Massachusetts Supreme Judicial Court
Standing Committee on Lawyer Well-Being

Report Summarizing Affinity Bar Town Hall Meetings

February 4, 2021

Introduction

As expressed in the Massachusetts SJC Standing Committee on Lawyer Well-Being's DEI Statement (available at: https://lawyerwellbeingma.org/dei-statement), one of the fundamental goals of the Committee is to "effect real, meaningful change in the profession to not only ensure that systemically oppressed legal professionals in Massachusetts receive equal treatment, but that they receive the support they need to achieve equitable access to and success in the profession, and that the barriers, challenges and insults they face every day are reduced, mitigated and, ultimately, eliminated." In an effort to begin identifying the concrete challenges to professional well-being faced by Massachusetts lawyers, judges, and law students from underrepresented, historically excluded, and systemically oppressed populations, in June 2020, the Committee began hosting a series of individual town hall meetings with various Massachusetts affinity bar associations. The goal of these sessions was for the Committee to hear from these legal professionals about their own lived experiences, to hear their stories. Ultimately, the Committee hopes that these stories and this Report will help in the collaborative design and implementation of various projects that, we hope, will address elements of the legal profession in Massachusetts making participation and survival, let alone success and well-being, so much harder to achieve and sustain for members of these groups.

Over the course of six months, with the support of the Boston Bar Association's Diversity, Equity & Inclusion Section (the "BBA DEI Section"), the Committee hosted seven of these meetings, one with each of the following organizations:[1]

- Asian American Lawyers Association of Massachusetts
- Hispanic National Bar Association, Region I
- Massachusetts Association of Hispanic Attorneys
- Massachusetts Black Lawyers Association
- Massachusetts Black Women Attorneys

[1] When this Report refers to individuals from "underrepresented," "historically excluded," or "systemically oppressed" populations, it is always referring to the same group – individuals from populations reflected by the participating bar associations. The Committee is aware that there are populations of legal professionals with other underprivileged identities not reflected by the participating bar associations, such as those with disabilities or those from other racial, ethnic, or religious backgrounds, and we expect that many of the experiences highlighted in this Report may be shared by members of those groups as well. Further, the Committee absolutely intends to continue working with not only the participating bar associations, but all Massachusetts attorneys, judges and law students facing systemic or structural bias, exclusion, or oppression to elevate their experiences and develop recommendations and proposals for material changes to improve their well-being.

- Massachusetts LGBTQ Bar Association
- South Asian Bar Association of Greater Boston

In total, over 115 attorneys, judges and law students attended these sessions and shared their stories and experiences with members of the Committee, including its Co-Chairs and its Director. At each meeting, rather than seeking to lead the discussion from the outside, the Committee asked the affinity bar presidents or board members to moderate the discussion and suggested the following questions as potential prompts:

- Tell us about your experiences as members of the [relevant identity] community and Massachusetts bar.
- What type of positive support have you received as a member of the [relevant identity] community?
- In your opinion, what supports are still lacking? What could be improved to better support [relevant identity] lawyers in Massachusetts?
- Attorneys from underrepresented groups often leave Massachusetts after practicing here. Do you have any suggestions that could help make practicing here as a diverse attorney more sustainable and rewarding?

The remainder of this Report summarizes the results of these meetings and certain follow-up conversations with members of these organizations and members of the Massachusetts Bar Association's Diversity, Equity and Inclusion Committee and the BBA DEI Section.

Summary

The general sentiment of the attorneys and law students who participated in the town hall meetings was that being a member of the Massachusetts bar from a historically excluded population results in significant to extreme challenges on top of those faced by all attorneys and law students. Many participants shared upsetting, discouraging, and deeply concerning lived experiences, although some also shared positive experiences about allyship, celebrations of diversity, and upstander actions taken by colleagues and mentors. The Committee repeatedly heard that attorneys from these backgrounds not only face challenges getting to law school, getting through law school, passing the bar exam, and completing the character and fitness review to be admitted to practice, but once they conquer those obstacles and enter the profession,

they must continue disproportionately to prove their worth to other legal professionals who assume that their work will be of lesser quality. They experience recurring identity-based challenges and discrimination, no matter how far in their career they have advanced. The participants explained that these experiences are exhausting and complex, continually impairing their mental health and well-being as members of the profession, and that they must be shared, acknowledged, and responded to by the Massachusetts legal community. Further, they noted that increasing the hiring of attorneys from these populations is not enough to make real progress without also (a) recognizing the disparate treatment they face, and (b) seeking to change culture, policies and procedures to support their retention, promotion, and paths to leadership.

