
BEYOND THE BAR: THE DEMOGRAPHIC INSIGHTS STEERING A DIVERSE LEGAL FUTURE

BY NEVEN SELIMOVIC

Diversity within the legal profession is an essential aspect of ensuring justice, equity, and inclusivity in society. Lawyers serve as advocates, advisors, and guardians of the law, and their diversity is critical to reflecting and understanding the vast array of experiences and perspectives in our communities; and providing the highest quality service to our clients.

Like many other states, the demographics of lawyers have been evolving in Minnesota, but there remain significant disparities in representation. This article delves into the current status of diversity, equity, and inclusion, in the Minnesota legal community, analyzes the progress made, identifies ongoing challenges, and identifies ongoing effects to foster a more representative legal workforce in the state.

WHAT IS DIVERSITY, EQUITY, AND INCLUSION?

“Diversity,” “Equity,” and “Inclusion,” (often abbreviated as DEI) are interconnected concepts that have gained momentum for transforming many institutional aspects of the modern world. They have become focal points for organizations, institutions, and communities, that aim to ensure fairness, representation, and opportunities, for everyone. For example, searching “Minnesota diverse law firms” (without quotes) will give you page after page of law firms’ DEI pages summarizing their commitment to these concepts. And for good reason; studies show that diverse co-workers make better decisions. Erik Larson, *New Research Diversity Inclusion Better Decision Making at Work*, FORBES (Sept. 1, 2023), <https://www.forbes.com/sites/eriklarson/2017/09/21/new-research-diversity-inclusion-better-decision-making-at-work/?sh=1e5687394cbf>.

But taking a blunt approach by adding diversity without any other changes and hoping for the additional benefits and growth associated with a truly diverse entity is not a practical approach, which is what many well-intentioned

people and organizations do. In any DEI initiative there needs to be a shift in mindset and the employment culture that includes building trust, actively working against discrimination, embracing a wide range of styles and voices, and using cultural differences as an opportunity for learning and potentially growth. To do that, we must establish the perspective that DEI goes beyond race and gender to include all experiences and perspectives, such as that of a single parent, a first-generation graduate, a neuro-divergent individual, and so on to embrace the true diversity of human experience; in the law, your clients, colleagues, and jurors, will represent all of these individuals—your practice will be more successful if your organization also contains and understands diversity.

Using a mechanical approach, as defined by Merriam-Webster, “diversity” means “the condition of having or being composed of differing elements,” especially, “the inclusion of different types of people of different races, cultures, etc. in a group or organization.” MERRIAM-WEBSTER’S DICTIONARY, <https://www.merriam-webster.com/dictionary> (last visited Sept. 12, 2023) (emphasis added). And, “Equity” means “dealing fairly and equally with all concerned.” *Id* Finally, “inclusion” is “the act of including: the state of being included,” which means “to take in or comprise as a part of a whole or group.” *Id*. So, when discussing DEI, we must frame actions and discussions in the context of dealing fairly and equally with all types of people who comprise humanity and therefore the legal community.

WHY DEI IS IMPORTANT TO YOU, A LEGAL PROFESSIONAL

Armed with a workable framework of DEI, understanding the demographic makeup of the local legal and general community is vital to building a diverse future.

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Fundamentally, lawyers serve clients, and cultural competence will increase aptitude in that service. Clients may prefer lawyers who understand their cultural or demographic background because knowing the local community's demographics allows lawyers to better understand and empathize with clients with different cultural, linguistic, or social needs. And, whether as negotiators, or trial lawyers, advocates or adversaries, our understanding of jurors, parties, and witnesses' diverse experiences and needs increases the quality of representation we provide.

A lawyer will offer more effective and empathetic legal representation by understanding the nuances of diverse cultural perspectives, experiences, and expectations. Lawyers who understand these differences can communicate more effectively with their clients and other community members.

Lawyers also often play active roles in their local communities. Greater understanding and interest in diverse perspectives will aid lawyers in focusing their efforts on community engagement and pro bono work. And, Lawyers aware of cultural and demographic trends may be better equipped to address emerging legal issues influenced by changing demographics.

