

SUMMER 2024

# DIVERSITY MATTERS

## NEWSLETTER

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# DIVERSITY MATTERS NEWSLETTER

## EDITORS' NOTE – GET COMFORTABLE BEING UNCOMFORTABLE: WHY THE TOUGHEST DISAGREEMENTS ARE THE MOST IMPORTANT

By: Elizabeth U. Okakpu and Laura Seider

*“Nothing worth having comes easy.”*

-President Theodore Roosevelt



Elizabeth U. Okakpu

Working towards real diversity, equity, and inclusion in the workplace should not be easy. In fact, it should be an uncomfortable, arduous journey where mistakes are made, and lessons learned. On this journey, the easy way is never the right way. We should not shy away from difficult conversations with our colleagues on the most pressing and divisive current events or social issues out of fear of disagreement or of being perceived in a particular light. Nor should we discourage our colleagues from voicing their opinions on these difficult topics, simply because we disagree with them, or because of a real or perceived “majority opinion” on the topic. Applying pressure to agree or to shy away from expressing an unpopular opinion goes against the very goal of DEI initiatives—to provide a safe space for people to be and express themselves in a meaningful and respectful way.

If we are all in agreement on what should be the most difficult topics and issues, one of two things is happening: either someone is hiding their true feelings because they do not feel comfortable sharing, or we are simply doing it wrong.

And let us not forget that “diversity” is not just diversity in gender, race, and ethnicity. If this were the extent of “diversity,” it would be easy for us all to agree on most, if not all, relevant topics, i.e., racism, colorism, sexism, and the like. But diversity extends well beyond that. Diversity encompasses every difference we have from each other—gender; race; ethnicity; religion; political affiliation; political ideology; world views; family background; geographic location; language; size and shape; clothing and hairstyle; education; hobbies and interests; music and television preferences; and opinions on everything from celebrities, social current events, and on and on.



Laura Seider

Working towards real diversity, equity, and inclusion in the workplace may be an uncomfortable, arduous journey where mistakes are made and lessons learned. On this journey, the easy way may not be the right way. However, we should not shy away from difficult conversations with our colleagues on the most pressing and divisive current events or social issues out of fear of disagreement or of being perceived in a particular light. Nor should we discourage our colleagues from voicing their opinions on these difficult topics, simply because we disagree with them, or because of a real or perceived “majority opinion” on the topic. If we are all in agreement on what should be the most difficult topics and issues, one of two things is happening: either someone is hiding their true feelings because they do not feel comfortable sharing, or we are simply doing it wrong. Applying pressure to agree or to shy away from expressing an unpopular opinion goes against the very goal of DEI initiatives—to provide a safe space for people to be and express themselves in a meaningful and respectful way.

Diversity, equity, and inclusion initiatives hold space for individual, varying perspectives to contribute into a greater dialogue without being overlooked. This edition of the WG diversity newsletter features authors from our Delaware, Philadelphia, and Miami offices, all of whom exemplify how varying the subject matter of DEI can be. This edition will cover the significance of PRIDE in one’s coming out story, the impact of mindfulness on wellbeing, the interplay of nonphysical disabilities in the workplace in employment law, and 3 perspectives on DEI from this year’s Weber Gallagher summer law clerks.

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## WEBER GALLAGHER'S DEI ACTION CHECKLIST

- Join Weber Gallagher's Diversity & Inclusion Committee and actively participate.
- Recommend a diverse attorney or staff person for employment at Weber Gallagher.
- Write an article about diversity and inclusion for Weber Gallagher's diversity newsletter, Diversity Matters!
- Attend one (1) or more conferences, programs, or CLE seminars on diversity-related topics.
- Attend one (1) or more program(s) sponsored by Weber Gallagher's Diversity Committee.
- Participate in "The Breakroom," a small group discussion fostering a safe place to share your thoughts and experiences while learning about your colleagues.
- Read an article or book about diversity and inclusion.
- Develop a mentoring relationship with an attorney, law school graduate, or law student of a diverse background.
- Mentor a high school student, college student, or paralegal interested in pursuing a career in law.
- Learn about the impact of subtle, unconscious, and implicit bias by visiting Project Implicit at <http://www.projectimplicit.net> and take one of the surveys.





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## Pride and the Power of 'FAMILY'

By:



**CJ Moore**

During the month of June, the LGBTQIA+ community celebrates Pride! This month is about practicing acceptance and equality, celebrating our siblings and their work in our communities, and helping educate people on what being LGBTQIA+ is, along with raising awareness & providing history. To me, Pride has always been special because of the connections I made with my family & finding my "FAMILY". Let's start with coming out...