The Committee believes the burden of change cannot and should not fall on these attorneys and law students themselves, as it has for far too long – the effort it takes for them to even survive in this profession without burning out is already significantly more substantial than that of their colleagues outside these groups. The burden of supporting and championing this work should fall especially on such colleagues, and particularly those of us in positions of power and authority. The Committee looks forward to continued collaboration with all the Massachusetts bar associations and the Massachusetts legal community at large to address these issues and to work to make the Massachusetts bar a more equitable, inclusive, and supportive environment for all attorneys.

Below are the overarching themes and requests, and various associated anecdotes, reported to the Committee by participants in the town hall meetings or in follow-up conversations.

The Court Experience

The most concerning stories presented to the Committee were the experiences of the participating attorneys in the Massachusetts trial courts.[2] Overall, the experiences they described paint a bleak picture, where these attorneys face increased scrutiny, unfair assumptions, and insults to their professional identity and integrity and sometimes their personhood from the moment they set foot in a court building. Importantly, the Committee asked if members of these groups had noticed any improvement in these trends over the course of the past 5-10 years, or if there was any difference between state and federal courts; the participants indicated that they had seen no positive changes, and that the negative experience was equal in nearly every court in the Commonwealth. These attorneys reported feeling like an "other" in so many aspects of their lives, and that they expected to be treated better in the courts. Instead, when attorneys from these populations witness or experience incidents denigrating them or their clients based on their identities, they reported that such incidents impact their belief in the Massachusetts legal system, reduce their confidence that their advocacy will be heard without bias, and have a negative impact on their performance as attorneys representing their clients. Below are comments, accounts of experiences, and identified issues associated with this topic.

a) Multiple participants noted that, after years of practice, they genuinely believe that case outcomes often depend on the race of the client and/or the attorney. Some Black, Indigenous, and People of Color ("BIPOC") attorneys believed their clients would be better served simply by having a White attorney, and many noted that case outcomes often reflect that judges simply do not understand cultural differences that are material to a case when based on the circumstances of attorneys and clients from non-White populations.

[2] As highlighted by former SJC Chief Justice Ralph D. Gants and current Trial Court Chief Justice Paula M. Carey in a recent Boston Bar Journal article published in December of 2020, "more than 25 years ago, the SJC issued a 200-page report on racial and ethnic bias in the Massachusetts court system." Boston Bar Journal, *Creating Courts Where All Are Truly Equal*, Dec. 16, 2020 (available at: https://bostonbarjournal.com/2020/12/16/creating-courts-where-all-are-truly-equal/). That report, titled "*Equal Justice: Eliminating the Barriers*" was issued in September of 1994 by the SJC Commission to Study Racial and Ethnic Bias in the Courts. Sadly, it remains deeply relevant to this day. While the focus of that report was on the court system as experienced by clients and direct court users, and the influence of the described barriers and biases on the legal system itself, this Report instead focuses specifically on the Massachusetts court experiences of attorneys and law students from systemically oppressed populations, and how those experiences impact their well-being.

b) BIPOC attorneys routinely experience having their bar licenses heavily scrutinized and being asked for multiple forms of identification at the entrance to court buildings, while their White counterparts are consistently waived through after a brief glance, if asked for identification at all.

c) BIPOC attorneys reported that they have experienced waiting in line at clerks' desks to get copies of case files while White attorneys are called to the front of the line to be served first.