Lawyers can work towards greater cultural competency and by regularly attending community events, workshops, and meetings. This will offer firsthand insights into the concerns and aspirations of the community; but remember to look for ways to expand your community outside of your own class, race, religion, age group, educational background, and other definitions that cause people to self-isolate. Looking for opportunities to connect with diverse communities is the first step; including, reading local newspapers, following community leaders on social media, and engaging with local organizations that can help you stay updated about community happenings and sentiments.

From a business perspective, law firms and legal organizations should strive to build diverse teams. Diversity within firms creates options for business growth, accessing new clients, better serving existing clients, more rounded viewpoints, and better analysis of social trends like changing jury verdicts and increased focus on conflict resolution rather than oppositional tactics. For insurance defense attorneys, insurance companies are regularly asking firms for their DEI efforts and performing surveys of their attorneys; your relationship with these insurer-clients can only be benefitted by showing DEI efforts and that you are in touch with a changing world and the individuals that make up the claimants, the defendants, the judges, and the jurors, who control the outcome of your cases.

While the primary role of a lawyer is to provide legal advice and representation, understanding diversity and inclusion is crucial for ensuring that attorneys can effectively serve their clients, navigate legal challenges, and uphold the principles of justice and equality under the law. Knowledge of the local legal community's demographics can foster community connection and growth; which can then foster environments where diversity is valued and supported. These valuable changes then foster networking, client relations, recruitment, advocacy, community engagement, and litigation outcomes. Connection to diverse communities and diverse firms enable lawyers to be more effective and responsive to the needs and dynamics of their local legal environment.

GROWTH IN MINNESOTA

Minnesota's legal history is characterized by a lack of diversity, especially in terms of race and gender; however, pioneering individuals broke barriers and contributed to greater inclusivity over time. There is a long way to go, but it helps to track the starting points so we can celebrate progress while striving for more growth.

When Minnesota was first settled by immigrants and then established as a state in 1858, its legal profession was overwhelmingly composed of white male lawyers. Like much of the United States at the time, women and people from racial and ethnic minority backgrounds faced significant barriers to entering the legal profession. Despite these barriers, Minnesota had some early pioneering women lawyers. For example, Martha Angle Dorsett was Minnesota's first female lawyer who helped pass legislation that allowed anyone, regardless of sex, to be admitted to the state bar. Ellen Jaquette, *Dorsett, Martha (1851–1918)*, MNOPEdia, Minnesota Historical Society, <http://www.mnopedia.org/person/dorsett-martha-1851-1918> (last visited Sept. 16, 2023).

As Minnesota's population grew and diversified during the late 19th century, the legal profession very slowly started to permit some diversity. While significant racial and gender disparities persisted, there were now attorneys from diverse backgrounds, including new immigrants and people of different ethnicities. Notable African-American lawyers in the late 19th and early 20th centuries, such as William T. Francis, one of the first African-American lawyers in the state, pioneered the viability of a legal career for men of color by becoming a politician and diplomat. The 20th century has shown a gradual increase in diversity among legal practitioners in Minnesota, particularly as the state's population also grew and diversified. Civil rights movements and changes in social attitudes contributed to more opportunities for lawyers from different backgrounds.

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Notable individuals include Justice Alan Page, the first African American male to serve on the Minnesota Supreme Court, and Margaret Treuer, the first Native American (Ojibwe) female lawyer in Minnesota who became a tribal judge.

Now, the legal profession in Minnesota, like in the rest of the United States, has become more diverse—but it lags behind many professions, and certainly begs for more attention on the school to career pipeline. While legal practitioners now come from various racial, ethnic, gender, and socioeconomic backgrounds, contributing to a richer, more inclusive legal community, the goal of representative diversity is far from met. Law firms, bar associations, and legal organizations, in Minnesota have and continue to implement diversity and inclusion initiatives to promote a more inclusive legal profession. These initiatives aim to address historical disparities and create opportunities for underrepresented groups.