Back then, I was very dramatic... and I made sure that my coming out wasn't quiet. I told my mom after she and I had a huge fight during dinner. We both went upstairs to talk. I was in tears and when I told her she said, "Well, duh!" She hugged me and told me not to tell my dad; not yet, anyway. Eventually, my dad was told, and it was an uncomfortable few years; an adjustment period because this new information changed what it meant to be his son with his name, and his father's name, and his father's, father's name... But, that's it. That's the real, short, simple story. My immediate family has been accepting and after that awkward adjustment period right after coming out, there's not a whole lot of extra drama. I became closer to my mom and my sisters, my dad and I had and continue to have more regular father-son conversation, and I've become a close ally to my little brother. Also, ever since Collin (my now husband and business owner of Lunar Subway Studios) came into the picture, I'm kind-of the "favorite". Well... I think I am... my sisters disagree.

My coming out had a lot to do with Pride. It happened in June following my 18th birthday, if you believe it. After I came out, my sister started taking me to learn more about our shared community. My sister is also a part of the LGBTQIA+ community. She introduced me to places like the Attic and the William Way Community Center (WWCC) in Philadelphia. At the time, she was in UPenn and I would regularly visit from NJ just to go to groups and meetings at the WWCC. In fact, I've recently learned all of my siblings fit under the LGBTQIA+ flag. What's important here is that this is where I learned that the family you are born into is one thing and the "FAMILY" that you choose to spend your time, love, patience, and fear with is another. My sister helped me to find my "FAMILY"



The sense of belonging and the need to be a part of a social unit is strong, especially in the LGBTQIA+ community. The idea of "FAMILY" helps this marginalized group that I am a part of feel loved, feel seen, feel more than what we are told to feel we should. Most "coming out" stories are horrific, and most people don't like to talk about being beaten bloody, physically kicked out, and shunned by their families. So... they find new "FAMILIES" to love and support them. Your "FAMILY" can also include your family. Mine includes my parents and siblings, their partners, one friend from high school that's actually an ex-girlfriend and her husband, my best friend Gloria, and my husband Collin. My "FAMILY" has been through some really low lows and some really high highs with me because I want them to be there with me and because they want to be there with me. I would not be here today as the man that I am without my family and my "FAMILY".

I'm proud to wear many flags: I'm an American, I'm Disabled, I'm Neurodiverse, I'm a Small Business Owner, and I'm Gay. I'm proud to be a part of my community and to support those "SIBLINGS" that came before me and paved the way for the acceptance of the LGBTQIA+ community. It's sometimes difficult for me to realize that Pride is only about 55 years old. The Stonewall Riots took place in 1969; this is where Pride started. And no, it wasn't the first time people from our community resisted; it is our pivotal moment in history. 55 years is a blip in the human race's entire history. In our community, we remember those who stood up, who resisted, who fought for our inalienable rights to be a part of the human race. Have Pride for yourself and those who came before you and #KnowYourWorth and know your Pride.



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### Summer Clerk Insights: Perspectives on Navigating DEI

#### Why Diversity Matters

By: Abed Rahman

The law, often perceived as a rigid, impartial arbiter, is in fact a reflection of the society it serves. To deliver true justice, it must mirror the complexity and diversity of the world around it. Yet, for long, the legal profession has operated within a narrow framework, one that falls short of accentuating the experiences of a vast segment of our society.

Consider the concept of the “reasonable person.” Who is this “reasonable person?” For a long time, the legal definition has predominantly reflected a narrow demographic, quite often characterized by a very narrow social, cultural, and economic background. Take, for instance, the 1956 class of Harvard Law School, with 552 men and 9 women. How does one account for the extremely disproportionate representation of the perspectives of a group that constitutes half of the population? How does one go about shaping the laws and their interpretations, when the foundations of those laws were constructed through a narrow lens? This is a critical inquiry, as law is often shaped by the people who practice it. A legal landscape without diversity, equity, and inclusion is almost like measuring everyone with a yardstick designed for someone else.

A truly just legal system necessitates a workforce that is as diverse as the clientele it represents. Lawyers with varied backgrounds bring unique perspectives and foster innovation, empathy, and a deeper understanding of the issues at hand. When the bench, the bar, and the courtroom reflect the communities they serve, trust is built, and the potential for bias is mitigated.



