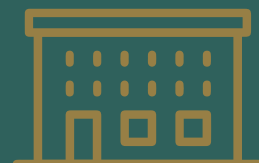


# LAW WEEK COLORADO

## MANAGING PARTNER



## ROUNDTABLE



# Managing Partners Talk DEI Initiatives, Common Pain Points and the Growing Need to Support Attorney Wellness to Retain Diverse Talent



JESS BROVSKY-EAKER | LAW WEEK COLORADO

Managing Partners discussed how their respective firms foster and maintain diversity, equity and inclusion practices and policies. Michael Burg from Burg Simpson, Deborah Bayles from Stinson LLP, Tess Hand-Bender from Davis Graham & Stubbs and Christine Hernandez from Hernandez & Associates all talked about common pain points in their efforts to attract and retain diverse talent.

One of the things partners from firms of all sizes seemed to agree on was a difficulty to retain diverse talent. The partners also said there’s a critical need to offer better support systems within the firm to keep attorneys there long enough to move up.

The partners talked about DEI, employee retention, attorney wellness, work-from-home and the logistical differences between large and small firms with respect to talent acquisition and benefits offerings. Responses below have been edited for clarity and length.

**LAW WEEK:** Over the last year, has your firm changed any DEI practices or policies, and if so, why?

**BAYLES:** I don’t know that we changed our policies significantly, however, there were definitely some tweaks made as a result of COVID. When the shutdown first happened, we had a number of our constituents with small children at home whose kids had schools that closed. We implemented a policy where our constituents could elect to work at reduced hours. Obviously, I think that certainly supports our female constituents, but also anybody who was at home caring for children or parents. And so that was definitely a change that we implemented in the last year or so.

**BURG:** We made sure that all 200 of our employees could work remotely. For many of the same reasons that Deborah talked about, many of our lawyers, paralegals and assistants — with COVID, the shutdown of schools and remote learning, we made sure everyone in our firm could work remotely so they could take care of their children at home and still be able to do the work at home. We allowed it and we allowed more flex hours.

**HERNANDEZ:** At my law firm, Hernandez & Associates, we’re a total of 50 — 14 attorneys and the rest is our staff — and we took a little bit of a different direction. When Gov. Polis shut down Denver, we had just relocated to our new office so we chose not to go remote and obviously that brought some other issues. Because the majority of our staff are mothers, we ended up opening one of our extra offices and turned it into a classroom. Everyone

brought their kids and that was our way of keeping everyone mentally well during the pandemic while meeting their needs as parents and [meeting] our client’s needs. So our approach was a bit different but I think it’s because we’re smaller and we have that flexibility.

**HAND-BENDER:** I’m one of the co-chairs of the DEI committee at Davis Graham & Stubbs, and Christine, I’m fascinated to hear about how the onsite classroom worked. I think onsite daycare childcare would be such a gift to a working parent. We went remote when the pandemic hit also, like Burg Simpson said. And then, started gradually allowing people back in the office in the spring of this last year. Now we’ve got kind of a hybrid system. We already had part-time available for almost all of our staff and attorneys, so if you needed to go reduced hours that was an option.

On the DEI front, last summer’s social justice movements galvanized a lot of energy. We had all the infrastructure; we had a DEI committee. We’re involved in all kinds of community organizations, but I think it renewed and focused a lot of efforts and we started a racial justice coalition with five of the largest law firms in Denver that are locally based. That has been really productive in terms of ideas, marshaling resources and collectively trying to focus on how to solve the DEI problem not just as an individual firm but as a community — as an entire Denver legal community. Ideally, we recruit and retain diverse folks that stay in Denver, even if they go to a different firm, go in-house or go to government. That has really been exciting to work on and I really enjoyed that. As far as what our firm individually has done, we’ve re-focused on recruiting efforts. We’re working with the IAALS, the Institute for the Advancement of Legal System, and I’m happy to talk more about that, but that’s really been our focus this year on DEI.

**HERNANDEZ:** We really haven’t changed much with EDI because EDI has been our main focus since the day we opened the law firm. It is ingrained in everything that we do as an office — hiring and retention. We’re a small firm; we focus on immigration and criminal defense, and we focus a lot on community. It’s part of our mission statement, our vision — everything. So everything grows out of why my husband and I started the firm 15 years ago.

I was part of a panel last summer for the Immigration Lawyers Association and on the panel was Bettina Yip, the in-house counsel for Petco. She made a comment that once during the summer, they were looking at the law firms that they worked with. One of the things that she noted was, ‘how [are] you promoting or responding to Black Lives Matter?’ I thought that was interesting because as soon as we got our wits together after the move and trying

to deal with what are we going to do with COVID, it was ‘okay let’s refocus and think about what are we doing about Black Lives Matter as a law firm.’ We chose to put a big sign on our gate that says ‘we’re all in this together.’ I think it was important to hear that from an in-house counsel. That it’s important, they’re looking at that, at the law firms that they work with. ‘What is your response and your position on these social justice issues?’ So I was proud that we were right on target.

