

SPECIAL LAW FIRM REPORT: QUALITY OF LIFE

For Minorities, Recruitment Isn't Everything

Verdict Against Katten Muchin Implores Firms to Consider How They Treat Minority Hires

BY PEDRO E. PONCE

Many D.C. firms are eager to demonstrate their commitment to cultural diversity. Often they brag about how many minority lawyers they've brought on or boast about the lengths they go to to snare minority legal talent.

Such recruiting efforts by the D.C. office of Chicago's Katten Muchin & Zavis landed the firm a seasoned African-American attorney with Ivy League credentials. But now, four years later, that attorney could end up costing the firm \$2.5 million—and teaching it the lesson that aggressive hiring isn't enough.

Late last month, a federal jury here awarded the massive amount to former associate Lawrence Mungin, an experienced attorney who alleged that the firm discriminated against him because of his race.

The unanimous verdict—by seven black jurors and one white juror—held that the firm had discriminated against Mungin with respect to salary, work assignments, and consideration for partnership. The jury also found that race played a factor in his being discharged from the firm.

Experts say many firms fall short exactly where Katten Muchin apparently did: in the critical task of making sure minorities can succeed and prosper in the law firm culture once they're on board.

"Getting people to the firm is one thing, but making sure everyone is happy is another," says William Cook Jr., an African-American partner at D.C.'s Arnold & Porter. Cook, who joined the firm as an associate in 1988 and became a partner last year, heads Arnold & Porter's subcommittee on minority recruitment.

"The allegations that [Mungin] made are not surprising to me," adds James Vigil Jr., a D.C.-based regional president of the Hispanic National Bar Association (HNBA). "Unfortunately, it's a complaint you hear a lot from minority associates."

Others say the case could have a significant impact on the way law firms handle their minority hires.

"I would be absolutely surprised if every managing partner in town isn't looking at how they address some of the issues raised in this case," says Pauline Schneider, a partner at the D.C. office of Richmond, Va.'s Hunton & Williams who co-chairs a D.C. Bar panel on minorities in the law.



Abbey Hairston (above), who represented Lawrence Mungin, says that firms must do more than meet hiring goals.

Schneider, a former president of the D.C. Bar, is also African-American.

CONNECTIONS MATTER

Minority bar leaders say partners may not be sensitive to the unique pressures faced by minority lawyers. Many minorities who go to law firms are the first lawyers in their families, and they may not have the same educational and social connections that their white colleagues do. And no matter what firms say, connections matter, says the HNBA's Vigil.

"Any large organization is not going to operate solely on merit. What is meritable depends on what you value. It helps if you have connections," says Vigil, a graduate of Harvard Law School who works as a trial attorney in the criminal section of the Justice Department's Civil Rights Division.

Lacking the right connections, minority lawyers have more difficulty fitting in and finding the mentors they need to help them down the road to partnership.

"The odds are stacked against you right from the start," says Keith Watters who heads D.C.'s Keith Watters & Associates and serves as president of the National Bar Association, a predominantly black bar group.

Watters adds that to stop minority attrition, firms need to do a better job of mentoring minority lawyers and making an institutional commitment to diversity.

Even those minority attorneys who, unlike Mungin, do attain partnership status

may struggle with perceptions of colleagues or clients that their career opportunities come to them not because of their merit, but because they are minorities.

"You struggle with that all the time," says Yolanda Gallegos, who worked her way from law school at the University of New Mexico to partnership earlier this year at D.C.'s Dow, Lohnes & Albertson.

But Gallegos credits her firm with making a commitment to diversity and acting on it. "Knowing that the leadership in the firm was on my side made all the difference," she says.

Myles Lynk, an African-American partner at the D.C. office of New York's Dewey Ballantine, acknowledges that minorities may perceive difficulties in fitting into law firm culture.

"As long as people are defined by minority status as opposed to other indicia, there's a felt perception that they need to prove themselves more so than others," says Lynk, who takes over as D.C. Bar president in June.

Nevertheless, says Lynk, law firm life is tough on everyone, regardless of race. "The criticism of firm culture as an up-or-out hierarchy is a valid criticism. But it cuts across the board."

