



[Click to Print](#) or Select '**Print**' in your browser menu to print this document.

Page printed from: <https://www.lawjournalnewsletters.com/2022/03/01/dei-as-a-competitive-advantage/>

MARKETING THE LAW FIRM

MARCH 2022

DEI As a Competitive Advantage

By Dr. Sharon Meit Abrahams and Melinda Hall Wieder

After the events of summer 2020, many firms offered Diversity, Equity & Inclusion (DEI) programming and training. These firms made concerted efforts to open dialogues and to do the right thing by providing a forum for personal growth and understanding. Unfortunately, a fair number of lawyers resist DEI training. They fail to understand the value and impact DEI training can have on their skills as an attorney. Research has shown that when individuals learn about others' experiences in the world and their cultural practices the more successful they will be in the work environment. This applies to the practice of law as well.

The following is an example of how understanding another person's life experience impacts how a practicing attorney can be a more effective advocate for their client. Melinda Hall Wieder defends clients in all types of car accidents. With her client's permission, this is her story about how understanding cultural and ethnic differences added value to her client's defense.

"In this particular case, on paper, it was a run-of-the-mill rear end accident. Everything pointed to my client being the one who caused the accident. From the police report citing my client for 'failing to keep proper distance,' the pictures showing rear end bumper damage to plaintiff's vehicle, and to plaintiff's own medical records where she reported being hit from behind. At first glance, liability was straight forward.

But when I spoke to my client, what I learned shifted everything in the case. First, he told me that the plaintiff had in fact pulled out of a driveway in front of him, cutting him off and then stopping suddenly behind traffic so that he was unable to safely stop in time. Her actions contributed to the accident."

At this point Melinda realized it was going to be word versus word.

In these situations, the result of a case often rests solely on credibility. Lawyers ask, "who will a jury believe?" In answering that question, lawyers naturally bring in their own perspective, life experiences and thoughts on how other decision-makers will view the situation. Included in that list will inexorably be biases as well.

Bias is necessary in the practice of law. Bias is also universal as humans rely on them to function in daily life. But by their nature, biases are naturally hidden, built in the unconscious. Through DEI programs and training, individuals can unearth them, hold them in their hands, and decide if that

particular bias aligns with their values. This process also presents an opportunity for attorneys to more clearly see how bias may come into play in their practice of law.

This was true for Melinda in this case. She had just learned that this was now a disputed liability case. Her job was to figure out how to advocate for the client in the best possible way. With an open mind and heart, Melinda began cataloging all the arguments that would increase the client's credibility. She found the winning argument. It was the client who had called the police.

The fact that he called the police, by itself, was not unique. Many of her clients in admitted fault cases call the police. But in this particular case, her client is a Hispanic American, with dark skin and a noticeable accent. In their conversation, he told her about some prior bad experiences with the police. The most notable being that while being cooperative after being pulled over, he was handcuffed and handled forcefully. So much so that the second officer at the scene had to step in and stop the behavior.

This got Melinda wondering if his actions were indeed the cause of this car accident, why would this man, with his unique personal history, call the police?

Let's hear more from Melinda.

"The context of my client's past experiences with racism became the key to establishing his credibility to get a defense verdict.

And let me be clear. This was not the winning argument because I exploited his trauma to our advantage. But rather that my own understanding of the intersection of race and experiences with the police, allowed me to see, approach, and then use this argument in the defense of my client in a lawsuit.

After he shared his prior experiences, I thanked him. I told him I was sorry this happened to him. I told him it wasn't right that in this case, the police officer wrote him a ticket before even talking with him. I said I was sorry that the white, non-accented other driver changed her story — first apologizing to him for cutting him off and then blaming him when the police showed up when it was time for her to take responsibility for her actions."

As his lawyer, Melinda gave him a choice.

She could try to finish the lawsuit in two ways. After his deposition, he could draft and sign a declaration that she would use for further argument. The thinking being that he would not have to spend any further time on this. Or, she could call him live for his testimony to tell his story, including his prior bad experiences with the police.

She warned him that most likely his testimony would be in a room entirely filled with white people. She counseled him that while she thought this was the best chance to win, that those white attorneys may not understand or choose to disregard the power of his story and the truth of his credibility. With this choice, it would take more of his time, and open himself up to attack. And she told him that whatever he chose, she would stand behind him.

In the end, they got that defense verdict.

This story is important because it points to the importance of DEI learning and development, both on the personal as well as the professional front:

- When attorneys build in time to learn about others different from them, they see and can make winning legal arguments that counterparts miss.

- When proactively building authentic relationships with different and diverse colleagues, attorneys and their firms can leverage the best talent to win.
- When lawyers spend their time and attention in DEI learning, it creates a competitive advantage.

Dr. Sharon Meit Abrahams, a member of *Marketing the Law Firm's* Board of Editors, has 30 years of experience helping lawyers and law firms improve their productivity and profitability through creating a diverse and thriving work environment. She can be reached at sharon@legaltalentadvisors.com or 786-252-8004. **Melinda H. Wieder, J.D.**, is a litigation attorney in Washington State. In addition to her practice, she has spent the last decade engaging in DEI work, including leading a Women's Employee Resource Group, facilitating allyship workshops across gender and race, and building an executive leadership mentorship program. She enjoys speaking about and sharing her own DEI learning. Find her writing on [LinkedIn](#).

Copyright 2024. ALM Global, LLC. All Rights Reserved.