

Seeing the Light or Tilting at Windmills? The Case of Richards-Townshend

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Introduction

Merle Richards took another long sip of black coffee and continued rubbing his brow. Merle and his old friend Jim Townshend had started the firm over 20 years ago with a pledge to treat the business like a growing family and to have “zero tolerance for jerks.” The challenges they had faced early on had mainly consisted of tough cases and learning the ropes as newcomers to the Marchant County Bar Association (MCBA). But now Merle faced the toughest and most unexpected question yet: Had his firm somehow become a “demeaning minefield for female attorneys?” If so, what was he going to do about it?

Background

Richards-Townshend and Associates (RTA) had been founded over 20 years earlier by Merle Richards and Jim Townshend with a handful of other attorneys they had come to know and trust. The firm had grown to include over 100 attorneys working across multiple areas of practice including litigation, construction, and corporate. The home office was located in a metropolitan area in the Northwest United States. Most of the 58 attorneys at that location were men who had obtained the status of partner, a senior rank within law firms that the less-experienced associates strive to earn (Table 1). Typically, associates who failed to earn this promotion in a timely manner through billing hours, developing profitable business relationships and demonstrating high professional competency faced dismissal. RTA had done well even during economic downturns and was cited as the fastest growing law firm of its size in the region.

Table 1. Associates and partners by gender at the main offices of RTA

	Men	Women	Total
Associates (junior attorneys)	16	7	23
Partners (senior attorneys)	29	6	35
Total	45	13	58

Bar Association Concerns

Even as the number of female and male law students had reached numerical parity nationwide, female attorneys' professional outcomes had continued to lag behind those of their male peers. National statistics showed that women were less likely to be found at the upper echelons of law firms (Catalyst, 2015). With lingering gender disparity questions came lawsuits.

Recently, MCBA had been rocked by a high-profile gender pay disparity and promotion lawsuit involving a junior level partner at one of its top regional firms. The dispute was very costly to the law firm involved and the associated media coverage resonated with the concerns of many within the profession. Against the backdrop of this recent case, MCBA decided to encourage its member firms to establish internal programs to head off charges of gender discrimination. The association also hoped that this step would support an effective narrative regarding its commitment to equal opportunity.

As an initial step, member law firms received a letter from Bob Terrell, MCBA President, urging assurance of awareness and equitable practices with respect to gender. Firm leadership was strongly encouraged to participate in an upcoming meeting aimed at identifying issues, sharing experiences and considering approaches. Merle Richards attended mainly as a courtesy and to stay apprised of MCBA issues. He left the meeting with an information packet on gender issues sure that RTA's environment presented no greater obstacles for women than it did for men.

Opportunity Knocks

A week later as he sat at his desk, Merle had not invested much more time in deciding how to respond to MCBA's call for equity due diligence. The packet he took contained statistics and trends, all pointing to persistent gender disparity among attorneys in law firms nationwide, but Merle couldn't see how the environment at his firm could be deemed unsupportive to women. Some people, he thought, see discrimination behind every negative outcome as if those outcomes cannot simply be the consequences of people making their own career choices. Not having the right expectations or work ethic seemed to Merle the main reasons any qualified hire would fail to work his or her way up. RTA didn't need to take up arms against nonexistent foes.

Merle's thoughts were interrupted by an unexpected call from Grace Taylor. Grace led a small consulting interest that specialized in providing communications, leadership, and organization development training for law firms. She was calling about training she had facilitated a year earlier at RTA. The discussion prompted Merle to share details of the recent MCBA meeting as well as his skepticism regarding their relevance to his people. Grace said she might be able to help Merle check on the health of RTA's culture with respect to these issues. A former attorney herself, Grace always came across as trustworthy, insightful, and supportive. After the call, Merle decided to approach his Board of Directors about having Grace conduct a study of the firm's internal relations and culture with respect to diversity, inclusion, and gender equality.

The Board Makes a Decision

The Board of Directors had a mixed reaction to Merle's proposal. Grace was well-respected by board members thanks to previous engagements, but some had serious reservations about "opening up a can of worms" connected to gender equality and diversity. One of RTA's most experienced and successful attorneys argued that the mere fact of having undertaken such a study could be interpreted as a sign of trouble. Another member said that "getting into this could be like opening up Pandora's Box" and lead to an endless stream of complaints and conflicts that could not be resolved. Nonetheless, most agreed with Merle that deeper insight could be very useful in helping the firm prevent or at least deal with any claims of gender discrimination. The board voted 8-4 in favor of the study and Merle retained Grace's services that day.

The Problem with Questions

Eight weeks later, with study results in hand, Merle sat at his desk mulling his options. He kept hearing the voice of one of his board members saying "We need to be careful about this, Merle. Good questions don't always get good answers." Merle now realized that his colleague might not merely have been concerned about accuracy of information. Now "good answers" took on an entirely different connotation. One female attorney had described firm culture as "demeaning" and another had described it as "a kind of minefield." Accurate or not, the study results indicated that RTA had some changes to make if attorneys there were ever going to be on the same page. Table 2 summarizes the findings of Grace's study.

Table 2. Summary of Issues Identified in Taylor Report

Associate Concerns	A strong majority of the associates expressed confusion and anxiety regarding expectations for retention and promotion to partner.
Partner Concerns	A slight majority of partners were frustrated with junior attorneys' low commitment to work quality and to attending to their own professional development.
Gender Concerns	Nearly all female associates complained that business development and networking tended to occur within settings they considered "masculine" (e.g. golf courses, shooting ranges, gyms). Three of RTA's four most accomplished female partners were highly dissatisfied with the firm's equity and inclusion environment. Numerous female associates indicated that they did not want to work for most female partners because those partners were considered "harsh"," judgmental", and "negative."

Merle didn't think the firm depicted in Grace Taylor's report resembled the firm he had started with Jim many years ago. Had RTA really drifted so far from what they had set out to create? Merle knew that he would have to share these findings with the board. Given how provocative the very thought of a study had been, he knew a lively discussion lay ahead. But what kind of response should he advocate?

Grace's advice was to have a firm-wide dialogue to identify root causes and develop a participative solution. A transparent, proactive approach to the issues unearthed by the report might show RTA's commitment to improvements. Grace asserted that this approach should also encourage broad engagement in finding and implementing sustainable solutions.

However, Merle was hesitant to call attention to trouble at the firm before he understood what decisive actions he and the other senior partners were ready to take in response. It was also hard for Merle to imagine the firm staying productive with this side discussion going on among all the attorneys. Would sensitizing everyone to negative attitudes around them hurt morale or even drive good attorneys away? Merle thought a safer approach might be for the firm to postpone any response until Grace's findings were internally verified and any needed strategies developed. As Chair and Managing Partner, Merle wanted to provide a recommendation to the board regarding whether or not to take Grace's advice. But which recommendation should that be?

