneys. In 2009 turnover for minority attorneys was 36% higher than for their white colleagues. The pattern was less consistent for women attorneys but the turnover rate for women associates and partners has exceeded that of men over several time horizons. In the most recent reporting period the turnover rate was 12.1% for women versus 9.5% for male attorneys.

The need to elevate the diversity discussion and to redouble efforts to hire, retain and promote diverse attorneys is powerfully illustrated by the law firm pyramid. Women represent 45% of associates, dropping to one in three special counsel attorneys, less than one in five partners, and one in 20 managing partners at signatory firms. The pyramid is even steeper for minority attorneys, accounting for nearly one in four associates yet only one in 10 special counsel attorneys and slightly more than one in 20

partners. This pattern has changed little over the six years that the New York City Bar has been tracking diversity statistics. Expanding the time horizon illustrates the ongoing challenge of broadening the law firm pyramid. While women have represented 40% of law school graduates since the mid 1980's – and minority attorneys 20% since the mid 1990's – their lack of progress moving up the hierarchy over all these years underscores the seriousness of the challenge.

Persistent Gap in Retaining Diversity of Pre-Partner Pool Compounded by Increasing Importance of Lateral Partners

Year after year firms are not realizing the full diversity of their pre-partner pools. Comparing the diversity profile of new partner promotes with the underlying class, which is the primary source of internal talent, highlights an ongoing gap. For example, women accounted for 42% of the remaining class of 2001 at signatory firms yet only one in three of new partner promotes in 2009. For minority attorneys the gap was 10% with minority attorneys representing 21% of associates remaining from the class of 2001 and 11% of the 2009 new partner class.

One of the most positive ongoing trends has been that new partner classes are far more diverse than the existing partnerships that they enter. However, the composition of new entrants to the partnership has been changing in recent years with greater emphasis on lateral partners vis-à-vis internally promoted ones. Less than half of additions to firm partnerships in 2004 were lateral partners while in the most recent data they represented two-thirds of this group. The reality that lateral partner hires are far less diverse than those internally promoted is troubling for future diversity gains at the partner level.

Women of Color and Asian Attorneys Struggle to Progress

Women of color continue to be well represented among entering attorney classes yet by every measure tracked, over several years they lose ground quickly and precipitously. In the most recent results women of color accounted for nearly 15% of new associate hires but only 9.5% of the pre-partner pool, 4.5% of the most recent partner promotes and just 2.1% of law firm partners. Perhaps not surprisingly, they leave signatory firms at a consistently higher rate than their colleagues.

Asian attorneys represent the greatest percent of minority attorneys (54% in 2010) but decline proportionately as they advance through the law firm hierarchy. They represented 55% of associates, 49% of partners, and 36% of practice group heads among all minority groups in the 2010 diversity data and this declining pattern has persisted through several reporting periods.

Diversity Declines in Recent Results

Recent declines in the signatory benchmark data were seemingly a delayed reaction to the recession beginning in 2008. We found ongoing progress for women and particularly minority attorneys in the March 2009 results yet the 2010 data illustrated slippage across several diversity indicators. Minority attorneys as a percentage of the total declined overall and at every key level up to partner while women attorneys marked percentage declines among partners and overall. Another disappointing reversal was a drop in the percent of women and minority attorneys among new partner promotes. Over several recent periods the percentage of women and minority attorneys among the pool of new partner promotes had continued to increase while in the 2010 data representation declined for women from 32.8% to 31.9% and for minorities from 17.2% to 10.8%.

More dramatically, when we analyzed data for the 83 firms that reported diversity information in both the 2009 and 2010 periods – or a static universe comparing apples to apples – we found that women and minority attorneys declined to a greater extent, 5% and 12%, than attorneys overall (4%).

Some Good News

Despite much disheartening news, there were some clear bright spots in the benchmark data. The diversity profile of practice group heads improved between 2009 and 2010 from 4.5% to 5.7% of minorities and 14.0% to 15.4% of women as signatory firms broadened the pool of this leadership group. Given the critical importance of practice group heads in attorney retention and development, this was a positive sign. In addition, over multiple years the diversity profile of management committee members has reflected the diversity of the underlying partnerships at signatory firms. It appears that firms have been mindful to ensure this key leadership group remains representative of the full partnership by gender and race/ ethnicity. Another positive ongoing trend is that incoming partner classes continue to be more diverse than the partnerships they enter.

The usage of flexibility has increased from 5% in 2004 to over 7% in the most recent results. While women continue to employ flexible work practices to a far greater extent than their male colleagues and the special counsel role remains the primary avenue for flexibility, the use of flexibility has increased at every level since the New York City Bar began tracking diversity statistics.

Conclusion

The New York City Bar commends the efforts of signatory firms undertaking the difficult work of supporting greater diversity. Yet the full body of benchmark data – marking declines in the short term coupled with lackluster results over the longer term – suggests the need to elevate the diversity conversation. We must turn more fully toward retaining diverse talent and addressing the root issues which impede the development and progress of diverse attorneys at signatory firms.

Firms can utilize their firm-specific diversity benchmark results from the last several years to determine their unique strengths and struggles and to understand the extent to which their experiences track – or do not track – the aggregate results. The road forward requires firms to take a critical look at their current diversity efforts in order to discern what is working, what is not and why. While there is no silver bullet, the legal profession has learned a great deal about best practices that help to inculcate a diversity mindset and that make a difference in moving the diversity needle. Better integrating existing diversity efforts, attention to improved implementation of diversity activities, and continued work to promote firm-wide buy-in will advance diversity progress at signatory firms.

As articulated in the original New York City Bar Statement of Diversity Principles, “We recognize that achieving diversity is an evolutionary process that requires a continued renewal of our commitment to the strategies of inclusion.” We at the New York City Bar look forward to continued collaboration with and support of signatory firms in their ongoing efforts to realize ever greater diversity.

