

change in motion

Diversity Magazine

Spring 2007

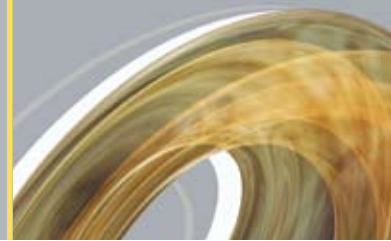


Let's Celebrate: A Year In Review

The "Business" of Diversity

From Where I Stand

ALSTON + BIRD_{LLP}



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In this issue of *Change In Motion*, we feature an article by Lisa Cassilly and Leslie Wood on how the law has influenced diversity in the workplace through antidiscrimination regulations. Also featured is an article from Dr. Elizabeth Holmes, Sr. VP and CLO of Roosevelt Thomas Consulting & Training, on managing diversity, which reinforces the diversity management skills focused on in the upcoming Application diversity education sessions. We continually receive positive feedback on *Change In Motion*, and I hope you enjoy this issue as much as the previous ones.

John Latham, Diversity Partner

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The Impact of Antidiscrimination Laws in the United States — Past, Present and Future



Lisa Cassilly and Leslie Wood, both with the Atlanta office, are attorneys in the Labor & Employment Group. The article is being presented to provide some insight on the impact antidiscrimination laws have had on helping to ensure a diverse workplace

Numerous federal laws prohibit discrimination in the hiring, advancement and terms and conditions of employment. These laws include:

- Title VII of the Civil Rights Act of 1964 – prohibits employment discrimination based on race, color, religion, sex or national origin
- Age Discrimination in Employment Act of 1967 – protects individuals who are 40 years of age or older
- Americans with Disabilities Act of 1990 – prohibits employment discrimination based on disability
- Civil Rights Act of 1991 – provides monetary damages in cases of intentional employment discrimination, among other things

Each of these antidiscrimination laws effectively limits the common law rule of “at-will employment,” under which an employment

relationship could be terminated by either party at any time for any reason. While the discrimination laws are numerous, this article focuses on Title VII for the sake of brevity and also because Title VII is the model on which most of our other employment discrimination laws are based.

Title VII of the Civil Rights Act of 1964 was landmark legislation that dramatically altered the American workplace in the years following its passage. As commentator David A. Strauss noted in *The Law and Economics of Racial Discrimination in Employment: The Case for Numerical Standards*, 79 GEO. L.J. 1619 (1991), “[i]n the mid-1950s overt racial discrimination was widespread and often unapologetic; by the mid-1970s anyone who would not publicly condemn racial discrimination was outside the boundary of acceptable political debate.” Admittedly, the Act itself was probably in part an effect of our society’s changing view on race and gender equality. Nonetheless, it was undoubtedly also a cause of the American public’s more enlightened mindset, and greatly increased the speed with which that mindset was altered.

Title VII was a critical piece of the overall goals of the civil rights movement, because equal employment opportunity is a starting point for the achievement of equal footing in other aspects of life. As the Supreme Court emphasized in *United Steelworkers of America v. Weber*, 443 U.S. 193, 203 (1979), “[w]ithout a job, one cannot afford public convenience and accommodations. Income from employment may be necessary to further a man’s education, or that of his children.” While the extent of

Title VII’s role in the economic progress of African Americans and other disadvantaged groups is the subject of much debate among economists and sociologists, most would agree that Title VII met with initial success in transforming the workplace.

In the decade following the passage of Title VII, the United States experienced a marked increase in the percentage of African Americans in the middle class, and that trend continues today. Title VII has also been credited with reawakening the women’s rights movement in this country. An excerpt from a pre-Title VII issue of *Mass Transportation* provides “tips” to hiring and maximizing efficiency of female employees and serves as a striking illustration of the contrast between what was deemed acceptable before Title VII’s enactment and what is acceptable now. The article suggested that employers should hire married women, as they are “less flirtatious” and “more responsible” than their unmarried counterparts, and “husky” women, as they are “likely to be more even-tempered than their underweight sisters.” With the enactment of Title VII and the accompanying dramatic changes in public attitudes, such an approach to hiring female employees became unthinkable. Finally, as an example of Title VII’s positive effects on the American workplace generally, it was the threat of litigation under Title VII that is credited as the catalyst for employers’ adoption of internal due process mechanisms for review of workplace disciplinary and discharge decisions.