**LAW WEEK:** How critical do you find DEI practices are for firms at the entry-level in particular? And do you find that maintaining a formal policy for DEI procedures and maintaining a diverse talent pool lends to your firm’s

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**“People are kind of waking up and wanting to move on and do something else because of the billable hour and the demands of our profession are just tough.”**

– Tess Hand-Bender, Davis Graham & Stubbs

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structure, hierarchy and promotion models?

**BURG:** We’ve always been interested in diversity. Because we’re primarily a contingency firm, we interview a lot of candidates who we’d love to have here but when you compete against the Davis Graham & Stubbs, or some of the national law firms, it’s very difficult. We really are committed to hiring diverse candidates and we’re very proud that I think our numbers have gone up in terms of the people who we’ve hired, but it’s a very competitive market.

**BAYLES:** Like all large law firms, we have a significant commitment to diversity, equity and inclusion. Our clients are demanding it. Any RFP that we respond to requires that we not only say that we support diversity, equity and inclusion but also show the numbers. What it means, and we realized four or five years ago when we redid our strategic plan, [is] that we really needed to do more than just put something on our website. We hired a Chief Diversity and Inclusion Officer, a C-level executive whose sole job it is to keep us focused on diversity, equity and inclusion. It made a huge difference to have somebody whose job it was to keep us focused and to help us identify some of things we struggle with — some of the things that Michael struggles with as well. We’re a middle America law firm and we compete with the coastal firms in terms of rates and salaries for great talent and we’ve got to be able to distinguish ourselves.

In addition to training and all of those things that we all do, [we’ve] been singularly focused on this idea of retention. Every year, our incoming class is a majority of diverse attorneys — women, attorneys of color or attorneys with disabilities, veterans — the majority of our class coming in, identifies as diverse in some way. Five years later, it’s not. Why is that? [We are] really trying to help us focus on what it is that is creating those barriers. People are leaving not because they’re being asked to leave, they’re leaving because they’re choosing to leave because for whatever reason, they just don’t feel like they have connected with somebody at the firm and they don’t necessarily see a path for them

to succeed long-term at the firm. So they’re leaving to go in-house, they’re leaving to go into government jobs, they’re leaving to go [to] other firms where they, for whatever reason, feel like they fit better. And [we’re] really trying to identify what those systemic issues are and help us as a firm address those straight on.

One of those programs that we implemented a couple of years ago is not just a mentorship, but a sponsorship. A mentor is somebody that helps you talk through issues and helps you navigate — a sponsor is somebody that takes you to client meetings and involves you on client pitches and makes sure that you’re the person that gets identified to work on a particular case or a particular transaction.

**HAND-BENDER:** I think that’s fantastic to have somebody full-time devoted to this work and to have that be their sole focus, I think that’s so helpful for a firm and it’s something I’d love to do here at Davis Graham. For us, I think we have really had success in recruiting and retaining women attorneys. We have really good numbers when it comes to the percentage of partners that are women and our associate ranks too. Where we’ve struggled [is] recruiting and retaining people of color as attorneys.

I think we do better, just as you were saying, with recruiting and a harder time with retention. And a lot of that is seeing that path forward: What does it look like at the next level? Is there somebody like me who’s actually in management at the firm or in a position of power? It’s so much of that critical mass of getting the folks in the door and then to stay so that they grow up at the firm and they partner and continue. And I think our structure helps in that way a lot in that we have one tier of partnership — it’s all Equity Partners. So once you know that, it’s really attractive to a lot of our diverse candidates and a lot of our women that you can go straight equity partnership at the firm that helps a lot. But one of the things we’re focused on in terms of retention is, as we evaluate our recruiting criteria, we’ve been working with IAALS [and] developing the success traits. At our firm, what are the things that really make you succeed over the long term?

**BURG:** Let me ask you — all three of you. One thing I’ve noticed is that COVID has had a massive effect on people saying, both men and women, and diverse candidates of color, ‘I want to change my path.’ And I’m just curious if you see you’re seeing that also because we’re seeing it here. I think some of you talked about retention and I think people’s goals change and I’m just curious if you’re seeing the same sort of thing. And whether you think it’s related to COVID or not.

**HERNANDEZ:** Yes, I have been struggling with this. We had two of our associates leave us at the beginning of the year, one to start his own firm, and the other said, ‘immigration is a mess I’m done, I don’t want to practice immigration anymore,’ and she’s no longer doing law. And so I figured, ‘oh great, everyone’s at home, they need jobs, we’ll have no problem filling the position.’ It took us almost six months to fill those two spots and it was devastating. And I had the same question — what the heck is going on?