Introduction

With great enthusiasm, the New York City Bar and the signatories to the Statement of Diversity Principles began in 2004 the journey of tracking diversity benchmark data as a means to document and expedite the change process. This fifth reporting of benchmark data, marked by turbulent economic conditions, provides a moment to pause, step back and acknowledge what has been accomplished. More importantly, it is a time to take a hard look at the road ahead. In addition to slippage of hard-won diversity gains during the most recent reporting period - which reversed promising trends documented in the 2009 results - the longer term picture of incremental gains is disappointing.

Four goals were articulated in the Statement of Diversity Principles for New York Law firms, including 1) within three years hiring entry level classes that substantially reflected the diversity of graduating law students, 2) within five years achieving a level of diversity throughout a class's progression that was at least as great as when the class was first hired, 3) within 10 years reflecting the diversity of senior associates among those promoted to senior counsel and partner roles, and 4) achieving diversity among firm leadership positions that reflected the diversity among senior legal professionals. These goals remain a work in progress.

It is time again to renew our commitment, expand our thinking and continue to vigorously implement the many successful practices that we know do indeed lead to improved diversity.

This report will highlight:

- Persistent challenges documented over several years through the New York City Bar diversity benchmarking results

- Changes during the most recent reporting window marking the turbulent period from March 2009 to March 2010

- Positive longer-term trends and shorter-term indicators

1) PERSISTENT ISSUES FOR SIGNATORY FIRMS

Little Improvement through Time

While signatory firms have improved their collective diversity profile since the New York City Bar began collecting benchmark data six years ago, the slow rate of change is cause for concern. We can bring perspective to this problematically slow rate of change with some simple calculations. The representation of minority attorneys has increased among the partnership ranks of signatory firms from 4.7% to 6.3% since 2004. With this continued change, the representation of minority partners would not equal their total representation among minority attorneys (16.6% in 2010) for more than 40 years. For women attorneys, having women partners closely approximate their representation across firms would require more than 50 years. These results seem unacceptable if the law is to reflect the society which it serves. NALP described the progress as marginal over the 17 year period during which the association has been tracking diversity statistics with women partners increasing from 12.27% in 1993 to 19.43% in 2010 and minority partners from 2.55% to 6.16%.

Over the full period from March 2004 to March 2010, women and minority attorneys have reported gains increasing at the overall attorney level as well as at the associate, special counsel and partner levels. Unfortunately, the most recent results were a reversal of this promising trend for minority attorneys at every level and for women attorneys overall and among partners.

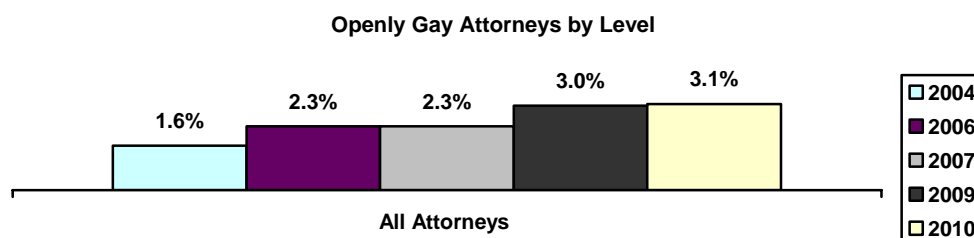
-----Minority Attorneys----- -----Women Attorneys-----

	March 2004	January 2006	January 2007	March 2009	March 2010		March 2004	January 2006	January 2007	March 2009	March 2010
Assoc.	21.1%	21.3%	22.8%	25.0%	23.5%		43.6%	45.0%	45.1%	45.2%	45.1%
Special Counsel	5.5%	8.2%	8.9%	9.5%	9.1%		35.3%	34.4%	35.2%	34.6%	35.4%
Partners	4.7%	5.0%	5.4%	6.6%	6.3%		15.6%	16.6%	16.6%	17.8%	17.5%
Total Attorneys	15.2%	15.2%	16.5%	18.1%	16.6%		35.0%	35.2%	35.9%	36.0%	35.3%

Another key dimension of diversity tracked in the New York City Bar benchmark research - the representation of openly gay attorneys - has also improved through time, albeit gradually. A portion of this increase can be attributed to better data tracking, identifying and subsequently eliminating from aggregate calculations those firms who do

not track anonymous information on the sexual orientation of their attorneys. Over 80% of signatory firms indicated tracking information on sexual orientation in the latest benchmark results.

Openly gay attorneys represented 3.1% of all attorneys across signatory firms in the 2010, rising from 3% in 2009 and 1.6% in 2004. The representation of openly gay attorneys declined by level in the latest results, from 3.5% of associates to 2.9% of special counsel attorneys to 2.4% of partners.



Disabled attorneys remain a largely hidden dimension of diversity. Only half of signatory firms indicated tracking information on disabled attorneys and many attorneys may not choose to share that private information, particularly if their disability is not externally visible. Disabled attorneys represented less than 0.3% of all attorneys at signatory firms. NALP reported 0.24% of disabled attorneys in their 2010-2011 Directory of Legal Employers.

Voluntary Turnover¹ Erodes Proactive Efforts to Diversify Key Feeder Pools

Firms have focused on recruitment and promotion as primary levers in their efforts to diversify their ranks. At both the entry level and at the partnership level through internal promotes, firms have been proactive in seeking to improve the diversity picture. The challenge is that the elevated turnover of minority and women attorneys makes for a leaky pipeline and while firms concentrate on the feeder pools at key levels, those attorneys leaving the firm erase some of the gains.

The higher turnover rates of minority attorneys - relative to white attorneys - are particularly acute. For the 2009 calendar year, the turnover rate for minority attorneys was 36% higher than for their white colleagues (13.3% vs. 9.8%); in 2008 the differential

¹ The New York City Bar collects data only on voluntary turnover or turnover initiated by the attorney. It does not collect information on involuntary turnover as a result of performance issues or layoffs. The turnover rate is calculated as the number of attorneys who voluntarily left the firm over the calendar year divided by the representation of attorneys at the beginning of the period (or the end of the previous year).

was 35%. The turnover rate for minorities has consistently been higher, year after year, at both the associate and partner levels.