d) BIPOC attorneys are often assumed by many court officials and personnel, including some judges, clerks, court officers, and even pro bono attorneys volunteering at courthouses, to be in court because they are either criminal defendants or translators.[3] Court officers regularly instruct these attorneys to not cross the bar, to sit with the public, or to stand or sit in the back of the courtroom, or even ask such attorneys' White clients to confirm that the BIPOC individuals are in fact their attorneys. When court personnel refer to these attorneys as defendants or interpreters in front of clients, it is embarrassing and demeaning, it creates a risk that such clients will lose confidence in their attorneys' abilities, and the attorneys' own confidence can be shaken before they present their clients' cases (especially in the case of junior attorneys). Sometimes these attorneys will intentionally sit with the public to avoid any confrontation that might reduce their clients' confidence in them or impact their performance.

e) These attorneys also experience unwillingness by some court officers, clerks, and judges to address them by their full names, correctly pronounce their names, or use their correct pronouns, often because the individual court official has made no effort to learn or ask how to pronounce the attorneys' names or what their correct pronouns are despite the fact that the attorneys are appearing regularly in the same courts. Certain of these attorneys also reported that they were given "nicknames" by court officials without their consent that were "easier to say" or "easier to remember." With respect to judges, these attorneys believe that this can affect the outcome of cases, since judges sometimes seem less likely to ask them questions for fear of mispronouncing their names or using the wrong pronouns, rather than simply starting each hearing by asking the attorneys present how to pronounce their names and what their pronouns are.

[3] Members of the Mass. Black Lawyers Association and Mass. Black Women Attorneys more frequently reported that they were assumed to be criminal defendants, while members of the Asian American Lawyers Association of Mass., the South Asian Bar Association of Greater Boston, the Mass. Association of Hispanic Attorneys, and the Hispanic National Bar Association more frequently reported that they were assumed to be translators.

f) Various attorneys reported that they have seen extremely few, if any, judges, probation officers or other court officials sharing their pronouns in hearings, on name placards (either physically at the courthouse or virtually during hearings conducted via teleconferencing software such as Zoom or Webex), on court websites, in email signatures, or in other forms of communication. During the current COVID-19 pandemic, certain attorneys also reported that they have even seen some court officials and other attorneys make derogatory or joking comments when attorneys do share their pronouns.[4]

g) Attorneys from these groups struggle with the tension between attempting to advocate for a more inclusive court system and doing what they believe to be in the best interests of their clients in the moment. After all, if such attorneys cause tension with a judge or court officer by doing something as small as requesting multiple times that they be referred to by their correct names or pronouns, there is a perceived risk that their clients could suffer adverse consequences from such attorneys advocating for themselves.

h) Transgender, nonbinary, agender, genderqueer and other gender-nonconforming attorneys often experience issues with their forms of identification when their photos do not necessarily match their gender expression in court on a particular day.

i) Some transgender attorneys are even assumed by court staff to be defendants on prostitution charges simply due to their gender expression.

j) Attorneys from historically excluded populations experience the atmosphere and banter in court common areas as being like that of a "locker room," with inhospitable, racist, homophobic, sexist, ableist and similarly offensive remarks frequently and casually being made among attorneys and court staff. Participants described experiencing certain courts as "clubs" that are difficult to fit into when they do not look like everyone else, along with the resulting fear that their clients may lose confidence in them if they do not appear to be well-connected in the courts.

k) Attorneys from these populations often feel that they need to coach their clients to wear attire less reflective of their own cultures and identities, even when their chosen attire is formal and reflects their appreciation of the importance of a court appearance, to obtain favorable results. This suggests to these attorneys that the clients', and implicitly the attorneys' own,

[4] Encouraging all professionals to share their pronouns, regardless of gender, is a commonly cited best practice to promote an inclusive culture with respect to gender identity.

authentic identities are not appropriate, and that the legal system in Massachusetts itself discriminates against certain cultural presentations of identity.

l) Attorneys witness judges repeatedly observing these offenses without taking any action. On the too rare occasion when a judge does call out the offending behavior and insist that it stops, it is validating, affirming and creates a genuine sense of belonging.

m) When law students and young attorneys witness or experience these incidents during clinical or other court experiences, it leads them to question the wisdom or merit of having to take on these kinds of struggles to survive professionally, and to consider pursuing other areas of practice or leaving Massachusetts to begin or continue their legal careers.