The significant initial success of Title VII in changing American attitudes and improving the economic position of the groups under its protection has been attributed to the fact that widespread and overt

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Diversity Committee Establishes a Women's Initiative Subcommittee

The Women's Initiative was formed as a subcommittee of the Diversity Committee. Under the leadership of Mary Gill, a partner in the Securities Litigation Group, a combination of women partners and associates from each of the offices (Renee Brisette, Melda Degirmenci (NY); Margaret Sheehan, Marianne Casserly (D.C.); Anne Tompkins, Beth McDonald (Charlotte), Michelle Cunningham (Raleigh); and Mary Gill, Cari Dawson, Christina Braisted Rogers and Mary Benton (Atlanta)) serve on the subcommittee, which meets quarterly. The Women's Initiative acts as a catalyst for interaction and relationship building within Alston & Bird, with plans to extend outward toward marketing and client development activities as well. Over the past year, each of the offices held a variety of gatherings, including dinners and lunches, providing an opportunity for women attorneys at all levels and across practice group lines to meet informally outside of the work environment. These events encourage the formation of mentoring relationships, the exchange of client development ideas and the building of symbiotic professional relationships within the firm. "One 5th year associate told me that the dinner that was held by the women partners for the mid-level associates was the best A&B event that she had ever attended," said Mary Gill. Other networks have developed that provide support and sharing of information for women who have returned from maternity leave.



In New York

In addition to being a signatory to the New York City Bar Statement of Diversity Principles, Alston & Bird is now a signatory to the New York County Lawyers' Association Statement of Diversity Principles.

Setting the Bar

Our diversity program was chosen by the State Bar of California Diversity Pipeline Task Force as a suggested program for replication by other California organizations.

Recognition

Once again, Alston & Bird received a perfect score of 100 on the Human Rights Campaign Foundation's fifth annual Corporate Equality Index. The index measures how U.S. companies treat their gay, lesbian, bisexual and transgender employees and customers. Nationally, only 138 companies received the perfect score. The Human Rights Campaign also sent surveys to the AmLaw 100 (the top 100 law firms in the United States); only 12 received a perfect score.

Multicultural Law Magazine issued research results showing that Alston & Bird ranks among the top 100 law firms in diversity.

Award Recipient

Alston & Bird received the 2007 Corporate Community Ally Award presented by the Atlanta Gay & Lesbian Chamber of Commerce. Other nominees for the award included PriceWaterhouseCoopers, Washington Mutual, Wal*Mart and Alston & Bird client, ChoicePoint. This is the second year in a row the firm has been nominated. The recipient in 2006 was another client, BellSouth. The award was presented at the Annual Awards Dinner & Celebration on Wednesday, March 14, at the Fox Theatre in Atlanta. Peter Varney, an associate in Atlanta and member of the ERISA Litigation Group, received the award on behalf of the firm. Nominees are judged on their accomplishments and their activity in the GLBT community, as well as what distinguishes their GLBT efforts.



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We are all charged with the responsibility for managing diversity. Most of the time, whatever it is we do to manage diversity, we do very well. The problem is that we really don't know what it is that we do. We are actually managing diversity *unconsciously*. That is, we don't think about it, we just do it. So the question becomes: "What do I think about when I have to get conscious about managing diversity?"

We do a lot of things unconsciously. For example – drive. We all have, at some time, gotten into our cars, driven several miles, and then suddenly realized that we were actually driving. When this happens, we fret a bit about what we might have missed. But the truth is that if something untoward were to happen on the road – a sudden weather change, an accident, police surveillance – we would "tune in" and get conscious about driving. And we would know what to think about. We'd think about our speed, our proximity to other cars, we'd check our mirrors, our gas level, etc.

