LGBT Diversity at Jenner & Block

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Each year, Jenner & Block has the best LGBT diversity stats of any big law firm in *Chambers Associate*. Here, we speak to some of Jenner’s associates and partners to find out why...

ALMOST 12% of associates identify as LGBT at Jenner & Block, the only large firm in *Chambers Associate* where the percentage is even in double figures. The BigLaw average is around 4%, so that is some jump.

Why do more LGBT associates come to Jenner & Block than anywhere else? Well, three reasons spring to mind. First, the firm has a long history of advocating for LGBT civil rights, not least the Texas sodomy laws case in the early 2000s which provided the legal platform for the long journey toward marriage equality. Right now, Jenner is fighting North Carolina’s much-publicized transphobic bathroom bill. Second, the firm regularly participates in law school events to help recruit diverse associates. Lastly, it has formal and informal leadership structures in place which support diversity. We will explore each of these three factors in turn.

“I wanted to work at a place where I could bring all parts of myself to the work.”

Litigation associate Emily McWilliams remembers that, as a student, “I wanted to work at a place where I could bring all parts of myself to the work, a place where I wouldn’t have to erase my sexual orientation or gender identity to be fully included and respected. I wanted to work somewhere that would value me for these things.”
Jenner’s long history of LGBT advocacy

To understand why Jenner & Block has such a great reputation for LGBT-friendliness, we need to glance at its history. “They’ve striven to have an inclusive environment for years, before it was mainstream,” New York associate Thomas Garza points out. Gail Morse, a tax partner who was inducted into the Chicago Gay & Lesbian Hall of Fame in 2015 for her career promoting gay rights, joined Jenner in the 1990s: “At that time it was not cool to be gay,” she remembers. “We had cases that showed our internal face to the world. We kept on taking bigger strides, and were the first firm to launch a newsletter that actually listed who our out LGBT lawyers were.”

A landmark case in gay history

One of these cases that dramatically showed Jenner & Block’s rainbow colors to the outside world was a turning point in gay history, Lawrence v. Texas in 2003, which saw the country’s sodomy laws thrown out by the Supreme Court, effectively legalizing homosexuality for the first time. Leading the charge in collaboration with civil rights group Lambda Legal was Jenner’s Paul Smith, who by a curious coincidence had clerked for the Supreme Court Justice, Lewis Powell, whose swing vote in Bowers v. Hardwick 17 years before had upheld Georgia’s sodomy laws. Bowers was the case overruled by Lawrence.

“The sense of history was unlike anything I’ve ever experienced,” Paul Smith tells us from his office at Jenner & Block in Washington, DC, where today he heads up the Appellate and Supreme Court, Media/First Amendment and Election Law Practices. “There were students and many others lined up outside the Supreme Court for days trying to get in. It was time for history to change.”

After the historic ruling, “everyone was sobbing in the courtroom, and we toasted the victory with champagne,” Smith adds. “[It was] a turning point.”

“It was time for history to change.”

Justice Powell admitted in retirement that his anti-gay vote in the Georgia ruling in the 1980s had been a “mistake.” The times were well and truly marching on. Until the 1990s, large law firms rarely if ever got involved in LGBT litigation battles. But then things changed “in a dramatic way,” according to Paul Smith, as “firms responded to LGBT issues becoming more mainstream, to cultural changes reflected in the media and coming from the academe.” There was a new level of activism and acceptance that LGBT rights should be regarded on equal terms as those for women and people of color. Jenner & Block was at the forefront of these changes, and for example “very strongly embraced” the Lawrence verdict it had played a crucial role in securing. “Jenner made a huge point to celebrate it, inviting the entire Chicago Bar to a reception.”