#### Diversity, Equity & Inclusion (DEI) in Law School

By: Asheley Dorzin

Diversity, Equity, and Inclusion (DEI) have emerged as critical components of modern society, and the legal profession is no exception. The integration of DEI principles into law schools is paramount for cultivating a just and equitable legal system. A diverse student body brings a wealth of experiences, viewpoints, and backgrounds to the classroom. This enriches the educational process by exposing students to diverse ways of thinking, problem-solving, and approaching legal issues. When lawyers possess a comprehensive understanding of diverse communities, they are better equipped to represent the interests of their clients effectively. A diverse legal profession enhances public trust and confidence in the justice system.



Equity in legal institutions is essential for ensuring that all students have equal opportunities to succeed. This involves addressing systemic barriers that may disadvantage certain groups, such as financial aid disparities, implicit biases, and limited access to mentorship. By creating an equitable learning environment, legal institutions can play an empowering role in the lives of students from various backgrounds.

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### Summer Clerk Insights Continued

#### Diversity, Equity & Inclusion (DEI) in Law School Continued...

By: Asheley Dorzin

When students feel valued, respected, and empowered, they are more likely to thrive academically and personally. Inclusion is the cornerstone of a thriving legal community. It involves creating a sense of belonging for all students, faculty, and staff, regardless of their background. This is crucial for developing interpersonal skills necessary for effective legal practice. By prioritizing DEI, law schools are cultivating a pipeline of lawyers who are committed to social justice and equality. Through the implementation of DEI focused practices, law schools can contribute to a more inclusive legal profession that better reflects the population it serves.



#### Inspired by Family, Driven by Passion: My Journey to Law School

By: Jacob Yu

Coming to law school has been always in the back of my mind ever since I saw my older cousin, Mirin, get into Fordham Law School. I observed how she enjoyed her life in New York City and got to see her rise through the ranks as a litigation attorney after graduation. Whenever I caught up with Mirin, I heard many great stories about practicing law in New York and saw her become the confident attorney she is today. Seeing her thrive as an attorney gave me the motivation and desire to also follow in her footsteps.

Besides the desire to experience life on the east coast, I saw how vast and dynamic the legal profession is. Going to law school seemed to open opportunities in many different fields such as public interest, corporate law, and litigation. The versatility of a law degree appealed to me as it provided many different career options beyond traditional legal practice.

I also saw many similarities between litigation and my personal interests in soccer. Both require a winning mentality and a tenacious spirit. As such, I realized that being a lawyer can satisfy that competitive drive and give the same satisfaction as winning in soccer. After coming to law school, I realized that many of the aspects that I had idealized were true but there were also many challenges and obstacles to overcome during my 1L and 2L years. However, with each challenge and obstacle that I overcame, I am grateful for the growth that I got to experience through law school. Now going into my final year of law school, I am certain that coming to law school was the right decision.

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## UNDERSTANDING ADA RIGHTS FOR NON-PHYSICAL DISABILITIES

By:  Krista Shevlin

Not all disabilities are physical. It may not always be evident that an individual is suffering from a non-physical disability. Non-physical disabilities include a wide range of disabilities including anxiety, depression, schizophrenia, asthma, Autism, HIV/AIDS, and diabetes among many others. Interestingly, non-physical disabilities also include the use of medically prescribed drugs.

Generally, the Americans with Disabilities Act (“ADA”) bars employers from questioning the existence, nature or severity of a disability and prohibits medical examinations or drug testing until after a conditional offer of employment has been made. Once an employer extends a conditional offer of employment, employers may require medical examinations or drug testing, but they must be required of all prospective employees in that job category. If an examination or drug test screens out an individual because of a disability, the exclusion must be job-related and consistent with business necessity.

With the ongoing opioid crisis, there has been an uptick in cases being brought by the EEOC, on behalf of prescription drug users. In vigorously investigating these claims, the EEOC is sending a message to employers that it is illegal to base a hiring decision on assumptions and stereotypes about disabled worker’s potential job performance while using prescribed medication.

For example, in 2015, the EEOC sued Baltimore-based temporary labor agency Randstad, US, LP, alleging illegal discrimination against April Cox, (a recovering heroin addict), who was enrolled in a supervised methadone treatment program. At the time she applied for a position at Randstat she was undergoing monthly counseling and urine drug testing and was using methadone as part of her treatment. Cox applied for a job as a production laborer. When asked to submit to a pre-employment drug test, Cox disclosed that she was in a methadone treatment program. Cox subsequently provided the employer with information from her treatment clinic confirming that she had no restrictions. Cox was never asked to take the drug test and was not hired, due to her use of methadone. Randstat was required to pay \$50,000 and furnish significant equitable relief for violating the ADA.

