

# MASSACHUSETTS Lawyers Weekly

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## Creating a diverse, equitable and inclusive law firm: one firm's reckoning post-pandemic

■ Christina M. Licursi



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IT'S NOT NEWS that the past two years have been challenging, difficult and often downright disheartening. Particularly distressing is the way that the pandemic has impacted women's careers at an alarmingly higher rate than it has impacted men's careers. According to the National Women's Law Center:

- Since the pandemic struck, female workforce participation has dropped to 57 percent – the lowest level since 1988;
- Of all the jobs the U.S. workforce lost in December 2020, 100 percent belonged to women; and
- The overall unemployment rate masks even higher rates for Black women, latinas and other demographic groups.

The pandemic pulled the curtain back on the crushing challenges that women – especially women who are caregivers and mothers – face in successfully balancing their workload at home and at work, and acknowledging these challenges is the first step in promoting change.

And it is clear that things have to change. In terms of making our workplaces more diverse, inclusive and equitable, what can we do to move forward and effect change?

The answer requires that we ask three separate questions:

1. What is the broader community (i.e., the legal industry) doing?
2. What is my personal community (i.e., my law firm or organization) doing?
3. What am I doing?

In order to answer these questions, as lawyers our first step is to define and make sure stakeholders have an understanding of what the terms diversity, inclusivity and equity mean:

*Diversity:* At its core, diversity means difference. In a hiring setting, this translates to seeking a workforce that is diverse in terms of race, gender, ethnicity, nationality, national origin and sexual orientation.

*Inclusion:* It's certainly possible – and unfortunately common – to have diversity without inclusion. Inclusion is about empowerment and the knowledge that what you say, your perspective, and your experiences matter. Diversity without inclusion means that your organization will not be leveraging the power of that diversity to innovate and move forward.

*Equity:* Concern over inequity is what began the call for diversity and inclusion, and its fundamental principle is fairness. But in a workplace context, it also means that diverse voices are not only included, but hold equal weight in the conversation.

### What is the legal industry doing?

Not surprisingly, the legal industry is behind the curve when it comes to pushing forward and incorporating diversity, inclusion and equity initiatives in the workplace.

The numbers are even more grim when we focus the lens on my specialty: IP law. With the exception of trademark law (affectionately referred to as “soft IP” because to become an IP attorney, a “hard science” background is generally required), the field, like STEM in general, is dominated by white men.

Focusing just on gender and race, according to the ABA, as of September 2020, women made up only 21.8 percent of registered attorneys and patent agents at the USPTO.

Add racial diversity, and the number is substantially more depressing: racially diverse women account for only 1.7 percent of registered attorneys and patent agents at the USPTO.

### We can do better

Though the numbers are bleak, there has been recent progress. For the first time in history, there is consistent dialogue around these statistics and a realization that they need to change.

Clients are demanding change and accountability. Corporate America is further along in this dialogue, and they are calling upon their service providers to take action and to make real strides.

Our clients have realized that they are better served by more diverse and more inclusive teams, that those teams are more innovative and successful. Following their lead, the legal industry can — and must — improve.

### **What is my firm doing?**

To help promote change in your workplace, it's essential to start with an honest assessment of where you are currently, to set specific long- and short-term goals, and to make a concrete plan with actionable steps to achieve those goals.

I'll use my law firm as an example. I'm a shareholder at Wolf Greenfield, a Boston and New York-based firm that is one of the 10 largest law firms in the country devoted exclusively to intellectual property law. We practice in the areas of patent, litigation, post-grant proceedings, trademark and copyright law, and out of more than 150 legal professionals, more than 90 percent have science or engineering degrees, and more than two-thirds hold advanced degrees.

The upside to this is that it gives us the ability to understand both the technical side of our clients' businesses as well as the legal side. But looking at the ABA stats, the downside is that we have first-hand experience in understanding the struggle that comes with diversifying the field.

However, this presents us with a major opportunity to do better.

I am fortunate in that my partners are a very thoughtful, well-intentioned group, and we pride ourselves on being led by a strong moral compass. We are thoughtful and deliberate — and as you can tell by what you are about to read, honest. Because it turns out that we are also a predominately white and male group.

Of our 55 partners, 80 percent are male and 91 percent are white. On

the bright side, 5 percent identify as LGBTQ. The transactional data is important, although it might be hard to accept, because you cannot manage what you cannot measure.

In the wake of events in 2020, my firm had a serious reckoning. For years, we have justified our lack of racial diversity, citing a number of factors: Boston — where we are headquartered and where we had a sole office for 85 years — lacks in racial diversity; STEM students are predominantly white and mostly male; we just didn't have the applicants.