	Annual Voluntary Turnover Rates			
	2005	2006	2008	2009
Minority Associates	29.6%	22.8%	18.6%	14.5%
White Associates	26.9%	21.3%	18.3%	13.1%
Minority Partners	8.6%	6.1%	8.2%	6.7%
White Partners	7.9%	5.1%	4.8%	4.7%

The turnover rate for women has generally been higher than for men but the pattern has not been as clear cut. The overall attrition rate was substantially higher in 2009 for women than for men attorneys (12.1% vs. 9.5%). As illustrated in the table below, women at the associate level reported higher turnover than men in some years (2005 and 2008) and nearly equal turnover in others (2006 and 2009). Except in 2005, women partners voluntarily left their firms at a higher rate than their male colleagues in every year since the New York City Bar began tracking turnover statistics.

	Annual Voluntary Turnover Rates			
	2005	2006	2008	2009
Women Associates	28.5%	21.8%	19.4%	13.6%
Men Associates	26.7%	21.9%	17.5%	13.4%
Women Partners	7.2%	5.7%	5.6%	5.7%
Men Partners	8.1%	5.0%	4.9%	4.7%

The impact of turnover can be seen in the profile of associates by class year. One of the four signatory goals was to retain the diversity of entering classes through time. It is possible to look at the evolution of the diversity profile of several classes since the New York City Bar began tracking these results in 2004. The table below illustrates that the representation of women and minority associates as a percentage of all associates generally declined through time.

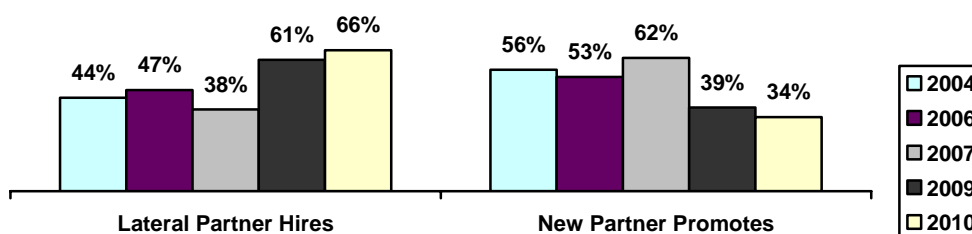
	First reporting	Second reporting	Third reporting	Fourth reporting	Fifth reporting
Women class of 2003	49.6%	49.4%	49.1%	46.1%	44.5%
Women class of 2002	47.7%	47.1%	46.3%	42.7%	40.1%
Women class of 2001	45.2%	44.4%	43.4%	41.8%	43.3%
Women class of 2000	43.2%	41.1%	40.8%	41.4%	38.9%
Minorities class of 2003	26.9%	24.1%	24.1%	24.4%	22.4%
Minorities class of 2002	23.9%	23.9%	24.7%	20.7%	17.2%
Minorities class of 2001	23.8%	23.0%	21.2%	20.7%	20.1%
Minorities class of 2000	23.8%	21.8%	21.8%	20.0%	18.1%

Even with robust efforts to ensure that new associate and partner classes are more diverse, without heightened efforts paid to retention, disparate turnover rates will continue leading to a revolving door of diverse talent.

In the report *Sustaining Pathways to Diversity: The Next Steps in Understanding and Increasing Diversity and Inclusion in Large Law Firms*, the Minority Corporate Counsel Association indicated that women and minority attorneys experienced law firm culture far less positively than their white male colleagues. They found that women and minority attorneys reported having less access to challenging work, to mentoring opportunities and to the informal networks that play a pivotal role in career growth and success. Diverse attorneys were less likely to perceive the standards for partner consideration as objective and perhaps most importantly, they were less optimistic about their future professional success at their firms which understandably impacts their decisions to leave their firms for other opportunities. In addition, work-life integration remains a major challenge for both women and men attorneys. These root causes of turnover must be addressed in order to accelerate the rate of change and stem the tide of attorneys continually leaving firms because they don't perceive a promising future there.

Changing Source of New Partners Challenges Diversity Efforts

A trend highlighted in previous New York City Bar diversity reports is the changing source for entry to the partnership among signatory firms. This trend has been reported by others tracking law firm diversity including the *National Association of Women Lawyers*. The relative percent of new entrants to the partnership coming from external hires – rather than internal partner promotions – has been generally upward. Lateral partner hires increased from less than half of all new partners in 2004 to two-thirds of new partners in the most recent results.

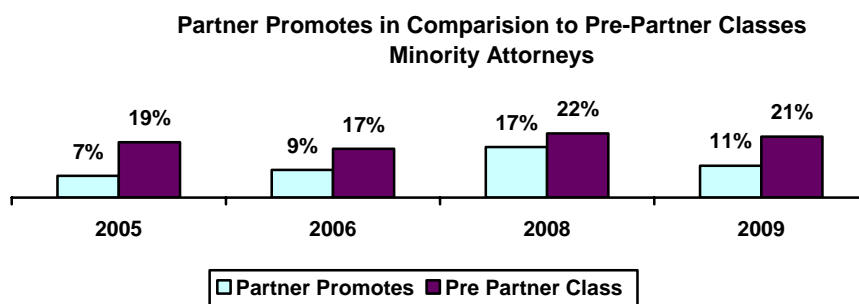


This trend line is of particular concern because it is well known that lateral hires as a talent pool are substantially less diverse by gender and race/ ethnicity than the pool of homegrown partner promotes. Given that proactively elevating a more diverse internal partner class has been among the primary levers used by firms to increase diversity, this movement toward greater importance of lateral partner hires is a concern for future diversity gains.