So what do we need to think about when we have to get conscious about managing diversity? We have to think about the following things:

1. Who is involved and what are their points of view on the issue?
2. What is really causing the tension in the situation for each party and what feelings do these tensions create?

3. What are the requirements here? That is, what are my goals in this situation and what is absolutely essential to achieve the goals?
4. Given all of the above, what options do I have that I may not have considered?

Let's take a minute to explore these four steps in more detail. When we ask who is involved, we are automatically positioning ourselves to consider that there is at least one other perspective to take into account. One employee who was unhappy with a policy change in his company said, "It just doesn't make any sense!" If he were mindful about managing diversity he would have said, "It just doesn't make any sense to *me*."

He would have immediately recognized that since he is not the only one in the mix, it must make sense to *somebody*. Learning that other person's perspective about the change would give him another point of view to consider. This does not mean that he would have to agree, condone, embrace or otherwise be OK with the other perspective. It just means that the additional knowledge would help him deal with his own concerns.

The second step is to name the cause of the tension. Because we have a tendency to respond to our feelings we need to ask ourselves first, what is it that is causing tension for us, and be honest with ourselves about the answer. This calls for our know-

ing something about who we are and what pushes our buttons. Very often, the cause of our tension is the failure of someone else to meet our expectations. It's what I call "expectation failure." We expect one thing, but get another. When we are conscious about managing diversity, we have to recognize what it is we are responding to and why. We also, as in step one, need to find out what is causing tension for others in the mix. Because we all experience things differently, it may or may not be the same thing. If we want to find a good solution to the diversity management challenge, we need to know how each person in the mix is experiencing the situation.

Third, we need to know why we are in this mix in the first place. What is our primary purpose? Sometimes the purpose is dictated. We are part of a team, or a department or a task force. Sometimes we are just two coworkers having a conversation about a heated topic. Whatever the reason, we need to focus on our purpose and determine what is essential (skills, knowledge, talent, materials, etc.) to achieve our purpose. These become the requirements. By having everyone focus on the requirements, we often can get past our personal preference for having things go our way.

This brings us to the fourth step. Given our newly found understanding of everyone's point of view, reasons for feeling tension and the requirements for achieving our purpose, we are in a much better position to identify some reasonable actions to take.

The actions should address the causes of tension and take into account the different perspectives. This does not mean that everyone is satisfied with the solution. It means that everyone's perspective has been taken into account and you can present your solution in a way that helps them understand how and why you decided on the actions to take.

When we get conscious about managing diversity we are tuning in to the indica-

tors around us that tell us everyone does not see the world the way we do. While we know that intellectually, when it plays out in a difference of opinion, a different response or a different way of being, behaving, dressing, talking – you name it, we forget that everyone is not “just like me.” It is at that moment that we have to wake up, realize we need to manage the diversity that is facing us and begin by thinking, “OK, who is in this mix and what are their perspectives?”

*Dr. M. Elizabeth Holmes
SVP & Chief Learning Officer
Roosevelt Thomas Consulting & Training*

RTCT provides Alston & Bird with both training and consulting regarding diversity in the workplace. The article reinforces the key points of our managing diversity training session.

The Efficacy of Antidiscrimination Laws in the United States — Past, Present and Future

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discrimination existed at the time of the statute's enactment, and the statute was specifically designed to combat such discrimination. Today, however, such overt employment discrimination has been largely eliminated. See, e.g. Strauss, 79 GEO. L.J. at 1619. To the extent employment discrimination still exists, it is primarily of a covert nature. *Id.* Thus, Title VII, which was targeted at obvious and blatant workplace discrimination, seems ill-equipped to remedy modern race and gender issues in employment. This arguable ineffectiveness is particularly disturbing to employers, as Title VII and other discrimination laws impose large costs on companies in the form of defending meritless litigation. Accordingly, reform of Title VII, as well as the other federal antidiscrimination laws, may well be necessary in the future as our current position becomes further and further removed from that of the mid-1960s.