Likewise, the EEOC sued Professional Transportation, Inc. (PTI) for violating the ADA after it rescinded a conditional offer made to a job applicant because she was taking medically prescribed Suboxone. PTI rescinded its offer after reviewing general information about the possible side effects of Suboxone, even though the applicant herself did not experience any of those side effects. The case was settled with PTI entering a consent decree with the EEOC requiring payment of \$60,000 to the job applicant and implementation of future antidiscrimination policies and procedures.

To maintain a safe workplace while complying with the ADA, employers should avoid blanket exclusion policies for certain prescription medications and consider on a case-by-case basis whether the applicant or employee can perform the essential functions of the job with or without a reasonable accommodation and without posing a direct threat of harm to themselves or others. After an employer learns that an employee is taking a prescription drug that may affect job performance, it should request the prescribing doctor complete a medical certification regarding the effect of the medication on the ability to safely perform essential job functions. This allows the employer to compare the medical certification to the individualized job description and better determine if a direct threat exists and whether reasonable accommodation is even possible.





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### Inner Smile

By:  **Antonio Villa de Rey**



We each have our identity. Our own story that makes us unique, one-of-a-kind. Our upbringings are diverse, just like us. Even so, certainly there are points we can all agree are valuable as we grow as individuals and hopefully into a nourished longevity.

How valuable is a healthy mind as we go about our day, as we go about our lives? Yes, some of us may have 401K's and other investments / retirement plans. That phrase "in this economy" seems to pop up in every generation. But how often are you investing in your wellbeing? In making that little voice inside your head into a best friend? Yes, savings accounts get your finances in order and exercise gets the body to a certain place with that endorphin kick to help you feel good. Mindfulness is that unique trait, the facet of you that provides stability when things don't feel so good. It reminds you of the beauty of who you are. Everything you do is magnificent, a precious moment of life and energy expressed upon itself. Are you observing it as you go along? Mindfulness promotes observing the life you live from a place of compassion and gentleness. There is an innate precision to such observation, as mindfulness tries to hone in on what is. How do we cultivate such precision, gentleness, and the compassion? Meditation provides a unique means of being able to let go of the labels of good and bad, instead simply seeing what is both within you and around you. I'm not here to provide a crash course on Seated Meditation in an article to get us floating midair with our hands in unique mudras. I'm no guru, and I'm far from having it figured out.

But I would like to invite you to join in a much simpler practice, known as the Inner Smile. Think of anytime in your life you may have had someone to report back to. Sure, some of us may be less prone to flattery. But an honest "thank you" from those you do work for that makes you feel appreciated goes a long way. The Inner Smile is a "thank you" to yourself by yourself. It can be done there in bed in the morning in 3 minutes, turning away from the running mind for a moment and instead starting a pep talk for the team. It can be done at your desk as you finish up an assignment.

It can be done right before bed, when the day's work is done and all that's left to do is wind down for a little bit.

So how do you do it? Well, just bring your attention to the big players. Traditionally, the Inner Smile turns your attention to the Heart, Lungs, Liver, Kidneys, Spleen, and Kidneys. Each has its functions. From a place of acceptance, the manager thanks their worker. Pick one, focus on it for a moment, perhaps visualizing it as you go, or placing your hands over the respective body part. For your heart, follow its beat. Your lungs, trace their breaths. Your brain, feel its presence. And then, you say "Thank you". Make it personal and develop a relationship with these hard workers who are keeping you up to beat!

I like to thank my heart for all the moments it withstood my craziness throughout the day, and for its ability to come back to a calmer pace. For the tolerance it showed when I made it work harder during exercise. For its resilience when I have been hurt. And even if I don't think it's the very best worker, why be hard on my heart?! I'm still going to thank him for the greatness we've achieved together. No one said life would be easy, and it's certainly not easier being hard on yourself.

I had no idea what my spleen did for my body before I started this practice. Now, I thank my spleen for its commitment to me, (in rated G terms) for filtering the bad and producing the good. And my awesome liver, for keeping up when the boss is celebrating a little bit too much! Funny enough, as you go developing that inner voice, that inner "Thank you", you may notice your mind and body may begin to calm a little bit. That's an acknowledgement of the investment you're placing in your wellbeing, manifested. By both observer and observed. That's the interconnectivity, the magic of the moment that's just....groovy. And hey, after that maybe we can thank some of the other people around us getting things done? I won't get too far ahead of myself. Thanks for reading, and may your efforts bear fruit!