Gaps Persist Between Internal Partner Pool and Partner Promotes

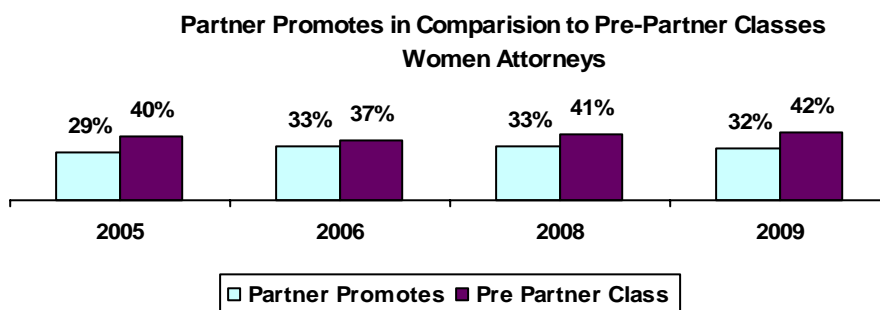
Over several benchmark reports the New York City Bar highlighted that new partner promotions did not fully capitalize on the diversity of the pre-partner pool. Based on the assumption that the average partnership track is 8 years (realizing it may be 9 or even 10 years in some firms), it is possible to look at the demographic profile of new partner promotions in comparison to those attorneys from the relevant class year that would form the partnership pool. For example, the March 2010 reporting represents the partners promoted in 2009. Assuming an 8 year track, the remaining class of 2001 from the previous study would represent those attorneys comprising the relevant pre-partner class. It is visually evident in the graphs that follow that year after year the partner promotes persistently do not represent the gender and racial diversity of the class that is the primary source for those promotions.

One may consider the trending of the differential between the relevant attorney class and the new partner promotes as an indicator of progress with the goal being to eliminate the differential altogether. For minorities, that differential was at its lowest in 2008 with minority attorneys representing 17% of new partner promotes and 22% of the remaining class of 2000 from the prior report. In the 2010 results representing the 2009 partner class that differential increased with minorities accounting for 21% of the pre-partner class yet only 11% of the new partner promotes.



The New York City Bar reported in the 2005 benchmarking report, “Signatory firms should explore whether this discrepancy (between the pre-partner pool and the actual partner promotes) signals bias in the partnership decision making process, lack of honest feedback on partnership prospects, or clustering in practice areas with fewer avenues for partnership.” Understanding the reasons for this ongoing disparity will help target appropriate interventions.

For women attorneys the differential between the potential pool and the actual partner promotes was lowest in 2006 increasing in 2008 and to an even greater degree in the most recent results with women attorneys representing one-third of partner promotes and 42% of the remaining class of 2001.



Women of Color Face a Concrete Wall

The commonly described glass ceiling encountered by women in their efforts to advance to top leadership roles has been called a ‘concrete ceiling’ for women of color. The diversity benchmark data provides evidence of powerful and substantial obstacles which impact women of color attorneys. Despite robust representation in newly entering classes and at the associate level, by nearly every measure they lose ground in comparison to the other three major demographic groups tracked in our data – men of color, white women and white men. They are proportionately less well represented among special counsel and substantially less well represented among the partnership ranks. While women of color make up 8.7% of all attorneys – compared with 7.9% for men of color and 26.7% for white women – they are only 2.1% of partners versus 4.2% and 15.5% respectively for the other two groups. They are proportionately less well represented among the most recent partner promotes and dramatically so among lateral partner hires. Women of color also register higher voluntary turnover than their colleagues in other demographic groups.

	Women of Color	Men of Color	White Women	White Men
Total Associates	13.1%	10.4%	32.0%	44.5%
Special Counsel	4.1%	5.0%	31.3%	59.6%
Partner	2.1%	4.2%	15.5%	78.3%
All Attorneys	8.7%	7.9%	26.7%	56.8%
New Hires (Class of 2009)	14.7%	12.4%	29.8%	43.1%
Pre-Partner Pool (Class of 2001)	9.5%	10.6%	33.8%	46.1%
Most Recent Partner Promotions	4.5%	6.4%	27.4%	61.8%
Lateral Partner Hires	1.0%	8.0%	16.1%	74.9%
2009 Turnover Rate	13.6%	12.9%	11.6%	8.9%

These multiple signs of slippage from significant entering classes of women of color, eroded by turnover and barriers to advancement, are clearly a perennial challenge for law firms. The New York City Bar’s diversity benchmark data indicates that the struggle for women of color to find a seat at the table in law firms remains extremely difficult.