Still, there are many efforts to deal with the concerns of minorities once they sign on to firms.

Minorities at Arnold & Porter (MAP) is a group of lawyers who meet to discuss concerns they have about life at the firm.

"One of the reasons why I'm still here is that the firm judges all people based on merit," says Arnold & Porter's Cook. Cook says MAP includes not just racial minorities, but also other underrepresented groups such as gay and disabled lawyers.

Linda Rickman, legal hiring administrator at the D.C. office of New York's Skadden, Arps, Slate, Meagher & Flom, says the firm holds a diversity workshop once a year with an outside consultant. In addition, the firm has established a committee on diversity and retention, she says.

NUMBERS STILL LOW

To be sure, hiring numbers do matter, minority bar leaders say—in part because they help shape the culture into which minority lawyers must assimilate. And despite a wide range of minority recruiting efforts, the numbers remain low.

In 1993, the D.C. Bar's Conference on Opportunities for Minorities in the Legal Profession reported that minorities made up 5.8 percent of surveyed firms. The conference plans to update its survey to see how firms have fared in the intervening years.

says conference co-chair Schneider.

According to a survey conducted last year by *Legal Times*, blacks, Hispanics, Asian-Americans, Native Americans, and Pacific Islanders made up 6.2 percent of the lawyers in the District's 25 largest law offices, up from 5.6 percent in 1994.

The numbers are even lower at the partnership level. Minorities made up 3.2 percent of the firms' partners in 1995, a slight increase from 2.9 percent the year before.

Many firms say they are working to combat the low numbers by more aggressively recruiting minority law students.

For instance, the D.C. office of Morgan, Lewis & Bockius—which had one of the lowest percentages of minorities in the *Legal Times* survey—is trying to interview more minorities at area law schools, as well as at the approximately dozen schools it recruits from nationally.

"We have recognized it as something we wanted to focus on," says Grace Speights, who chairs the recruiting committee in Morgan, Lewis' D.C. office. The firm had 2.6 percent minority lawyers last year, or five out of a total of 194 in the D.C. office.

Arnold & Porter's recruiting subcommittee is devoted to increasing the firm's visibility at law schools and at minority job fairs. Skadden, Arps is widening its recruiting to include schools with more minorities, such as Howard University School of Law. D.C.'s Covington & Burling is engaging in similar efforts.

'WHAT'S THE PROBLEM?'

But Mungin's case, decided March 22, suggests such efforts are only part of truly changing a firm's culture.

Mungin graduated from Harvard Law in 1986 and served stints with New York's Weil, Gotshal & Manges and Atlanta's Powell, Goldstein, Frazer & Murphy before jumping to Katten Muchin's D.C. branch in May 1992. He worked as a sixth-year associate handling bankruptcy cases.

According to his complaint, Mungin was only one of about four black attorneys out of the firm's roughly 350 attorneys nationwide. He was also the only black attorney in the D.C. office. Mungin declined comment for this article.

Mungin claimed that he was promised consideration for partnership when he was

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Keith Watters: The odds are stacked against minorities.

THIRD ANNUAL APPELLATE PRACTICE INSTITUTE APRIL 20, 1996

The Third Annual Appellate Practice Institute, sponsored by the Public Defender Service and the Young Lawyers Section of the Bar Association of D.C., will be held on April 20, 1996, at the Georgetown University Law Center. The program consists of panel discussions, simulations and written materials. DCCA Judges, experienced practitioners and court personnel will provide information and instruction to both new and experienced practitioners, with primary focus on criminal practice in the District of Columbia Court of Appeals. Registration Fee is \$40.00. For additional information contact Deborah T. Creek on (202) 628-1200.

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hired at the firm, and that he aggressively pursued the kind of work that would get him there. But in several instances outlined in the complaint, the firm allegedly thwarted his efforts to get clients and advance.

In February 1993, for instance, Mungin lost a possible ally when Jeffrey Sherman, a partner Mungin had worked with, left the firm. When Mungin voiced his concerns to partner Patricia Gilmore, she allegedly replied, "You have a job, a paycheck, no wife and kids, what's the problem?"

