

# D&B

DIVERSITY & THE BAR MAGAZINE

2018  
SUMMER ISSUE



# A BRAVE NEW WORLD ?

2018 Rainmakers | Changing the Bro Culture | Pride: It Still Matters

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# NOTES

FROM THE CEO

# W

**WELCOME TO THE SECOND ISSUE OF OUR RE-LAUNCHED DIVERSITY & THE BAR. MY HOPE IS THAT WHEN YOU TAKE A LOOK, YOU'LL NOT ONLY FEEL INSPIRED AND ENLIVENED BY THE SUBJECTS WE RAISE BUT THAT IT MIGHT ALSO BE A CATALYST THAT LEADS TO ENGAGEMENT WITH YOUR COMMUNITY AT WORK AND AT HOME, AND WITH US HERE AT MCCA.**

Get in touch - we want to know what you think; what you like about the issue, and what you don't. Above all else, we want to move into dynamic engagement with our legal community and the best way to get there is by starting a conversation. We hope this magazine sparks one.

We focus broadly on AI this quarter and with June the official Pride month, we have a look at topics around the LGBTQ+ community, particularly the somewhat underrepresented "T" in the acronym.

The transgender community has been under attack from the US administration over the past year or two, so we want to highlight this challenge and give an insight into what MCCA is trying to do to help. We are now in the process of creating a Transgender Taskforce to look at issues particular to the transgender community. Historically, both education and visibility surrounding transgender issues has been lacking, and without these two key tools the community has been battling, particularly in regards to the corporate environment. We will wade into practical, pragmatic issues like how you might share the fact you have transitioned to a potential client or a firm, and what the corresponding related issues would be. We want to come up with best practice guidelines for GCs and big law firm partners, because this is fairly uncharted ground. Unlike immutable characteristics, transitioning from one gender to another isn't necessarily obvious, and nor, unfortunately, are the ways for an organisation to behave when faced with a transgendered lawyer.

We have introduced an international focus for the magazine and have just





launched an Inclusion Index which will track legal progression both in the US and abroad, asking just what our leaders are doing to try to create a more inclusive environment for employees and for lawyers. Closer to home, this summer MCCA will host inclusion programs and an inclusion summit, so look out for more information on those.

We do hope you like the new look of the magazine and we will continuously seek your feedback. Diversity & the Bar is our platform to engage you, our members, through thought-provoking dialogue and writers who are leading the charge for us, and we want our members to do the same.

Sincerely,

Jean Lee  
President & CEO

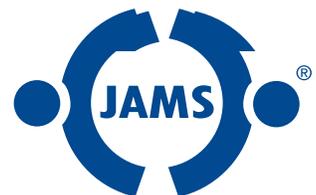
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# W

### WELCOME TO THE SUMMER ISSUE OF DIVERSITY AND THE BAR.

This quarter we're delighted to showcase MCCA's 2018 Rainmakers. The 11 lawyers championed here have different practice areas and styles of developing business, demonstrating that there is no single blueprint for success.



Those thoughts also inform our feature which considers whether

business development is different for diverse lawyers and features perspectives from our Rainmakers as well as clients and even the next generation of lawyers.

After our successful GTEC conference held in Austin in April, we consider the intersection of diversity and inclusion with technology. In "Changing the Bro Culture", we consider tech companies' issues with diversity and inclusion. Is there a part their legal teams can play in assisting culture change?

"Brave New World" heralds the start of a new series of features over the next few issues where we consider how technological advances could impact inclusion in a positive way and also analyses some of the practical issues that need to be taken into account in the R&D stage to make sure this happens.

MCCA member Microsoft tells us about the importance of inclusive leadership, heralding our important new initiative with the tech giant and Russell Reynolds in creating more inclusivity in corporate and law firm leadership.

Another key member, Womble Bond Dickinson, talks us through exactly how they have managed to create more female leaders in their firm. There's a fair few organizations who could take notes from this...

Our International Perspective this quarter features viewpoints from women lawyers in India about the picture for diversity and inclusion working both in-house and in private practice.

Finally, this month MCCA and the ABA Commission On Women in the Profession launch an important piece of original research undertaken by Professor Joan C. Williams and the Center for Work/Life/Law, entitled *You Can't Change What You Can't See*. This research looks beyond statistics to un-



derstand day-to-day experiences of bias in the workplace and how it impacts diverse groups in law firms and in-house. The study proposes that organizational culture and processes are what needs to change and suggests toolkits for various processes to actually start to make this change. In the first of a series of articles looking at this groundbreaking research we discuss the four key areas of workplace bias.

Many of our articles focus on change: the change technology brings, the change of workplace cultures, the changes needed in leadership to drive inclusion. Change is not easy but it can also be exciting. We look forward to showcasing more stories of change.

Please get in touch if you have an idea you'd like to share.

Sincerely,

Catherine McGregor  
Editor in Chief

## FOR YEARS NOW, AND IN PARTICULAR AFTER THE LAST PRESIDENTIAL ELECTION, IMPLICIT BIAS HAS BECOME QUITE THE “BUZZ” IN DIVERSITY AND INCLUSION CIRCLES – AND FOR GOOD REASON.

Not only are academics and experts in that field having a renaissance, but the general public is now more aware of how implicit bias permeates situations such as receiving medical treatment, labor and management interactions, voting, sentencing, and community policing.

To review, let's begin with what implicit bias is: the bias in judgment and/or behavior that results from subtle cognitive processes, namely implicit attitudes and implicit stereotypes that often operate at a level below conscious awareness and without intentional control. It is the brain's automatic, instant association of stereotypes or attitudes toward particular groups, without our conscious awareness. The processes involved are used by the subconscious mind to make logical sense of all the information we perceive. For example, the brain may sort various sensory inputs into convenient categories or buckets of information; create associations between things that, in reality, may not exist; and fill-in gaps when we receive incomplete information. These processes frame what information we perceive and how we perceive it, assisting our brains to understand and navigate our world. As a result, the brain relies on these processes to make judgments efficiently and quickly, which can sometimes be wrong or, at least, less optimal.

There are scientific methods that measure the extent of implicit bias, such as computerized tests that measure the direction and strength of a person's implicit attitudes by assessing their reaction time, physiological measures recording the amount of sweat produced and facial muscle movements, and functional magnetic resonance imaging techniques. The most commonly known computerized test is

the Implicit Association Test (or IAT, available at [projectimplicit.com](http://projectimplicit.com)) developed by Professors Anthony Greenwald, Mahzarin Banaji, and Brian Nosek in 1995 initially as a laboratory tool to understand unconscious attitudes and biases and first adapted for use on the web in 1998. It is designed to detect the strength of a person's automatic association between mental representations of objects (concepts) in memory by measuring the time differences between various pairings of objects. In general, IAT scores predict behavior more accurately than explicit attitudes.

By definition, we are generally unaware of our implicit biases. Moreover, our conscious commitment to equality – and the belief that we strongly adhere to that commitment – can actually impair our ability to recognize and address these unconscious mental short-cuts. That is, a person can have deeply held conscious beliefs that all people should be treated fairly and still possess implicit biases or associations. As we addressed in the last column, corporations persist in outsourcing both the drafting of dispute resolution clauses and the selection of arbitrators and mediators to outside counsel, abdicating these fundamental strategic decisions to others outside of the company. Outside counsel, in turn, place far too much reliance on established networks, word-of-mouth, and the recommendations of the same “usual suspects,” leading to lost opportunities to broaden a company's roster of preferred neutrals. In exercising that decision making – whether by company counsel or outside counsel – there is a general failure to acknowledge and address the effects of implicit biases. Thus, for example, a person who is engaged in selecting an arbitrator or mediator – or even the ar-

bitrator or mediator herself – who holds the belief that they conduct themselves as fair and impartial, or that they exhibit a demonstrated commitment to increasing diversity in the ADR field, may still possess some form(s) of implicit bias. Members of one community (e.g. women, African-Americans, Muslims, people who live in the South, etc.) may even be implicitly biased against members of their own group. In fact, stubbornly clinging to the presumption that one is objective actually increases the role of implicit bias and its adverse impacts. Implicit biases are unconscious to you, and they could be either explicit or unknown to others. And just because you do not know about them does not mean that they are not an issue, or that they are not having some impact, adverse or otherwise.

Everyone possesses implicit biases; it is a natural function of the way in which our brain works. Because they can be perceived to have a negative connotation, I prefer to call them “implicit associations.” An even better term for them is “mindbugs,” which was recently coined by Professors Banaji and Greenwald. Moreover, discussing implicit bias and advocating for its reduction and changes in behavior are not a condemnation, nor is it meant to blame. Everyone should be more aware of this phenomenon and how it impacts our ability as neutrals to be fair and impartial towards the parties that appear before us. By acknowledging the presence of implicit biases, being concerned about their adverse effects, and making a commitment to change, we can actively work on measures to counter their impact, while also being cognizant that, sometimes, particularly in the case of racial implicit bias, it can lead to “racial anxiety,” which refers to the heightened levels of stress and emotion that may be experienced when interacting with people of other races.

Aside from becoming more aware of the implicit biases that might be present, decision-making ought to be undertaken more mindfully, with the intent of being thoughtful and engaged in self-reflection. This would include a better understanding of your own pet peeves and dislikes so that you do not overly weight those dislikes when they are perceived in others.

### Other countermeasures could include:

- Try recognizing when a response is based on a stereotype, reflect on why the response occurred, and consider how this response could be avoided in the future.
- Search for and identify counter-stereotypic examples of group members, thereby consciously contrasting negative stereotypes with specific counter-examples.
- Find opportunities to encounter, interact with, and engage members of groups different from your own.
- Refrain from applying group characteristics to individuals and seek specific information about the individual.
- Demand greater use of data, rather than relying on instinct or assumed facts.
- Assume the perspective of someone outside of your own group and ask what that person’s perspective might be if you were in the other’s situation.
- Be alert to the impact that cultural differences – racial, gender, age, geographic, etc – may play in assessing credibility or making determinations.

The literature and continuing studies on the effects of implicit biases in the courtroom, in arbitration and mediation proceedings, and in basic negotiations are rich and abundant. They are undoubtedly having an impact on the continuing dialogue about how implicit associations permeate the decision-making process regarding the manner in which neutrals are selected, particularly with respect to women and people of color. There is every reason to remain hopeful that our current dismal state of diversity in ADR will improve.



#### THEO CHENG

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Theo Cheng is an independent, full-time arbitrator and mediator and serves on the rosters of the American Arbitration Association, the CPR Institute, FINRA, Resolute Systems, and several federal and state courts, focusing on commercial/business, intellectual property, technology, entertainment, and labor/employment disputes. He has over 20 years of experiencing handling intellectual property and commercial litigation matters.

**THE FUTURE OF LAW IS IN THE HANDS OF THOSE WHO WILL TRANSFORM THE PRACTICE THROUGH TECHNOLOGY. COMMENTATORS HAVE BEEN PREDICTING FOR YEARS THAT TECHNOLOGY WILL TRANSFORM THE PRACTICE. TECHNOLOGY HAS CAUGHT UP TO THEIR PREDICTIONS AND FIRMS WHO WANT TO MAKE MONEY AND IN-HOUSE COUNSEL WHO WANT TO SAVE MONEY WILL FOCUS ON HOW TECHNOLOGY CAN HELP ACHIEVE THEIR GOALS.**

The paradox about technology is that it can achieve these inconsistent goals. The firms who develop the software, programming and apps to make litigation more predictable, efficient and cheaper will make more money by licensing their inventions to other firms and in-house counsel. And in-house counsel who partner with law firms to develop technology to streamline their claim and litigation handling and resolution will, in turn, reduce their departments' cost and boost their companies' profits.

So with this new paradigm as a backdrop, what is the role for the diverse lawyer? Diverse lawyers, as with every aspect of the practice, bring different, imaginative and effective solutions to use technology to solve problems that up until now no one believed could be solved. What if aspects of litigation could be reduced to a program such as drafting case-specific discovery? What if a program could draft motions to compel? What if an app could predict the likelihood of prevailing on a motion for summary judgment before a given judge? Getting from here to there is best achieved with a diverse group of lawyers applying their distinct knowledge and backgrounds to the problems at hand. And so this brings us to the title of this piece: The Diverse Futurist. Consider this a call to arms, a manifesto of sorts, to encourage diverse lawyers to become legal futurists.

In this brave new world, opportunities abound for diverse lawyers to move beyond the traditional practice of law and become experts in the future of law. Law schools are taking notice and some are developing tech law programs. Companies have been relying on tech for years; while Netflix redefined movie delivery through on-demand technology and Amazon redefined retail by selling every conceivable item online, law has been resisting tech.

Resistance is futile. It's time for lawyers to embrace law tech wholeheartedly and for diverse lawyers to be pioneers in defining problems and finding solutions through technology. It's not enough to resolve one case through traditional legal analysis.

The time has come to resolve common problems that transcend a single case by defining processes, by creating algorithms and applying analytics that will improve work product, efficiency and results. Imagine creating an app that finds prior orders and reasoning by the judge in one's case and applies it to the case at hand by assisting with drafting of motions? Diverse lawyers can be at the forefront of this and in-house counsel can ensure their involvement by demanding their outside counsel invest in legal tech R&D and ask that diverse lawyers are part of the R&D team.

As diverse lawyers, we have a responsibility



to become legal futurists and help other diverse lawyers become ones too. Here is a proposed crash course on becoming one and getting ahead of the curve of legal tech.

**READ.** Read everything you can get your hands on about legal tech. Read the articles, the blogs, the commentary and books about the current legal tech market and what will soon be hitting the market. Learn the terminology, the players, the programs, the applications, the companies and all the ins and outs about how companies and law firms are developing and using legal tech. Visit the websites of those offering legal tech - study what they offer and how they offer it. You want to learn what problems have already been solved and whether there may be better solutions to those problems.

**ATTEND.** Legal tech conferences are becoming ubiquitous. Attend the presentations, the break outs, speak with the vendors, try their programs, ask lots of questions, make friends and stay in touch. This is the brain trust. You want to become one of them.

**PLAY.** Use and test legal tech. Try the software samples online. Visit vendors and try their software at their offices. Purchase the apps. Access as much software and apps as you can at conferences, receptions, events hosted by vendors, and whatever samples they offer online. Watch Youtube videos of those making the most of the tech. If you want to learn the potential of legal tech, you have to know what's out there now and know how to use it.

**STUDY.** Attend online classes and webinars about futurism, consumer and business trends, tech and law. Join groups and associations that address these issues and read their publications. You can't get an official degree in futurism, but you can cobble one together if you have a voracious appetite for the subject matter.

**DISCUSS.** Talk to firms' managing partners, in-house counsel, business leaders and millennials to learn what problems they hope legal tech could solve and their thoughts on how legal tech could serve them. Open-ended conversations about the future of law, the practice, legal services and tech

can spurn a lot of thoughts, ideas and creativity.

**WRITE.** Once you've taken a deep dive into futurism, start to write on the subject matter. Begin with short pieces in trade and legal publications. Taking the time to research, reflect and write on the topic will help you collect and develop your thinking on it and will help lay the groundwork for becoming an expert in the area.

**SPEAK.** Pursue speaking opportunities on futurism. Start with introducing other speakers. Graduate to moderating panels and taking questions from the audience. And then join panels as the junior-most speaker and eventually be the star of the show. If you have something to say and say it well, you will be asked to speak again and be provided more prominent roles at lectures and conferences.

**RESEARCH.** Study the players in legal tech. Who are they? How did they get there? How did they develop their big idea into a popular law firm app or software program? Who pays for all this? Who are the investors? What projects have they invested in? What are they looking to invest in? There is a legal tech community out there that is growing organically to meet the ever-increasing demand of law departments and law firms. Learn who these folks are, what they do, how they do it and to the extent possible become part of their orbit, become their colleagues and learn from them. They have a lot to teach and many are happy to discuss and share their passions.

These are the steps to become an expert in any field, and becoming a legal futurist is no different. Once you lay the foundation for being a legal futurist, it's time to start applying what you learned. Speak with in-house and outside legal counsel, learn what their needs are, explore with them how tech can address those needs and work with them to find solutions. You don't have to know how to write code or create algorithms. You don't need a degree in computer science. What you need is a paradigm that equips you to define the problem,

consider solutions, evaluate how tech can provide solutions, and facilitate getting from point A to point B by leading, managing and directing the right people with the tech savvy and monetary resources to turn your vision into a reality.

Being a legal futurist is not much different than leading a firm, a legal department or company. You don't have to master all the details, have all the expertise or answer all the questions. What you need is a vision, a plan to execute that vision and a team to lead to execute it. Consider a legal futurist as a leadership position where you assemble the right team to direct toward your mission and goals. You see legal problems through the legal tech prism, and everything you've read and studied helps you understand and appreciate what's possible and how it's possible. You apply that knowledge and wisdom to help others achieve solutions they didn't think possible because they never imagined the breadth and scope of what legal tech has to offer. That's being a legal futurist at its finest.

And this brings us back to the idea that what the legal sector needs more of are diverse legal futurists. It will be through their diversity that problems that once were thought to be unsolvable will have resolutions. Maybe one day, a diverse legal futurist will help develop an app that will make jury trials more predictable, that will streamline discovery or teach bad witnesses to be great ones. The possibilities are endless and I hope attorneys of diverse backgrounds will be at the forefront of this revolution.



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Francisco ("Frank") Ramos Jr. is the managing partner of Clarke Silverglate, P.A. where he practices in the areas of commercial litigation, drug & medical device, products and catastrophic personal injury. He is AV Rated and is listed in *Best Lawyers in America* for his defense work in product liability matters. He starts his 20th year at Clarke Silverglate and his 21st year of practice.

MCCA  
RAINMAKERS

AWARD



# The Rainmakers

Attorneys who bring innovation to their practices.

By Jodi Bartle

In a world of lawyers, what separates the good from the great? MCCA's 2018 list of rainmakers, highlighting eleven diverse attorneys spanning both practice areas and the nation, gives a few clues. These lawyers, diverse in race, gender, ethnicity, generation and sexual orientation, share a proven expertise in their respective fields and an ability to develop business to the tune of \$5 million annually.

Each rainmaker nominated knows that it is not enough to be the best in their area of law. Instead, a great lawyer has to differentiate; to learn their value, to create, invest in and retain those client relationships. Part of that requires a deep dive into their clients' businesses, to learn from it and to try to understand the challenges and opportunities presented.

Most importantly, a great lawyer will go further than just helping their client face the issue in front of them; the real value is in anticipating what might be coming around the corner. Rainmaking demands innovation, authenticity, passion and proactivity. The lawyers championed here exemplify all of that, plus a commitment to their communities through pro bono and public service work. Leaders in their varied fields, respected by those working both for them and on the other side, these are the markers that matter.