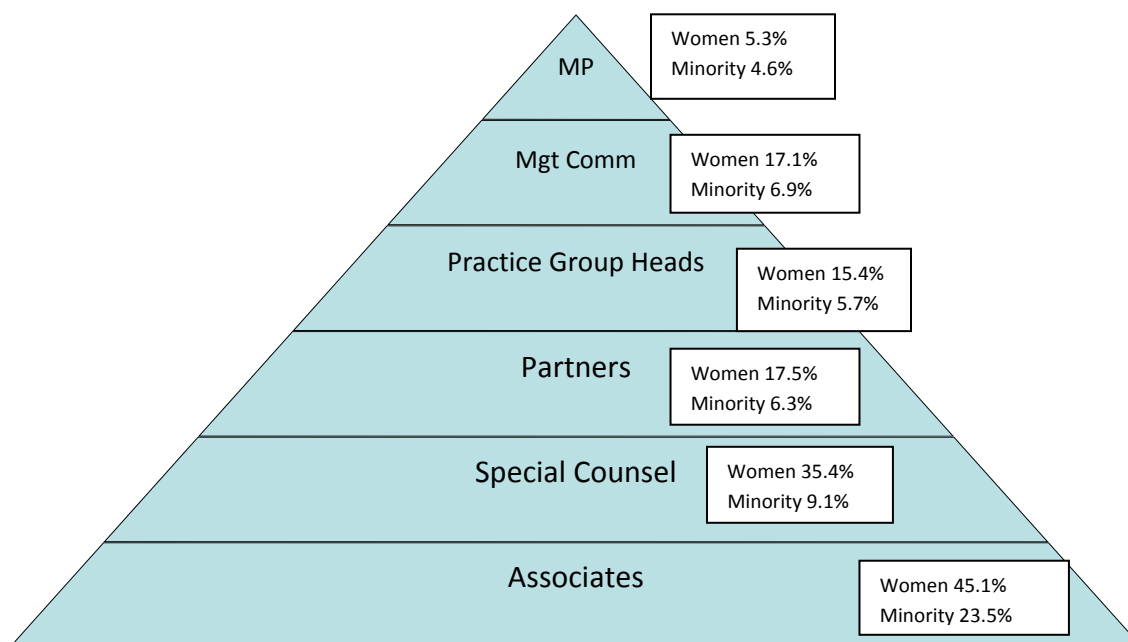
Asian Attorneys Lose Ground

Another persistent challenge evident in the data over several reporting periods was the decline in representation of Asian attorneys as they move up the law firm hierarchy. Over multiple periods of tracking the diversity benchmark data, the representation of Asian attorneys consistently declined with increasing levels. In the most recent results representing March 2010 figures, Asian attorneys were 52.8% of all minority attorneys and declined from 54.6% of associates to 41.8% of partners to 36.1% of practice group heads. The consistency of this phenomenon over several reporting periods of Asian attorneys losing ground is what commands our attention.

	All Minority Attorneys	Associates	Special Counsel	Partners	Practice Group Heads
2010					
Black	20.7%	19.6%	21.3%	28.1%	25.7%
Hispanic	18.7%	17.1%	24.3%	27.3%	29.9%
Asian	52.8%	54.6%	49.1%	41.8%	36.1%
2009					
Black	19.0%	18.6%	20.7%	21.4%	17.5%
Hispanic	19.7%	18.6%	20.7%	27.6%	39.2%
Asian	54.6%	55.6%	53.1%	47.4%	35.1%
2007					
Black	22.4%	22.1%	21.6%	25.4%	33.3%
Hispanic	20.2%	19.1%	22.3%	29.2%	44.4%
Asian	54.0%	55.2%	54.7%	42.6%	14.3%

The Law Firm Pyramid – Demonstrating the Need for Diversity Efforts

The importance of diversity efforts – and the heightened need to grapple with and address the underlying causes of women and minority attorneys lacking an adequate place at the table of law firm leadership – is best illustrated by a simple pyramid. It is clear to see that diversity thins dramatically at the partner level and beyond and remains highly unrepresentative of those who continue to enter the profession. While white attorneys made up three-fourth of associates at signatory firms in March of 2010, they represented 94% of the partnership; similarly women made up 45% of associates yet less than 20% of partners at signatory firms. Conversely white men while accounting for a little more than half of associate-level attorneys (55%) accounted for nearly 80% of partners and practice group heads and 90% of firm chairs among signatory firms.



What is most discouraging is the persistence of this steep pyramid. Compilation of the data for the five periods over which the New York City Bar has been collecting benchmark diversity information illustrates that this hierarchy is well entrenched and has evolved little through time.

-----White Men-----						-----White Women-----					
LEVEL	March 2004	Jan. 2006	Jan. 2007	March 2009	March 2010		March 2004	Jan. 2006	Jan. 2007	March 2009	March 2010
MP/FC	NA	NA	92.8%	88.4%	90.1%		NA	NA	3.1%	7.4%	5.3%
Mgt Comm	NA	NA	82.7%	77.3%	77.8%		NA	NA	12.6%	16.4%	15.3%
PGH	NA	NA	81.1%	82.6%	80.3%		NA	NA	13.8%	12.9%	14.0%
Partner	(84.4%)*	80.0%	79.6%	77.7%	78.3%		(15.6%)*	14.9%	15.1%	15.7%	15.5%
SC	(64.7%)*	61.2%	59.8%	60.4%	59.6%		(35.3%)*	30.2%	31.3%	30.1%	31.3%
Assoc	(56.4%)*	45.5%	44.9%	43.6%	44.5%		(43.6%)*	32.9%	32.3%	31.4%	32.0%
Total	NA	57.4%	56.3%	55.3%	56.8%		NA	27.2%	27.2%	26.6%	26.7%

Note: The data for March 2004 on white men represents all men (minority men and white men) while the data regarding white women represents all women (minority women and white women). Data was not collected in further detail in 2004.

-----Men of Color-----						-----Women of Color-----					
LEVEL	March 2004	Jan. 2006	Jan. 2007	March 2009	March 2010		March 2004	Jan. 2006	Jan. 2007	March 2009	March 2010
MP/FC	NA	NA	3.1%	3.2%	4.6%		NA	NA	1.0%	1.1%	0.0%
Mgt Comm	NA	NA	3.8%	4.9%	5.1%		NA	NA	0.9%	1.4%	1.7%
PGH	NA	NA	3.6%	3.4%	4.3%		NA	NA	1.5%	1.1%	1.3%
Partner	(4.7%)**	3.4%	3.8%	4.5%	4.2%		(4.7%)**	1.7%	1.6%	2.1%	2.1%
SC	(5.5%)**	4.4%	5.0%	5.0%	5.0%		(5.5%)**	4.2%	3.9%	4.5%	4.1%
Assoc	(21.1%)**	9.5%	10.0%	11.2%	10.4%		(21.1%)**	12.0%	12.8%	13.7%	13.1%
Total	NA	7.2%	7.7%	8.7%	7.9%		NA	8.2%	8.8%	9.5%	8.7%

Note: The 2004 data represents the percent of all minorities (minority men and women) by level. Data was not collected in further detail in 2004.

One may reasonably argue that six years is too short of a window to see dramatic change but longer term data underscores that despite a critical mass of diverse talent in the pipeline for many years, little has changed. Women have made up 40% of law school enrollment since the mid-1980's and minorities have hovered at approximately 20% of law school graduates as far back as the mid-1990's.² If the issue were a pipeline problem, meaning that women and minority attorneys had not been in the system long enough to represent a critical mass of talent from which to draw, the diversity profiles of law firms would reflect far greater diversity than they do.