I think what we’ve really started focusing on in the last four years in our interviewing process is a lot of what Tess was talking about. Our focus has always been where do you fit into our firm and our firm culture and what makes you tick — we have to make sure we work for you and you fit with us. Just because they meet our qualifications doesn’t mean we meet their qualifications. One of the things that we emphasize is our commitment to the community. Through that conversation, they start talking about what’s important to them. They would like to volunteer or be part of a certain bar association — you get a sense of what’s important to them, what their values are, and we highly encourage all of our associates to, if they have a pet project, involve the firm.

**BAYLES:** I firmly believe there’s been a fundamental shift in how people work and I don’t think it’s ever going to go back. So, to Michael’s point — yes, COVID brought it on, but it taught all of us that you can be just as productive sitting in your basement as you can sitting in a really expensive space in downtown Denver.



There've been two things that have really been driving recruiting for us. One is the flexibility to be able to work from home, and we have now gotten to create a permanent full-time flexibility schedule. The other thing that we are facing in terms of competition, is that our competition is no longer just coming from our local market. We've lost several of our attorneys to coastal firms who have realized that they can come to Kansas City, Minneapolis and Denver and they can hire people who don't want to leave those cities, but who want to make the money that they make in New York, San Francisco and LA. I think, as law firms and as the legal profession in general, we're going to have to realize that we're just fundamentally never going to be practicing law like we used to.

**HAND-BENDER:** Yeah, I absolutely agree [with] that — I think also it's an evolution of what has been happening in the legal profession over the last decade or so. I think we've seen it's intensified over the COVID period like you were saying, Michael. People are kind of waking up and wanting to move on and do something else because of the billable hour and the demands of our profession are just tough. I think

anybody that's physically reaching out to you, then you're going to feel that void. So, I do think it's hard. Now again, I'm spoiled at our law firm — we're still in person, we have that team mentality, we have multiple department meetings, attorney meetings, we have social gatherings. That's always been the way we do things because that social aspect, that collegial aspect is so important to retention.

**HAND-BENDER:** I agree completely. I think it is so important and so critical at the same time, the balance with all the competing, whole-human demands of people's lives, so I think it's tough. There's a lot of value to [working in-person] and so I don't know how we impart that and have flexibility about it, while also keeping the culture that we all want to have in our law firms.

**BAYLES:** I do worry that culturally, things will be changing. In particular, as it relates to the relationship between partners and associates. If associates aren't coming into the office and are not developing those personal relationships with people

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– Michael Burg, Burg Simpson

what Christine is saying about speaking to the whole human being, and what they are actually motivated by and how we can fit that into the practice of law is so valuable. But it's tough — it's tough from a business perspective to make that space and to make sure that people can balance all of the things going on in their lives, but if we don't do that, if we don't pay attention to what drives us and what gives value to the work and make space for it, there's just no way that folks are gonna stick around.

**BURG:** One thing I worry about is the connectivity to each other in the firm. You know, there is that camaraderie — that togetherness, which, while there [are] gains [to] people working 100% remote or 50/50 remote — we have people who don't even know each other because they're working remote and they don't have that identity. And maybe it's also loyalty to each other. I think we've all agreed, we're never going back to the way we practiced before — the changes that have been made in the last couple of years are going to continue.

**HERNANDEZ:** It's that physical action of walking down the hall, peeking in someone's door, plopping down on someone's chair [and saying] 'hey let me talk to you about this issue' — that human contact is so important and even more important to a diverse attorney that needs to feel included or connected. I completely 100% agree that we are going to lose that and that's something we're going to have to have to grapple with. How are we going to deal with this connectivity loss on the human level to retain our diversity attorneys, because they need it the most. You know a lot of diverse attorneys do leave law firms because there is no one else that looks like them. But, that can be combated by having a sponsor or a mentor. If you don't have

— right now there already is a chasm between partners and associates just in terms of how we all think and how we all interact at the firm. But the more we take those personal relationships out of the mix, and the more people just become boxes on a screen, the harder it is to bring the culture of the firm, which is really set by the partners, down to the associates and have them accept that culture.

**BURG:** We're a trial firm. Deborah, I think you expressed it quite well — in order for trial lawyers to learn their skill, they have to be in trial. Well, we haven't had trials for 16 months, and that has been a real issue for us. And with people working remotely, it becomes more difficult in terms of teaching. It takes a lot of experience and there's no substitute for that experience, but if you now no longer have that face-to-face contact in the office, it becomes even more difficult to become skillful in an area, such as trial work. And we tried and have tried to replicate that in our office, to give them those experiences. They're not the same as being in court but we can do it in a way where they can learn. But if people are going to be working remotely, it becomes almost impossible.

**HAND-BENDER:** I second that completely. This is a total, total concern for us [as a trial group].

**HERNANDEZ:** I have three young associates, straight out of law school, and I'm trying to train [them] right now in immigration court. It's 50/50 — we have trials still going on, but they're all WebEx — so it's a totally different learning environment. The mentorship is a little different in the current atmosphere of remote.