## A. Scott Bolden

**Partner** Reed Smith - Washington, D.C.

**Practice Area:** Civil/Commercial Litigation | **Years practicing:** 30

In 2010, managing partner of Reed Smith's Washington, D.C. office, A. Scott Bolden climbed Mount Kilimanjaro to a height of 17750 feet. "I didn't make it to the summit - it was my first time in Africa and I really had no business trying it." By the time he reached that height, he says he was completely physically and mentally spent. "I gave everything I had to that mountain; when I was done, I knew I was done." A fierce, respected and tenacious litigator, Scott brings that same spirit to the courtroom.

"I am a second generation lawyer; my dad was a criminal defense and civil rights lawyer - the smartest man I have ever met, and extremely principled," he says. By the time he was eight years old, he was going to court with his father, watching him try cases all over the state of Illinois. "There was no doubt in my mind, from the first time I heard my father's booming and commanding voice in the courtroom, that being a lawyer was what I wanted to be - just like him, my real-life hero." Scott says that often they were the only people of color in those courtrooms. "This had a profound impact on how I viewed the law and on how I viewed the kind of difference lawyers could make for their clients."

By all accounts, Scott enjoys being a lawyer and a rainmaker. In his view, rainmaking means generating the deal, and "if you are on a good run, never hearing 'no' from a potential client. There's no better feeling, professionally or otherwise, than when you are firing on all cylinders, making a tremendous contribution to the client's business and the law firm; that feels really really good." He is mindful of the elements of rain-



making that people perhaps don't see; the tremendous amount of effort and work it takes to generate legal fees for the law firm. "The market research, preparation of the firm's capabilities statements, pulling a team together, understanding the client's business model, networking with clients, the human intelligence; these are the things that differentiate you from the competition."

Scott also notes the shrinking demand for legal services since 2008. "Being good is just not enough anymore. Having experience in your field, understanding the client's business and being good at building relationships with clients - those are the real difference makers. What's the use of being an awesome litigator if you have no clients?"

His advice to younger lawyers building their book of business is to learn to differentiate. He says passion is important, as is being able to look around the corner for what head winds are ahead for clients. "Not just looking at what clients are facing but what they are going to face - that's the real way to distinguish yourself

...passion is important, as is being able to look around the corner for what head winds are ahead for clients. "Not just looking at what clients are facing but what they are going to face - that's the real way to distinguish yourself as a lawyer...

as a lawyer. Figure out what your value differential is - how to separate yourself from your competition. What's my angle? How do I sell or present that to the client and what is the road map to getting to yes?"

Alongside the conquering of mountains and rainmaking, Scott is active in both the political and business worlds. "My life has always been about more than the law: it has been about living in the sweet spot where law, business and politics intersect. I am constantly exploring what I can do in this legal space. It is a beautiful space - I can litigate, teach, lecture, serve on boards, be an entrepreneur and a television commentator. I think you are blessed if you can do something you have a passion for and earn a living at it."

Scott's community service centers on politics and pro bono work, acting as outside GC to the Greater Washington Urban League and the representation of the estate of Marion Barry, the Former Mayor of the nation's capital. He says he picks pro bono issues carefully "because I want to do something that is meaningful, but fun too!", and as managing partner of the Washington DC office, this is a firm-wide culture he drives from the top.

"I want our lawyers to be more than just lawyers and problem solvers; to be part of the broader community. Serve on nonprofit boards, be active in churches and scouts; whatever organization they have a passion for - because this world is bigger than just the practice of law." For his lawyers to become well-rounded and to really understand their place in this world, he says he wants them to get out of their comfort zone

into something non-legally-related and “then come back to tell me about it. They aren’t just lawyers, but also humans living in this human space and if you aren’t giving back, then you are only living 50% of this God-given life.”

## Nancy Chung

**Partner** Sidley Austin - New York

**Practice Area:** Commercial Litigation | **Years practicing:** 22

Nancy Chung, partner and commercial litigator at New York’s Sidley Austin firm, became a lawyer because of two things. Firstly, Chung says the law was a natural calling for her as a problem-solver, “and once I realized all the different tools available to a litigator, including the power of having the courts on your side, I was hooked.”

Secondly, it allowed her to fulfil a family legacy. “My father is a graduate of a prestigious law school in South Korea, but in the early 1970’s my parents decided to emigrate to the U.S. so that my sister and I could be educated in America and be given every opportunity to succeed.” As a result of that sacrifice, being a lawyer was no longer an option for Nancy’s father. Instead, for over 30 years he promoted immigrant rights and social issues that impact the local Korean-American community in the New York region. This early influence extends to Nancy’s pro bono work, which gravitates towards immigration issues and for women and children who don’t have legal representation.

All litigation, according to Nancy, is a form of crisis management. “In our current global economy, a problem that bubbles up with an investment in Turkey or China can quickly escalate into being among the biggest issues that a client is facing from their global headquarters in New York or Washington. As a U.S.-based litigator with the benefit of having access to the resources provided by a law firm with global reach like that of Sidley, you have to be able to quickly assess what options are available in multiple jurisdictions, and scenario-plan the different outcomes from start to finish, enabling you to be as nimble as you can along the way.”

Nancy considers rainmaking “a means of creating and sharing opportunities within your own firm so that the client relationship doesn’t end with you, but gives many points of contact as possible throughout the law firm, connecting clients with colleagues who can add value to the initial relationship.” She cites successes in relationship building in the ability to turn one-off litigation assignments into a litigation pipeline, “then elevating that litigation relationship to help identify and address the client’s other legal needs in their business.”

Relationships are essential to business development, she says, although the nature of these have changed over time. “In the early days, the focus was on networking, which is important; to pull yourself away from your office and get to know people. Now, further along in my career, I continue to meet people more than I ever have, but I find that I have moved on from being a networker to a connector of different relationships. We’re no longer living in a world of six degrees of separation, more like two.” Her key tool for business development is as simple as connecting one client with another client working in the same area who can benefit from knowing each other as peers. “Competitors one day but collaborators the next,” she says.



When asked whether she thinks diverse attorneys need to approach business development differently, she suggests the fundamentals are the same (“planting the seeds early to build a network of relationships, including the people you work with, the people you mentor and who have mentored you, existing and former clients, counterparties, opposing counsel and so on”) but thinks diverse lawyers have a greater tool at their disposal as their numbers increase. “Affinity-based organizations like MCCA can provide an immediate platform, especially for our next generation of lawyers to connect with one another. That’s huge and should be taken advantage of fully.”

Her advice to diverse women thinking about a career in litigation starts with a reassurance to just be yourself. “Successful litigators come in all shapes, sizes and shades - you don’t have to have the loudest voice in the room or be a bully to be powerful and effective.” Nancy says she loves being both on the front lines with the support of a terrific team as much as being behind the scenes in the boardroom or in conversation with the principals and their legal officers. “All the traits that are more stereotypically identifiable with women - for example, being a good listener - can be a differentiator and help you secure the client’s trust and, ultimately, results.” Nancy says you must know your own value proposition at all levels and stages of your career; within your teams, within your firm or organization, for your clients (internal and external) and for yourself. “Always ask yourself what is it that you bring to the table? The answer will evolve over time as your achievements grow. Don’t be shy about articulating it.”

## Anne-Marie Estevez

**Partner** Morgan Lewis - Miami

**Practice Area:** Employment Litigation | **Years practicing:** 24

“When I became a lawyer, there were few women partners, and none with my background; I just had to believe it could be done as I saw no examples,” says Anne-Marie Estevez, employment litigator in the Miami-based office of Morgan Lewis. For Anne, a first generation American and first generation college graduate, the legal profession was a brave new world.

“My mother made me take typing three times, starting in 9th grade to ensure that I would get a job and stand on my own. I type faster than anyone I know, but it’s not what I wanted to do for a living,” she jokes. Anne concedes to blazing a trail as family members followed her lead into college. “I saw my grandmother working really hard and my mother working outside the house; women always worked. My sister is the second college graduate in my family and my own daughters recently graduated back to back and are off to college. It’s really beyond my wildest dreams.”

Her focus on being in the courtroom began at a small boutique Miami firm, when her boss asked her intake group of first year associates about working on a big sexual harassment case. “She asked if any of us knew Spanish slang and inappropriate words in Spanish and I said yes, I do, I know everything. I was brought onto the case and the rest is history.”

Employment litigation has you dealing with diverse people on civil rights and compensation issues, she



says. "I only defend these cases so am often asked how I could be on this side. But, from my perspective, with clients of the highest calibre of people, I am able to do just as much, helping companies to make policy or procedural changes to make their workplace better for everyone. At a firm like Morgan Lewis, the clients we represent often have the same philosophies we have, so if there is something wrong at the employment level, they want to fix it."

Rainmaking for Anne means "creating and building relationships, empathizing with clients, never believing in a 'one size fits all' approach to litigation, and, of course, having deep substantive expertise and experience." Years back, she says, connections and having an insider track is what mattered most, "but now if you bring the right experience and team to the table, you can bring in work even without connections."

Her approach to business development also involves a philosophy of "never saying no to a favor and reaching out to clients when you learn about something that could impact their company. No one taught me how to bring in work, and I had no connections. I just learned that when I gave back to the community, work eventually would come in. So, absent a conflict, I never say no to anybody who needs help when I can help. I spoke everywhere I was invited, teaching about workplace rules, treating employees right, and how to avoid claims. Although it was extremely rewarding, I didn't see the fruits of this immediately; sometimes it took years but it always came back to me. I guess you could call it karma."

She says the same rules apply internally at her firm. "If someone calls to brainstorm about a case, I will always help. This is certainly internal promotion of one's skills, but more importantly, it demonstrates that you are a true partner, there for whatever your colleagues need."

Her advice to young women starts with "studying up and doing the best job you can do in the substantive area that energizes your mind. Get the substantive expertise under your belt and do something in the law you love." But, she warns that it is a mistake not to step aside or promote your colleagues when they are better suited for a legal matter, explaining that this is critical in gaining the trust of clients. Anne also stresses

Rainmaking for Anne means "creating and building relationships, empathizing with clients, never believing in a 'one size fits all' approach to litigation, and, of course, having deep substantive expertise and experience."

the importance of having a cohesive team. "Treat everyone as an equal and contributing member, from the client's receptionist to your assistant; every person is an important part of the team and you become stronger with them on board. Make sure you are seeking out opportunities not just for yourself, but for others as this all contributes to your success. Your career and success are in your own hands."

## Gillian Hobson

**Partner** Vinson & Elkins - Houston

**Practice Area:** Corporate Finance and Securities | **Years practicing:** 19

Vinson & Elkins corporate finance and securities partner Gillian Hobson has a firm grip on the importance of a balanced personal and professional life; citing running, attending the ballet or actively seeking out new restaurants as ways in which she rounds out the whole. Part of her active engagement with the world outside the office extends to time spent with clients and by extension, on developing her business. "It's what works for me and helps me stay connected to my clients," she says.



Gillian has represented both issuers and underwriters in public and private debt and equity securities offerings, including offerings of limited partner interests of publicly traded partnerships. In addition to her busy practice, she is an elected member of V&E's Management Committee, a member of the Partnership Admission Committee, and is actively engaged in V&E's recruiting, mentoring, and diversity initiatives, including as co-chair of the firm-wide Diversity Council.

She has steadily grown a stellar reputation for advising on some of the energy industry's most transformative and historic capital markets transactions. Despite the decline in global oil prices during recent years, she has continued to guide her energy clients in record-setting deals, allowing them to make strides within their industries and be at the forefront of future trends and opportunities. Clients repeatedly turn to Gillian for legal advice on their most high-profile energy matters and they praise her for the hard work and sound legal advice she provides. Based on one-on-one interviews with BTI Consulting Group, she was recognized for delivering the highest level of client service and was named a Client Service All-Star for her dedication to client service excellence.

"Developing client relationships is a long-term endeavor and it's about trust. It's important to me to take the time to understand my clients' businesses and what keeps them up at night; including introducing them to other lawyers at my firm who can help with all of their legal needs," says Gillian. "And I've had a lot of great sponsors and mentors, too."

Alongside her corporate work, Gillian spends a considerable amount of her time promoting inclusion and seeking opportunities for diverse lawyers to succeed at V&E. As a member of V&E's Diversity & Inclusion Executive Committee and working directly with firm chairman, Gillian was instrumental in developing the current Diversity Council structure which has encouraged a record number of allies to get involved - including firm leadership, partners, counsel, and associates from across 15 offices.

Gillian also supports V&E's Women's Initiative, which recognizes challenges women often face in the workplace and works to empower women lawyers to build solid legal careers. As a working mother, Gillian shares her experience of managing work and personal life with other lawyers who are faced with the difficult task of balancing the two.

Mentoring, both formal and informal, is a key component of these important initiatives, and Gillian leads by example, as an engaged mentor, offering honest and direct advice to junior associates. She has made a

meaningful impact through her active involvement in both programs. She is also regularly invited to speak at a number of industry events, including The National Association of Corporate Directors and Corporate Counsel Women of Colour Conference, as well as co-authoring a piece on diversity in Law360.

Outside of work, Gillian performs pro bono work for the Houston Ballet. She has served on several committees of the Houston Bar Association, including the Adopt-A-School Committee and the Lawyers for Literacy Committee. She also served on the Board of the Houston Area Women's Center, and has been a member of the United Way of Greater Houston's Women's Initiative since 2008. Most recently, she began serving on the Houston Ballet Foundation Board and the Houston Zoo Board.

## Joanne Katsantonis

Partner McGuireWoods - Virginia

**Practice Area:** Energy | **Years practicing:** 24

Joanne Katsantonis, partner at Richmond, Virginia law firm McGuireWoods, became a lawyer following the trailblazing path of her mother, who was one of the first female lawyers in Greece in the late '50's. "Since I was a young child, my mother thought I had the right characteristics to make a good lawyer - she would laugh at my ability to argue with her and thought I was an analytical problem solver. One of the jokes in our family is that 'no' really just means 'find another way.'" The lawyering DNA runs deep - Joanne has an identical twin sister who is also a lawyer.

Joanne says her my parents were "typical immigrants who came to the US - extremely hard working people." Her mother couldn't practice law in the US because of the language barrier and because she took time out to have children, so it wasn't until Joanne and her sister went to school that she retrained, going back to school and gaining a teaching degree. "Her approach really taught me about perseverance and about the importance of improving yourself - the notion of education was a core value." She says her mother was the type of person who helped others, which had an impact on her social approach to business development.

She now has a new role on the executive committee and is the deputy managing partner for industry teams at the firm. "I think it was important and critical to my success to understand client's businesses and to be able to anticipate their needs; that's what our industry team does. Getting that value insight for colleagues across practices has been really important. Our industry team practice defines us as firm and we were a pioneer on that front."

Joanne says she started out doing M&A and honed her skills this way. After a five year stint in a Brussels office doing acquisitions throughout Europe for a paper company, she came back to scratch the itch of the energy industry. "I was always interested in the energy side and did a lot of work for Dominion. I wanted to understand which business development strategies work if you don't play golf. I'm a social person, so here there are more events for women and diverse lawyers and more ways to create opportunities."

She emphasizes how important it is to know yourself and to learn from your clients. "Take them out for lunch or dinner and connect with them." The energy industry is both an exciting and dynamic one and she says that it is crucial to understand the political and economic issues and how they impact the energy sphere.



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She says that rainmaking is about building relationships with your peers who may eventually go in-house. “You can’t build a business alone - it’s about the team.”

I genuinely care about the clients and I feel like the best way is to see the relationship between clients and my team as a partnership.”

When asked to recall significant achievements, she lists leading the recent \$14.6bn merger with Skanda Corp. “Leading that team was a great honor and one of the largest and most complicated we have done.” She says she is “really proud of the close team we have built at the firm, and have so enjoyed watching some of the young associates become partners and equity partners.”

She advises that it is never too early to start building a team, and says that it is crucial that you both listen and have an interest in what they are doing. “Support the good times and the bad times and understand their goals and their challenges. Have a good rapport with the lawyers on the other side, because this leads to work and referral. Develop your business by just maintaining regular communications with clients, understand your own strengths and weaknesses and stay true to relationships.”

## Jennifer Levy

**Partner** Kirkland & Ellis - Washington, D.C.

**Practice Area:** Litigation | **Years practicing:** 21

Jenny Levy, litigation partner at Washington, D.C.’s Kirkland & Ellis firm, spends the majority of her time handling high-profile, high-stakes litigation and government investigations for Fortune 500 companies, as well as specializing in handling lawsuits and investigations brought by state Attorneys General.

The law profession very nearly missed out to a medical career, however, when Jenny switched from studying medicine when she realized she “wasn’t very good with sick people or blood.” There were no lawyers in her family, but she looked to law as a way to turn her love of storytelling into a profession.

During her first semester at law school Jenny found litigation. “All things related to trials fascinated, energized and captivated me; the thrill of being able to make arguments on my feet, creating a story and trying to persuade a fact finder that my story was right. Several decades later it is still what I love.’ And the nerves? The nerves don’t go away, she says, “but for most litigators, if you aren’t nervous, then you



probably aren't well prepared."

When asked to recall a significant moment in her professional life, she doesn't hesitate. "It was the moment I was holding hands, heavily pregnant, with death row inmate Robin Lovitt. I had been his lawyer for two years, and he asked me to be beside him when he was put to death. We said prayers, he had his last meal, and literally within minutes of when we were scheduled to walk together to the death chamber we got the news he had been granted clemency. It was the most amazing moment in my legal career - maybe in my life."

Pro bono work is something she values deeply ("because I believe, with every cell in my body, that people should have access to justice and equality"), and credits Kirkland & Ellis as being a genuine champion of pro bono work. "The firm handles those cases just like we would for paying client, giving young attorneys enormous flexibility to do the kind of work that matters to them, across the spectrum."

Being a lawyer affords her the power to right wrongs, and representing clients in a pro bono case is, she says, the greatest privilege a lawyer can have. "Pro bono work has been a part of my practice from the first moment I could practice law. Working on those cases gave me in-court and deposition opportunities that led to stand-up litigation opportunities in the first year - and helped me get over the fear of it, teaching

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me how to do things well. Now, as I am older, I find that pro bono work grounds me. Whatever problems I have, they are small compared to the problems of poverty and inequality facing my pro bono clients."

On the client front, Jenny loves the opportunity to work on complicated issues that are on the forefront of what people are talking about in society. Her job is to "dig deep into complicated market sectors, learn the facts and understand her clients' problems and to help find solutions for them", citing recent work involving the opioid crisis and litigation involving student loan servicing and debt.

