

Minority Powerbrokers Q&A: Munger Tolles' Bart Williams

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Bart H. Williams, a partner with Munger Tolles & Olson LLP, represents clients in complex civil litigation and trials, white collar criminal defense and internal corporate investigations. In 2013, as lead trial counsel for Wells Fargo Bank in the U.S. District Court for the District of Minnesota, Williams obtained a unanimous jury verdict awarding zero damages in a suit alleging Wells Fargo mismanaged pension investments in its securities lending program. This trial was considered a crucial test case for a subsequent class action alleging \$575 million in damages, in which plaintiffs settled on the eve of trial in May 2014 on terms very favorable for Wells Fargo.

A fellow in the American College of Trial Lawyers, Williams is recognized among the nation's most influential lawyers. He has been selected to serve as lead trial counsel by Fortune 500 companies and major law firms and has represented a number of high-profile individuals, including Brad Grey, chairman and CEO of Paramount Pictures Corp.; Michael Ovitz, founder of Creative Artists Agency LLC and former president of Walt Disney Co.; and talk show star "Dr. Phil" McGraw.



Bart H. Williams

As an assistant U.S. attorney in the Central District of California, Williams concentrated on complex criminal prosecutions involving allegations of fraud or other business crimes, racketeering and money laundering, obtaining convictions in 11 of 11 jury trials.

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

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

A: I had a well-defined goal from the very beginning of my career, which was to become a lead trial lawyer on whom clients could rely to put their best foot forward at trial if push came to shove. I used to go to local trial courts to watch trials whenever I could find a half day. I volunteered early on at my firm to play a role — even a behind-the-scenes role — in any trial. I became a student of the craft by reading countless trial advocacy books, biographies of famous trial lawyers, and transcripts of notable civil and criminal trials. I went to the U.S. Attorney's office in Los Angeles to hone my trial skills and was fortunate to have enough trials there — including some very lengthy trials — to feel I was a fully formed trial lawyer by the time I left. There's always

more to learn, but I left that office with a great foundation.

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

A: For the most part, I think the challenges I face are the same challenges that senior lawyers face at every major firm, regardless of color. How do we ensure the continued success of the firm? Who are our future leaders? Where is the next case or series of cases going to come from? How do I balance the challenges of my career with my family life?

As far as unique challenges go, though, when I first made partner 19 years ago, I think there was a tendency for other lawyers to pass off responsibility for minority recruiting to me — at least it felt that way. My fellow minority partners and I could only be so many places at once. I take the recruitment of diverse lawyers very seriously, and I recruit all over the country each year to try to identify great young lawyers, but in my opinion, the responsibility for recruiting and retaining diverse lawyers belongs to each and every lawyer at a firm. After some very candid discussions over the years involving me and other minority lawyers, I think our firm has made tremendous progress in terms of having junior and senior nonminority lawyers embrace the notion that promoting diversity — both within the firm and in the profession generally — is something we all should be focused on.

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

A: There have been many minor slights and insensitive comments along the way, but it's easy to identify the most notable encounter I've had. The longtime CEO of a bank located in Anchorage asked to interview me about defending him in a federal criminal bank fraud case. He told me he had received a couple of favorable references about me and really wanted to meet me. We spoke a couple of times on the phone. He told me I was the front-runner and then he came out to Los Angeles to interview me. About 15 minutes into the interview he stopped and said, "I'm sorry, this just isn't going to work. I had no idea you were black." I said, "You're kidding, right?" I guess he never looked up my photo online! Sadly, he wasn't kidding. As he packed up his things, he just muttered something about how no one had told him. I said, "You do realize that you told me 24 hours ago that I was the front-runner, and that the only new information you have is that I'm black, right? Is that really the person you want to be?" He just kept saying he was sorry. I said, "Well, I wish you a lotta luck, but I'm afraid that on a bad Karma basis alone you've got an uphill battle on your hands." I learned later that he did indeed come in second place at trial. He was convicted on all counts.

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

A: When I speak to lawyers of color, individually or in a group, I focus on two themes. First, I emphasize that being a partner at a major law firm is a worthy and attainable goal. It can give you a platform to achieve your life's highest professional goals. As a lawyer at a major firm, I had a chance early in my career to work on impact litigation on a pro bono basis. My focus was housing discrimination cases with the NAACP Legal Defense Fund. I've been able to serve three of my passions — education, healthcare and children — by chairing both the board of trustees of the Charles R. Drew University of Medicine and Science in South Central Los Angeles, and the board of directors of the Alliance for Children's Rights in Los Angeles. I don't think I would have had either of those opportunities had I not enjoyed the credibility that comes with being a partner at a major firm.

I also tell lawyers of color all the time — particularly those interested in litigation and trial work — that the opportunity to do trial work on behalf of our country's most successful companies and individuals has never been better. When I started in the profession 27 years ago, if a major corporation was going to trial, the

chances were almost certain that the lead (and, for that matter, the second and third) lawyers doing the talking in court would be white males between the ages of 30 and 65. That has changed considerably.

Minority and women lawyers are frequently tapped as lead counsel in major cases these days. In my view, jurors today look sideways at companies that don't have a diverse trial team that includes lawyers of color and women who have prominent speaking roles. If you think about why that may be, all you have to do is consider lawyers on TV these days. Unlike the old days of Perry Mason and Matlock, TV lawyers today come in all ages, ethnicities and genders. The one thing they have in common is that they're typically compelling advocates. I'm sure a lot of jurors believe real trials should be no different. For instance, my most recent trial victory was in federal court in St. Paul, Minnesota. My second chair at trial was my partner, Manuel Cachán, who is of Cuban heritage.

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

A: Find the best minority law students you can and actively recruit them. The rubber hits the road, though, once those lawyers are at the firm. It takes a bunch of different talents to make partner at major firms these days and lawyers need to be exceptional in a lot of areas. Lawyers can't become exceptional in the skills they need to master if they don't get a chance to develop those skills working on real cases.

Law firms are a lot like sports teams. Before a player can be a star of the team, she needs to get a chance to play during a meaningful part of the game. If the player doesn't get a chance to show what she can do when the outcome of the game is in doubt, there is no way to know whether she has what it takes.

Women and minority lawyers have struggled with "assignment inequality" at law firms for decades. It can be subtle and unintentional. For that reason, I think it helps to expose senior lawyers to studies that show (a) how important it is to have the proper mix of assignments while developing as a lawyer, and (b) how those opportunities often just don't find their way to minority lawyers. It also helps to state the business case for diversity. Although most companies have a long way to go on this score, many are tracking not just how many minority lawyers work on their cases, but also whether the law firms they hire are actually promoting minority lawyers to partnership.

Once firms have taken the time to do some internal education, it makes sense to identify successful senior lawyers who are willing to take responsibility for making sure that specific lawyers have every opportunity to succeed. That means actively training them, forgiving them when they make the mistakes that lawyers inevitably make, and ensuring they receive the types of diverse assignments that put people in a position to advance — including the plum assignments often reserved for the young lawyers who happen to have the most in common with senior lawyers.

My first trial opportunities for major clients after I left the U.S. Attorney's Office came because senior lawyers at my firm actively promoted me to those clients. They put their credibility on the line to help clients feel comfortable with me as a first chair trial lawyer in an important case. That kind of support is important for any lawyer who wants to succeed in today's competitive environment, but I think it's essential for minority lawyers who are making their way.

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