Jenner & Block LGBT Timeline

1986 – US Supreme Court upholds Georgia’s sodomy law (Bowers v. Hardwick) and LGBT rights advocates start looking for states where they might win a challenge to these laws
Early 1990s – Jenner first represents the American Psychological Association (APA) in a challenge to Maryland’s anti-sodomy laws
2001 – Jenner launches diversity newsletter, Equal Time. The first edition focused on Jenner’s out attorneys, their practices and LGBT community service – the first LGBT newsletter published by a law firm
2003 – Jenner’s Paul Smith argues and wins landmark SCOTUS decision in Lawrence v. Texas, overruling Bowers and banishing all sodomy laws
2009 – Jenner is co-counsel with Gay & Lesbian Advocates & Defenders (GLAD) in Gill v. Office of Personnel Management, the first major challenge to the Defense of Marriage Act (DOMA)
2011 – Jenner becomes first national law firm to be inducted into Chicago Gay & Lesbian Hall of Fame
2013 – Supreme Court strikes down DOMA in United States v. Windsor
2014 – Jenner with Lambda Legal and the ACLU successfully challenges bans on same-sex marriage in Virginia and West Virginia
2015 – Jenner files amicus brief in Obergefell v. Hodges
2015 – Partner Gail Morse inducted into Chicago Gay & Lesbian Hall of Fame
2016/ongoing – Jenner joins forces with Lambda Legal and the ACLU to fight North Carolina’s transgender bathroom ban
Marriage equality
In his dissent, the late Justice Scalia warned that a logical outcome of the Lawrence verdict was gay marriage. Paul Smith continues: “We didn’t want the Court to think about marriage too much, but it was on people’s minds. From the day Lawrence was decided, marriage was the issue. The next case after Lawrence was marriage in Massachusetts – it was the first state to allow gay marriage, in 2004. The problem was that the federal government wouldn’t respect the state’s decision under DOMA [the Defense of Marriage Act]. We worked with GLAD [GLBTQ Legal Advocates & Defenders] who brought the DOMA case. It went on for several years.” Jenner continued to actively challenge DOMA as well as same-sex marriage bans in Virginia and West Virginia, and fought for gay adoption and anti-discrimination rights, among many other cases. In 2015, the firm filed an amicus brief in Obergefell v. Hodges, the marriage equality victory.

Interrogate how gay-friendly firms are
How can you tell as a student which firms actively advocate LGBT issues and which merely “tolerate” them? “I think it starts with who shows up at LGBT events like OUTLaw,” McWilliams ponders. “Students should go to LGBT fundraisers in their city. Jenner showed up. Also, word of mouth – ask other professionals. I asked people at the ACLU – Jenner was always mentioned. You can see on Jenner’s website they put advocacy for LGBT issues out in front – it’s very easy to find out.”

The associate in New York, Thomas Garza, had a similar experience as a student: “In the summer of my first year I worked for GLAD in Boston. At the time they were working with Jenner on Gill [the first major challenge to DOMA]. I reached out to GLAD and asked which firms they partner with and like. Jenner was the most high profile at the time, and they recommended Jenner as a leader in the field.” He remembers that “firms all look the same on their websites” so “another thing I found helpful was speaking to professors as they have often done things like consulting or training with law firms and have some inside knowledge.” For Garza, this route also led to Jenner being recommended.

“T hey recommended Jenner as a leader in the field.”

Recruiting efforts
Jenner & Block’s involvement in LGBT cases attracts lawyers to the firm who want to help, creating a virtuous circle. “It builds upon itself,” Paul Smith explains. “There are more opportunities to do LGBT work and more people come here to do the work, for example the DOMA or transgender bathroom cases.” Emily McWilliams says Jenner’s track record appealed when she was applying: “Some firms may say ‘yes sure, we have some gay lawyers’, but Jenner says ‘yes and we’re really proud’. Jenner was a supporter of LGBT equality before the issue was settled and has a passion, which sent to me a message of advocacy as opposed to just tolerance.”

“T hey recommended Jenner as a leader in the field.”