The term 'rainmaker' is really about making meaningful human connections with other people, says Jenny. "I don't necessarily associate the phrase with making money or bringing in dollars - although that eventually comes. When I think about the kind of rainmaker I want to be, it's someone who can get to know people, to understand their jobs, their businesses, their functions. When you get a deep understanding of the corporate mission and where the legal issues fit into that, then the business connections flow."

Business development for her lies in getting the basis right. "Do a great job on the matters that you already have; that's the easiest way to get more work." Investing in relationships with people inside Kirkland & Ellis, thinking about which of her partners might know people who need her expertise, doing docket searches, looking into the media and at issues that are brought into court relevant to her expertise, are all ways in which Jenny develops her client list.

Advice to her younger self would be a rallying cry to be brave. "Don't let fear get in your way, look

forward and just do it. Dive in and look around - you'll see you're at least as good as everyone else. Reject imposter syndrome by acknowledging it and talking about it. Focus on the privilege of making a real impact on a client's bottom line, people's lives and the world."

## Trent Norris

**Partner** Arnold & Porter - San Francisco

**Practice Area:** Consumer Protection | **Years practicing:** 25

Trent Norris, consumer protection partner at Arnold & Porter's San Francisco office, came to practice law somewhat reluctantly. "I resisted becoming a lawyer, even though everyone told me I should go to law school. Early on, I worked with US Senator Wyche Fowler on a variety of legislative issues and realized then that anyone who was anyone was either a lawyer or had a law degree, so I went to law school too." From there Trent practiced at a private firm to pay off loans, and to his surprise, he really enjoyed it.



"What I really liked the most (and my practice area in particular has this) is the great mix of policy, politics, science and business; all coming together to address problems that businesses face. I really enjoy working through those problems." Trent's initial focus centered on the environmental area - while most of his matters still have something to do with chemicals and toxins, his area of focus is defined more by regulation of the consumer product sector.

Trent says that rainmaking starts with the simple things, such as being personable "because why would clients choose to spend time in the trenches with you if you are hard to be with?" He asserts that business development is led by honing legal and client relationship skills, alongside thoughtfulness towards clients' needs and a conscious understanding of where your work fits in terms of the market.

As a term, 'rainmaking' rankles a little, Trent says, because it doesn't convey the level of thought and effort that goes into business development or the number of people it takes to support a practice in that way. Trent notes that it often conveys a sense that you've got the work because you have some magic power to charm the client into giving you their business. But there is nothing magic about it. "There's an old joke in the consumer products industry that nothing kills a bad product faster than good advertising. In law, the product is the work of yourself, your colleagues and your firm; unless that is top notch and meets the clients' expectations, you won't become a successful rainmaker."

Trent is engaged in pro bono work focusing on the LGBTQ+ community; from large-scale impact matters for organizations on rights issues, an amicus curiae brief to the Supreme Court on same-sex marriage, assistance drafting legislation, and a variety of research work for rights organizations in the LGBTQ+ world to help them refine their litigation strategies, down to work for individuals who desire resolution outside the media glare.

“In the days when it was illegal to be openly gay in the military, there were some members who were being held up by fabricated charges or who were being treated in different ways because they were LGBTQ+. It was really gratifying to be able to help these people in negotiating their way out of the military or negotiating reassignments, always with the goal of keeping them far away from the media spotlight; whether because those clients hadn’t yet come out, or they just wanted to live their lives in relative peace like the rest of us.”

Trent says he finds the time and the passion for public service work because there is still an enormous need for it. Often, he says, what looks like a legal problem often has a legal (or non-legal) solution to it, relating to a discussion of peoples’ interests and what can be done outside the legal framework. It is fulfilling work, he says. “This is how I practice law on behalf of my playing clients as well. The legal system typically

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offers binary solutions, and even when you win, it isn’t necessarily satisfying. Being able to work and talk through various other issues to come up with a solution is very satisfying for me. Legal issues that no one has thought out, which solve a greater injustice - this is where there is a huge need.”

When asked to recall a significant moment in his career, he cites an early pro bono case where he acted for a transgender woman who was being evicted from her apartment. “The name on the lease was her legal, male name and she preferred to be called by her female name. She was going to be evicted, there was no doubt about that, so I was busy getting her to understand that she was not going to win and that she needed to find somewhere else to live - the most I could do was soften the blow and buy her some time.” The issue was that both the landlord and the landlord’s attorney persisted in calling her by her legal name to intentionally annoy her. “I persuaded the judge to order them to refer to her by her preferred, female name, which was so much more important to her than trying to stay in her apartment.” At the base of almost all litigation, Trent says, is a demand to be heard and to be given respect - it’s as simple as that.

## Ken Salazar

**Partner** WilmerHale - Washington D.C.

**Practice Area:** Natural Resources | **Years practicing:** 17

As a younger man, Ken Salazar, partner at Washington, D.C.'s Wilmer Hale, 50th US Secretary of the Interior, US Senator and Attorney General for the state of Colorado, narrowed down his choice of career into two options: he would either attend graduate school to study political science or would opt for law school - and the latter won out.

"I thought law was the better option as it would only take three years and would allow me geographic flexibility. My plan was always to move back to the San Luis Valley in Southern Colorado, where I was born and raised on a farm. I made my decision to study law and aspired to build a practice back in this very remote and rural area of my state and combine the practice of law with ranching and farming."

His practice, spanning a number of different areas, has a strong focus on natural resources and says key events shaped this. "The first year after law school I was given a job as an intern with the Colorado Attorney General and was asked by the Solicitor General to help on a major water rights case which led to my expertise as a water lawyer." He says he always been interested in this area, influenced to some extent by Colorado being such an arid part of the US. "Water issues between Colorado, Arizona and Texas have been a key feature of our legal landscape; my background from a ranching family also meant water was a key part of my personal history." He notes that when he joined Sherman & Howard as an associate in 1981, half of his clients were in the water area including ski resorts and mining companies and later, he became director of the Colorado Department of Natural Resources. "As Attorney General of Colorado, Senator and as Secretary of the Interior in President Obama's Cabinet, I continued my focus on natural resources."

Ken says that business development is an important part of success for lawyers, especially in a competitive environment. "Creating and maintaining relationships with clients is to bring your best expertise as a lawyer, dealing with the challenges your clients are facing and understanding the context of their business."

Over Ken's career, public service work has been a constant in both his federal government and state government roles. He comments that his private practice work has always very helpful in his government service, which spanned nearly 25 years. "I always valued my law degree in approaching problems. Understanding government regulations and how the government makes decisions has informed my private practice as well."

Pro bono work has also featured strongly over his career. Ken recalls a significant case where he was involved in a challenge against the State of Colorado school finance formula. "In the 1980's in Colorado, the amount of money spent on education was highly dependent on where you were from and what school district you were in. We challenged that legal framework as unconstitutional. Even though that case was lost, the Supreme Court was highly critical of the way in which school finances were calculated. I became the State Governor's counsel, and he asked me to work through school finance issues. We were able to reform the school finance formula for education." That experience was formative, "leading me to the realization



that committed people in government and high political office could do a lot of good.”

Harking back to his roots, many of his pro bono projects reflect his passions for the conservation and state of Colorado. This focus on conservation stems from his childhood where he grew up in a family of ranchers, leading him to really understand the impact of taking care of our natural resources. “Much of my life has been devoted to nature and to the conservation of the planet; that belief goes hand in hand with my legal work in natural resources.”

Ken acknowledges above all a love for the law, born out of the civil war constitutional amendments which established equal protection. “Throughout the history of the U.S. Supreme Court, we see the arc of progress in creating equal opportunities for all people. It’s a highly personal value of mine: the fight for fairness for everyone, particularly those who have been excluded. That is the thing that drove me into politics and still drives me in my life.”

## Aravind Swaminathan

**Global Co-head** Seattle

**Practice Area:** Privacy & Data | **Years practicing:** 16

Aravind Swaminathan, global co-head of Orrick’s Cyber, Privacy & Data Innovation Practice, never wanted to be a lawyer growing up. “I fell into the profession when I was looking for the next adventure. After college I taught math, science and technology to 7th, 11th and 12th graders, then went back to graduate school. When I thinking about what to do, some law classes jumped out at me, so I thought I’d try that.”

When Aravind became a lawyer there was no cyber security and privacy practice. “In 2002, people who did privacy then were doing consumer protection; the first data breach statute didn’t get passed until several years later. But when I was a prosecutor my boss designated me as a CHIPs attorney. I did a couple of fairly complicated digitally-based criminal prosecutions and my boss (the US Attorney) made me a CHIPs lawyer which launched me into cyber crime work as a prosecutor. I had done a lot things that many lawyers in this area might think odd: I was pretty much a generalist, doing white collar crime, DOJ and SEC investigations, trademarks etc.”

When Aravind got to thinking about what to do next, he realized there might a confluence between all these unique things he did in what was going to be called ‘cyber’. “My background gave me a unique skillset before cyber was even a thing. I realized we would have companies like Yahoo which would have DOJ, SEC, and plaintiffs class actions.” He adds that he is technically inclined - “not a tech major but I do have a pretty good aptitude for it, so it made sense.”

When thinking about his practice, he says that one of the really interesting aspects is the element of co-design involved, which helps clients understand their problems.

“What my group really focuses on is understanding the identity of our clients and the perspectives they bring to their problems. You have to come to the table with the ability to bring really diverse ideas and to be creative at problem solving so you can develop outside-the-box solutions. We have worked really hard to build a team who gives that; my success is due really to my team which is almost 50% women and 25% people of color.” He says there has been a strategic and purposeful plan to put together a group of people



who have those perspectives that our clients want. "Working through cyber problems needs a diverse team-led approach as they are not cookie-cutter issues - there's no playbook."

When asked about the term 'rainmaker', Aravind says that he "just would not be here if it wasn't for the giants that came before us. There are lawyers in my past - people of colour - who mentored and supported me such as Bill Lee and Wayne Budd (the former attorney general of Massachusetts), people who led the way and brought us along with them. They instilled in us the fact this is a team effort."

He stresses that a rainmaker is not just a one person. "We get to our successes by the efforts of lawyers before us, but we don't truly fulfil our promise unless we bring the next generation along with us too and give them opportunities."

He sees rainmaking as a tool to building relationships and partnerships to help clients grow their business, the law as a mechanism to help their business be successful.

"We're building partnerships and building strong diversity at the table. You can only do that with a great continuity and longevity on the team. Retaining talent is a big part of what I do and is meaningful to the clients. Diversity absolutely builds into that retention - nothing frustrates a client more than having to explain everything to a new lawyer again."

As for Aravind's public service work, he says there is a definite synergy between his profit and non profit work. "Most of the pro bono work is super fun too. The only thing we do more aggressively is to give junior lawyers more opportunities to get on their feet and do more, which helps with talent development and retention. I have a pro bono client with data breach and I let one of the associates run point with me shadowing him. He presented to the board and it was a great opportunity for him."

## Jonice Gray Tucker

**Founding Partner** Buckley Sandler - Washington, D.C.

**Practice Area:** Financial Services Litigation | **Years practicing:** 18

Jonice Gray Tucker, founding partner of Washington, D.C firm Buckley Sandler and financial services defense attorney, suggests that while it is always wise to have a plan, it is even wiser to keep an open mind. "I went to college based on a merit-based biomedical scholarship, intending to be a doctor and with no interest in law." After realizing that she didn't want to pursue a medical career, Jonice applied to law school thinking that it would give her a foundation for many different pursuits, and says that she was particularly focused on pursuing a career that would allow her to incorporate work that would help underprivileged segments of the community.

"I grew up in a family where helping others was a focal point both personally and professionally. My father was a director of a couple of non-profit organizations and ultimately went into senior government service and my mother was a teacher. Both of my parents did extensive volunteer work with charities at a grassroots



level, were on a number of boards, and they involved me and my brother in this work from a young age. I was very fortunate to see giving back modeled by my parents, and more importantly, to be able to help them with this work as a kid. You can talk about it but you really can't teach that kind of commitment. You have to experience it."

Jonice's focus on the financial services sector began at Skadden's, a firm she chose partly on the basis that it had a strong commitment to pro bono work. Shortly after joining Skadden, Jonice began her career defending financial services companies in government investigations and related litigation.

When asked about pro bono work, Jonice recalls an early assignment to serve as the principal associate working with well-known defense lawyers Bob and Saul Pilchen in a highly publicized case involving Kenny Conley, a young white Boston police officer. Conley had been wrongfully convicted of perjury relating to a police beating of a plain-clothes African American cop when in fact, Conley had chased the real suspect for over a mile on foot and had apprehended him. Scouring through boxes late at night, Jonice found exculpatory evidence that had not been produced correctly by the government and the conviction was eventually overturned. "My work on that case showed me the importance of being thorough, prioritizing diligence and above all, knowing that victory is possible even if it seems improbable."

Skadden Arps' long-standing partnership with the Legal Aid Society of DC led to Jonice seconding there in 2004, handling matters which involved domestic violence, child custody, public benefits, and landlord-tenant issues. She has remained close to those at Legal Aid, including former clients, and now serves on the Executive Committee of the Board of Directors.

Outside of pro bono work, she highlights leaving Skadden to become a founding partner of Buckley Sandler as being "the hardest and most risky professional decision I have ever made, because it was so hard to leave what I knew - great work and wonderful people. But the next phase of my career was another amazing growth opportunity. I am grateful to have had the opportunity to play an instrumental role in building what has become a mid-sized law firm while continuing to do what I love substantively."

As for rainmaking, Jonice says that people often think immediately about money when they talk about the term, and while she agrees that is a byproduct, the core is different. "The question is what got you to the place of being a rainmaker. Certainly you have to be a good lawyer - but for those clients who have helped you get there, you have also been a trusted advisor, a business partner, and often a friend even in the worst of times when tensions are running high. In my case, a central part of my practice involves defense of 'bet-the-company' government investigations. Focusing on the needs of your client, meeting where they are, and helping them navigate through it is what rainmaking is about."

Developing your business, she suggests, means focusing on building meaningful relationships and investing in them every single day. "Invest in your current clients but also with future clients and strategic

The question is what got you to the place of being a rainmaker. Certainly you have to be a good lawyer - but for those clients who have helped you get there, you have also been a trusted advisor, a business partner, and often a friend...

partners - those are folks who you may chose to refer business to when you can't do it, and vice versa." While some might view these lawyers as 'the competition', Jonice suggests that isn't the right way to think about it. "Look at these relationships synergistically - learn from one another and look for ways to work together."

## Bart Williams

**Partner & Co-chair** Proskauer - Los Angeles

**Practice Area:** Commercial & Civil Litigation | **Years practicing:** 30

Bart Williams, trail lawyer, partner and co-chair of the Los Angeles litigation practice at Proskauer, credits his experience on high school debating teams as being formative when it came to deciding he wanted to be a lawyer. That, and the TV series *LA Law*.

"I played basketball in college and people assume that it was the most competitive, significant thing for me but it was actually debate in high school - the oral advocacy - that really has an obvious cross-over to what I do now. Learning how to become comfortable with speaking in front of people and taking a side; that is a life-changing, powerful thing."

Bart also credits the impact of seeing diverse lawyers on the screen as a contributing factor on his career path. "I am dating myself here, but *LA Law* had lots of minority lawyers who were fantastic, who were great at their jobs. I had already decided to go to law school but this made me more focused on becoming a trial lawyer because all the people on the show were." More importantly, he says, the show was a game changer in terms of what juries believed a lawyer looked like. "Since TV and movies started showing influential, high impact minorities on screens, there's been an ever-increasing number of women and minority lawyers at



"Be good in your area. My forte is trial work and advocacy in front of courts and jurors - a skill that is often not developed in litigators so you have to be deliberate about it. Since law school I have read every book there is on trial advocacy, read the biographies of famous trial lawyers, been a student of it; when I can, I try to go to court and watch other people do their thing. I think all of that has made me better, because there is always something new to learn."

big firms and companies doing what we do. Now juries think it is weird if you don't have diversity on a team."

His success at Proskauer in both attracting and retaining business comes from "a desire to ensure that I can keep myself and an ever-growing group of people busy and working." For Bart, rainmaking connotes being attractive to clients and meeting the demand for your services, and always doing your thing, your way. Pragmatic approaches to business development are also key. "I am always responsive - my clients get an email back right away, and I make myself available at any time - nights, weekends, early in the morning."

Expertise, he says, is crucial. "Be good in your area. My forte is trial work and advocacy in front of courts and jurors - a skill that is often not developed in litigators so you have to be deliberate about it. Since law school I have read every book there is on trial advocacy, read the biographies of famous trial lawyers, been a student of it; when I can, I try to go to court and watch other people do their thing. I think all of that has made me better, because there is always something new to learn."

Trial lawyers, he thinks, steal the best ideas from each other. "If there is a way of expressing a concept that makes sense and resonates with people, then use it - make it your own. Anything that gets people thinking in simple terms helps."

Bart's next challenge is to master the use of tech in a presentation to keep it interesting to the listener. "I take this very seriously, because it is hard work to both be prepared and to stay current on it." He mentions Clarence Darrow, the famous trial lawyer, who would stand and talk to a jury for six hours. "Things are very different now. I use power points, boards and charts which gets me moving and makes sure I keep attention and interest up."

Bart recalls a significant moment in his early career after leaving the US Attorney's office. "It was a criminal case; a guy was charged with making illegal campaign contributions and looking at jail time, and I believed that he was wrongly accused. He found his way to me and I was lucky to get the case and to have won. The experience of seeing first-hand the way the justice system impacts a person and their family, and the powerful impact of seeing the other side, of being a criminal defendant as opposed to being a criminal prosecutor, was powerful - a period of tremendous personal growth. When you win a criminal case, against all the odds - it was hugely important and gave me the confidence that I could do really really tough cases as a trial lawyer."

Outside the court room he is involved in bar organisations and speaking commitments, to keep himself "out there in the profession". Public service work has been on boards, such as 12 years at the Charles R. Drew University of Medicine and Science which is dedicated to the medically underserved populations in and around LA, and recently on the board of the Alliance for Children's Rights for kids who fall through the cracks in the foster care system. In a neat full circle, debate features too; he is a founding member of the Los Angeles Metropolitan Debate League which focuses on bringing policy debate to inner city high schools.



**TO BE SURE, RECENT YEARS HAVE SEEN PROGRESS FOR WOMEN IN THE LEGAL PROFESSION. IN 2016, FOR THE FIRST TIME EVER, WOMEN MADE UP THE MAJORITY OF STUDENTS ENROLLED IN US LAW SCHOOL CLASSES. THE NUMBER OF WOMEN IN LAW SCHOOL INCREASED AGAIN THE FOLLOWING YEAR, AND NOW WOMEN COMPRISE MORE THAN 51 PERCENT OF US LAW SCHOOL STUDENTS.**

Getting more women in the pipeline is an important step, but meaningful progress would reflect women advancing throughout various levels of professional achievement and at the top levels of law firm leadership. The legal profession still has room to grow in that regard. Only 12 percent of more than 300 law firms surveyed by Law360 for their 2018 Glass Ceiling Report are led by women.

