

# We Believe in Supporting Diversity

By Scott L. Evans, Jiyun Cameron Lee, and Lisa D. Love

As arbitral institutions and other ADR organizations continue to evaluate the extent of their commitment to advancing diversity and inclusion in the dispute resolution profession, the authors share their personal insights and perspectives about the importance and meaning of focused mentoring and inclusion.

In the summer of 2022, the authors were selected to participate in the inaugural Associates Program of the College of Commercial Arbitrators (CCA). The goal of the Associates Program is to share the CCA Fellows' high standards for professional and ethical conduct and innovative best practices with arbitrators from diverse backgrounds. In October 2022, the three associates began their journeys at CCA's annual meeting in Scottsdale, Arizona. Despite their geographical and cultural differences, they developed positive and supportive relationships and bonded as "classmates." Reflected below are their unique perspectives on the impact of focused mentoring and inclusion on their quest to become respected and successful arbitrators.

## The Need for Increased Diversity Among Arbitrators

During our time as arbitrators, our collective experience confirms the obvious: diverse arbitrators are substantially underrepresented. Statistics reported by arbitral institutions indicate that arbitrators are underwhelmingly diverse.<sup>1</sup> The lack of diversity among arbitrators reflects the legal profession at large. According to the American Bar Association's National Lawyer Population Survey, the legal profession remained 62% male and 81% white in 2022.<sup>2</sup> Because the arbitrator selection process relies heavily on professional connections, it is not surprising that achieving arbitrator diversity remains a challenge. Nevertheless, as Love asserts, diversity advances business and moral imperatives.

As arbitration continues to be recognized as a flexible and cost-effective process for resolving disputes, participants engaged in arbitral proceedings are increasingly recognizing the importance of diverse arbitrators and panels. Diversity of experience and perspective improves the decision-making process. As businesses and disputants become more diverse, offering the option to select diverse arbitrators will increase the parties' overall confidence in arbitral systems and outcomes.

Increasing the ranks of diverse arbitrators is thus paramount. Focused mentoring and inclusion can have an outsized impact on increasing diversity because of the way arbitrators are chosen.

## The Importance of Mentoring

According to Lee, mentoring happens every day: "For my parents, who moved to the United States at the age of 45, their mentors were other Korean immigrants who passed on their knowledge of small business ownership. For my colleague, who was born and raised in San Francisco, his mentors included a family friend who happened to be a federal district court judge. For me in my professional life, the most influential mentors were those lawyers in my firm who gave me opportunities at the beginning of my career. We find mentors within our own micro-communities, and within those communities, it is a normal and widely accepted part of life."

For Love, mentoring started at a very young age, as she worked as a child in the office of her grandfather, who was a sole practitioner. Over the years, as she has been on her journey to be recognized as a highly qualified, accomplished and sought-after dispute resolution professional, she has continued to rely on the formal and informal advice and guidance received from dispute resolution professionals who have achieved success in the ADR field. "On my journey, I have benefited substantially from formal mentoring programs established to foster diversity in the profession. I have also greatly benefitted from informal encounters with highly regarded ADR professionals willing to provide advice or information or extend a courtesy to support diversity efforts. Many of these encounters have been in focused programmatic mentoring structures and many have been in very brief, single or limited and sometimes random encounters at networking events or social events. Both formal mentorships and informal associations are important and should be recognized for the essential role each has in the development and success of diverse neutrals."

## The Impact of Focused Mentoring

Evans agreed that mentorship happens at every phase of life, consciously or unconsciously. "Parents, coaches, and teachers are our earliest mentors." Professional growth, however, involves focused mentoring: "The sooner you figure that out, the sooner you can embark on the pathway to success."



Evans continued, “In a professional organization, such as the CCA, focused mentoring is not merely a formality but a dynamic relationship between the mentor and the associate that boosts the associates toward their goals.” The focused mentoring given by the CCA involves intense training in group settings and personalized guidance from an assigned mentor that is tailored to the associate’s unique aspirations, challenges, and skill set.

Love agreed and stated that “having started my dispute resolution career in a fellowship program designed to expand the ranks of diverse ADR professionals and as a current CCA Associate, I have a profound understanding and appreciation of the role that formalized mentoring programs have on improving diversity and inclusion in the ADR field. I am also fortunate to be one of many experienced neutrals with JAMS, which has been on the forefront of promoting DE&I in the legal industry for many years.”

For Lee, the goal of programs like the CCA’s Associates Program is to expand the model of mentorship beyond the boundaries of our micro-communities. “These programs are impactful because they are intentionally structured to provide focused mentoring. For example, the program provides the associates with the opportunity to attend the college’s annual meeting. At the meetings, we are given the opportunity to learn about recent developments in the law and to participate in lively debates about arbitrator ethics. We have a chance to hear different points of view on numerous topics, such as whether (or under what circumstances) arbitrators may offer their views of a case’s merits to assist in the parties’ settlement. Outside the annual meetings, we have been offered opportunities to speak on panels and meet regularly as a group to learn about arbitration best practices from some of the leading practitioners. We are encouraged to join committees, to speak and write on arbitral topics, and to meet individually with our mentors to get their in-

sights and encouragement as we figure out how to expand our practice as arbitrators.”