Diversity Coordinator

We are pleased to announce that Rosalie Chamberlain has moved into the full-time role of Diversity Coordinator. Rosalie has been with the firm since 1995, having joined the firm as a legal secretary, then moving to Human Resources. She has completed the Subject Matter Expert training with Roosevelt Thomas Consulting & Training and will be completing the five-month Diversity Leadership Academy with the American Institute for Managing Diversity in May 2007. Her additional diversity educational background includes classes through Cornell University's ILR Diversity Professional program. She will be coordinating the many diversity efforts across the firm, including facilitating the foundational diversity management sessions for all new hires.



Photo Credit: Office of Air Force History, Maxwell Air Force Base

Stateside, the Tuskegee Airmen fought for the dignity and respect any service man deserves. Their battle on the home front would become the fight for Civil Rights.

Black History Month February 2007

On February 6, all five Alston & Bird offices joined together to listen to the personal tale of MSgt. W. T. Simmons, a World War II Tuskegee Airmen veteran. Bill shared a remarkable first-hand glimpse into what it was like to be a part of the all African-American pursuit squadron based in Tuskegee, Alabama, in 1941. Tuskegee Airmen refers to all who were involved in the Army Air Corps, which flew and maintained combat aircraft and included pilots, navigators, bombardiers, maintenance and support staff and instructors. The Tuskegee Airmen overcame segregation and prejudice to become one of the most highly respected fighter groups of World War II and paved the way for the full desegregation of the U.S. military. The New York office followed up by showing the movie *Tuskegee Airmen* at lunch.

Throughout February, *Quicknews* carried highlights of African American history and several days of TE Time focused on the celebration of Black History Month.



October

Bernard Taylor, Sr. was inducted as a Fellow of the American College of Trial Lawyers and joins Alston & Bird attorneys Neal Batson, Jud Graves, Charlie Park, Ron Reid and Sidney Smith in this highly regarded organization. Bernard was bestowed the honor of "Responding to the Charge" on behalf of the entire class of 80 lawyers. United States Supreme Court Chief Justice John Roberts was among the inductees.

June

Alston & Bird played a key role in the City of Atlanta's successful purchase of the Martin Luther King, Jr., papers by a consortium pulled together solely for that purpose. The papers will be housed at Morehouse College, Dr. King's alma mater, until a more permanent home can be established.

May

Washington Business Journal recognized Alston & Bird as one of the region's best places to work. Alston & Bird was selected from a pool of more than 200 nominations. The award recognizes the firm's achievement in creating a positive work environment that attracts and retains employees through a combination of culture, working conditions and employee satisfaction.

Atlanta Woman named Alston & Bird as one of the top ten companies for women to work for based on a survey of the publication's readership. The survey noted the firm was one of the first companies in Atlanta to build an on-site childcare facility and to provide such benefits as infertility treatment and the extension of benefits to domestic partners.

Sachi Koto, former news anchor for CNN Headline News, was a special guest speaker at Alston & Bird as part of the recognition of Asian Pacific American Heritage Month.

February 2006

Matt Coles, national director of the ACLU's Lesbian, Gay Rights and AIDS project, visited the Atlanta office and led a discussion about thinking strategically in the litigation of cases that have an impact on the gay, lesbian, bisexual and transgender communities. Alston & Bird was at the forefront of one such case, serving as co-counsel with the ACLU and Lambda Legal in challenging the constitutionality of Georgia's Amendment One which constitutionally prohibits same-sex marriage in Georgia.

In celebration of Black History Month in Raleigh, Joseph H. Holt, the first person to attempt to integrate the Raleigh public schools, visited the office. He was accompanied by his daughter, Deborah L. Holt, who produced the documentary "Exhausted Remedies: Joe Holt's Story," which aired locally on PBS. Those in attendance had the opportunity to view the documentary with Mr. Holt. In addition, Justice Timmons-Goodson spoke during a luncheon. After retiring from the North Carolina Court of Appeals, Justice Timmons-Goodson recently became the first African-American woman to serve on the North Carolina Supreme Court.