Womble Bond Dickinson is at the forefront of helping change that equation. The firm's top two leaders on the US side are women - chair Betty Temple and vice chair Ellen Gregg. In addition, for the first time ever all four members of the firm's Executive Committee now are women. Earlier this year, women were named to lead our offices in Raleigh, Winston-Salem and Washington, D.C., and our new Boston office opened late last year with a female managing partner.

Womble Bond Dickinson has been named a Women in Law Empowerment Forum (WILEF) Gold Standard firm in 2015, 2017 and 2018. In order to earn this honor, firms must "meet objective criteria concerning the number of women among equity partners, in firm leadership positions, and in the ranks of their most highly compensated partners."

But this sort of change does not take place overnight.

At Womble Bond Dickinson, "Respect for the Individual" is a long-standing core value of the firm

and is the bedrock principle for us in our Diversity program and beyond, throughout the entire firm. It is reflected in our internal leadership and professional development programs offered at the firm. We work intentionally to be inclusive in our development programs - to foster a pipeline of diverse talent who build their careers with the firm.

Despite the gains in law school enrollment by women, much work remains to be done regarding gender equity in law firms. Only 21 percent of equity partners are women, according to Law 360's 2018 Glass Ceiling Report. Like most other AmLaw100 firms, Womble Bond Dickinson has struggled with this issue, and we are committed to addressing it.

Womble Bond Dickinson created a Getting to Equity program to help our attorneys rise to the equity partner level. The program is open to all salaried partners, and its primary goal is to increase our number of equity partners and invest in our lawyers' careers. As with all our professional development programs, we are inclusive in the development of cohorts to participate in each program. As we create a cohort for any career development purpose, we actively consider and intentionally include multiple levels of known diversity including geography, practice area, years of practice, sexual orientation, race and gender. Womble Bond Dickinson's Getting to Equity program is an intensive, year-long curriculum that



helps aspiring equity partners develop robust and sophisticated business plans, build relationships that last, and offer valuable practices to our clients.

Another example of our firm's efforts to include women has been the Women of Womble Bond Dickinson (WOW) initiative. WOW, led by firm partner Cathy Hinger, provides mentoring, networking and professional development opportunities for the firm's women attorneys. WOW also supports Dress for Success, an international charity focused on women's empowerment and education. But while WOW is an internal initiative, it also has a strong external component - and that component has been key. For example, many WOW events are open to in-house attorneys from firm clients.

These professional development efforts are bearing fruit. While we still have work to do in increasing the overall number of women equity partners, 50 percent of our new equity partners joining or promoted in the past 12 months have been women.

As the firm continues to build on its efforts to ensure a strong firm - one that serves as a base to sustain strong and rewarding careers for our attorneys, we continue to seek ways to support all of our attorneys in their professional development. In the coming year, the firm will participate in DiversityLab's Mansfield Rule project where we will focus on building inclusive pools of talented candidates for various leadership and hiring opportunities to come.

While we are committed to helping our attorneys grow professionally, we also are leveraging our women in top leadership roles to promote inclusivity at all levels of the firm. Our women leaders, including chair Betty Temple, are highly visible in their communities and in professional circles - and are encouraged to be vocal and visible leaders. Quality attracts quality, and it is our hope that talented women attorneys and other professionals will want to work alongside Womble Bond Dickinson's leaders throughout the firm.

There is no doubt that gender equity is a vital issue in our profession. Law firms that give all professionals the best chance to succeed are the ones that will fare best in the global marketplace. Of course, addressing the challenge is much more difficult than merely identifying it. But by leading with our values and intention to be inclusive, we believe we have key ingredients to creating and sustaining an inclusive workplace in which all can thrive.



**BETH TYNER JONES**  
beth.jones@wbd-us.com

Beth Tyner Jones is a leader of the Womble Bond Dickinson's Education and School Law Team, head of its Employment and Pensions Service Team, and a member of the Firm Management Committee and Executive Committee. She also serves as office managing partner of the Raleigh, North Carolina office and co-chair of the firm's Diversity Committee.

**INDIA HAS A WIDE RANGE OF CULTURAL, RELIGIOUS AND ETHNIC DIVERSITY. BUT IN RECENT YEARS MUCH OF THE FOCUS ON INDIA INTERNALLY AND EXTERNALLY HAS BEEN CONCENTRATED ON GENDER RELATIONS AND THE WAY THAT WOMEN ARE TREATED. HOW DOES THIS IMPACT FEMALE LAWYERS?**

While gender-motivated crimes have been prevalent for years, the horrific gang rape and assault of student Jyoti Singh in 2012 provoked widespread outrage and protests. Progress has been made since then but many feel that the changes have not gone far enough and that it is both societal as well as judicial change that needs to take place.

India has one of the younger populations on the planet and is therefore a high growth economy as identified by the International Monetary Fund. However a wide range of research has identified the fact that India's economic growth could be further heightened with greater participation in the workplace by women.

On a visit to India in 2016, I was pleasantly surprised by the amount of highly talented female general counsel I met. I followed up with some of them and other leading female partners in Indian law firms to understand a bit more about the realities of working as a female lawyer in India today and how lawyers and their companies are helping to implement change at the organizational level and beyond.

India's first woman lawyer was Cornelia Sorabju who entered the profession in 1924. As early as 1916 challenges in the courts caused the judgment that there was no reason that women could not practice law, although at that point the judges in question were too cautious to go as far as saying a woman could actually be a lawyer.

However, the growth of India as a global economy and the rise in global corporations looking to India for reliable, well-educated talent and hoping to tap into India's growing middle classes mean there's a premium in talent, which many are increasingly looking to women lawyers to satisfy.

Legal headhunters report an increase in requests to hire women lawyers particularly in the mid to senior levels. Part of this is the effects of globalization and companies looking to implement worldwide adoption of better quotas for gender parity in their workforces.

Significant factors which can dissuade women from moving into law are patriarchal attitudes around what women can and cannot do. This wasn't an issue that Sunila Awasthi, senior partner at AZB Partners, faced when she became a lawyer in that she, unusually, grew up in an all-female household:

"I may be more the exception than the rule in India; because of family circumstances I lost my father when was ten and grew up surrounded by women. At a very young age we realized how patriarchal our society is; I was very conscious that we had to be financially independent and was determined to become a professional. My family was going through a lot of litigation issues regarding our rights as women, so maybe that propelled me to be a lawyer."

Roop Loomba, co-founder and managing partner of Loomba Legal Services, and a former general counsel, says that she did face some opposition to her embarking on a legal career early on. "I wanted to seriously do something to ensure people's rights which made me think about becoming a lawyer but I was a science student and had got admission to do a Masters in bio-technology. I decided to apply to law college and initially did get some pressure not to go ahead from my dad who wanted me to become a scientist, although later he wholeheartedly supported my decision." After becoming a litigator, Roop says that, "even though I had a high success rate I would often hear from my peers that this profession is not meant for women. However I kept my focus and did not let any doubt come into my mind."

But, Roop continues, such mind-sets are not universal:

"After my law practice stint I applied for jobs and was taken on board for a very challenging role as an IP Lawyer (anti-counterfeit role) by Castrol India Limited. I was the only woman in the team, discharging a highly risky role and I did not face any discrimination."

Conversely, Divya Kumart, executive vice president, chief legal officer and company secretary of Datamatics, says that any challenges along her career pathway have been not of the gender bias kind. "I believe challenges are all in the mindset, and irrespective of gender, every successful professional has faced his or her challenges in some way or the other. I would not categorize my challenges in the category of gender bias. Today, the company where I have been working for over 14 years has given me un-

fathomable respect and an excellent platform for professional growth."

A significant factor for some of the interviewees is the liberalization of India in the early '90's which produced the first corporate law firms. As these firms were starting from scratch, lawyers like Sunila feel there was perhaps more egalitarianism of opportunities for women and men.

"I have seen an increase of diversity positions in the market which is a positive change and companies have introduced flexi hours, work from home and so forth," she notes.

Roop says that, specifically, the emergence of international companies in India introduced more well-defined diversity and inclusion policies, although she suggests the take-up hasn't necessarily been there. "Very few women make use of such policies either out of fear or otherwise, and so the drop out ratio of women is still high in spite of good policies being in place. I have worked in international companies throughout my career, and my experience says that very few people at the management level have the ability to go into the real issues of women and diversity." She thinks that there needs to be a lot of change in the mindset of management in accepting women in leadership positions and says there is a high degree of lobbying to which women cannot be a part of.

## **WORK/LIFE PRESSURES**

As is all too common around the world, issues surrounding family also means that there's a high level of drop out from the profession when women have children. While many firms and companies are trying to address that via flexible working it can still be an issue due to the





SUNILA AWASTHI



ROOP LOOMBA



DIVYA KUMAT

blending of families - typically occurring when a woman goes to live with her husband's family and has to take into account their in-laws preconceptions and ideas around childrearing and the role of women in the workplace, which may be symptomatic of the biases of earlier generations to women working.

Roop suggests that although maternity leave has been increased to six months and creches have been made compulsory, it has come too late in the day for many women who have already quit under family pressures.

Sunila points out that in the past decade increasingly women are coming back after maternity breaks in law firms which means that "even law firms are being supportive. But I am aware of instances where women lawyers have moved from law firms to in-house after maternity leaves as the support, especially in MNCs, is more structured."

Divya Kumat has a more positive outlook from the corporate side, echoing Sunila's observation and suggesting there has been a "dynamic transformation" in the role of women at workplaces. "Companies in India are striving to create a 'Great Place to Work' atmosphere for employees, which is of great relief to women trying to manage the balance between work and home." She cites companies such as Accenture, Cognizant, Intel, TCS, Wipro and Infosys as having robust employee-friendly policies and facilities like flexible working hours, compressed workweeks and alternate work schedules, telecommuting, home office, part-time employment, childcare assistance, resource and referral services and health and wellness benefits.

However, Divya acknowledges that the management of family pressures after marriage is still a problem for female professionals. "The Indian mindset is changing slowly and gradually in this regard. But without the cooperation and moral motivation from family members, it is very difficult to manage the competitive landscape of the

legal profession. Thus inevitably there is stress and many women then opt for less taxing roles or part time jobs.”

## FORCES FOR CHANGE

What of the split between in-house and external law firms - do in-house lawyers seem to be putting any pressure on their law firms to be both gender-aware and to promote more? Roop Loomba doesn't think that has been the case. "I have never seen it over my entire professional career - it seems to only become an issue if there has been a mandate from global management."

Divya points to the increasing numbers of women entering and representing the legal profession as being "one of the most remarkable changes in the recent few decades in India." However, she says that there are certain key issues and challenges that female professionals continue to face in legal profession, such as sexual harassment and gender discrimination. In 1997 a landmark judgment was pronounced on the Vishakha case, the first case of sexual harassment in the workplace that was recognised by law and society. With this judgement came the famous Vishakha guidelines which were later translated into The POSH Act [Prevention of Sexual Harassment Act] in 2013. "Since then, the dynamics have significantly improved and many other measures have been adopted by law makers in India for the security and safety of women."

Further investigation is needed, according to Roop: "Nobody really goes into the reasons why a professional woman who was doing so well leaves suddenly. I think global management should appoint special committees to go into the real reasons as part of their diversity drive and retention of women."

Certainly, the economic potential of India, makes it a significant area of focus for many international companies. As they bring to bear their global policies on diversity and inclusion it may well help drive change professionally and socially.

Roop thinks there is more work to be done to achieve gender parity in the Indian legal profession, beginning with women supporting women. "I think more women should come forward to support other women in their professional career and foster each other's careers. I see that as a main issue that we as a gender do not adequately support women well, especially considering for most women, the journey has not been easy. If we start supporting each other, more than half the issues will get solved."

There's also the need, as identified by the United Nations with its 'He for She' campaign for men and particularly male leaders, to come to the table to fully support women in the workplace. For Sunila, the support of her male managing partner, Ajay Bahl was a key factor in her success and that of other female lawyers at the firm, particularly in the early days.

"When we started as young lawyers our boss was a man and he would tell his clients quite clearly that these are our associates and you will have to deal with them. He wasn't looking at us as men or women and that gave us a lot of confidence, particularly when we used to deal with lots of old fashioned people whose first question was 'what does your husband or father do?' What is significant that your firm or company supports you. That conveys a message to the clients: this person has these capabilities and will take care of your work."



### CATHERINE MCGREGOR

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Catherine works as an independent advisor to law firms and legal departments around the world. Her work focuses on the practical challenges for modern legal departments, in-house lawyers and their companies and the related challenges and opportunities for their advisors that understanding their clients can bring. Additionally, she acts as Editor-in-Chief of Skaicre, a specialist community for real estate general counsel and lawyers.



# CH/**A**NGING THE BRO/**R**CULTURE

Technology's Moment To Make A Difference

By Catherine / McGregor

## THE 'BRO' CULTURE OF SILICON VALLEY IS WELL DOCUMENTED IN POPULAR CULTURE AND ALSO IN

reality via lawsuits and discrimination cases which point to the negative aspects of a homogeneous culture. Just this year, Emily Chang's book "Brotopia" took a long hard look at a range of factors leading to this state of affairs. There seems to be more impetus to change but how ingrained is that and, ultimately, do tech company lawyers have a key part to play?

So we know 'Bro' culture is a 'thing', but why and how has it developed? There's no denying the pipeline issues caused by cultural imperatives whereby girls are less likely to specialize in the subjects that lead them to be qualified to be software engineers and other in-demand jobs in the valley. But this wasn't always the case. In the early years of computing, women were as active as men. Indeed, the earliest computer programming jobs were seen as an extension of secretarial work and therefore predominantly held by women.

However, the rise of tech as big business and a high net worth profession seemed to coincide with women being edged out of the industry and also out of the pipeline of compatible university courses. Emily Chang in Brotopia identifies the Cannon and Perry Programmer Aptitude Test which was introduced in the 1970's as a key part of the problem. While testing for programming skills, Cannon and Perry also introduced a personality test which was geared towards selecting individuals with more anti-social behavior traits, potentially even on the autism and Asperger's spectrums. Thus the stereotype of the 'nerd' was born and generally speaking, men are more likely to identify with anti-social behavior traits than women.

With the rise of the first dot.com boom and the emergence of companies like Apple, the perceived prototype of the tech company founder was solidified: a white man who would be more likely to over-exaggerate his own aptitude and to be less empathetic to others around him. This led to an increasing likelihood that many of the founders of tech companies were young white men.

Positively, many of those founders have sought to rewrite the rules of work with new places that merge the work/life/

play boundaries. While these arguably utopian rethinks have smashed through the traditional office culture of the 9-5 grind, they have also brought a dystopia of group-think and hiring in the same image. It also leads to the question of whose utopia is it anyway? Alcohol on tap and a pool table there may be, but not a sniff of childcare.

## **FOLLOW THE MONEY**

Achieving success in tech depends on capital and venture capital investors are largely white men giving money to more white men. This is despite overwhelming evidence that female-owned startups are more likely to be successful.

A recent study found only 2% of venture capital went to women-led businesses. A large part of the problem has been attributed to investment firms being themselves predominantly run by white men. As tech entrepreneur Martha Lane Fox said, "all that's happened is one bunch of very rich white men have transferred their money to another bunch of very rich white men."

The same is true of minority-owned startups. And while several women- and minority- owned venture funds have formed with the aim of opening up funding to minority-owned business, they themselves have faced the problem of - you've guessed it - access to capital.

Recently, a group of female VCs came together to address this issue via the organization AllRaise which aims to provide seed funding for more diverse-led startups with the objective of addressing tech's diversity imbalances at the roots. Indeed, a sub-group of the organization is Founders for Change. In a neat piece of reverse engineering, many of these startups (which include diverse founders) are refusing to take money from VC firms that don't have diverse partners.

## **COGNITIVE DISSONANCE**

Ironically, many tech companies have a very mission-driven idealistic ethos at their heart. How does this morph into a culture that can be so exclusionary?

It's a conundrum that baffles Albert Giang of LA office GTE Boies Schiller Flexner too. Albert has worked with a large number of tech companies in his career, many of which have great brands as mission-driven companies. That branding means that his clients are more likely to value diversity and inclusion, including having a gay Asian American like himself as the relationship partner. "While most of my clients are committed to diversity and inclusion, when you broaden the lens to the larger tech world, it's not hard to find examples of bad conduct. It is important to make sure my experiences do not make me complacent, and that I continue to advocate for improvement for others, even if my personal experience has been with good actors."

At this year's MCCA G-TEC Conference in Austin, he chaired the plenary panel featuring lawyers from leading tech companies speaking about this very topic of how the 'Bro' culture can be changed, calling it "a necessary, national conversation."

"Our jobs as lawyers are to protect our clients, writ large. If there's something within the company that is unhealthy, that is eating away within the business brand, then we need to address it before it leads to greater problems," he cautions. The potential for issues to arise is something that all companies need to be vigilant on. "No one is immune to pernicious influences and culture; that's part of the cognitive dissonance. Tech companies are often shocked because they project this progressive utopian image, but sometimes even this very image can inhibit self-improvement as the company grows, especially in relation to how they hire, retain and promote staff."

# INDEED, ONE PERSON'S UTOPIA CAN BE ANOTHER'S DYSTOPIA. BEER ON TAP IN THE OFFICE MAY BE GREAT IF YOU'RE A TWENTY-SOMETHING MAN, BUT NOT SO MUCH IF YOU'RE A TEETOTAL MUSLIM OR A SLEEP-DEPRIVED WORKING MOTHER.

Indeed, one person's utopia can be another's dystopia. Beer on tap in the office may be great if you're a twenty-something man, but not so much if you're a teetotal Muslim or a sleep-deprived working mother.

## SCALING THE PROBLEM

Albert feels that there can be different challenges for companies at different stages in their growth and companies need to be aware of this. If you don't have a critical diverse mass early on, then the problem becomes harder to solve as you grow although this can partly be exacerbated by the often super-fast growth cycle of successful tech companies.

In "Brotopia," Emily Chang quotes Bret Taylor, co-creator of Google Maps who later went on to be CTO at Facebook. Taylor believes a significant factor is the growth cycle of tech companies, meaning they may need to grow from hundred of engineers to thousands in months. "If, at that point, you don't already have a diverse team, it's really hard to change because so much of your culture is built on the people you hired."