n) Some courts conduct an annual diversity celebration, although at times these programs do not seem to be fully supported financially or professionally by the court's leadership. These efforts, when well-conducted, are incredibly positive experiences for attorneys from systemically oppressed populations and signal that the court is a welcoming place. However, the participants noted that these events need broader participation, not just by the attorneys from underrepresented groups and their already-committed allies.

o) Attorneys from underrepresented groups who have negative experiences in court buildings feel that there is nowhere to go to report this treatment, and fear retaliation (both with respect to their careers and the outcomes of their cases) if they were to report it. Many participants requested the design and implementation of an online, easy-to-access mechanism for reporting negative, identity-based incidents that would have real consequences, sooner rather than later, for the judges, clerks and court officers committing or observing the incidents, and that would not result in retaliation; some participants noted that the theoretical remedy of filing a formal discrimination complaint either in court or with the Massachusetts Commission Against Discrimination is one perceived as offering little or no chance of individual relief or likelihood of changing court officials' behavior either soon or generally. Participants otherwise did not know where they could go to inform the courts about these incidents.

p) Implicit bias and anti-racism trainings often focus on real work events, but they may not include experiences of cultural incompetence or experiences set specifically in the courtroom and reflecting the particular power dynamics in play in that setting. Further, the participants noted that while implicit bias and anti-racism training is an important part of the puzzle, it

does not appear to be doing enough to create lasting change, absent corresponding changes to policies, procedures, and systems that are actually and consistently enforced.

Inadequate Representation

Both in the courts and beyond, attorneys and law students from the affinity bar associations repeatedly expressed concern with the overall low levels of diversity in the Massachusetts bar, and in particular, the extremely few individuals from historically excluded populations who manage to make it to genuine positions of power, leadership, and authority in the Massachusetts legal profession. They commonly reported that without the support of affinity bar associations, law student affinity groups, and affinity-based employee resource groups, they likely would never have found any real connection to the profession, established relationships with any mentors who understood their backgrounds and lived experiences, or gained opportunities for legal work in their desired practice areas. Some of these attorneys and law students noted that when they see so few people who look like them in the positions to which they aspire, it creates discouragement and a strong desire to abandon the profession entirely or move to other jurisdictions where there are more legal professionals who share their experiences and backgrounds.[5] This creates a self-perpetuating cycle where the lack of diversity in the Massachusetts bar results in fewer attorneys from underrepresented populations desiring to join and remain members of the Massachusetts bar, despite the significant diversity with thin the Commonwealth's overall population demographics.[6] Below are comments, accounts of experiences, and identified issues associated with this topic:

a) It is extremely difficult to be among only a handful of law students who look like you or share your identity, and law students from the affinity bar populations lack role models among the faculty who understand their backgrounds and experiences or demonstrate cultural competency and compassion.

[5] Since six of the seven participating bar associations were Massachusetts- or Boston-specific, the town halls did not capture the feedback of attorneys from underrepresented populations who actually *have* ceased practicing or moved elsewhere.

[6] According to the most recent publicly-available U.S. Census data as of the date of this Report, only 44.5% of the population of Boston is White and not Hispanic or Latino.

b) Each of the bar exam and the character and fitness review processes has a disproportionately negative impact on access to the profession for law school graduates from populations that face systemic oppression while studying law and who, among other things, may not have access to the same resources to pay for expensive bar preparation programs, may not have flawless credit histories, or may have had prior traumatic encounters with law enforcement.

c) Attorneys from the affinity bar populations have difficulty finding mentors and sponsors who share their identities and can help advance their careers, because few have advanced to positions where they can genuinely offer long-term career advice. Further, the willing mentors among these groups often feel overburdened with the number of law students and junior attorneys who seek their mentorship and sponsorship, and report that they wind up either turning potential mentees away or not providing them with the level of mentorship they feel such individuals deserve.

d) Attorneys from these populations are often the first lawyers or law students in their families and personal networks, and as a result, they feel that they do not know the unspoken rules of the profession. One attorney described trying to succeed as an attorney from a historically excluded population as like trying to find your way through a maze where you cannot even see the walls until you run into them.

e) Although certain legal employers are taking some steps to increase the pipeline of undergraduates, law students, and eventually lawyers from these populations, participants from every affinity bar association agreed that much more strategic thinking and concrete action is needed in this effort.

f) Several participants noted the historic and current lack of diversity within the leadership of various bar associations other than affinity bars, legal non-profit organizations, and legal administrative bodies in the Commonwealth.[7] Members of underrepresented populations indicated that they are often both (i) economically excluded from participating in these organizations due to the high cost of membership and event attendance, and (ii) implicitly excluded by feeling that certain leaders of some organizations have been resistant to undertaking significant changes to such organizations' structures or operations in order to make local and state bar associations more inclusive.