Reaching out before OCIs
Long before OCIs, Emily McWilliams had met ‘out’ partner Gail Morse at an OUTLaw event. “I chatted with her, and later emailed her and suggested lunch. I wanted to ask her about being an out lesbian at a big law firm. Gail was a mentor before I joined. Every step of the way she checked in with me, and we still have lunch maybe once a quarter.”

“A message of advocacy as opposed to just tolerance.”
This associate’s experience as a new law student chimes with Jenner & Block’s official policy of reaching out on campus and attending city-wide diversity events in each of its locations. “We interact with first-year students through graduation,” explains chair of the firm’s Diversity and Inclusion Committee and managing partner of the New York office, Susan Kohlmann. “We work with a pipeline of candidates, and high school students too.” Sponsorship of diversity events and student groups is merely one facilitator toward the end goal of student engagement: “Just writing a check? No,” she says emphatically. “We want to show up, we want to interact and have the opportunity to mentor.” As examples, she cites a recent diversity symposium at Northwestern Law and in New York, “I went to a Columbia pre-OCI program and gave practice interviewing sessions. We’ve done moot court and also talked to first-years about our practice, trying to engage them.”

Jenner also provides mentorship to six Diversity Scholars each year; of those, one is devoted to a scholar who demonstrates a commitment to lesbian and gay rights. “We fund most of them during their second year at law school,” Kohlmann explains. “It’s open to students completing their first year who are committed to Jenner’s core values, pro bono, giving back. We start a connection early on, whether we end up hiring them or not.” Emily McWilliams suggests that one important measure of recruiting success is “the diversity of the incoming class, which is a reflection of a lot of things. My coming here was a result of years of Jenner showing up at my campus and events. It’s why I came here and not somewhere else.”

LGBT leadership and action
Role models – ‘out’ lawyers – are a strong visible indicator of Jenner & Block’s LGBT inclusiveness. “When you put yourself out there you risk being ridiculed... or you become a leader,” Gail Morse reflects. “People can see I’m a lesbian tax lawyer representing the firm’s biggest clients, doing well at the firm. To be publicly out you become a leader because you become a role model.” Paul Smith concurs: “I was elected to Jenner’s Policy Committee. This sends a message that you can be gay and in the highest positions in the firm. It’s an important message that we’re not just happy to have diversity around but also more than happy to have gay people in the boardroom.”

“You can be gay and in the highest positions in the firm.”

Coming out
Whether to come out as gay publicly is of course an individual choice, but all of our interviewees recommend openness during applications and subsequently. “Put it in your resume,” Gail Morse advises. “Put it in your firm bio and newsletter for everyone to read. It’s different than being out to your family and friends – it’s about being all out. You have to decide for yourself. We have a lot of happy gay people! You have to foster an environment where people can be themselves, which leads to a better work product.” Emily McWilliams echoes this advice: “Coming out is always a personal choice: when and to whom. You don’t want to end up somewhere where you can’t be yourself every day. Work is challenging enough without the extra emotional burden.” Gail Morse adds that “law firms can be brutal places – people are not always holding your hand. You’ve got to be true to yourself. You may want to test the waters first. The more role models you see makes your personal journey easier.”

Jenner & Block’s Diversity and Inclusion Committee, chaired by Susan Kohlmann, has an Associate Board offshoot so younger lawyers can have their say, too. It looks at things like “equal benefits for employees, which you can expect from all big firms nowadays, but again Jenner was doing it before anyone else,” Emily McWilliams says. Eight affinity groups – two for women, four for ethnic minorities, one for veterans, and the LGBT Forum – operate regular events, but partner and chief talent officer Charlotte Wager emphasizes the “organic” and “grass roots” quality of the firm’s initiatives: “It’s really important that our ethos, our diverse environment, is the responsibility of all of us.” One measure of a firm’s success in promoting diversity is, according to Gail Morse, “how friendly management is perceived as to whether
At Jenner, “each Forum idea is met with acceptance.”

“Again Jenner was doing it before anyone else.”