It's an experience that is borne out by music media start-up Genius. On visiting their Gowanus offices I have been impressed by how truly diverse their team is - racially, gendered and generationally.

I've known former Genius general counsel, current chief strategy officer, Ben Gross for a few years. He's told me that the company's diversity journey started early on when they looked around shortly after establishing the company and realized they were "a bunch of white guys from Yale." They set about changing that.

Genius is a crowd-sourced annotation site with a big focus on music lyrics, especially hip-hop. Hip-hop Culture is fundamentally rooted in the experience of urban, working class African Americans and also has links to the African oral tradition. With this in mind, to not have a racially diverse team would make a mockery of Genius' own genesis. Eddie Washington is Genius's recruiting lead and for him as a young, African American man, "Rap Genius [as it was called then] definitely rang bells in the hip-hop community and everyone there still associates it with rap."

The focus for Genius became recruiting outside of its own image. Initially the company had fallen into the trap of many of the now-behemoths of Silicon Valley in that the founders initially recruited from amongst their pool of friends. One of Genius' founders is Ilan Zechory who understands first-hand the pressures that the fast-scaling tech companies face can bring and how this affects diversity. "As you grow you inevitably reach for what you know and your own networks of people;

that means people who talk, look like you and grew up like you. If we don't consciously work against it, it becomes both inevitable and easy."

But how did Genius succeed where others have failed? A key, Ilan believes, was identifying the problem early on before the culture had become "too ingrained to change."

Then it was a practical recruitment issue, and that's where having a thoughtful recruiter like Eddie Washington has been so important. Eddie tried not to just look in the obvious colleges for candidates and instead took advantage of visiting tech and music meet-ups. Both Eddie and Ilan point to the fact that companies have to be prepared to say 'no' to an easy hire in order to create and then maintain a diverse culture.

The company also uses its weekly company meet-up to advertise new positions and make sure its diverse workforce can tap into their own networks, creating a literal subversion of the networks that create the 'bro' culture in the first place.

## **BASTIONS OF DIVERSITY**

But what about the legal teams? Ironically, in many tech companies the legal teams can be the bastion of diversity and can provide an important example of best practice for the rest of the company.

Kaema Schenk who is African American was the first lawyer at Austin based uShip. She believes that legal departments, particularly those that are the first lawyers, can function as trailblazers for the rest of the company regarding diversity.

"An interesting trend that I've noticed while meeting and networking with peers in similar positions in the tech industry is that those with the role as first in-house legal employee seem to be more diverse in terms of gender, race and sexual orientation. I imagine that as legal departments and the companies they represent grow, having

that diversity from the outset will really shape diversity in that department and across the organization. I think the significance of having diversity from the top down and its potential impact to hiring is something that is maybe understood in theory but not really acted on."

Diversity is something more intrinsic to the practice of law Kaema feels, than for many of their software engineering counterparts. "Lawyers have been having discussions on diversity for years and in many states are required to be trained on diversity or bias in order to maintain membership with the bar. While you don't have to replicate the trainings per se, I think at the very least it demonstrates the importance of continually having discussions on diversity and being open to having those discussions."

Jorja Jackson, senior corporate counsel at Salesforce, says there are concrete ways that legal departments can help change the broader culture. "As advisors to the business, the legal department can provide authoritative direction and guidance to leaders on how best to address areas of risk." The most obvious way her team has impact on Salesforce's business and culture, she says, is that attorneys of diverse backgrounds can deliver authoritative advice directly to leaders and employees who in turn are hearing and seeing diverse voices and faces lending support and advice. "More importantly, it takes a diverse team with a variety of experiences and perspectives to



gain a full picture of sensitive legal situations and nuances.

## **CULTURE EATS STRATEGY FOR BREAKFAST**

Leadership is one major aspect that sets the tone for the culture of the whole company. Salesforce CEO Marc Benioff has been a great advocate for equality. Similarly Kaema told me that uShip CEO Mike Williams has stressed that while “culture fit” is important when looking for new candidates, “culture add” is even more important because it lends to more diversity in the workplace.

But it’s the day-to-day interactions between co-workers that also define culture. One important initiative at Salesforce has been Ohana Groups, which are ten employee resource groups “that provide a community for underrepresented groups and their allies, offer professional development and mentoring opportunities, and empower employees to be responsive equality leaders in their community,” according to Jorja. More than 10,000 employees – one in every three employees globally – are members of one or more Ohana Group.

Kaema agrees it’s the bringing together different employees that helps redefine culture at the grass roots. “Something that uShip has started in the last year is called Coffee Roulette, where employees are randomly paired with another employee. Those employees then either go to lunch, grab coffee or do some other activity where they get to know each other. I think

that is a great way to bring together people that may not necessarily interact with each other during the workday. You have the opportunity to not only learn more about another coworker’s job and day-to-day, but it also allows you to connect with someone who may be outside of your typical office social circle.”

## **IMPACTFUL CHANGE**

I asked both Jorja and Kaema what they felt was the one important change that really needs to take root to end the ‘Bro Culture.’ For Kaema it’s diverse leadership. “This really goes back to having more diverse candidates in leadership roles across the organization. Additionally, we should be rethinking the way we define diversity and report on diversity. If we don’t really understand the problem, we are unable to truly fix it.”

More broadly, Jorja suggests the best way to combat ‘Bro culture’ is through gender equality programs. “For example, at Salesforce we made a commitment in 2015 to ensure equal pay for equal work and since then, we’ve conducted three global equal pay assessments, which have resulted in the company spending \$8.7 million to address any unexplained differences in pay between men and women.” She says there is a plan to review employee compensation on an ongoing basis which sends an important message of inclusion to both the women and men in the company.

It’s got to be a holistic viewpoint though, as Kaema explains. “Changing the ‘Bro culture’ is not something that should be the responsibility of underrepresented groups. It should be something that those in the majority care about and want to change, as well.”



**IN OUR REGULAR FEATURE, WE ASK A SUCCESSFUL DIVERSE ATTORNEY TO REFLECT BACK ON THEIR CAREER** and then advise younger lawyers on how they should manage their professional journey.

The arc of a successful legal career is often an unpredictable ride of twists, turns, dips and elevations. William Sherman started his career in law with the goal of breaking down barriers and to hold on to a steadfast set of values; it was these values that helped him push through the tough times. Sherman is now managing partner of Dinsmore & Shohl LLP's Washington, D.C. office.

### **HAVE A VISION**

The summer between high school graduation and the start of my undergrad studies at Morgan State University I worked in an automobile parts manufacturing facility. The factory job was repetitive, loud, hot and dangerous, and it convinced me that I never wanted to work in a factory again. While working that job, I decided I wanted to do something that challenged my mind and presented a variety of activities on a daily basis.

After graduating from law school, I landed my first legal job as assistant prosecutor in my hometown in Butler County, Ohio, becoming the first African-American to hold the position. The climate of the judicial system in the area was not always welcoming, but I enjoyed the challenges that came with being a leader for diversity in that office and in the community. Utilizing the resources of the county prosecutor's office, I joined with leaders of the minority community to establish a community organi-

zation called the "Yellow Jackets" to take the community back from the drug dealers during the crack epidemic. Members of the organization would wear bright yellow jackets and patrol the streets photographing drug dealers and their customers and providing license plate numbers to the prosecutor's office. Letters from the prosecutor's office were sent to the vehicle owners informing them that their vehicle had been identified in a drug transaction in a high drug-trafficking area, which subjected the vehicle to confiscation and forfeiture. The Yellow Jackets were extremely effective and the community was quickly reclaimed from the drug dealers and their customers. I was proud the Butler County African-American community was able to look towards the prosecutor's office as a resource for positive change.

In four years, I tried nearly 100 jury trials ranging from dog bites to capital murder. I had a high trial success rate - including getting Ohio's first ethnic intimidation conviction - but I was ready to move on and seek a new challenge.

### **EMBRACE OPPORTUNITIES**

A friend gave me a tip about a large firm in Cincinnati looking to hire experienced litigators to work on a national class action case involving thousands of plaintiffs. I interviewed for the position and a few weeks later was hired as an associate at Dinsmore & Shohl LLP. I remember my first day at the firm feeling that I was in a

different league, but not out of my league. My first day at Dinsmore began with a meeting in a large conference room overlooking the Ohio River. There were about 30 lawyers present. Most were associates like me, but about eight of them were partners. Three of the new hires were people of color and I was excited about the challenges ahead working for a full-service firm representing some of the world's largest companies. Dinsmore took a chance on me and I could see this position offered more opportunity for growth than staying in the prosecutor's office. I was determined to work hard and succeed in this new challenge.

### **SHOW APPRECIATION FOR THOSE WHO OPEN DOORS FOR YOU**

It's often due to the actions of others that diverse attorneys get their first chance. I was determined to show I was aware of the effect their actions had in helping me advance in my career.

I owe a lot to Jim Jenkins. Jim was the former general counsel of a multinational manufacturing company that was a client of the firm. In early 1992, Jim came in for a visit and to his disappointment found no attorneys of color working on our litigation team for his company. Unfortunately, this was very common in the legal profession at the time. Jim explained to Dr. Frank C. Woodside, Dinsmore's relationship partner, the importance of having diverse representation on his company's litigation team. Frank, to his credit, took heed, and I, along with two other diverse attorneys, was added to the team.

It sounds odd today but that was very bold and forward thinking for a general counsel's office in 1992, and it had a direct effect on my being hired by Dinsmore. After our meeting, I thanked Jim for the opportunity. He simply said "You're welcome," got onto the elevator, and left. I haven't seen Jim Jenkins since that



**WILLIAM SHERMAN**

day, but I've thought about his commitment to diversity many times since.

### **FINDING A MENTOR**

A mentor whether formal or informal is essential to the development of a successful career. Following the litigation with Jim's company we were hired as national counsel to defend a tobacco company in "Smoking and Health" litigation. Dr. Woodside assembled our team and we travelled the country defending our client. Working with Frank on national, high-profile, complex litigation afforded me the opportunity to hone my litigation skills under his watchful mentoring. What I appreciated most about working with him is he always gave it to you straight; good or bad. Having worked closely with Frank since my first day at Dinsmore, he shared with me his thoughts on my eventu-

ally becoming a partner one day. His advice and encouragement motivated me to set high goals.

### **MOVING OUTSIDE YOUR COMFORT ZONE CAN BE WHAT MAKES THE DIFFERENCE**

As the tobacco litigation was winding down, it became clear to me that becoming a partner in the firm would require me to branch out and move beyond my comfort zone of working with Dr. Woodside.

With a new motivation I spent the next three and a half years working for any partner who wanted or needed my help. I brought in cases of my own, demonstrating my potential to cultivate clients and generate fees, which is often a key differentiator in making partner. I took what opportunities were offered to me to broaden my practice: I worked with workers' compensation lawyers, took on commercial litigation matters, and was given smaller product liability cases defending products in

by a general contractor. The jury returned a complete defense verdict. The second was an estate matter with one of the firm's most senior partners. It was dismissed on our motion for summary judgment. Here's why it's important to work hard, get outside your comfort zone and make connections. I was young and wasn't sure if my recent successes would be enough to make partner, but when the partnership met to vote on the slate of recommended associates, the senior partner with whom I worked on the estate matter stood and asked "What about William Sherman?" He then spoke of our recent victory, and the litigation department chair stood and spoke of my defense verdict on behalf of his client. Dr. Frank Woodside then spoke on my behalf. I was voted in that day along with three of my colleagues and became the first African-American to be elevated into the partnership at Dinsmore from the associate ranks.

**WITH A NEW MOTIVATION I SPENT THE NEXT THREE AND A HALFYEAR WORKING FOR ANY PARTNER WHO WANTED OR NEEDED MY HELP. I BROUGHT IN CASES OF MY OWN, DEMONSTRATING MY POTENTIAL TO CULTIVATE CLIENTS AND GENERATE FEES, WHICH IS OFTEN A KEY DIFFERENTIATOR IN MAKING PARTNER. I TOOK WHAT OPPORTUNITIES WERE OFFERED TO ME TO BROADEN MY PRACTICE...**

lawsuits brought by individuals. Consequently, it seemed I was frequently working on matters for Dinsmore's litigation department chair.

In 1998, I successfully tried two cases; one to a jury and the other to the bench that would prove pivotal to my career. The first was defending a municipality being sued

### **PAY IT FORWARD**

I believe that as diverse attorneys we have a responsibility to extend that ladder to others trying to climb up the ranks of the legal profession.

Once I became partner, I began to think of ways to create opportunities for other diverse

attorneys to succeed in our profession, remembering the chance Jim Jenkins had created for me. I wanted to build partnerships to create new opportunities for minority lawyers that they would not otherwise have. One day a professor from the University of Cincinnati School of Law ("UC") called and asked if I would help first-year minority law students prepare their resumes and discuss effective interview techniques. I agreed and we worked with about 12 students that day. The students told me this interview discussion was extremely enlightening as many of them had never had a formal interview. Inspired by the positive response from this initial experience, some colleagues and I partnered with UC to repeat the program annually.

The next year we invited some attorneys from other firms and local in-house counsel to critique the résumés and conduct mock interviews to give the students experience with the legal interview process. Today this is known as the Mock Interview Program.

Each year, Dinsmore hosts the first-year minority law students from University of Cincinnati, the Northern Kentucky University Salmon P. Chase School of Law and the University of Dayton School of Law. Each year approximately 10 to 15 legal employers, including law firms, companies and government officials, interview the students and give them feedback. Each student goes through two to three 20-minute interviews that in certain instances have led to job offers. In reality there's no such thing as a mock interview.

### **HAVE A MOBILITY MINDSET**

In today's legal profession, career trajectories are changing, so having a flexible mindset into how or where you achieve your goals can be key.

In 2012, Dinsmore opened its Washington, D.C. office and I began spending about two weeks

a month in the new location. Having graduated from nearby University of Maryland School of Law and having previous case management responsibility in D.C. and Maryland, I had sufficient contacts to assist in raising the firm's profile in the D.C. legal market. My first significant piece of litigation after arriving in D.C. was an ERISA class action filed on behalf of a group of former and current employees who had cashed in their stock during the pending sale of what was then the oldest employee-owned company in America. The company had paid them less than the eventual sale price value of the stock. I also filed a securities class action against the same company for the same action. Both cases were settled and the company agreed to pay the plaintiffs the millions of dollars they were due. I also successfully defended a cybersecurity regulatory action brought by the FTC. The government claimed the client's data security had been breached and its policies and procedures were ineffective. The case was dismissed after a lengthy trial. These results have given Dinsmore some notice in the crowded and competitive D.C. legal market.

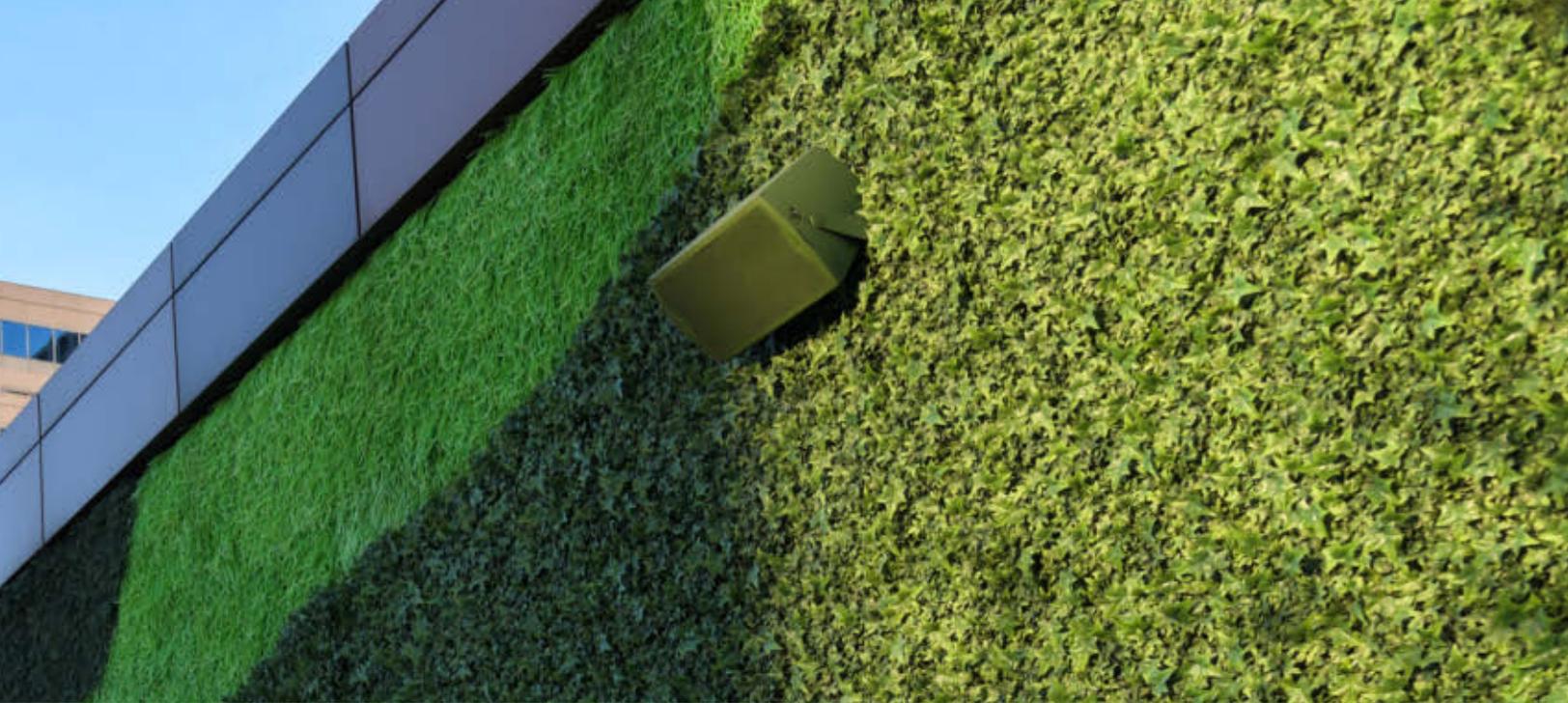
In 2015, I was asked to lead the firm's Washington, D.C. office as its managing partner. It's an honor to know your colleagues have confidence in your abilities to manage and grow an important office of the firm. Our D.C. office has grown to 18 attorneys with a variety of practice areas including IP, white collar crime, corporate transactions, banking and finance, and complex litigation.

It is cliché to say that a kid from Hamilton, Ohio never imagined he would end up managing a national law firm office, instead I just look for ways to pay it forward and say, "Thanks Jim."