Love added that by participating in these formal programs, “I have been provided education, training, goal-setting strategies, accountability partners, and constructive criticism. I have been afforded a pathway to build my reputation and career as a commercial arbitrator and mediator. I have also developed meaningful and lasting relationships with highly respected arbitrators. In addition, there have been mutual opportunities to share thoughts, insights, and perspectives. As a result, formal mentoring programs have been essential to my continuing development and will continue to play an essential and significant role in diversifying the profession.”

### **Role of Informal Mentors**

Love reminded that “although formal mentoring programs are essential from an institutional level and while the benefits of focused mentoring cannot be overemphasized, transparency requires the acknowledgement of the role that informal mentorships and sponsorships have played in my development as a commercial arbitrator. These informal mentors can play significant roles to advance the careers of diverse professionals by providing speaking, teaching, and shadowing opportunities; recommending party appointments and chair appointments; and offering invitations to join committees, clubs, and events, and participate in social activities with other ADR professionals.”

Recognizing the impact that informal mentoring can have in diversity and inclusion efforts is important to encourage arbitrators who may not be able to commit to participate in a structured program. Everyone can commit to being inclusive in their thoughts and actions by “thinking out of the box” to offer opportunities to diverse practitioners.

Evans echoes Love’s sentiments regarding informal mentors. “I actually have more informal mentors than formal ones and both are equally important. My informal mentors have

also provided speaking opportunities, referred clients, made introductions, and given invaluable advice.”

## Meaning and Impact of Inclusion

Any mentoring, whether formal or informal, requires inclusion. For Lee, inclusion means creating an environment where it is possible to build relationships of mutual trust. “The Associates Program has been impactful because it has been inclusive. Many people within the CCA—including the CCA’s leadership, the leaders of the Diversity Committee, our mentors, and everyone else who have been involved in developing and presenting educational programs—have devoted countless hours to offering focused mentoring to the associates. But through their focused mentoring, they have also demonstrated their commitment to inclusion.”

Lee admitted that until she participated in the CCA Associates program, she never thought too deeply about what inclusion meant beyond its obvious definition. However, having participated in the Associates Program, “I now realize that true inclusion involves being able to form relationships of trust. Trust involves the ability to have meaningful conversations with another person. Perhaps the two of us have nothing in common in terms of our race, gender, upbringing, or even legal training and experience. But if we approach each other with curiosity, we might discover a shared interest or life experience. That shared interest might be our mutual interest in arbitration, but it can also involve a myriad other things, from music to sports to current events. To be clear, inclusion does not mean that I will (or need to) form trusted relationships with everyone in the organization. But it does mean I am in an environment where I can and have developed such relationships. For any mentoring program to be mutually beneficial, we need to be able to trust each other.”

Evans is of the strong belief that inclusion goes hand in hand with diversity, creating an environment where everyone feels a sense of belonging. It involves creating policies, practices, and a culture that values and respects the uniqueness of each individual. In an inclusive environment, individuals are not just diverse in appearance; they are actively involved, engaged, and empowered. “The CCA’s Associates Program has been the epitome of inclusiveness. The Fellows of the CCA have made every effort to make the Associates comfortable, to share best practices, and to allow the Associates to participate in the day-to-day business of the CCA.”

Love adds, in the words of Verna Meyers, “Diversity is being invited to the party; inclusion is being asked to dance.” Both are important.

## From Mentoring and Inclusion to Sponsorship

Evans believes that while mentoring necessarily guides from within, sponsorship is the external force that pushes

careers to new heights. “The CCA has excelled with mentorship and inclusion and is well on its way towards sponsorship! They have already begun using their influence within the universe of ADR to create opportunities and visibility for the Associates. Thankfully, they are keenly aware that sponsorship is a key driver of career progression.”

Love speaks for all of the inaugural CCA Associates class when stating, “on this arbitration journey, we have been the beneficiaries of both formal and informal efforts to address the challenge of diversity and inclusion. We have benefited from the efforts of those who are dedicated to focused mentoring programs, as well as from the kindness of relative strangers. Both have added to our development and success and have had a profound, compounding impact on our careers.”

The importance of focused mentoring, sponsorship, and inclusion in a professional organization cannot be overstated. Together, these elements create a holistic framework that nurtures talent, propels careers, and fosters a sense of belonging. As the College of Commercial Arbitrators and other ADR institutions continue to innovate, we hope that each will continue to recognize and embrace the interconnectedness of these pillars.

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## Endnotes

1. For instance, demographic data collected by AAA in 2020 showed that 78% were men and 88% were white. See [https://www.adr.org/sites/default/files/document\\_repository/ArbitratorDemographicData\\_01132020.pdf](https://www.adr.org/sites/default/files/document_repository/ArbitratorDemographicData_01132020.pdf).
2. [https://www.americanbar.org/content/dam/aba/administrative/market\\_research/2022-national-lawyer-population-survey.pdf](https://www.americanbar.org/content/dam/aba/administrative/market_research/2022-national-lawyer-population-survey.pdf).

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