CURRENT STATE: MINNESOTA BY THE NUMBERS

Despite some progress, the demographics of Minnesota's legal profession do not yet reflect the state's diversity. Historically, the legal field has struggled to attract and retain attorneys from underrepresented racial and ethnic backgrounds. According to data from the American Bar Association, as of 2020, only 5% of lawyers in the United States identified as African American, compared to 13% of the general population. Similarly, 5% of all lawyers are Hispanic compared to 18.5% of the general population. And 2% of all lawyers are Asian, while the U.S. population is 5.9% Asian. *ABA Profile of the Legal Profession 2020*, AMERICAN BAR ASSOCIATION, <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf> (last visited Sept. 16, 2023).

This underrepresentation in the profession as a whole is mirrored in Minnesota, where law firm diversity falls behind the national averages for law firm diversity. There is significant work to do because “[c]hange in representation of ethnic and racial minorities was essentially flat from 2018 to 2020, according to the report from the Minnesota Coalition of Bar Associations of Color (MN-CBAC).” Todd Nelson, *State Law Firm Diversity Lags Nation*, MINNESOTA LAWYER (October 22, 2021), <https://minnlawyer.com/2021/10/22/state-law-firm-diversity-lags-nation>.

In 2020, Minnesota's total population was 5,706,494. The non-Hispanic, White population alone accounted for 76.3% of the population (4,353,880 residents), while Black, Indigenous, and People of Color (BIPOC) populations comprised 23.7% (1,352,614 residents). MINNESOTA STATE DEMOGRAPHIC CENTER, MINNESOTA DEPARTMENT OF ADMINISTRATION, <https://mn.gov/admin/demography/data-by-topic/population-data/2020-decennial-census/> (last visited Sept. 16, 2023).

The Minnesota Lawyer Registration Office's 2016 Annual

Report shows 25,229 active attorneys. Of those active attorneys, 20,015 were White/Caucasian, while 589 were Asian/Pacific Islander, 467 were Black/African-American, 253 were Hispanic/Latino, and 106 were Native American / Alaskan. The remaining 3,556 chose not to answer. Additionally, there are 9,312 female attorneys compared to the 14,211 male attorneys. 2016 Annual Report, MINNESOTA BAR ASSOCIATION, <https://www.mnbar.org/docs/default-source/diversity-msba/mn-lawyer-registration-office-2016-demographic-data.pdf?sfvrsn=2>.

The data shows that while Minnesota remains predominately white, a significant portion of people are not—almost one in four people, particularly in the state's population centers. And among those three out of four, there is a lot of variance in socioeconomic status, perspectives, and background. So why is Minnesota's legal community so lacking in diversity? Many attorneys did not answer. Approximately 14 percent declined to answer their race and ethnicity, and nearly seven percent declined to declare their gender; this appears to show that younger attorneys may be the ones declining to answer, which would mean more balanced results in diversity in practice compared to the study results. Therefore, while there has been significant progress made in equity between male and female attorneys, there needs to be more intent and energy spent on inclusion in the broader sense to champion DEI truly.

CHALLENGES FACED

Minnesota lawyers and law firms face challenges concerning diversity that are not unique to the state. Some might be more pronounced due to specific demographics, cultural factors, and local professional practices. However, with the increasing diversity of Minnesota's population, especially with the growth of immigrant and refugee communities (e.g., Somali, Hmong, and others), lawyers need to be culturally competent and foster business environments that are welcoming to diverse individuals from many backgrounds and with unique experiences. Without this competence, they might not effectively serve or represent these communities or litigate surrounding these communities whose members serve as litigants and jurors.

Many challenges and barriers to increasing DEI grow from historical roots. Like many other parts of the United States, the legal profession in Minnesota has historically been dominated by white males. This has shaped legal institutions' culture, norms, and structures, which can resist change. Minnesota, especially outside of the Twin Cities metropolitan area, has historically been less diverse than other parts of the country. This can result in fewer role models in the legal profession for minority communities and potential biases against or misunderstandings of these communities. Even with the best intentions, individuals can harbor unconscious biases affecting hiring decisions, case

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assignments, promotions, and other actions that perpetuate historical inequalities. Recognizing and addressing these biases is crucial to fostering diversity.