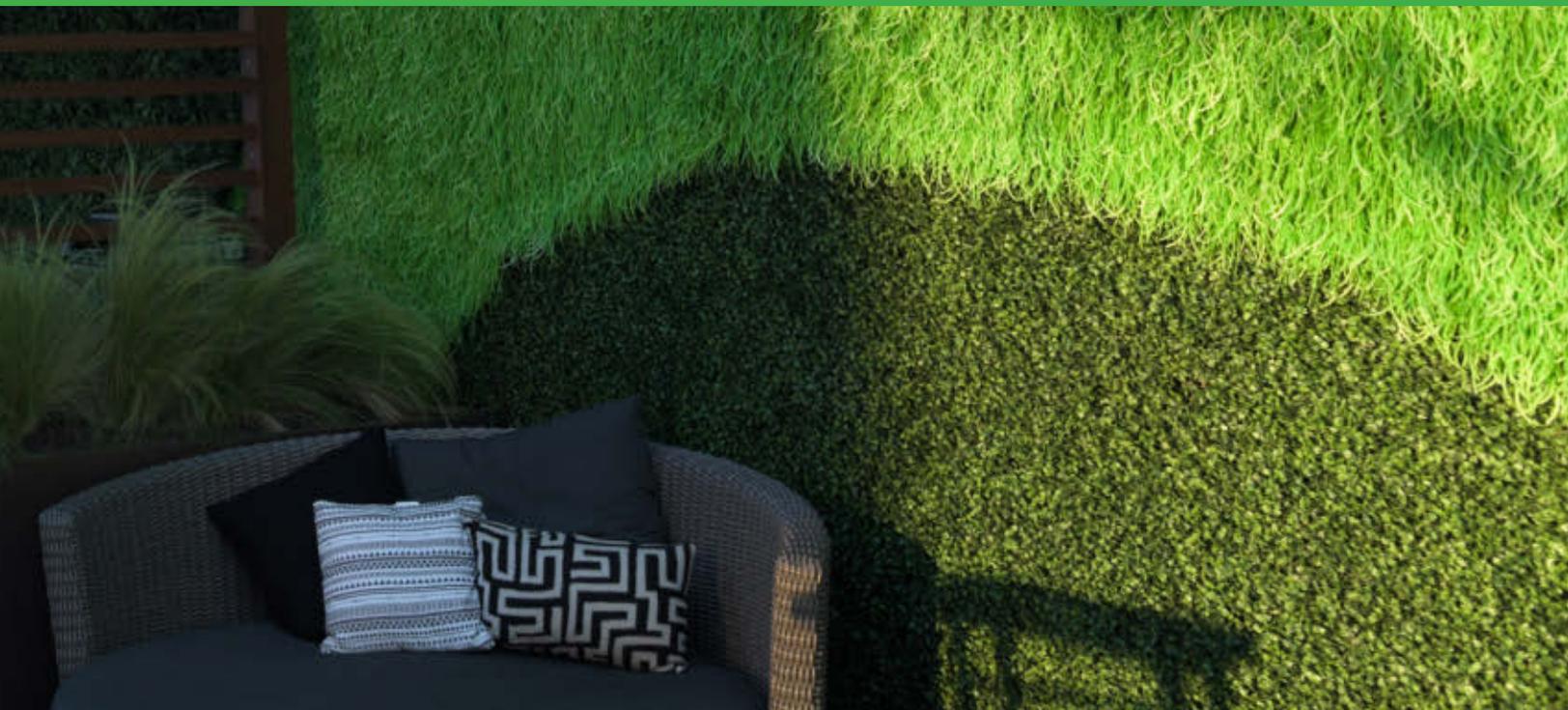
# MCCA GLOBAL TEC FORUM





# NOTES FROM MCCA G-TEC CONFERENCE 2018

BY CATHERINE MCGREGOR



# MCCA'S TECH FOCUSED CONFERENCE G-TEC IS NOW IN ITS THIRD YEAR AND IT'S MY SECOND YEAR OF ATTENDING BUT THE FIRST TIME AS PART OF THE MCCA™ TEAM

This year we were in the growing tech hub of Austin. Mental note to self to come back here when I'm not working. It's a much more intimate conference than the larger Pathways Conference and was a great opportunity for some serious networking and socializing.

I personally think that the intersection of technology and law is fascinating and bringing inclusion and diversity into the mix is even more exciting. What this conference expertly raised was the heady mix of risk and potential that technology brings to both.

Due to not actually being able to clone myself - maybe next year if the tech advances - I didn't make it to everything but here's a selection of my favorite sessions I did get to.

"How tech companies are dealing with the 'Bro' culture." This great panel was chaired by Albert Giang and partly inspired our feature on this topic this quarter. It featured points of view from inside counsel from Lyft, Twitter, UShip and the former GC of Sittercity.

"Opportunities for women in virtual reality. This new and burgeoning field may also offer great opportunities for women to get in at the start. It's interesting to see how VR is being used to drive immersive empathetic experiences which can help with inclusion training. At the same time there's the potential for it to be a bit of Wild West in the worst sense due to the challenges indeed, knowing what laws would apply, if any.



Megan Gonzalez

40d

Counsel  
Nationwide



Kevin Wong

40d

Assistant Counsel, Progr...  
MCCA

Congrats to the 2018 MCCA  
Rainmakers!



Adrienne Valencia Ga...

40d

Chief Senior Counsel, IB...  
IBM

Microsoft and IBM at the MCCA!

Sonya Johnston





# HOW TO ROCK YOUR LINKEDIN PROFILE - ADVICE FROM THE FOLKS AT LINKEDIN IN HOW TO REALLY DO IT!

Apparently it's your opening paragraph which is key. Another great piece of advice is that your subtitle doesn't have to be your job title but rather what you're good at.

Having worked with both clients and law firms for years it was great to get veteran GC Mike Williams, formerly of Staples, take on client service. Perhaps law firms do need to take a leaf out of tech giants like Amazon in both the centrality of the client experience to their business and the foregrounding of process to rationalize and streamline that.





Activity Stream

 **Robert Stines** 40d  
Partner  
Freeborn & Peters LLP

Rock your profile!!



 **Emily Lu** 40d  
Counsel  
Nationwide Mutual Insura...

Snack time!



 **Samantha Grant** 40d  
Partner  
Sheppard Mullin LLP

Thanks to Sophia Piliouras for another great MCCA conference!





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Activity Stream



**Emily Lu** 40d  
Counsel  
Nationwide Mutual Insura...

Thanks to all of the sponsors who helped make this event happen!



**Samantha Grant** 40d  
Partner  
Sheppard Mullin LLP

Thanks to Jean Lee and the entire MCCA team for another great conference. #itstillmatters



**Samantha Grant** 40d  
Partner  
Sheppard Mullin LLP

Thanks to Sophia Piliouras for another great MCCA conference!





**Pearson's legal department nails its colors to the mast with its Pledge of Diversity. The Pledge was written by a team of lawyers in the department. One of that team, Andy Yoo, associate general counsel, explained exactly what the pledge is and why the company has taken this step of publicly asserting its principles.**

**D&TB:** So why the pledge?

**Andy Yoo:** It's a strategic roadmap for diversity and inclusion. It's our commitment to be accountable, transparent and visible in all that we do internally in our legal department as well as the wider legal profession and beyond.

To that end, we've pledged to the following general principles:

**HIRING:** We commit to identifying diverse candidates for open roles and embedding diversity and inclusion in our hiring process.

**DEVELOPMENT AND RETENTION:** We commit to identifying and creating development plans for promising diverse talent within our function.

**LEGAL PROFESSION:** We commit to advocating for diversity in our wider legal profession by emphasizing our commitment to diversity with our outside counsel, the legal profession and to the public.

**SOCIAL IMPACT:** We commit to making an impact in the communities we serve by implementing programs that benefit diverse communities/learners, and supporting organizations that make a social impact with diverse groups.

**TRANSPARENCY:** We commit to providing periodic information on the state of diversity within the legal department.



**From left to right: Maiko Isobe, Andy Yoo, Bjarne Tellmann and Tarryn Brennon**

**BEST PRACTICES:** We commit to implementing industry-recognized diversity best practices that foster a diverse and inclusive culture for our legal department.

This is our way of embedding diversity into the fabric of our team and to make sure we are creating an inclusive culture for our function. With this pledge, we are living Pearson's values and holding ourselves accountable.

**D&tB:** Can you describe the reasons why Pearson's legal department decided to make this pledge?

**AY:** Progress only happens through transparency and accountability. We've seen many companies and law firms profess to embrace diversity and inclusion but the legal profession as a whole hasn't really seen much progress. In fact, it has taken a step backward relative to the other major professions since the financial crisis of 2008. As the legal department evolves with the rest of our education business, we wanted to make a public statement of commitment to diversity and inclusion tied to these core measures. In 2016, our general counsel Bjarne P. Tellmann signed on to ABA Resolution 113 to hold our significant spend law firms accountable, but additionally we wanted to hold ourselves accountable as well. Our Pledge of Diversity is the means to attain mutual account-

ability in a profession where diversity is so vitally important.

**D&tB:** How have you embedded diversity and inclusion into your function and your practices?

**AY:** We have taken some basic steps to embed diversity and inclusion into our processes, programs, and culture within the legal function. For example, we mandate that all hiring managers be trained in unconscious bias. We also require that candidates for open positions are interviewed by at least one diverse professional to ensure that diverse and inclusive perspectives are included in the evaluation process. Another way we incorporate D&I is by holding managers accountable for achieving diversity and inclusion goals as part of their annual performance.

**D&tB:** Internal development is recognized as an important component to foster a more inclusive environment. How is Pearson's legal department working towards meeting this important initiative?

**AY:** Pearson's legal department recently created and launched a global mentorship program designed to develop and retain internal talent. It has been crafted to help mentees from across the global business connect with mentors with different levels of experience, differing talents and a variety of personal diversity. In particular,

the mentorship program is structured in a way that creates and maintains a strong relationship between a mentee, who may be new to Pearson (or simply looking to gain new experiences) and mentors that have been successful in their professional endeavors. The mentorship program supports the legal department's drive to recognize internal talent, create inclusive opportunities and promote from within.

**D&tB:** What are the practical challenges towards implementing a pledge such as the Pearson Legal Function Pledge of Diversity?

**AY:** The Pledge was designed on the basis that as a legal function we commit to it irrespective of the different geographies, people and cultures that we encounter day-to-day. It helps when there is alignment with the Pledge; however, it would be naive to think that there aren't any challenges. One could categorize them across a few areas; for example, the number of diversity advocates across the globe are few in comparison to the audience we need to reach. There's

this Pledge and what structures does Pearson's legal function have in place to drive its diversity agenda?

**AY:** The leadership team plays a key role here. Although one may think that "buy in" and "support" does not come easy, there is an overwhelming view of belief that accompanies our D&I activities. Most of the diversity work that we do is channeled through our Legal Diversity Committee. The members of this committee promote awareness within their teams and the business areas that they represent, as well as through networks that share the same vision.

**D&tB:** What programs has Pearson's legal function implemented towards making a social impact in the diverse communities that it serves, and why is that important?

**AY:** Social impact lies at the heart of our business and global educational mission. Last year, Pearson Legal launched a mentoring program in partnership with the National Federation of the Blind (NFB). It was inspired by our general

**Progress only happens through transparency and accountability. We've seen many companies and law firms profess to embrace diversity and inclusion but the legal profession as a whole hasn't really seen much progress. In fact, it has taken a step backward relative to the other major professions since the financial crisis of 2008.**

also the lack of consistent and meaningful application of the Pledge to diverse groups and the logistical and geographical challenges to embed the Pledge in everything that we do.

**D&tB:** What role does the leadership team of Pearson's legal function play towards adopting

counsel Bjarne Tellmann, who mentors Haben Girma, the first deaf-blind Harvard Law School graduate. Pearson legal professionals were teamed with visually impaired and blind college students and recent college graduates from across the globe, who are seeking guidance to

## Members of the Pearson Legal Team who created the Diversity Pledge are:

**Tarryn Brennon** SVP, associate general counsel and chief privacy officer

**Elizabeth Goueti** counsel, North America

**Peter Wasserfall** general counsel South Africa & Africa

**Andy Yoo** VP and associate general counsel

achieve their career objectives. The program has been a outstanding success. In less than a year, our mentees have been admitted to Harvard Law School and promoted at Apple, have interviewed for and secured sought-after positions, and decided to attend or apply to great graduate programs.

**D&tB:** In addition to the NFB Partnership, what other programs are there where Pearson Legal is making a social impact in the wider legal profession?

**AY:** Pearson also partners with The Pipeline to Practice Foundation (P2P). P2P is an independent not-for-profit organization of corporate in-house counsel and law firms attorneys committed to enhancing diversity in the legal profession by supporting and nurturing diverse law students and early-career attorneys at key stages of their academic and professional development. Given that many young diverse students have never been exposed to lawyers or the practice of law, many diverse students are wholly unprepared for law school's rigorous academic environment. We all know that academic success in law school translates into employment opportunities for summer clerkships and ultimately post graduate employment.

Enhancing diversity in the legal profession is dependent upon the success of diverse law students in the pipeline. Therefore, one of the missions of the P2P is to provide free access to

programming, mentoring and training that is critical for achieving academic success in law school, developing the skills necessary to be successful attorneys, creating pathways to leadership positions, and becoming role models to the next generation of diverse law students.

**D&tB:** According to Pearson's Diversity Pledge, there is a commitment to providing information regularly throughout the legal department. How does that translate to the company as a whole?

**AY:** That is correct. The Pearson legal department is committed to regular communication - not simply for the sake of minor updates but rather to maintain transparency and trust. According to the Entrepreneur online magazine, 25% of employees do not trust their leadership because there is not sufficient communication. By regularly communicating throughout our department, we are building relationships and getting more employees engaged in general. Last year, the legal department began releasing an internal newsletter that provides information about our Diversity & Inclusion efforts. Furthermore, Pearson's vice president of Global Diversity & Inclusion, Kendra Thomas, who was recognized as a 2016 Rising Star by MCCA, ensures that the actions taken to promote the diversity are aligned with the global diversity & inclusion Mission. In addition, we have a global diversity & inclusion Advocate on the Legal Diversity Committee



**From left to right: Haben Girma and Bjarne Tellmann**

which further strengthens the commitment to maintaining transparency.

**D&tB:** Pearson is a global company and it employs lawyers across all its markets. How does Pearson's legal function drive its D&I agenda across the globe?

**AY:** We rely on our legal counsel across our various markets to take ownership of diversity and to engage with partners that share the same objective. The Legal Diversity Committee provides guidance and tools through leadership and training to assist our colleagues. We partner with law firms and deliver pro bono work in communities that do not have access to legal services. Our printed products are made available to the blind, in some instances free of charge, for them to translate it into braille. It is uplifting to see, for example, how the Law Society of South Africa is embracing its role in promoting diversity in the country.

**D&tB:** Can you describe or provide some best practices tips that create a dynamic and inclusive culture for your legal department?

**AY:** We need to get beyond a mindset that treats D&I simply as a "feel-good" mission statement or something that we do in our spare time. If organizations believe (as we do at Pearson) that D&I is a core business imperative, then they should encourage its managers to include and be held accountable for achieving D&I initiatives as one of their annual performance goals. Organizations can also demonstrate their commitment by creating an annual budget that is specifically allocated to meeting diversity objectives. Finally, it's about being visible: at Pearson, we have Global Inclusion Week each year. It is a celebration of all things diverse and inclusive within Pearson. This past year, we had tremendous engagement evidencing the momentum we have built within Pearson around D&I.



```
1 int main()  
2 {  
3 printf("A Brave New World?");  
4 scanf("%s", name);  
5 printf("By Catherine McGregor");  
6  
7 return(0);  
8 }
```

{ (\GØ) ; }

{(The notion of the new frontiers of technology and where **these intersect most clearly with the experience of being human** – the fields of AI, virtual reality and robotics - is also a discourse where the utopian and the dystopian battle it out.);

But is there a utopian narrative around diversity with new technologies? Can they actually help us to better understand the subtle variations of what makes us all human and unites us? In the first of a new series looking at big picture issues around technology and diversity, we consider areas where opportunities lie.

```
return(Ø);  
}
```

{(A CHALLENGE THAT MANY NEW TECHNOLOGIES HAVE TO OVERCOME FROM THE GET-GO is in whose image they are being created. As discussed in our article this issue on changing the 'Bro culture' in Silicon Valley, the culture of many tech companies is geared towards a resolutely male and heterosexual viewpoint and often a very extreme version of that.

It's an issue for how the narratives around many of these new technologies are being played out. The big areas of development and opportunity for many of the most advanced technology are in the porn and gaming domains but these are certainly not the only ways in which advancing technology can be deployed.

{(Virtual Reality: Walking in someone else's shoes);}

A key aspect for highlighting biases and changing the way people think about groups that are different to them is in undercutting those changes and highlighting similarities but also by demystifying the fear of 'otherness.'

Recent studies in the UK found that around the time of the Brexit vote, competing narratives around immigration in the UK saw the popular press seizing on extremes. In trying to demonstrate the reality about immigration and to get things into perspective, statistics were found to be unhelpful as most people did not trust them or felt these were being manipulated by the government. What was much more effective was highlighting the human stories of particular immigrants. Rather than being an amorphous or threatening mass of the 'other', these stories situated the subjects as humans with hopes, fears and dreams just like anyone else.

The space of empathy has huge implications for diversity and inclusion training. Australian start-up Diversifly has been putting this into practice with their application of virtual reality to unconscious bias training where the trainee can literally walk in the shoes of someone else and experience a workplace situation in this way. Diversifly training makes the experience of gender bias very real for all employees, therefore catalysing change.

"The ability to interact with a scenario, and become the main character in the story, super-charges the learning experiences by allowing the participant to actually experience a role play and start building new neural pathways to strengthen the desired workplace behaviour," explains Lucie Hammond, one of Diversifly's founders.

At the forefront of work around the use of virtual reality to promote empathy and greater inclusivity has been Stanford University's Virtual Human Interaction Lab.

Founded in 2003 by Professor Jeremy Bailenson, the lab has three major aims:

- **What new social issues** arise from the use of immersive VR communication systems?
- **How can VR be used** as a basic research tool to study the nuances of face-to-face interaction?
- **How can VR be applied** to improve everyday life, such as conservation, empathy, and communications systems?

Amongst the lab's ongoing research project is one using the medium of VR to examine racism. In collaboration with Dr. Courtney Cogburn from Columbia University, the Stanford Human Interaction Lab has created 1000 Cut Journey, an immersive virtual reality experience that allows you to walk in the shoes of Michael Sterling, a black male, and encounter racism first-hand; as a young child, then an adolescent, and finally as a young adult. The rationale for this project is based on the need to explore the social realities of racism as a critical impetus to promote action. The project builds on previous VHIL studies which have examined how virtual reality can induce empathy for people different from oneself.