Charlotte Wager and Susan Kohlmann highlight that “leadership isn’t just about appointing someone. In order for the firm to really demonstrate its commitment to diversity and inclusion, and show it is a core commitment, we need to walk the walk and talk the talk.” As well as the affinity groups, awards, diversity dinners, and more informal gatherings like book clubs and lunches, Jenner & Block lawyers are actively involved with numerous nonprofit organizations like Lambda Legal and GLAD: “Across the firm we have lawyers on the boards of both organizations. Because of our strong pro bono commitment we’re constantly introducing people. The legal cases we work on are all a function of those close relationships.” From time to time, Jenner lawyers leave to work full time at these places, like former associate Joshua Block at the ACLU’s LGBT & AIDS Project in New York.

“Diversity helps the firm arrive at better legal solutions.”

Ongoing efforts

Our interviewees point out that efforts to achieve LGBT and other diversity are ongoing and evolving: they haven’t stopped now that marriage equality is here, for example. “Jenner has had a perfect rating from the Human Rights Campaign for over a decade, which comes from the benefits it offers,” Thomas Garza underlines. “It’s not a static rating – it changes and evolves. I am a member of the Associate Board of the Diversity and Inclusion Committee, and we look at how we can stay ahead of the curve, like for working mothers, the tax gross up, paternal leave, and switching the nomenclature to primary and non-primary caregiver.” Emily McWilliams adds a note of caution: “You always have to be vigilant about progress you make. Marriage is settled, but antigay laws are coming up all over the country, like religious freedom laws – discrimination under the guise of religion, a ruse for prejudice.”
“Marriage is settled, but antigay laws are coming up all over the country.”

Paul Smith expands: “A big issue now is religious freedom versus the rights of LGBT people, authorizing people not to support same-sex marriage. There is a big counter-offensive under way, using victimization to say that they, the religious right, are the ones suffering. This will be fought over the next couple of decades.”

For gay law students who want to know which firms they should apply to, Gail Morse offers this advice: “Be true to yourself and decide what kind of a place you want to work in. Use the interview process to find out information. When associates get here I try to stay in touch with them. Jenner is a place where you can be the whole person.” The final word goes to Emily McWilliams: “Of course, working in BigLaw sucks in many ways, but I wouldn’t be doing this anywhere else.”

“The BigLaw LGBT top 25

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Advice to LGBT students

“Don’t want to end up somewhere where you can’t be yourself every day. Work is challenging enough without the extra emotional burden.” – Emily McWilliams, associate in Chicago

“It’s not healthy to not be out. By and large, large firms view it as a point in your favor.” – Paul Smith, partner in Washington, DC

“Put on your resume any kind of signifiers you think are appropriate – like examples of LGBT leadership, or an LGBT dissertation.” – Gail Morse, partner in Chicago

“As a student I reached out to GLAD and asked which firms they partner with and like. They recommended Jenner as a leader in the field.” – Thomas Garza, associate in New York

Some diversity events involving Jenner & Block

March
• Out Leadership Reception

April
• 2016 Out & Equal Citywide Pride Kickoff in Chicago
• Lambda Legal Bon Foster Event in Chicago
• Northwestern Law APALSA Pre-OCI Panel

May
• Lambda NY Liberty Awards
• Out in OCI – University of Chicago Law School OUTLaw event
• Human Rights Campaign Corporate Equality Index event in Chicago

June
• Lambda West Coast Liberty Awards in Los Angeles
• Lambda Legal in Washington, DC
• LGBT Forum Summer Associate Welcome in Chicago
• Women’s Forum Summer Reception
• 15th Annual Diversity Dinner

July
• LAGBAC Lawyers for Diversity Summer BBQ in Chicago
• MCCA Creating Pathways to Diversity Conference in Washington, DC
• MCCA Diversity Gala in Washington, DC

August
• Trans Law Symposium in Washington, DC
• Lavender Law Career Fair and Conference in Washington, DC
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