The New York office celebrated Black History Month with a myriad of activities and a culminating event. The month-long celebration was designed to foster relationships and understanding throughout the office. Recognizing the unique and varied histories of African Americans living and working in New York City, the Harlem Renaissance was selected as the theme. The Harlem Renaissance has been viewed as a flowering of African-American social thought and cultural expression in New York's Harlem community from 1920 to roughly 1940. A spectacular celebration was hosted in the office where artwork was displayed, decorations were utilized, a delicious sampling of food was prepared and, most notably, live entertainment was provided. Noted jazz and gospel musicians Eunice Newkirk and Jeff Bolding shared songs, including Billie Holiday's "God Bless the Child." Audrey Jackson and Renauld Clark read poetry by Langston Hughes and Claude McKay.

From Where I Stand

Mark Wood works as an Events Coordinator in the Atlanta office and is a member of the Diversity Task Force. He shares his personal perspective on diversity.



I became interested in diversity issues at Horace Mann Junior High School in Brandon, Florida, during the “busing years” in the early 1970s. It was my first introduction to people of color of my own age. The majority of people who lived in Brandon were of Northern European descent, so it was unusual to meet people from minority groups. During that time, I became acquainted with African Americans, Hispanics, Asians, Native Americans and underprivileged white people, including those who were gay.

While at Horace Mann, I was one of four students appointed to the school’s Human Relations Committee. Our job was to find creative ways to promote culture and diversity at the school. As a representative of the student body, I provided feedback to the committee. I read as much as possible about different cultures and learned about the many issues that still divide us today.

A more dramatic exposure to diversity began for me when I moved to Atlanta and met my partner, Gerry Conroy, who worked as a trainer for The Peoples Institute in New Orleans. The men and women of the Institute proved to be real pioneers in the area of diversity. Their professionalism, humor and compassion still inspire me today. In their “Undoing Racism” workshops and related research, they found that people who resisted diversity were

influenced by social and political factors and not by anything hopelessly intractable. These findings continue to give me hope that one day we will live in a society that truly values and accepts the diversity of all of its citizens.

In the mid-1980s, I watched as many of my friends died from an illness that was then known as “Gay Cancer.” AIDS became an undeniable part of life for those of us in the gay community. I wanted and needed to do something to help. In 1991 in Greensboro, North Carolina, I helped to create one of the first AIDS Walks with the Triad Health Project. It was called the “Winter Walk,” and I was involved in fundraising, marketing, logistics and the distribution of printed materials. In helping start this project, I got a taste of the fulfillment community service would later bring to my life.

I have been involved with AIDS Walk Atlanta since 1993. I served as co-chair of the Alston & Bird AIDS Walk Atlanta Team for 11 years, during which time we have worked to increase fundraising levels for this event. During the last eight years, our team has been ranked as one of the top ten companies in fundraising. Last year, we ranked third. In 2001, I achieved my personal goal of raising the highest amount of money of any individual participating in that year’s walk. Certainly the face of AIDS has changed since it first appeared

25 years ago. My most rewarding work so far has been educating people that AIDS is a disease that does not discriminate.

As a gay man, I also know that it’s difficult to start a new job not knowing what to expect from your employer, or how individuals might respond to your orientation. At Alston & Bird, I found an acceptance and openness that I had not experienced anywhere else. I have found that people here genuinely care about you as an individual. Twelve years later, I feel part of a special work family. This has been reinforced by “random acts of kindness” that I have personally experienced over the years. These acts of kindness occur when you least expect them but when you seem to need them the most. Not having to “live in the closet” at work or to worry about what people think about your personal life makes work a more positive and productive experience. It’s just good for the “bottom line.” For me, that’s why Alston & Bird is one of the Best Places to Work in America!

Dr. King said it best:

“Freedom has always been an expensive thing. History is fit testimony to the fact that freedom is rarely (if ever) gained (and maintained) without sacrifice and self-denial.”

Meet Your Diversity Committee Members

The diversity efforts of Alston & Bird are directed and managed through a committee structure. At the firmwide level, the Steering Committee provides oversight and coordinates national efforts. In turn, each office has established a committee responsible for diversity planning for that office, as well as for coordinating local programming and other initiatives, such as sponsorships. Rosalie Chamberlain serves as the firm's Diversity Coordinator.

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