In short, we allowed externalities to serve as excuses. We knew we were woefully behind what society was demanding, what our clients were expecting, and where we wanted to be, but we were not sure where to start or how to overcome traditional obstacles.

We started with conversations. We built on these conversations and started a dialogue between firm leadership and our employees.

For example, our managing partner began the practice of sending a weekly email to all employees in the firm discussing what was going on in our neighborhoods — and around the world — that week, and our role in those events. That was just the beginning.

Within the past year, we have made enormous strides. In September 2020, Wolf Greenfield ratified our first-ever Diversity and Inclusion Plan to build upon some of the steps the firm had previously taken to promote diversity and inclusion while fighting discrimination and injustice.

Within the plan, we set specific goals that will make a positive impact on our community, our profession and our firm. Our hope was to articulate and execute on a set of actionable goals that would actually make a difference.

While your firm may take a different route or have a different conversation,

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here are some of the goals that we set and things we accomplished in the past year:

- We realized that we needed external expertise, and we hired a full-time diversity and inclusion manager whose role is to increase knowledge and awareness, and to help change behaviors within the firm in a way that will improve our ability to attract, develop and retain a more diverse population in all practice areas and at all levels.
- We created the Wolf Greenfield Scholarship Program to support education of historically disad-

vantaged populations and enhance our recruitment efforts.

- We launched our Diversity Fellowship Program in the fall of 2020, with the aim of integrating racial or other ethnic minorities studying science or engineering into our firm through internships supported by a strong mentoring program in the hopes that these individuals will be interested in joining us upon their graduation. Our first fellow, a Ph.D. student at Cornell University studying biophysics, just joined the firm this past May.
- We renewed our commitment to providing IP-related education and services for underrepresented minorities. As an example, last summer, we partnered with the Foundation for Advancement of Diversity in IP Law to advance diversity in the intellectual property law profession. This program will provide the firm with opportunities to mentor and support members of underrepresented racial and ethnic groups in their pursuit of careers in IP law.
- We have also taken an active role as a sponsor, educator and mentor in the eForum's (formerly known as the MIT Enterprise Forum) Black, Indigenous & People of Color Program. This program offers tuition-free access to instructor-led learning, mentoring from established industry professionals, and peer and service provider networks.

Setting hiring goals is also an essential component, and part of meeting those goals is asking the right

questions — questions that take into account our current reality: What are the best strategies for recruiting and retaining diverse talent even in the face of a pandemic? How can we maintain standards of excellence while working remotely? Are we doing enough to create a culture of inclusion that goes beyond metrics?

We are proud of the steps we have taken, and we realize that there is a lot of work still to be done. Continuing the conversation, incorporating new ideas, setting new goals, and moving the goalposts to consistently increase diversity, inclusivity and equity even as we improve, are all part of our plan.

### **What am I doing?**

Everyone has an active role to play in this essential dialogue and in making progress. Just as my firm (and our world) had a reckoning last year, I confronted similar questions for myself: How do I move diversity and inclusion work at my firm forward? How do I show up? What do I need to be watching and listening for? When do I need to pull back, and when do I need to step up?

Ask yourself these questions, and be honest with the answers. For me, the answers made it clear that I wanted to be directly involved with the dialogue and the decisions.

Despite being new to the partnership, I ran for and landed a seat on our firm's Executive Committee in 2019, which for years was populated by a rotating cast of four white men. As a female identifying as LGBTQ, my experiences and my perspectives are often quite different from those of the other three Executive Committee members. The seat I have matters, as

our committee makes decisions that impact firm policy and practice alike and that affect every single member of our firm.

In sharing what I've learned, I will say that no matter your position in your law firm, you can take action. I learned the importance of dialogue: listening and speaking. I learned that my colleagues care about what I have to say and that they want me to share my perspective.

Though it can be daunting, try to involve yourself in the decision-making process. Once you have a seat at the table, use your voice and involve yourself in the conversation.

Think about how you solicit feedback, whether from clients, colleagues or subordinates, and be thoughtful about what you learn and what motivates you to act. If you don't already know, you will quickly learn about what matters most to you in your workplace — you will learn how your own personal values align with your firm's — and you will learn how they don't. For me, that is where good, positive change begins.

It's easy to throw up your hands and say, "They won't change. No one will listen." But holding ourselves accountable is essential. Know where you stand and what you stand for. Often, that means having the courage (or foolishness) to take big steps into unfamiliar territory.

Yet, with each step we take, we will become more comfortable with having uncomfortable conversations around diversity and inclusion. And if we hold our industry, our organizations, and ourselves accountable, real change and progress is possible.

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