[7] Participants specifically noted these issues with respect to the Massachusetts Bar Association, the Massachusetts Board of Bar Overseers, the Real Estate Bar Association of Massachusetts, and several county bar associations.

g) BIPOC criminal attorneys feel isolated when the only other BIPOC individual in the courtroom is the defendant on trial, and in the civil context, BIPOC litigation attorneys feel similarly alienated when they themselves are the only BIPOC individual in the courtroom. Both occurrences happen regularly.

h) Participants from every affinity bar association noted the extremely low diversity of the Massachusetts judicial bench. There is a common belief that the level of scrutiny in the judicial application process has had a discriminatory impact on candidates who may have fewer resources at their disposal to perfect their applications, to gain political favor and support, or to make donations that are politically helpful. The affinity bar populations believe that there needs to be significantly more support from the overall Massachusetts bar for BIPOC and LGBTQ+ judicial applicants and judicial applicants with disabilities, more opportunities for these individuals to gain the skills that will make them competitive judicial applicants, and more effort by the government and the bar to groom candidates for these positions from earlier in their careers. This would not be newly created special treatment in this process, but simply a recognition and reallocation of the special treatment and opportunities for support that those with systemic privilege have received in their paths to the judiciary for centuries.

i) The lack of diversity among Massachusetts prosecutors impacts the handling of cases by the District Attorneys' offices, resulting in defense attorneys from historically excluded populations having less faith that the prosecutors assigned to their cases will be willing to treat their clients' matters fairly. Participants described a shared perception that many White prosecutors who have not lived or worked in affected communities often do not understand the impact of over-policing, criminalization and incarceration in certain neighborhoods, and participants felt that all prosecutors should be culturally competent and continually educated about the racial disparities in the Massachusetts legal system.[8]

j) Participants from every affinity bar association reported their displeasure with the significant lack of diversity in the equity partnership ranks of private firms based in, or with offices in, Massachusetts, particularly among the largest and most prestigious firms. This gap impacts the experiences of associates, counsel, and non-equity partners from systemically oppressed

[8] Participants referenced the following report with respect to this issue, which was released in September of 2020: E. Tsai Bishop, B. Hopkins, C. Obiofuma and F. Owusu, Criminal Justice Policy Program, Harvard Law School, *Racial Disparities in the Massachusetts Criminal Justice System* (Sept. 2020), *available at* https://hls.harvard.edu/content/uploads/2020/11/Massachusetts-Racial-Disparity-Report-FINAL.pdf.

populations at all levels, their ability to secure the mentorship and sponsorship they need to succeed, and the message that these firms are implicitly sending when each year's partner promotion decisions are made (*i.e.*, that those from underrepresented groups are welcome to stay, but that their chances of making it to the top ranks may be infinitesimally small).

k) Several participants currently or previously practicing in the largest and most prestigious firms in Massachusetts noted that the equity partners of such firms have failed to lead by example, noting specifically that such firms' equity partners have shown little active participation in DEI advocacy as it applies specifically to the Massachusetts bar, even though each of their firms employs hundreds of Massachusetts attorneys.

l) Several participants currently or previously practicing in small-to-mid size firms indicated that the leaders of such firms often believe that their inability to attract diverse talent is due to all the attorneys from these populations being recruited to the large firms, when it may be because they have failed to demonstrate genuine commitment to creating a culture of inclusion within their practice areas and offices. Again, participants repeatedly noted that the burden of change cannot fall on them and those from their communities alone (unless and until they themselves are in positions with the authority to effectuate change), but it must rest primarily with the privileged.