2) Recent Results – 2010 Data

The New York City Bar raised the concern that the economic decline beginning in 2008 could challenge the diversity gains of signatory firms. We were delighted to report that based on our data as of March 2009, we did not see declines but instead found continued progress. Unfortunately, the March 2010 data confirmed several feared reversals, albeit on a delayed schedule. The difficult news from the 2010 benchmark results was that most diversity indicators moved in the wrong direction.

² Source: Catalyst, "Women in Law: Making the Case," 2001, page 25.

Women attorneys declined overall as well as by a small amount at the partner level. They essentially remained unchanged at the associate level and increased among special counsel attorneys. Minority attorneys saw a decline both overall and at every level as illustrated in the table below.

	Women March 2009	Women March 2010		Minorities March 2009	Minorities March 2010	
Associates	45.2%	45.1%	↓	25.0%	23.5%	↓
Special Counsel	34.6%	35.4%	↑	9.5%	9.1%	↓
Partners	17.8%	17.5%	↓	6.6%	6.3%	↓
All Attorneys	36.0%	35.3%	↓	18.1%	16.6%	↓

NALP reported in its 2010 findings that women and minority attorneys declined slightly from 2009 both overall and among associates. Women associates were 32.97% in the 2009 results and 32.69% in the 2010 results. Comparable statistics for minority attorneys were 12.59% and 12.40%. The declines were the first NALP had recorded since it began compiling these diversity statistics.

A particularly difficult decline was evident among the new partner promotes at signatory firms. While the relative proportion of women and minority partner promotes had been trending upward through time, the March 2010 results showed a reversal in that trend. Women attorneys fell from 32.8% to 31.9% and minority attorneys more dramatically from 17.2% to 10.8% of new partner promotes. The relative proportion of diverse lateral partner hires declined as well for both women and minority attorneys but to a lesser extent.

These declines are salient because as discussed earlier in this report, one of the main vehicles for firms to move the diversity needle has been through the nurturing and promotion of a more diverse new partner class. An interesting result in the latest data was an increase in the number of special counsel attorneys - as well as among income partners - despite an overall decline in the attorney population. The increase in income partners likely represents a concession for equity partners who might otherwise have lost their jobs. We hypothesize that the increase in senior counsel attorneys may reflect partners who lost their jobs and were able to enter new firms in a senior counsel role as well as associates who in other years would have been elected to partner but instead were moved into a senior counsel role.

The Static Universe

We analyzed the subset of firms participating in both the 2009 and the 2010 reporting periods in order to examine changes among this fixed group which we called the static universe. Ninety-three firms were represented in the 2009 results while 88 firms were represented in the 2010 results; ten firms dropped out of the signatory universe while five new firms entered.

Analysis of the data indicated that while the overall attorney count was down 4% among the 83 firms in the static universe from 2009 to 2010, the decline was greater for women attorneys (5%) and substantially more so for minority attorneys (12%). At the associate level, firms reported 8% fewer attorneys overall yet 14% fewer minority associates. Despite very little change in the number of attorneys at the partner level, minority partners declined 3% from the 2009 to the 2010 reporting period.

In their annual reporting of diversity metrics, The American Lawyer reported similar results for their 2010 scorecard with minority attorneys declining to a greater degree than all attorneys. “Overall big firms shed 6 percent of their attorneys between 2008 and 2009—and, amid the bloodletting, lost 9 percent of their minority lawyers.”³ The annual Vault/ MCCA Law Firm Diversity Survey also indicated disproportionate declines for minority attorneys.⁴

Among signatories, firms in the static universe reported a precipitous drop in new partner promotes of 31% – not surprisingly given the economic conditions – but this decline was not shared equally. The reported decline was more severe for women attorneys (34%) and especially for minority attorneys (58%) compared with their white male counterparts (25%). In addition to declines, there was a reconfiguration among the partner ranks with an increase in income partners and a decline in equity partners. Attorneys rose 7% at the special counsel level among the 83 firms.

³ Source: Emily Barker, “Diversity Scorecard 2010: One Step Back,” The American Lawyer, 03-01-2010.

⁴ Source: “Law firm diversity progress stalled by economy, according to survey results,” Vault.com, Sept. 29, 2010.

3) Some Good News in the Short and Long-term

In light of much disheartening news, there were some clear bright spots both in the short term – looking at changes in the most recent measurement period from 2009 to 2010 – as well as over the longer term.

The data suggests that firms – in the midst of extremely challenging economic conditions – may have sought to increase diversity at the top level of firm management. The actual number of attorneys among practice group heads increased which caught our attention given the declining patterns among most groups tracked. The profile of these senior-most law firm leaders also became more diverse.⁵ This very interesting finding needs further investigation but from the data, it appears firms were intentional about broadening and diversifying those who can play an immensely powerful role in supporting future diversity efforts.

	2010 Practice Group Heads (#)	2009 Practice Group Heads (#)	2010 Practice Group Heads (%)	2009 Practice Group Heads (%)
White men	2036	1768	80.3%	82.6%
Men of color	110	72	4.3%	3.4%
White women	356	276	14.0%	12.9%
Women of color	34	24	1.3%	1.1%
Minorities	144	96	5.7%	4.5%
Women	390	300	15.4%	14.0%
Total	2536	2140	100%	100%

The diversity community has long recommended that firms and corporations encourage greater diversity in line leadership roles – that is for those with profit and loss responsibility. The evolving composition of practice group heads in the 2010 results was positive evidence of this change.