Two months later, Mungin says, Vincent Sergi, the Chicago-based partner who then

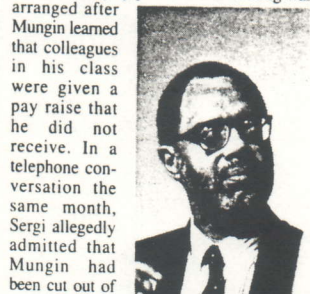


Yolanda Gallegos says that her firm took action on its commitment to diversity.

headed the "financial and reorganization" department for the firm, notified Mungin that his billable hours were low. This came after Mungin had already asked for additional work to boost his hours, a request that was allegedly unheeded.

Around the same time, Mungin says he was informed that he had to handle first-year associate work, and that the firm was reducing his hourly billing rate from \$185 to \$125. Mungin was also assigned to collect accounts receivable for former partner Sherman, a nonbillable task.

In November 1993, Mungin arranged to meet in Chicago with Sergi and David Heller, who had become co-chairman of the firm's bankruptcy practice. The meeting was arranged after Mungin learned that colleagues in his class were given a pay raise that he did not receive. In a telephone conversation the same month, Sergi allegedly admitted that Mungin had been cut out of discussions about compensation and promotion and that he could not be considered for partnership.



Myles Lyuk: Firm life is tough on everyone.

When Mungin arrived in Chicago for the Dec. 6 meeting, Sergi told him that Heller was out of town and could not attend, the complaint states.

MOVE OR LEAVE

Then in 1994, Gilmore and partner Mark Dombroff left to form D.C.'s Dombroff & Gilmore. The departing attorneys took about 25 lawyers with them. While there were still bankruptcy lawyers in the D.C. office, Sergi allegedly told Mungin that there would not be enough work for him there. In June 1994, Katten Muchin

gave him a choice of going to the firm's New York or Chicago office, or being terminated by the D.C. office.

But Mungin refused to move because he was not guaranteed work assignments or a shot at promotion. He was slated for termination in October. On Aug. 29, he filed a complaint with the Equal Employment Opportunity Commission alleging racial discrimination by Katten Muchin. The following day, according to the Mungin's court complaint, the firm bumped up his departure date from Oct. 25 to Oct. 15.

On Oct. 21, 1994, Mungin sued.

Katten Muchin has denied any wrongdoing. The firm plans to file motions later this week asking U.S. District Judge James Robertson to overturn the verdict.

"The finding that we discriminated is entirely wrong. It's not who we are. It's not what we stand for," says Michael Zavis, the firm's Chicago-based co-managing partner. Zavis adds that the firm has been a staunch supporter of minorities through its pro bono work, charitable

donations, and training and recruitment programs.

Mungin's lawyer, Abbey Hairston, says the trial's outcome highlights the need for firms to act on their stated policies concerning diversity—including policies that go beyond mere hiring goals.

"If you're going to say you have a commitment and philosophy to advance minorities, you sure better be doing it," says Hairston, a partner at Silver Spring, Md.'s Alexander, Aponte & Marks.

The jury agreed. "Larry Mungin wasn't being treated as others [were]," says one of the jurors, who spoke on the condition of anonymity. "He shouldn't have been sent to where he couldn't find any work."

Many firms face the same challenges as Katten Muchin. B. Dwight Perry, managing partner at Dow, Lohnes, says law firms may have an added burden in their efforts—



Grace Speights heads Morgan, Lewis panel.

overcoming their reputation for being inhospitable places for minorities to work.

"As long as that perception is out there, and as long as there is some reality to it, there's going to be a pool of lawyers that happen to be minorities that are going to feel intimidated and uncomfortable and thus, they're going to be hard to recruit," says Perry.

The National Bar Association's Watters hopes that concerns such as Perry's prevail, particularly in current circumstances.

"There's right now a tremendous retrenchment going on in the United States and in Washington regarding equal opportunity, affirmative action, and minority business," says Watters. "The modest gains that we have made are under attack. The commitment of all Americans, including the legal profession, for equal opportunity seems to have backslided."

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