Micro- and Macro-aggressions

Although the legal culture of the Commonwealth has undoubtedly shifted over the past centuries and decades, attorneys and law students from the affinity bar populations report that they continue to experience mistreatment, insults, instances of exclusion, and even express instances of overt discrimination on a near-daily basis. Every one of these experiences takes a toll on their individual and collective well-being, causing common feelings that these attorneys are not welcome in the Massachusetts bar, not wanted, and should just stop trying. Further, attorneys from the participating bar associations noted the significant challenge of repeatedly experiencing these aggressions and then being expected to immediately move past them and perform at the highest level as if nothing had happened. The town hall meeting participants

reported that these experiences commonly took the forms of colleagues, supervisors, judges, clerks, court officers, law professors, and law school staff[9]

a) not learning to pronounce BIPOC attorneys' and law students' names correctly even after years of frequent interaction;
b) misgendering or deadnaming attorneys (using the birth or other former name of a transgender or non-binary attorney without their consent), even after repeatedly being told the attorney's correct name and gender identity;
c) assuming attorneys' pronouns without asking, and failing to make any meaningful effort to change this behavior or learn such attorneys' correct pronouns when corrected;
d) assuming that Latinx and Asian attorneys and law students will have an accent or need to be spoken to in English more slowly;
e) making comments about how "articulate" BIPOC attorneys or law students are, as if it is a surprise;
f) giving credit for ideas or arguments to White, male attorneys when BIPOC attorneys previously raised the exact same points;
g) even in public interest focused legal organizations, not acknowledging or taking concrete actions to support BIPOC attorneys, particularly Black attorneys, following moments of genuine communal trauma (such as the killings of George Floyd, Breonna Taylor, and so many others);
h) sending out Juneteenth[10] resources written only by White people, or suggesting that BIPOC attorneys and law students take Juneteenth off from work, but not providing them with any support in arranging coverage for their matters or in communicating with their clients and teams about their absence;
i) hosting diversity and inclusion webinars, trainings, and conferences with mostly straight, White, cisgender presenters, and without providing the opportunity to present or even attend to attorneys or law students from the actually affected populations;
j) asking attorneys to turn on their cameras for Zoom and other on-camera meetings and then commenting on the state of their homes;

[9] While some of these experiences are also highlighted in the first section, "The Court Experience," this section is meant to highlight more specific, direct, instances of identity-based aggressions faced by the participating attorneys and law students both in court buildings and beyond (*e.g.*, in law schools, law firms, government agencies, etc.).
[10] Juneteenth is a nationally celebrated holiday, observed on June 19th, commemorating the ending of slavery in the United States. For additional resources and information regarding this holiday, see https://www.juneteenth.com/.

k) telling BIPOC attorneys: "that's not how we practice law in this country," regardless of whether such attorneys are from this country or not;

l) instructing attorneys and law students about what to wear, how to look, and how to act in ways that demand that attorneys and law students from historically excluded populations minimize or alter their identities, even in completely internal circumstances where these individuals will not come into contact with clients or third parties;

m) expecting that all attorneys and law students have the financial resources to acquire a wardrobe that will be seen as acceptable by those who often have significantly greater economic privilege;

n) continually assuming attorneys from underrepresented groups are young, inexperienced, and/or unqualified due to their identity or background, which both (i) denies the possibility that they may have been practicing for many years and accomplished a great deal in the profession, and (ii) makes such attorneys feel that they have to disproportionately prove their worth since they are already starting from an assumed deficit;

o) not adopting any gender-neutral policies or displaying any signage confirming that attorneys can use the restrooms that they feel most comfortable using;

p) not affirmatively letting LGBTQ+ attorneys and law students know that they should feel comfortable bringing their whole selves to their offices and to client interactions, instead of putting junior attorneys and law students in the uncomfortable position of having to ask whether it's ok for them to be "out" to their clients;

q) having professional conversations in historically or presently exclusionary locations (*e.g.*, gendered restrooms, private clubs that have histories of segregation, religious locations, etc.);

r) walking unnecessarily quickly to a meeting when accompanied by attorneys or law students wearing high heels, in wheelchairs, or who otherwise may need a more reasonable pace to keep up;

