

Minority Powerbrokers Q&A: Robins Kaplan's Marla Butler

Law360, New York (December 09, 2014, 10:52 AM ET) --

Marla R. Butler is a partner in the intellectual property and technology litigation practice at Robins Kaplan Miller & Ciresi LLP and a fellow of the Litigation Counsel of America. Butler has spent more than 15 years litigating and leading high-stakes IP and patent litigation trials, Markman hearings, mediations and arbitrations. Her representations, which have included early case evaluations and assessments, have helped technology clients in the medical, semiconductor, LCD, networking and other electronics technology industries monetize their patent assets and/or defend against lawsuits that threaten their businesses.

Butler serves as both assistant managing partner and hiring partner for the firm's New York office, and has served as a member of the firm's executive board. She also served as the firm's diversity committee chairwoman from 2008 to 2014.

Butler is currently a member of the board of directors of Lambda Legal and previously served as a member of the board of directors of Georgia's YouthPride, an organization serving at-risk LGBT youth. She is a recipient of the "One Child, One Lawyer Volunteer of the Year" award from the Atlanta Volunteer Lawyers Foundation.

As a participant in Law360's Minority Powerbrokers Q&A series, Butler shared her perspective on five questions:

Q: How did you break the glass ceiling in the legal industry?

A: I don't believe I have broken the glass ceiling in the legal industry. When I walk into a courtroom for a trial or hearing, or into a conference room for a deposition, I am still usually the only person of color and almost always the only woman of color in the room. So the ceiling has not been broken; perhaps there are a few cracks that a few of us have managed to squeeze through. I have become a productive partner at a tremendous firm by working hard, loving what I do, picking my battles wisely, generally giving people the benefit of the doubt, and by having very special people along the way who looked out for my interests and helped me succeed.



Marla R. Butler

Q: What are the challenges of being a lawyer of color at a senior level?

A: Senior lawyers of color have the same challenges other lawyers do: staying afloat in a post-recession legal market that includes a significantly increased emphasis on individual business development. As lawyers of color, we often find ourselves outside of the largely white and largely male circles in which business is doled out. But more and more women, including women of color, are becoming decision makers in in-house legal departments. And even among white decision makers, more and more of them are personally committed to diversity and, in addition, are encouraged by their companies' diversity initiatives to reach outside traditional circles to find lawyers to represent them.

Q: Describe a time you encountered discrimination in your career and tell us how you handled it.

A: During the summer after my first year of law school at Florida State University College of Law, I competed in a statewide moot court competition in Orlando. My moot court partner and I were the only 1L students competing against all 2Ls. We advanced from one round to the next and made the final round. In the final round, we argued before the Florida Supreme Court.

I recall walking away from the argument feeling on top of the world. My brothers and I were among only a few in our very large extended family who went to college. Neither of my parents had a college degree, but we were driven to education through my father's soft but powerful influence. But even as I graduated from college and went to law school, I could not envision what success would look like — perhaps because I had no role models to which to look for that vision. So when I walked out of that moot court argument before the Florida Supreme Court, I saw for a moment what success could look like.

As I was waiting by an elevator to go to my room while we waited for the judges to decide on the winner of the competition, a woman turned to me and asked me if room service in the hotel was 24 hours. There I was, in my best suit, having just argued before the Florida Supreme Court, and a white hotel guest only saw a black woman and assumed that I was a hotel employee. I was heartbroken. I stared at her, unable to find the words to answer her question, and in those few seconds, she realized she had made a mistake and apologized.

I am still mistaken on occasion for a hotel, restaurant, or store employee, but my skin has thickened and I no longer struggle to find the words to respond. Usually, I just suggest that the mistaken person "find someone who works here" to answer his or her question.

By the way, we won that moot court competition.

Q: What advice would you give to a lawyer of color?

A: I was having a conversation about the unique issues that many women attorneys of color face — from being mistaken for the court reporter when she arrives for a deposition to the subtle incidents of exclusion, the accumulation of which can take its toll on many, to being asked to take on tasks that seem (inappropriately) gender-specific. As I listed, in a matter-of-fact tone, several incidents that I've experienced myself or that others have experienced, someone looked at me and said, "You don't internalize much."

And she was right. I don't internalize much. It was a revelation for me personally, and a revelation for me in my efforts to help more women of color succeed in law firms. I have come to believe that the

extent to which a woman of color internalizes the subtle and not-so-subtle innuendos, and the intentional and unintentional oversights, is a singular determining factor in how long she stays at her law firm or in the profession altogether.

I recognize that this may be a harsh message for younger lawyers. Essentially, if you are going to be in this profession for the long haul, thick skin is a requirement. You'd better have an ability to take, for example, a potentially offensive remark and chuckle at the ignorance from which the remark stemmed. You'd better have the ability to give people the benefit of the doubt more often than not — not for their sake, but for yours. If you allow yourself to be consumed with trying to figure out people's intentions, you will not have the mental and emotional energy that is necessary to thrive in this profession.

In any social construct, people who are different are generally treated differently. The legal profession is not unique in that regard. Well-intended diversity and inclusion initiatives are geared toward limiting that different treatment, and many are doing a great job of it. But while we are working toward a fully inclusive profession, we have to make the best of the imperfect profession that is ours at this very moment.

Q: What advice would you give to a law firm looking to increase diversity in its partner ranks?

A: This is an issue that is becoming more and more difficult. A few years ago, I would have said that the profession was doing very well at hiring and needed to focus more on retention and advancement. But the plummeting numbers of people of color attending law school in recent years changes everything. Now we need to work even harder on hiring.

Retention and advancement are still key, however. We lose the vast majority of lawyers of color before they reach a level to be considered for partnership. To keep these lawyers and have the best chance of them advancing to partnership, firms should be looking to recruit lateral partners of color to more immediately increase diversity in the partner ranks. When young lawyers of color see partners of color in their firm, they are more inclined to believe they too can make partner. Firms should also ensure that associates and young partners of color get good one-on-one business development training. At the end of the day, there is no more direct determinant of success than revenue generation. Finally, firms should ensure that lawyers of color are not pushed out of important client relationships and important client communications by more senior lawyers who look to benefit from those relationships and communications. Strong relationships with significant firm clients will help ensure the success and retention of partners of color.

The opinions expressed are those of the author and do not necessarily reflect the views of the firm, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.