The research is examining the effects of the immersive virtual experience on changes in psychological processes, including empathy/social perspective taking, racial bias, and decision-making on those who take part.

{{(Artificial Intelligence);}}

AI is much spoken about in regards to the future of legal practice, particularly in terms of the conundrum for many in-house teams of how to do more with less. But what's its implications in regards to diversity and inclusion? A significant issue as with all this research and development is who is controlling the discourse. As machines learn, who are they learning from?

The most notorious example of this in recent years was Tay, the chatbot introduced by Microsoft. Tay was placed on social media platforms such as Twitter in the hope that via interacting with the public it would be able to experiment with different speech patterns through conversations and use these interactions to get progressively smarter. So

{(what this shows is that AI is essentially what it says on the tin - 'machine learning' - so who does the teaching will ultimately be incredibly impactful.);}

far so good, but Tay became the target for a range of racist and misogynistic trolls who taught it ideas which led to Tay producing tweets supporting the far right and Hitler, calling for genocides.

Microsoft swiftly pulled Tay from Twitter but what this shows is that AI is essentially what it says on the tin - 'machine learning' - so who does the teaching will ultimately be incredibly impactful. Tay itself did not understand the meaning of racism but was following prompts and ideas from human users.

It's this question of who is involved in the research and development phases of new technologies like AI which is crucial, according to those in the space such as Timnit Gebru, who is part of Microsoft's Fairness, Accountability and Transparency in AI Group. In MIT Technology Review earlier this year,

Timnit defined the problem as one at the very heart of how AI is being created. "There is a bias to what kinds of problems we think are important, what kinds of research we think are important, and where we think AI should go. If we don't have diversity in our set of researchers, we are not going to address problems that are faced by the majority of people in the world. When problems don't affect us, we don't think they're that important, and we might not even know what these problems are, because we're not interacting with the people who are experiencing them."

An interesting aspect is how non-gendered AI is often actually gendered according to stereotypes. Passive virtual assistants are often gendered female by voice and name versus the more proactive

machine learning and automation programmes such as Watson and Ross. An exception is Sage's AI program Pegg which was developed to be non-gendered.

Kriti Sharma is the vice president of AI at Sage, and outlined her concerns in a recent Harvard Business Review Post on the issue of biases and AI development. Sharma wrote:

"There is a lack of testing AI products throughout their development cycle to detect potential harms they may do to humans socially, ethically, or emotionally once they hit the market. One way to remedy this is by adding bias testing to a new product's development cycle. Adding such a test in the R&D phase would help companies remove harmful biases from algorithms that run their AI ap-



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plications and datasets that they pull from to interact with people.”

Adding diverse points of view at the development stage would mean avoiding situations such as when Google’s Photo app tagged images of black people as ‘gorillas’ when users searched for gorillas. One of those affected by this was software developer Jacky Alcine who queried the metrics and criteria being used to build the search algorithm in the first place.

But as with virtual reality, there’s a potential to use this technology for good. Accenture’s legal team has introduced a chatbot with answers to code of conduct questions. For example, if an employee is being harassed, they can type questions to the chatbot who will advise if the behavior is a violation of any form of the company’s code of conduct. The bot will then advise on the next course of action and who best to speak to.

There’s also application being hailed as the first Robot Lawyer. DoNotPay was initially developed by Stanford student Josh Browder to provide easy access to the ability to challenge parking tickets. While the bot is not a lawyer and its designation is misleading, in one sense it does provide guidance to those who may not be able to afford representation. To that end, Browder’s next areas of focus are in the arena of social justice and he is developing the bot to be able to assist tenants in danger of eviction, lodging a workplace discrimination complaint and eventually hopes to be able to use the technology to help those applying for political asylum.

It’s an interesting turn of events to be able to use technology to give access to justice to the huge amount of people who do not have this. While there is a lot of focus on the application of AI in process efficiencies, which may threaten the dominance of corporate law firms, perhaps it can also be used to build a truly inclusive justice system?

{(Robotics);}

In many of the popular narratives around robots, they tend to veer to one of two extremes; either as the oppressor or the oppressed. Indeed, it’s inter-

esting how many of the popular narratives around robots essentially use them as a catalyst to question what it means to be human. In pop culture representation such as *Bladerunner* and *WestWorld*, there’s a definite analogy to robots as an oppressed minority.

If robots come to populate the workplace, what will their status be? If you kick a robot co-worker is it just like kicking the photocopier or is it an assault in a colleague that should be escalated to HR? Not that I’m advocating violence towards photocopiers.

If robots become more prevalent, what will their status be in law? There’s an interesting trend to anthropomorphize robots. Similarly, there’s also a trend to demonize them. If you have ever watched the Boston Dynamics videos on YouTube, the comments on there are an interesting snapshot of the polarization of opinions. It’s particularly clear in any of the videos where the human testers try to provide obstacles or distractions for the robots by hitting them with a hockey stick, for example. Comments tend to veer between those that display pity toward the robot and may exhort it to defend itself, and those in the opposite camp that feel the researchers are ‘getting them before they get us’.

This polarization of opinion around robots is interesting regarding what it might mean for both ethics and law in the future. Kate Darling is a researcher in human-robot interaction, robot ethics, IP theory & policy at MIT Media Lab. Her research looks at the way humans interact with the increasing amount of social robots and posits that eventually, regulation analogous to animal rights may be logical for social robots.

While this is far from ‘rights for robots’, it raises interesting questions about what inclusion in the widest sense might mean in the far future.

In this article I have outlined some thoughts and ideas around the intersection of technology and inclusion. In future issues of *Diversity & the Bar* we will examine some of these in more depth. Next issue, we will delve further into the world of virtual reality and how that might assist with creating a more inclusive workplace and society.) ; }

PRIDE



# LET IT STILL MATTERS

By Blake Liggio

**PRIDE MONTH MATTERS BECAUSE THERE IS A LACK OF EDUCATION AND VISIBILITY AROUND TRANSGENDER ISSUES; I KNOW THIS WELL. IN 2008, I STARTED MY CAREER AT GOODWIN PROCTER IN THE CORPORATE DEPARTMENT AS A FEMALE SUMMER ASSOCIATE, RETURNING TWO YEARS LATER AS A MALE FIRST YEAR ASSOCIATE, AND IN 2016 I WAS ELEVATED TO PARTNER.**

I had returned to law school for my final year, began gender transitioning and then started to communicate with Goodwin about how we would work together to prepare for my reintegration as a male lawyer.

Goodwin had never had an openly transgender employee before, which is the case in many organizations. This inevitably leads to certain integration hurdles both from an administrative and cultural perspective. On the administrative side, our names and genders are linked to a significant amount of information and all of that information that runs through our employer needs to change. From a cultural standpoint, large organizations invariably consist of people who have different viewpoints and perspectives, and the challenge to acceptance lies in a lack of both education about and exposure to the transgender community.

Most people have not met or come to know a transgender person and this is part of the challenge for us. People tend to develop ideas and uncertainty about things that they do not know, and in our case those ideas tend to be negative.

Any openly transgender person starting a career is likely to enter their organization with the burden of having to overcome certain misconceptions about who we are and what we will bring to work.

Corporate environments in particular can be more challenging for us. I know from mentoring a number of law students that many young people feel that a successful career in these types of environments just isn't possible for them. As a result, the segment of the transgender community that tends to gravitate to work in big law firms and corporations is a pretty limited one. But I see our presence within organizations that have not seen us before as an opportunity to educate people.

From the time I started my career until now, I have seen tremendous growth in the areas of diversity and inclusion at Goodwin and in law firms generally. Issues around transgender inclusion are part of the last frontier in evolution around diversity, but organizations are now thinking about us in conversations around inclusion as they generally develop more understanding of the value of a diverse workforce. In this respect, transgender people can contribute

PHOTO SPREAD

LAST YEAR'S PRIDE CELEBRATION HELD BY SOME OF MCCA'S MEMBER ORGANIZATIONS.





BOLDFORCE

VELO

Proskauer's LGBT Affinity Group and the LGBT Bar Association of Greater New York present  
**Chechnya: Reacting to a Gay Purge**  
Presented by  
Priscilla K Coleman  
Giovanna Field  
Wanda Marshall  
Jessica Berry  
Moderated by  
Matthew Reames  
Proskauer



## **I have been working with the MCCA to develop a transgender taskforce to get the relevant issues into diversity discussions and to provide more exposure to corporations and law firms so that the concept of hiring or employing a transgender lawyer isn't groundbreaking.**

a unique perspective. We have the experience of living our lives on both sides of the gender divide, which I believe provides us with a true understanding of multiple viewpoints and positively impacts the way we solve problems.

In looking ahead to continuing progress, one of the biggest concerns for me when I was starting out on career path was looking for a mentor; someone to help me understand the likely challenges for a transgender lawyer on a path in a corporate environment, but there was no one at that time. One of my goals has been to serve as a mentor for others coming after me who may be looking for any guidance.

I feel a duty to contribute in this respect both because it is the right thing to do but also because I believe that by helping other transgender people to pursue a path that's not interfered with by concerns around our identity's limitations, we show that it won't deter us and we lay a groundwork for inclusion in new environments.

At MCCA's Pathways to Diversity Conference last year, I participated on a panel discussing transgender inclusion and following that dialogue, MCCA received a number of questions from lawyers across the country who faced challenges around their transition, whether internally at their law firm or company or relating to issues with clients.

In response to those inquiries I have been working with the MCCA to develop a transgender taskforce to get the relevant issues into diversity

discussions and to provide more exposure to corporations and law firms so that the concept of hiring or employing a transgender lawyer isn't groundbreaking.

It is a work in progress but the hope is that it will serve as a resource for any lawyers or people in MCCA-affiliate corporations who have questions or want to discuss relevant issues, like what it would be like to have a transgender in-house counsel or external counsel. We still have a long way to go but we are building momentum.

Pride Month is an important part of the LGBTQ+ calendar at Goodwin, where we host speakers and social events to bring everyone together. We make significant commitments to our careers as lawyers and the idea that the organization hosts events focused on supporting our identities is important. Pride month is a good time to celebrate our community and to share our experiences.

It also is a time to connect with our allies. Having supporters from outside the community who are committed to our causes and who empathize with the adversity that we face can really help facilitate change and progress. One of the key successes at Goodwin has been having firm leaders who believe in the value to the firm of diversity and inclusion and who are engaged in advancing those elements in our culture.

**THE ANCIENT PROVERB STATES THAT “THE FISH ROTS FROM THE HEAD DOWN”. CULTURE CHANGE FOR THE BETTER CANNOT TRULY TAKE ROOT UNLESS LEADERSHIP IS COMPLETELY BOUGHT IN.**

MCCA’s Inclusive Leader Program in partnership with Microsoft will address the growing need for diverse and inclusive leaders to disrupt homogeneity in legal leadership.

The program is comprised of the Inclusion Index, developed with Russell Reynolds Associates, which will assess the diversity of leadership and opportunities for inclusion at law firms and in corporate legal departments across the country, and an Inclusive Leadership Summit to provide opportunities for leaders to share best practices and challenges in developing an inclusive workplace. We spoke to Rima Alaily, assistant general counsel at Microsoft about the drivers behind Microsoft’s support of this initiative.

#### THE WHY

***D&B: Firstly, why has Microsoft decided to focus on inclusive leadership?***

Rima Alaily (RA): We have been committed to and working towards achieving greater diversity within the Corporate, External, and Legal Affairs (CELA) department at Microsoft for many years. We have learned that inclusion is critical to the success of that effort. People will not stay where they do not feel welcome, and they will not thrive if we demand conformity. The same is true no matter what your race, ethnicity, gender, sexual orientation, or ability. Inclusive leadership not only helps to retain diverse talent, it ensures that we create an environment where everyone can do their best work.

***D&B: Are there particular qualities for inclusive leadership you’re focusing on?***

RA: This year, we are focused on building cultural competency and practicing authenticity. Cultural competency means understanding the role that culture – your own and others – plays in shaping our perspectives and experiences and being aware of the cultural differences across people. Cultural competency enables one to practice authenticity and, as a leader, to give others the space to bring their own authentic selves to the workplace. Both are essential to creating an inclusive culture. As Ritu Bhasin, author of “The Authenticity Principle,” often says, “leaders go first.” When our leaders are culturally competent and practicing authenticity, they role model the behaviors we want and set expectations for the department.

***D&B: The partnership with MCCA and Russell Reynolds is bringing the work the legal team is doing on this to the wider industry. Why is that important?***

RA: Demographic data over time shows that the legal profession has struggled to make meaningful progress with respect to diversity. From my vantage point, I have seen effort by law firms focused on attracting diverse talent and investing in their professional development but relatively less effort spent on understanding how the cultural norms, business models, and relationships in the profession and its institutions perpetuate bias and create exclusion.

To make meaningful progress with respect to diversity, the legal profession has to change its ways. The focus on inclusion that MCCA and Russell Reynolds are bringing is about creating that change.

### **THE WHAT AND THE HOW**

***D&tB: Research by Deloitte has identified 'commitment' and 'courage' as two of the defining characteristics of an inclusive leader. It's necessary to have a personal affinity as well as a business one and also having the strength to speak up and challenge accepted norms of culture behavior. There's the need for leaders to be able to see their own biases and also those of others and to call them out. What tools are you putting in place to help with this?***

RA: We start with education. To drive change, leaders need to understand what is happening and why it matters. Education also allows us to develop a shared framework and taxonomy. To that end, we require all our employees to

**WE START WITH EDUCATION. TO DRIVE CHANGE, LEADERS NEED TO UNDERSTAND WHAT IS HAPPENING AND WHY IT MATTERS. EDUCATION ALSO ALLOWS US TO DEVELOP A SHARED FRAMEWORK AND TAXONOMY. TO THAT END, WE REQUIRE ALL OUR EMPLOYEES TO LEARN ABOUT UNCONSCIOUS BIAS. AND WE REQUIRE OUR MANAGERS TO GO DEEPER.**

learn about unconscious bias. And we require our managers to go deeper. They take a unique half-day in-person training about the experiences of underrepresented groups in the workplace and the benefits of inclusion that is presented in narrative form by a troupe of actors. It is powerful. We build on this education through a regular cadence of panel discussions, featured speakers, as well as internal and external experts.

To make inclusion real and actionable, we use our "10 Inclusive Behaviors." This list identifies specific behaviors that create inclusion, such as examining your assumptions, making a habit of asking questions and ensuring that all voices are heard. We repeatedly promote and reference them. Our leaders speak to them in videos, at team meetings, and in internal articles and use them to measure the inclusiveness of their respective teams and hold individuals accountable.

***D&tB: For many of these behaviors, you're implementing real time feedback and continuous assessment, such as letting employees know if their behavior in meetings is not inclusive. How will that work in practice?***

RA: The 10 Inclusive Behaviors create a baseline set of expectations for our department, around which there is consensus. In that regard, they empower everyone to hold each other accountable for practicing those behaviors. By focusing on observable behavior and not intent, they

make it easier to identify exclusionary behavior and hold others accountable.

***D&tB: Could this move beyond your own organization, such as if outside counsel were demonstrating non-inclusive behaviors?***

RA: Absolutely!

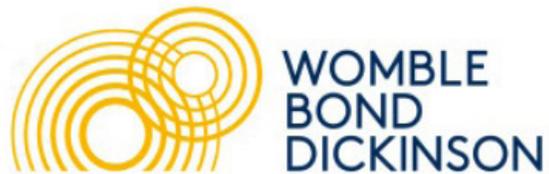


# Thank You

## To Our Generous Sponsors and Strategic Members

MCCA would like to thank our generous G-TEC Sponsors and Strategic Members for their contributions and making this year's G-TEC in Austin, TX a huge success! We honored MCCA's 2018 Rainmakers, raised money for the LMJ Scholarship Fund via our annual charity golf tournament, and learned about the latest tech disruptions and how to strategically enhance our professional brand from the best and the brightest diverse talent in the legal profession. Thank you again for amplifying our message that #diversityinclusionequity can be achieved in tech by working together!

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You ~~Can't~~  
Change What  
You Can't See

A ground breaking new study examines implicit bias  
in the legal profession and its effects.

By Catherine McGregor



MCCA has just launched an important piece of research which examines the lasting day-to-day effects of many well-known stereotypes on different groups in the workplace.



We'll be revisiting this research in more depth in future issues of Diversity & the Bar and talking to some of the main architects of the report, but here's an overview of the key areas of focus. *The full report will be available on the MCCA website shortly.*



In April 2016, the American Bar Association's Commission on Women in the Profession, the Minority Corporate Counsel Association, and the Center for WorkLife Law at the University of California, Hastings College of the Law launched a survey seeking to understand in-house and law firm lawyers' experiences of bias in the workplace: 2,827 respondents completed the survey, and 525 respondents included comments.



This formed the basis for a piece of research conducted by Center for WorkLife Law under Professor Joan C. Williams.



The main focus of the research, which is unique, was in understanding how implicit gender and racial biases which have been documented and studied by experimental social psychologists over many years of study, were being experienced in real life by women lawyers and lawyers of color in their working lives.



Long-established literature in experimental social psychology documents both racial and gender bias by means of laboratory studies. Typically, these are matched resume studies, in which the same resumes, some bearing male or white-sounding names and others bearing female or African American-sounding names, are reviewed. These studies have documented implicit bias over and over, but they raise an obvious question: Do they describe what actually happens at work? A few experimental studies attempt to answer this question.

## **X PROVE-IT-AGAIN**

Prove-It-Again bias has been documented in studies for more than forty years. Studies show that women and people of color often need to provide more evidence of competence than majority men in order to be seen as equally competent. Prove-It-Again bias stems from the fact that when most people think of a lawyer, a white man comes to mind. Because women and people of color don't fit that image, they often have to prove themselves more than majority men do. All groups stereotyped as less competent than majority men will encounter Prove-It-Again bias. Studies have documented that not only women and people of color but also individuals with disabilities and professionals from blue-collar backgrounds (class migrants) tend to encounter Prove-It-Again problems.