s) in the case of firm practitioners and law students,

    i. repeatedly suggesting or requesting that members of these populations present on panels, attend recruiting events, appear on marketing materials, and even take on leadership roles in internal and external affinity groups, while not providing these attorneys or law students with any billable or curricular credit for this work – work that is not asked of straight, White attorneys, whose billing potential is not similarly compromised;

ii. not promoting or advertising the successes of members of these groups, including when they take on leadership roles in community organizations, while promoting and advertising the successes of straight White attorneys for similar achievements;

iii. not including attorneys or law students from systemically oppressed populations on firmwide leadership committees (*e.g.*, having zero members, or only one token member, from these groups on the firm's executive or policy committee);

iv. not including attorneys or law students from the affected populations, or specifically those with multiple, intersectional identities, on firmwide or schoolwide committees and task forces specifically dealing with DEI, *e.g.*, not including any associates or students on a firm's or school's Diversity Committee, when associates/students reflect the majority of the individuals affected by such committee's decisions, or not including any LGBTQ+ people of color on task forces meant to address racial equity in the workplace, when those with intersectional identities face unique challenges not necessarily understood or experienced by those with only one underrepresented identity;

v. assuming certain attorneys or law students would not be interested in, or intentionally excluding such attorneys or law students from, certain firm or client events (*e.g.*, sports games, concerts, theater productions, etc.), or assuming that they will be offended by vulgar (and not necessarily discriminatory) language, simply based on their identities; and

t) most broadly, making expressly or implicitly biased remarks about attorneys' or law students' identities, or recommendations about how they should behave to minimize their identities, either directly to their faces or behind their backs – just a handful of reported examples of these incidents included:

i. a Black male student at a Boston law school noting to the registrar's office that he was saddened by how few Black men there were in his class, and the registrar telling him that there just aren't that many Black men who are smart enough to make it;

ii. a Latinx attorney being told by a Massachusetts trial court judge, "Do not speak until your attorney arrives," and being repeatedly silenced when she tried to explain that she was the attorney;

iii. an Asian associate in a Massachusetts firm being repeatedly assigned to translate for Asian pro bono clients, when such associate only spoke English;

iv. at two Massachusetts law schools, Muslim law students who do not drink alcohol due to their religious beliefs and law students in recovery for alcoholism being told by classmates, summer associates at private firms, and even law school career services officers that they were going to have trouble making connections in the profession if they were not willing to drink alcohol;

v. a gay male associate in the Boston office of an international firm overhearing a lesbian partner of the same firm telling other partners that the associate would never be promoted to partner because he was "too faggy," leading him to believe that even those partners at the firm among his own community did not support his identity, and resulting in him leaving the firm; and

vi. a Black, female associate in the Boston office of an international firm being told in nearly all her performance review meetings that she was aggressive, not taking direction well, and essentially being called an angry Black woman via various euphemisms, which ultimately resulted in her being told that it was difficult to staff her on projects, and that the firm was afraid to put her in front of clients, despite clients often providing extremely positive feedback on her work.

Conclusion

As expressed in the Committee's DEI Statement, "[w]e believe that the legal profession is strongest when its membership reflects the population it serves." However, the legal community cannot make real changes to the profession that will materially improve the well-being of attorneys and law students from underrepresented, historically excluded, and systemically oppressed populations until the members of the Massachusetts bar actually examine and attempt to understand the experiences that these legal professionals currently face nearly every day of their lives. To engage in this process of examining and understanding, we must listen to these experiences, believe their authenticity, and consider even spending an entire day or two in courtrooms, court buildings, law offices and law schools focused on observing and taking note when we witness the minor and major transgressions that each impact the well-being of these attorneys, not to mention their clients. We hope that this Report helps shine a light on the

state of at least certain forms of prejudice, bias, and exclusion among Massachusetts attorneys and legal institutions. From here, the Committee intends to partner with legal stakeholders throughout the Commonwealth to try to create genuine, systemic change aimed at improving the well-being of legal professionals from underrepresented, historically excluded and systemically oppressed populations, and, as a result, the systems of justice in Massachusetts for us all.