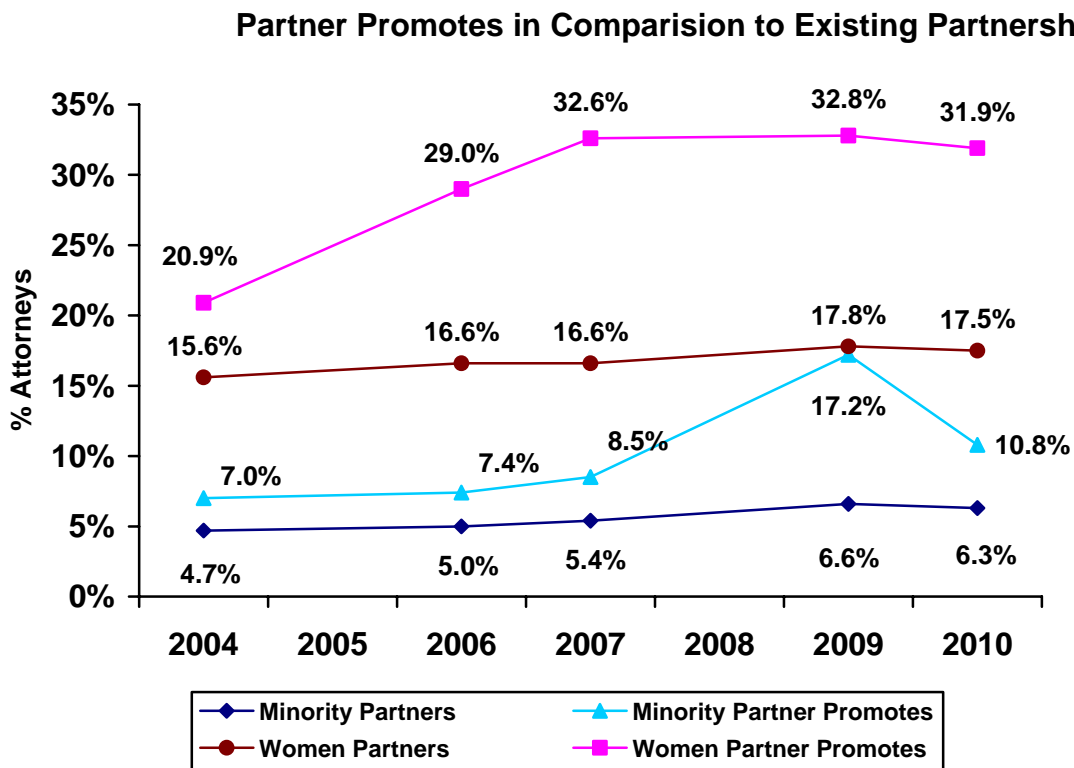
Another favorable trend in the benchmark data has been signatory firms substantially retaining the diversity of the full partnership at the management committee level. This is illustrated in the table that follows. In the most recent reporting minority attorneys represented 6.8% of management committee members and 6.3% of partners while the respective figures for women attorneys were 15.3% and 15.5%.

⁵ Analysis of the static group of 83 firms showed the same result. Both the actual number of practice group heads increased and the diversity profile of practice group heads improved from the 2009 to the 2010 results.

-----Minority Attorneys-----				-----Women Attorneys-----			
LEVEL	Jan. 2007	March 2009	March 2010		Jan. 2007	March 2009	March 2010
Mgt Comm	4.7%	6.3%	6.8%		12.6%	16.4%	15.3%
Partner	5.4%	6.6%	6.3%		15.1%	15.7%	15.5%

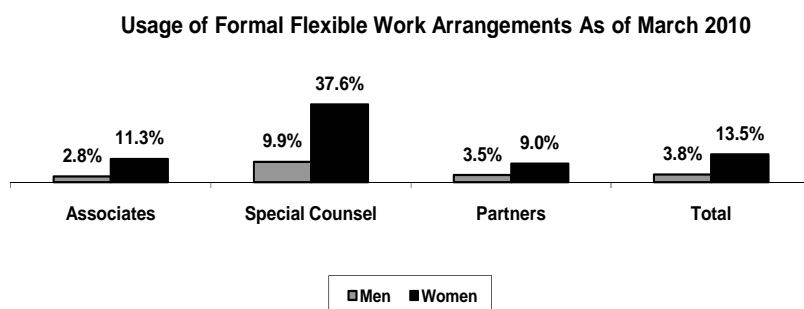
Achieving leadership positions throughout the firm that reflect the diversity among senior level professionals was one of the four goals articulated in the Statement of Diversity Principles. It appears that firms have been mindful in electing management committee members who are representative - based on gender and race/ ethnicity - of the full partnerships.

Firms continue to focus on diversifying the partnership by consistently introducing new partner classes that are more diverse than the existing partnership. As can be seen in the graph below, this trend continued in the most recent reporting with women accounting for 32% of the new partner promotes and 17.5% of partners across signatory firms. The respective figures for minority attorneys were 10.8% new partner promotes and 6.3% minority partners.

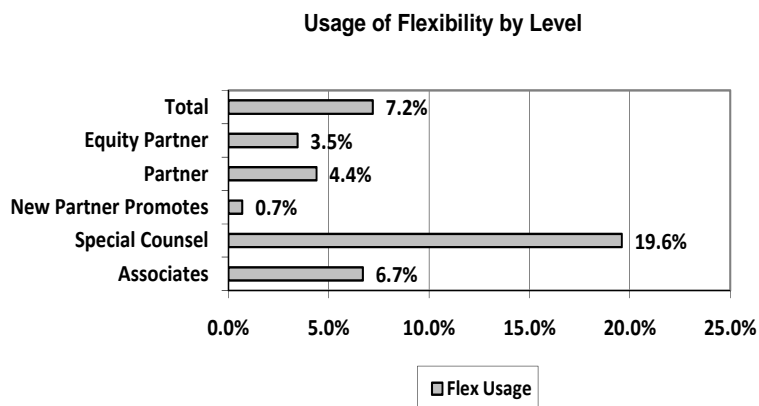


Flexibility at signatory firms has shown mixed results through time. Over the several years since the New York City Bar began collecting diversity benchmark data, women have consistently been the primary users of flexible work practices but in more recent years, there has been a smaller differential by gender which is a sign of progress.

Based on the March 2010 results, signatory firms reported 13.5% of women attorneys worked on flexible schedules versus 3.8% of male attorneys. As of January 2006, the relevant figures were 10% of women in comparison to 1% of male attorneys. The pattern of women remaining the primary users of formal flexibility is consistent at every level along the law firm hierarchy.