Retention is a tough challenge for many firms. Law firms might find it challenging to recruit diverse candidates if they are perceived as lacking an inclusive culture. Once diverse lawyers are hired, retention can be another challenge if the firm does not adequately support and provide opportunities for growth for all.

There are also subtle, often unintentional, statements or actions that can be hurtful or offensive to individuals because of their race, gender, or other identity markers. They can make a workplace feel unwelcoming or hostile to lawyers from diverse backgrounds. Not all law firms or lawyers are equally aware of the importance of diversity, equity, and inclusion, or how to promote these principles. Continuous education and training are necessary to address this.

While progress is being made, resistance to change can be challenging. Some attorneys may resist diversity initiatives, viewing them as unnecessary or unfair. Overcoming this resistance will also require continued education and advocacy.

Addressing these challenges requires a concerted effort from the entire legal community, including law schools, law firms, courts, and professional organizations. Fortunately, many entities in Minnesota's legal field have recognized the importance of diversity and are actively working on initiatives and programs to promote it. Implementing diversity initiatives in the specific context of Minnesota might require adjustments or additional strategies.

CURRENT INITIATIVES

Many ongoing efforts are aimed at reaching the goal of greater diversity, equity, and inclusion.

The MSBA's Diversity and Inclusion Leadership Council has gone beyond token gestures. It has worked diligently in creating platforms where diverse lawyers can network, learn, and grow. Their annual diversity conference has become a cornerstone event, drawing attention from law firms, corporations, and law schools.

Other groups, like MDLA have prioritized efforts to support and attract diverse law students and lawyers, such as the annual MDLA DEIA seminar and sponsorship for diverse law students at multiple conferences and events as well as a diversity law clerkship program and an unlearning racism book group aimed at helping white lawyers better talk about race and create welcoming environments.

Numerous affinity bar associations in Minnesota support diverse groups of lawyers. These associations often host events, provide mentorship opportunities, and offer

resources to their members. They include the Minnesota Association of Black Lawyers (MABL), the Minnesota Hispanic Bar Association (MHBA), the Minnesota Asian Pacific American Bar Association (MNAPABA), the Minnesota Women Lawyers (MWL), and the Minnesota Disability Bar Association (MDisBA), among others.

Leading law firms in Minnesota are not just passively awaiting change; they are spearheading it. By revising recruitment policies, firms ensure they attract a diverse pool of candidates. They are participating in diversity clerkship programs. These programs are designed to introduce first-year law students from underrepresented backgrounds to law practice in Minnesota and provide them with valuable clerkship experience. MDLA's diversity clerkship program and the Twin Cities Diversity in Practice (TCDIP) are great examples. Many firms also focus on fostering an inclusive work culture where every lawyer feels valued for their unique experiences and perspectives.

With collaborative efforts from educational institutions, law firms, professional associations, and the broader community, Minnesota is positioning itself at the forefront of a transformative shift in the legal industry. A concerted effort from all stakeholders can drive Minnesota to achieve its diversity goals and serve as a beacon for other states on this critical journey.

DIVERSITY & INCLUSION COMMITTEE

Seeking to promote diversity within its membership and the law firms in which its members work. We appreciate and embrace that our legal community and clientele come from a rich variety of diverse cultures, beliefs, perspectives and backgrounds. Through an open and inclusive membership, we hope to achieve a better understanding of the broader issues of diversity, as well as the cultural similarities and differences within our society, so that we may better serve the legal community and the people we represent.

- Annual Diversity Seminar
- Law Clerk Summer Program
- Law Student Attendance at Seminars

For more information, email committee Chair, Madison Fernandez - mfernandez@larsonking.com or Vice-Chair, Aaron Brown - abrown@larsonking.com