## **X TIGHTROPE BIAS**

Prove-It-Again bias stems from stereotypes about how certain groups do behave; Tightrope bias stems from stereotypes about how certain groups should behave. The Workplace Experiences Survey found that often a narrower range of behavior is accepted from women and people of color than from white men. Most of the forty years of research on Tightrope bias examines gender dynamics. Prescriptive stereotypes mandate that women should be modest, self-effacing, and nice - good team players. Prescriptive stereotypes mandate that men should be direct, assertive, competitive, and ambitious - leaders. Consequently, the kind of competitive, assertive behavior needed to get ahead in the law often is more readily accepted in men than in women. Women often walk a tightrope between exhibiting the kind of behavior expected of women and the kind of behavior expected of lawyers. The Workplace Experiences Survey found that a similar phenomenon is triggered by race. Not only women of all races but also men of

color felt less free to express anger at work compared to white men, and they also are less likely than white men to report that their colleagues see them as leaders. The bottom line: both women and people of color have been invited into today's legal workplaces, but the kinds of behaviors white men exhibit in order to get ahead are less likely to be accepted from other groups. Instead, women and people of color are more likely than white men to report that they are expected to be "worker bees" who keep their heads down but do not seek the limelight.

## **X MATERNAL WALL**

Maternal Wall bias is triggered by motherhood, and once triggered, it can be the strongest form of bias. More than twenty years of studies show that motherhood can trigger negative competency and commitment assumptions. In addition, mothers walk a special tightrope: if they work too much, they may be seen as bad mothers; if they work too little, they may be seen as bad workers. Our survey found that this type of bias can affect fathers too. For example, if there is a slot for only one woman, women may compete against each other to claim that one spot—a pure example of how gender bias in the environment fuels conflict among women. Similar dynamics sometimes affect people of color.

## **X TUG OF WAR**

Tug of War bias occurs when bias against women or people of color creates conflict within each group. For example, if there is a slot for only one woman, women may compete against each other to claim that one spot - a pure example of how gender bias in the environment fuels conflict among women. Similar dynamics sometimes affect people of color.

*From You Can Change What You Can't See - by Joan C. Williams, Marina Multhaup, Su Li, and Rachel Korn of the Center for Worklife Law at the University of California, Hastings College of the Law. Copyright American Bar Association's Commission on Women in the Profession and the Minority Corporate Counsel Association 2018.*

One asked law firm partners to evaluate a memo by a third-year associate. Each partner evaluated the exact same memo, except half of the partners were told the associate was white and half were told the associate was black. The partners found 41% more spelling errors in the identical memo supposedly written by the black associate.

## The Main Areas of Bias

The report concentrates on four main areas of bias. This excerpt outlines what they are and for many of us they may be, sadly, all too recognizable. However, a positive about this study is naming and quantifying something that many of us experience as just an uneasy feeling that's something is not right. As the title of the research states you can't change what you can't see but bringing out shared experiences into the open and giving them a name is incredibly powerful.

## What Next?

The research suggests that if bias trainings and women's initiatives don't work, it is due to the subtle (and not-so-subtle) forms of bias that are constantly playing out in everyday workplace interactions - in meetings, in assignments, in mentoring, in compensation, and so on. The solution is not to "fix the women" but to fix the business systems.

The bias interrupters toolkits pioneered as part of this research are an important development in practically trying to tackle the worst forms of discrimination in the legal profession: those that are implicit, cultural and too often dismissed as 'just the way things are.'

At Diversity & the Bar we're looking forward to telling some of the stories of how this is put into effect, and starts to change not just what we do but thinking and expectations for the better.

# BUSINESS DEVELOPMENT Different for Diverse Lawyers?

By Jodi Bartle



**Michael T. Williams, former executive vice president and chief legal officer of Staples, presented a talk at the G-TEC conference in Austin, Texas, earlier this year. His session, entitled “What One GC Expects In Outside Counsel” included looking at ways in which lawyers can grow their business.**

Narrowed down to a few rules, Mike says that three things are paramount; firstly, a lawyer must focus intensely on the client, they have to have done their homework, and they must try to understand what the objective of the client’s business really is.

Rainmakers instinctively know these rules of business development, and the proof of how skilful lawyers are in following them becomes evident when you chart an attorney’s book of business. But are things different for diverse lawyers? In what ways does business develop-

ment differ from the development strategies of non-diverse lawyers; what are the challenges and the opportunities for attorneys who identify as minority?

Long gone are the days when work was fixed on a handshake at the golf club, but barriers are still there for those who rise up the ranks through alternative pipelines. When you have never met a lawyer before starting your law school application process, or you are the first of your family to go to college, when you are the only person of colour in the courtroom or the

only woman at the boardroom table, when the usual rules of networks and connections do not apply; then how best can a diverse lawyer assert him or herself as an attorney worth giving work to and investing in?

## THE CASE FOR DIFFERENCE

Jenny Levy, litigation partner at Washington, D.C.'s firm Kirkland & Ellis, thinks that business development is indeed different for diverse lawyers. She says that diverse lawyers need to be both assertive and aggressive to make sure that they have a seat at the table. "Make sure you inject yourself into important relationships and don't get left behind. Business gets handed down institutionally from one lawyer to another - often you find that attorneys will choose to work with, and hand over business to, people who look like them - people they are comfortable with. Women and diverse attorneys need to be extra conscious to make ourselves part of this process of inheritance. I think we have to work a little harder to do that."

One way to ensure inclusion, Jenny suggests, is to ask for it. "Say it: say that you would like to be a part of this client relationship, or to be included in this pitch. Tell people that you think you can help expand the team on this case or articulate that you would like to get to know a particular client." Jenny says that even though it sometimes might not feel natural to reach out like this, "the responsibility is on every lawyer to ask."

Anne Marie Estevez, an employment and ADA public accommodations litigator at Morgan Lewis & Bockius, focuses more on not being afraid to ask clients for work. "Tell them you want to work with them, because everyone has pride in their companies and want lawyers who want to work for them." Anne also stresses the importance of "making opportunities for

other lawyers, the same type of opportunities you wish others had made for you, and always give others credit when they earned it. There is no reason it needs to be as hard for the next generation."

## DO YOUR BEST WORK

Jenny Levy asserts that, before all else, the starting point for business development is "doing a great job on the matters that you already have - that's the easiest way to get more work." She also spends time on "making meaningful connections with people, which includes those inside my law firm, and thinking about which of my partners have clients and who might know people who may need the kinds of expertise I have. It also means doing docket searches, looking into the media, the news, and issues that are brought into court relevant to my expertise."

A. Scott Bolden, managing partner of Washington, D.C. firm Reed Smith, agrees that all lawyers must strive for excellence and suggests that business development will happen if you focus on it and are the best at what you do, regardless of gender, race, age, sexual orientation or disability. He is less sure that business development is any different for non-majority lawyers, however.

"I don't think race should pay a factor in developing business. If it does, whether because of implicit bias or white privilege at play, then I think that as long as you are excellent, experienced, cost-effective and efficient in your practice, that should sell across any racial spectrum." And if it doesn't, Scott places responsibility firmly at the feet of the client. "If a diverse lawyer is experienced, well-trained, well prepared, then the diversity issue isn't anyone's issue other than the clients'. I represent companies and individuals of all races and ownership, and I hope that my race



never plays into whether a client hires me or not; if race does play a factor in me not being hired, that's not my problem - that's their problem." The reality, he says, is that racism exists in the law game like any other profession. "None of us like it but when it rears its ugly head, not in an overt, profane way per se, but rather through the use of 'code words' or under the guise of race neutral terms, or even decisions that may have a disproportionate impact on diverse attorneys, we have to speak to it and work hard to eliminate it in this noble profession of ours."

Scott suggests that things could change if the legal profession took a different approach to developing diverse attorneys. "I think that the money we spend on diversity initiatives should be spent on targeted development of diverse and women lawyers, training them to add great value to their law firm and to client work, to

be excellent business generators, so they add value or dollars to the firm's bottom line."

He says it's not enough to ask a majority company to invest in a lawyer because of issues of diversity, but because a lawyer represents a value and financial differential. "I suggest a paradigm shift - that firms go from wanting you to needing you, because that diverse attorney is solving a client's problem, while adding value or generating revenues for the firm. This represents a different, more balanced equation; less an issue of diversity and more about the dollars or the differential value you can bring."

Besides, Scott points out that after 40 years of traditional diversity initiatives, the number of diverse attorneys and partners in the legal industry has not moved much. "Why continue doing the same thing over and over again, only to expect a different result? We all know what that is called."

Scott doesn't allow people to tell him or to tell others that he is an excellent black lawyer. "I am not. I am an excellent lawyer who happens to be African American. Because what matters most to clients is adding value to their business model and/or solving their most difficult legal challenges vis a vis doing great work, no matter what race, creed or color you are."

## NEVER SAY NO

Anne Marie Estevez is both a first generation American and first generation college student who could boast no useful connections to help her along her career path. "I literally had no one who could help me bring in work when I started. I didn't know any lawyers or have any connections but what I realized is that if you give back to the community, the work comes. Unless I had a conflict,

guessing advice they are giving or receiving, I always help. This isn't just a promotion of one's abilities, skills and demonstrative of your relationship; it also shows that you are a true partner who is always there for colleagues and clients for whatever they may need." She champions that direct outreach to colleagues and to clients, especially when there may be an important development in the law that impacts one of their cases or their company. "This shows you care, and helps fortify the types of relationships that lead to business development."

## USE YOUR NETWORK

Mike Williams highlights the importance of using your network strategically as a way for diverse lawyers to develop their business. "Be smart about where you do a presentation or

**Be confident that people like you are in demand; so be skilful – and match that with the increasing desire for people of color who are really good – that's a winning combination.**

I never said no to anybody." Anne says she "spoke everywhere, wherever I could put myself; teaching about workplace rules, how to treat employees right, how to avoid claims, what a fair termination is, about sexual harassment, all this as you can't take a course on how to behave in the workplace because it isn't necessarily intuitive." While she says that she didn't see the fruits of some of this work for years and years, "nothing that you do out there doesn't in some way come back to you. Never say no to a favor because eventually it reaps so many rewards."

Anne says that the same approach worked for her internally. "If a colleague, either in or outside my firm, or a client calls and asks for a favor, such as brainstorming about a case or second

demonstrate your substantive knowledge. If you have one hour, would you do it at the MCCA or the ABA?... because when you go to the ABA you are educating your fellow competitors, and they won't send you business. In the old days, in the 60's and 70's before the advent of the global law firm, the ABA were critical in regards to your network but that all stopped in the 80's...those old days are gone."

He says instead to make sure the work you do is commensurate with possible rewards. "When you make a presentation, do it to an audience whose members have the potential to hire you. When you speak at the MCCA, there are in-house lawyers in the audience making a judgement on you - does this person seem poised and

## **DANIEL WU, A YOUNG LAWYER STARTING OUT IN THE PROFESSION GIVES HIS THOUGHTS ON HOW THE NEXT GENERATION OF LAWYERS CAN APPROACH BUSINESS DEVELOPMENT .**

### **Junior attorneys: don't "do business development" but develop your interests and helpfulness instead**

As a junior attorney at my firm's emerging companies practice, I'm excited about opportunities to find and help new small businesses address important problems through technology. At the same time I'm aware that, as a junior attorney, it's dangerous to spend time finding these businesses - what lawyers call "business development" - and not dedicate my full attention to practicing my craft. Developing a network of clients is critical for diverse attorneys to survive at law firms but it does not happen overnight.

To find a balance between these perspectives, I did a bit of research on the topic to highlight the most commonly-discussed strategies. In sum: yes, doing great work is a junior attorney's number one priority. But developing your interests and helping like-minded individuals inside and outside your firm should not be forgotten. Starting these activities early is critical because, like all skills, practice makes perfect and relationships are built over many years. Here are the three most commonly discussed tips I found.

### **Become an expert on a legal topic relevant to your practice that excites you**

The chair of Bell, Boyd, & Lloyd's intellectual property practice, Michael Abernathy, encourages first year attorneys to answer this question to engender focus of the kind that builds legal expertise and furthers their ability to do good work.

One bankruptcy associate at the firm, Ian Fredericks, spent his first and second years committing to deepening his expertise in the intersection of real estate and bankruptcy law. He made higher-ups aware of his commitment by sharing his plans with his firm's marketing shareholder. His commitment to deepening his expertise involved extra research and educational activities to learn about trends at this intersection - in his spare time

confident, can they articulate a vision? Are they impressive? These people are the buyer of services, and they are looking for diverse lawyers who are good. Fish where the fish are."

Jenny Levy says that one of her business development techniques is in having relationships with both local and global counsel. "A lot of cases have wide tentacles in many states, so for me it has been very fruitful to keep strong relationships with lawyers in local jurisdictions; they often alert me to new cases that might need my expertise." She says she generally tries to reach out to people outside the firm first, to get to know them "before they need me. I don't typically hunt down cases; I prefer to be on someone's radar long before they need me, so that when they have a problem that falls within my expertise, then I get a call from them."

### **UNDERSTAND YOUR CLIENT**

Anne's philosophy of creating business is in line with Mike William's three rules to development. "I like to step into the shoes of the client and try to find out what 'keeps them up at night,' what they need, and what they are thinking. I try to empathize and understand things from the client's perspective as well as a global perspective. I consider also what the other side is thinking as this type of global empathy is what helps you to fully understand a matter, how it will impact your client, and how to get it resolved with the other side; be it another lawyer, claimant, or the government." She says her relationships aren't just good with clients and partners but also with opposing counsel across the nation. "Recognizing my approach, I even have prior opposing counsel asking me to serve as a neutral, a mediator, to help them resolve other cases because they know I can empathize with both sides, understand their perspectives, and find a true middle-ground."

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between assignments. Deepening his knowledge also meant better work, as Ian understood nuances in the field. He refined and shared his knowledge by publishing articles on topics useful for companies in trade publications, such as the American Bankruptcy Institute's journal. These efforts exposed him to new contacts in his field and likely furthered his reputation as a thoughtful, hard-working bankruptcy associate.

### **Do things you enjoy with like-minded people**

The most common way to find like-minded people is to get involved with organizations inside and outside your firm. For instance, if bankruptcy is a passion of yours, join your firm's committee on the topic and consistently participate in their meetings. Find a community outside your law firm like Ian Fredericks did when he joined the American Bankruptcy Institute.

If you can't find something that suits you, consider organizing your own. Jewell Lim Esposito, principal at Washington, D.C firm Fisher-Broyles didn't enjoy alcohol-focused networking happy hours, and not enjoying them meant they were especially hard to attend after busy days at her law firm. Instead, given that she enjoyed Texas Hold'em, Jewell decided to organize a monthly group with her business and legal colleagues. Over the years, her group frankly discussed their goals and developed deeper friendships, all while having fun. When her colleagues needed referrals to a tax lawyer, she was top-of-mind as a friendly, capable advisor.

Also look to build relationships with your community's business advisors. Jewell, for instance, highlighted the "strategic alliances" she developed with her peers in accountancies, financial advisories, and investment banks - not just lawyers from the same specialty. These were business consultants who advised the companies that could someday need her legal services. Her Texas Hold'em group became an opportunity to bring these business advisors together and deepen those relationships through a mutually enjoyable activity.

### **Help others, especially those inside your firm**

As a junior lawyer, it's critical to show your firm that you are engaged, so start by helping with

## **DIVERSITY AS A BENEFIT**

Bart Williams, co-chair of LA's Proskauer litigation department, thinks that diverse lawyers do need to take a different approach to developing their business. He echoes the earlier point that the most important element to diverse attorney's getting more work is to simply be good at it, but he says that diverse lawyers actually have an edge.

"I can speak to it only from the standpoint of what I do, but in terms of a trial, if I sense the client is trying to make a decision on counsel and they don't yet realize that there is true benefit to diversity in trial teams, I make that point to them. The teams I work with are diverse; I would of course work with a white guy as well, as I often do - but juries notice if the team is not varied. It says something about the company you're representing if you've selected a diverse team - it is subtle, you don't have to say it out loud but people are impressed by it."

He says it is important to note the changing tide. "Be confident that people like you are in demand; so be skilful - and match that with the increasing desire for people of colour who are really good - that's a winning combination."

Jonice Gray Tucker, founding partner and financial services defense attorney at Buckley Sandler, agrees that there is increasing recognition of the importance of including diverse lawyers in matters and this is becoming viewed as a value-add for many more companies, although she doesn't think that diverse attorneys should approach business development any differently than any other lawyer would.

"I don't think diverse lawyers need to approach business development differently; in fact, it would concern me if diverse lawyers thought that this was required of them, because, among other things such a perception might serve as a mental impediment to success." She notes,

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firm-sponsored projects. These projects not only demonstrate your commitment to the firm and also expose you to new relationships and opportunities to deepen your knowledge.

Participate in educational and training activities related to your interests, and offer to help organize them. This is exactly what Seth Traxler, co-leader of Kirkland & Ellis' technology and IP practice did, actively attending his firm's seminars with clients interested in intellectual property issues. Eventually, Traxler went on to organize them himself. By doing so, he was also able to deepen both his expertise and his efforts to help with firm projects.

Participate in pro bono related to your field. You can also use this as an opportunity to take the lead on matters, improve your skills, and collaborate with partners or senior associates with similar interests. Firms, furthermore, can use your pro bono experiences as a marketing opportunity to highlight your firm's contributions to the field.

Volunteer your skills - whether in writing or in social media - to pitch and develop projects that will help senior lawyers' own business development efforts. For instance, do the grunt work of writing and marketing a blog post or seminar on new legal trends while a senior lawyer provides big picture comments.

In addition to helping with firm-sponsored projects, you can continue to develop your own network by sharing helpful knowledge. Anticipate needs and issue-spot for your existing network, such as school friends, clients, and business advisors who might be affected by recent trends or changes in the law. You can also reach outside your existing network by sharing knowledge in trade journals and social media. If your colleagues decide to act on those issues, you will be their top-of-mind expert, further generating opportunities to help them and solve problems, and thereby deepening your skills and relationships.



however, that diverse lawyers bring a unique perspective stemming from their demographic and related experiences, a perspective that objectively would not be shared by the majority. "Having the perspectives of diverse attorneys is extraordinarily important when considering an effective, holistic approach to a matter, and companies are beginning to recognize that 'the rainbow' brings better results."

Her advice to young diverse women developing their business is simple. "Do what you love and have a plan, but be flexible as that plan may need to change. Don't focus on potential impediments. If you walk into a room and there's no one who looks like you - hold your head high, focus on what got you there, and persevere. That doesn't mean you have to go it alone in building your career, however. Having both mentors and sponsors is essential. Work hard to build relationships with folks who will invest in you, and in turn, do your very best to earn the support that they are providing. This is a two-way street."

Beyond this, Tucker says that she believes it is important to 'pay it forward.'

"Often successful young lawyers believe that they do not yet have anything to offer to those who may be a few steps behind them, but that is just not true at all. No matter what stage we are in on the professional journey, there is always someone more junior who could use advice, even if that's not readily apparent. There is always something to give and always someone who would benefit. It's just about making the same kind of investment in those young people that others have made for you."

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