

Minority Powerbrokers Q&A: Fish & Richardson's Brooks

Law360, New York (January 21, 2015, 1:10 PM ET) --

A principal with Fish & Richardson PC, Juanita R. Brooks is a trial and appellate lawyer who specializes in complex intellectual property litigation. She has been called “a titan of the patent bar” and has been lead counsel in more than 13 patent trials over the past two years, and has handled more than 150 trials in her career. With an average yearly caseload of over 20 active patent cases, her complex litigation experience includes cases involving intellectual property, product liability and qui tam litigation.

Brooks was named “Litigator of the Year” by American Lawyer in January 2014 and has received various other accolades. While she tries cases nationally, she is also active in the Southern California legal community and played a significant role in drafting the original and the subsequent amendments to local patent rules for the Southern District of California. Brooks was also a long-term member of the board of directors of the Western Center on Law & Poverty and has represented pro bono low income clients in landmark cases.



Juanita R. Brooks

As a participant in Law360’s Minority Powerbrokers Q&A series, Brooks shared her perspective on five questions:

Q: How did you break the glass ceiling in the legal industry?

A: I would like to be able to say that I broke the glass ceiling, like the Norse God Thor, by taking a giant sledgehammer to it and shattering it into a million pieces. However, the glass ceiling isn’t really a glass ceiling, it is more like a concrete ceiling and I had to break through, not like Thor, but more like the character Tim Robbins played in the Shawshank Redemption. Every day, every week, every year, I chipped a little bit out of the ceiling until I finally opened up a hole large enough to crawl through. It started with my being one of a handful of Hispanics at Yale Law School back in 1974. It continued when I was the first woman Hispanic lawyer in San Diego to open up a solo practice as a criminal defense lawyer. It continued on when I became the first Hispanic on my firm’s management committee and it continues to this day when I walk into a courtroom as lead counsel in a patent case and am frequently the only lawyer of color in the room.

Q: What are the challenges of being a lawyer of color at a senior level?

A: I think it is actually much more challenging to be a lawyer of color at a junior level. Along with having to prove oneself as a young lawyer, there is the additional challenge of overcoming preconceptions that others may not even realize they have. As a law student and as a young lawyer, there were people who, without knowing anything about me, assumed I was at Yale or at the federal defenders office, not because of my merit but because of my ethnicity. As a result, I had to work twice as hard to prove myself, while feeling twice as insecure as my peers who had come from families that expected them to succeed and had role models to follow.

Now that I've been in practice for 36 years, the challenge is very different. The challenge now is to remember where I came from and what it felt like all those years ago. It is critical to me to never forget that because otherwise I may forget how important it is for those young lawyers to have a role model, a mentor and someone to help them continue to chip away at that concrete ceiling.

Q: Describe a time you encountered discrimination in your career and tell us how you handled it.

A: Sadly, I could fill up a book with examples of times in my career when I have encountered discrimination, starting from when I was a young federal defender and was repeatedly mistaken for the interpreter. Since there is a word limit, however, I'll pick one that happened fairly recently. An intelligent and experienced lawyer actually recommended to a potential client that they not hire me for post-trial motions, on a case they had already lost, because the judge was a Hispanic woman and he thought the judge might think the client was trying to pander to her by bringing me — a Hispanic woman — into the case.

The way I handled it was that I talked to the attorney directly and tried to explain that even though he may not realize it, his assumptions were both racist and sexist and an insult not only to me, but also to the judge. I asked him if he thought anyone would ever think that, if the judge was an older, white, male, and the client brought in new counsel who was also an older, white, male, it would be viewed as pandering. I also told him how wrong it was to assume that my race or gender would even register with the judge. Instead, what I assumed would register with the judge was that I am an experienced and accomplished litigator and this case was important enough to the client that they wanted to be represented by one of the best. I'm not sure if my message got through, but I felt obligated to at least try and address it and not just sit by silently.

Q: What advice would you give to a lawyer of color?

A: The best advice I can give to a lawyer of color is to have courage. It can be very intimidating to be the only minority in a room. It can even feel very lonely, but if you don't have the courage to break down those barriers, even if you have to do it all by yourself, then no one ever will. The second piece of advice I have is to read Justice Sotomayor's book "My Beloved World." It is not only inspirational and beautifully written, but if you are a lawyer of color, when you read it, you may feel a little less alone. I know I certainly did.

Q: What advice would you give to a law firm looking to increase diversity in its partner ranks?

A: Increasing diversity takes commitment and creativity on the part of any firm. It takes commitment because it is a long, slow process. In some ways it is a catch-22. Talented minority candidates are rarely attracted to a firm that has little or no minorities. On the other hand, until a firm begins to increase the number of lawyers who are lawyers of color, it's very difficult to recruit lawyers of color. That is why it is also important to be creative.

One of the creative programs my firm has instituted is a summer clerkship program for 1L's for minority students. The benefit to the firm is that the students we get through the program are brilliant and talented people who will hopefully find their summer with us a rewarding experience and want to return to us as 2L's and first-year associates. The benefit to the students is that the program causes the firm to look beyond where a firm might normally look for summer associates. It's gone from a catch-22 to a win-win for our firm.

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