EDTX Bench Bar

“Texas is A Diverse State and Your Trial Team Should Be Too”

Date/Time: October 27, 2022 at 10:15 AM CST (45 minutes)

Panelists:

* [Circuit Judge Kara Farnandez Stoll](https://edtxbenchbar.com/speakers/kara-farnandez-stoll/)
* [Magistrate Judge Kimberly Priest Johnson](https://edtxbenchbar.com/speakers/kimberly-priest-johnson/)
* [Tracey B. Davies](https://www.cprit.texas.gov/news-events/articles/cprit-appoints-tracey-b-davies-as-chief-strategic-initiatives-and-intellectual-property-officer/)
* [Holly Engelmann](https://www.duanemorris.com/attorneys/hollyengelmann.html)
* [Shonn Brown](https://www.smu.edu/alumni/events/distinguished-alumni-awards/recipients/2022/a-shonn-evans-brown)

Moderators:

* [Ashbey Morgan](https://www.gibsondunn.com/lawyer/morgan-ashbey/)
* [Al Suarez](https://www.gibsondunn.com/lawyer/morgan-ashbey/)

Panel Intro: [Kirstine Rogers to introduce panel members]

Topic/Discussion Intro: [Ashbey] As many people mentioned to us during our preparation for this panel, it seems that every conference these days necessarily includes a panel on diversity. Our goal is not to just continue to these discussions around the importance of diversity and inclusion but also to provide tools and inspiration to the audience for implementing better practices. We also think it is important highlight that diversity is not just an end in itself. Having a diverse team makes the team stronger. By having team members of different ages, experience levels, races, genders, ethnicities, and the like, the team gains a diversity of views, relatability, variation of skill sets, and variation in methods of communication that make for more effective advocacy. We were fortunate enough to get to speak with our panelists in advance of this panel and a few common themes emerged. First, the way forward must be a multi-pronged approach by which everyone—the judiciary, clients, practitioners—makes small changes to lay the foundation for more opportunities for more people. And, second, this must be a multigenerational effort, meaning there is a role for everyone to play, but it is especially important for the more experienced attorneys to take on mentorship roles and provide opportunities for, and instill confidence in, the next generation of attorneys. By that same token, the next generation of attorneys must take advantage of those opportunities.

Question 1: [Al] Since we are fortunate enough to have Judge Stoll and Judge Johnson with us, we wanted to start with some positive trends from the judiciary. Until 1960, the federal judiciary consisted of 99% white men. Recent data suggests that 36% of federal judges are women, and roughly 30% are racially diverse. Consistent with these trends, one of the most profound memories of my recent clerkship was the opportunity to attend a panel celebrating the fact that the Federal Circuit consisted of ½ female judges. It was an honor to hear from such an esteemed panel and to hear their unique and remarkable experiences. We are honored to have one of those panel members here today, Judge Stoll. Judge Stoll, having had the opportunity to clerk for Judge Schall, excel in private practice, then return as the head of your own chambers, can you share your perspective about the changes you have seen in representation and culture both inside the Court and the bar more generally?

Question 2: [Ashbey] Thanks so much Judge Stoll. Judge Johnson, turning to you next, I read an interesting article on how diverse trial teams can make attorneys more relatable to jurors during trial. While we have more work to do in this area, have you noticed how diverse teams have an impact on juries during your time on the bench, and what other ways have you seen diversity play out in your court?

Question 3: [Ashbey] Holly, you just wrapped up a jury trial and had interesting conversations with the jurors about their perception of the makeup of the trial teams. Can you share what you learned with us?

Question 4: [Al] We want to turn now to more examples of when diversity is done well. For example, some judges have sought to create opportunities for junior lawyers to participate in court hearings by implementing rules that allow for more time in oral argument or allow more than one attorney to argue on behalf of a party. Along this line, what successful diversity initiatives you have encountered from your different seats?

* Prospective questions based on our conversations:
* Shonn – We know that our clients want to see diversity and many have diversity guidelines. We also know there has been a push for in-house legal departments to increase diversity within. How has Kimberly Clark promoted diversity within its legal department and with the law firms that it hires?
* Tracey – Tracey, you have a slightly different perspective in your current role with CPRIT and your experience in biglaw as well. Can you tell us how diversity plays into your day-to-day and in your prior role as a law firm partner? We also want to note that we know from experience that you have been a terrific advocate for opportunities for younger attorneys. Maybe you could take about that as well.

Question 5: [Al] Returning to our theme of mentorship, who was someone who was an advocate for you and in what ways did they impact the attorney you have become?

Question 6: [Ashbey] Looking forward, how can we can we provide more opportunities for more people and also to encourage diverse attorneys to stand up and take opportunities as they arise?

Relevant background resources:

1. <https://www.acslaw.org/judicial-nominations/diversity-of-the-federal-bench/>
2. <https://www.acslaw.org/judicial-nominations/diversity-of-the-federal-bench/>
3. <https://www.faegredrinker.com/en/insights/publications/2022/9/lawyers-that-look-like-me-how-and-why-women-in-voir-dire-can-change-trial-dynamics>
4. <https://www.law.com/americanlawyer/2022/05/31/big-laws-record-breaking-diversity-gains-show-industrys-commitment-to-progress/?slreturn=20220916223557>.
5. <https://www.americanprogress.org/article/pipelines-power-encouraging-professional-diversity-federal-appellate-bench/>
6. <https://www.americanprogress.org/article/building-inclusive-federal-judiciary/>
7. <https://abovethelaw.com/2017/08/hero-federal-judge-takes-steps-to-increase-meaningful-experience-for-diverse-lawyers/>
8. <https://www.americanbar.org/groups/intellectual_property_law/publications/landslide/2020-21/september-october/diversity-patent-law-data-analysis-diversity-patent-practice-technology-background-region/>
9. <https://www.abajournal.com/web/article/law-firm-leaders-are-still-mostly-white-and-male-aba-diversity-survey-says>
10. <https://www.abalegalprofile.com/women.php#anchor2>
11. <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/women-in-the-workplace>
12. <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-wins-how-inclusion-matters>