The special counsel role is the primary position in which attorneys employ flexibility as illustrated in the graph of flexibility usage by level. This has not changed through time. As of March 2004, 31.5% of women special counsel and 9.4% of men special counsel worked on flexible schedules in comparison to 5% of attorneys across signatory firms.



The usage of flexible work practices has increased among attorneys at signatory firms overall – rising from 5.0% in 2004 to 7.2% in the most recent results – and at key levels

along the law firm hierarchy. It is difficult to interpret whether the jump in the usage of flexibility from the 2009 to the 2010 results was positive or negative. One could argue that the rise in part-time flexibility more recently may have been born of necessity due to lack of work and not choice. Conversely, it is possible that reductions in work were by choice, and even if not by choice, were preferable to layoffs. In either case, flexibility is a management tool in good times and in bad. The increasing use of flexibility across attorneys at signatory firms, particularly at higher levels and by male attorneys, will remain indicators of progress signaling greater acceptance as a means for attorneys to adapt their work schedules in ways that improve their work-life fit.

	2010 Flex	2010 PT	2009 Flex	2009 PT	2007 Flex	2007 PT	2006 Flex	2006 PT	2004 Flex	2004 PT
Women associates	11.3%	8.8%	8.7%	7.7%	8.5%	7.7%	7.5%	7.1%	9.1%	7.6%
Women special counsel	37.6%	32.9%	31.9%	27.7%	33.1%	31.2%	32.3%	30.6%	31.5%	27.8%
Women partners	9.0%	6.2%	11.0%	7.9%	8.3%	7.6%	8.3%	6.4%	6.3%	4.6%
All women	13.5%	10.8%	11.0%	9.4%	10.5%	9.6%	9.7%	8.9%	10.6%	8.9%
Men associates	2.8%	0.5%	0.7%	0.5%	0.8%	0.8%	0.6%	0.6%	1.4%	0.5%
Men special counsel	9.9%	7.3%	9.8%	6.0%	7.0%	6.7%	6.3%	5.9%	9.4%	5.4%
Men partners	3.5%	1.9%	1.9%	0.8%	0.5%	0.5%	0.2%	0.2%	1.6%	0.4%
All men	3.8%	1.4%	1.9%	1.1%	1.2%	1.2%	1.0%	0.9%	2.1%	0.9%
All associates	6.7%	4.3%	4.3%	3.7%	4.3%	5.9%	9.7%	8.9%	4.8%	3.6%
All special counsel	19.6%	16.3%	17.4%	13.4%	16.2%	15.3%	15.3%	14.4%	17.2%	13.3%
All partners	4.4%	2.0%	3.5%	2.1%	1.8%	1.7%	1.5%	1.2%	2.3%	1.0%
All attorneys	7.2%	4.7%	5.2%	4.1%	4.6%	4.2%	4.0%	3.7%	5.0%	3.6%

Conclusion

The diversity benchmark data tracked by the New York City Bar over the last several years clearly illustrates firm efforts to expand diversity. Internally promoted partners continue to be more diverse than the partnership groups they enter and the expansion of practice group heads in the latest reporting potentially suggests firm efforts to enhance diversity in their leadership structures. The New York City Bar wants to recognize the efforts of signatory firms undertaking the difficult work of supporting greater diversity. Yet, the full body of benchmark data suggests the need for a more fundamental rethinking of diversity strategies. The continued focus on recruiting and promoting diverse attorneys without sufficient attention to the more difficult challenge of retaining diverse attorneys – requiring shifts in law firm cultures and adaptations to critical law firm practices such as how work is assigned, who gets credit, and what defines value – will continue to produce less than acceptable results.

A foundational step in improving the efficacy of diversity activities is to bring together wide ranging diversity efforts under one umbrella and to understand how those efforts strengthen and reinforce one another. A second key area of progress for many firms is greater attention to the implementation of best practices. Finally, continued work to promote firm-wide buy in of diversity efforts will advance diversity progress.

The horizon over which the New York City Bar has been collecting diversity benchmark data encompasses what may be considered the best of times and the worst of times, from robust economic growth to dramatic decline. In the best of economic times, diversity statistics were trending in the right direction but at a disappointing pace while the worst of economic times translated into diversity declines. What is needed is the will and the accountability so that a decade from now diverse attorneys across the law firm hierarchy will see that they have a seat at the table of law firm leadership in signatory firms, which are many of the most prestigious firms in the U.S. and the world.

NOTES ON METHODOLOGY

- Signatory firms completed an on-line diversity survey during the summer of 2010.
- The data is based on the responses of 88 law firm signatories to the New York City Bar's Statement of Diversity Principles and represents an 82% response rate.
- Representation data was reported as of the end of first quarter 2010 while hiring and turnover data represent figures for the 2009 calendar year.
- The data represents only the New York City area offices of the signatory firms except leadership figures (e.g. management committee, practice group heads) which are firm wide.
- The special counsel category in the survey represents senior attorneys, typically with particular expertise in a substantive area of the law. In the 2009 reporting, we classified special counsel more broadly as those who did not fit clearly into the associate or partner category while in the 2010 results, we tightened the definition to mean attorneys with a particular legal focus and expertise.
- The turnover data requested was for voluntary attrition only. It does not capture those attorneys who were asked to leave their firms (e.g. layoffs, performance problems).
- Signatory firms were asked to indicate if they tracked information on 1) openly gay attorneys 2) disabled attorneys and 3) attorneys working on flexible schedules. In all cases, these figures likely under-represent the true population of attorneys in these categories because even if asked, some attorneys may not choose to share this information.
- The demographic categories and terminology employed by the National Association of Law Placement (NALP) were used in the diversity benchmark survey. The categories of attorneys for which data was collected included Women, Men, American Indian, Asian-American/Pacific-Islanders, Black, Hispanic, Multi-racial, Openly Gay, and Attorneys with Disabilities.

NOTE: The full set of data tables providing aggregate results of the data provided by signatory firms can be found on-line at the New York City Bar's website under the diversity tab. <http://www.nycbar.org/nycbar/index.php/diversity/benchmarking-reports>

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