

September 7, 2016

Re: Requesting Your Assistance in Implementing ABA Resolution 113 to Help Promote Diversity in the Legal Profession

We are writing to you as the chief legal officers of the Fortune 1000 companies to ask you to join in an extremely important initiative that we believe will assist significantly in improving the diversity within the legal profession and within many of the law firms with which we interact.

On August 8 the American Bar Association (ABA) House of Delegates passed the attached Resolution 113 that urges all providers of legal services, including corporations and law firms, to expand and create opportunities at all levels of responsibility for diverse attorneys. It further urges us to assist in facilitating the creation of opportunities for diverse attorneys and direct a greater percentage of the legal services we purchase, both currently and in the future, to diverse attorneys.

This resolution was supported by the Report, also attached, which highlights that the legal profession remains the least diverse of comparable professions despite the fact that many of us have worked tirelessly to enhance diversity and inclusion in our noble profession. In addition, the Report outlines the well-established business case for diversity and inclusion, which demonstrates that our businesses, the legal profession and society are best served with diverse teams that reflect the community in which legal services are provided.

We believe that as buyers of legal resources, we are in the best position to drive the changes necessary to dramatically improve diversity at all levels in the law firms that provide us with legal services. However, as many of you are aware, it is extremely difficult to determine which firms to use, or not use, based upon their performance in developing diverse teams at all levels within their firm. We can and do obtain data on the actual service we buy and request organization-wide data from the firms we use. However, without comparable law firm statistics we are unable to conduct a meaningful assessment. With this in mind, the Report includes a link on the ABA website to a standard Model Survey (also attached) which all companies can use. This will allow us to easily compare the diversity of the firms with which we currently work or those we may choose to retain.

We assume that you currently request diversity data from many of the law firms you retain. And we also know that our teams have all worked hard to develop these requests and each of us prefers our forms to any standard form. However, what we may lose in using a standardized approach should be greatly outweighed by the benefits of both making it much easier for law firms to respond (they will not need to fill out multiple, and oftentimes, very different requests) and, more importantly, by allowing us to more easily compare firm performance to make smarter buying decisions. Simply put - performance transparency will make for more rational and better buying decisions. As Justice Brandeis said, "Sunlight is the best disinfectant." But this transparency of data will only be valuable if a significant portion of the Fortune 1000 companies request it.

So, what are we asking? *We ask you to join us and support the commitment to the following five items:*

- 1. You agree that you support ABA resolution 113;*
- 2. You agree that you will ask the firms that provide a significant portion of your legal services to complete the Model Survey (of course you may continue to ask these firms additional questions specific to your business and the actual attorneys that serve you);*
- 3. You agree that firms you currently do not retain and that are competing to handle a significant matter for your company will complete the Model Survey;*
- 4. You agree that the information obtained through the Model Survey will be used as a factor in determining what firms to retain or terminate in providing legal service to your company; and*

5. You agree that you will advise Keevin Woods, Director, Commission for Racial and Ethnic Diversity in the Profession at the American Bar Association, keevin.woods@americanbar.org, and Alan Bryan, Senior Associate General Counsel - Legal Operations and Outside Counsel Management for Wal-Mart Stores, Inc. at alan.bryan@walmartlegal.com, that you support the above four principles, such that they can work together to maintain and publish an ongoing list of those of us that have committed to them.

Sincerely,

Susan H. Alexander

*Executive Vice President, Chief Legal Officer
Biogen Inc.*

David P. Bergers

*General Counsel, Managing Director, Legal and Government
Relations
LPL Financial*

Peter Beshar

*Executive Vice President and General Counsel
Marsh & McLennan Companies, Inc.*

Paul T. Dacier

*Executive Vice President and General Counsel
EMC*

Sheila Kearney Davidson

*Executive Vice President, Chief Legal Officer & General
Counsel
New York Life Insurance Company*

Brett J. Hart

*Executive Vice President and General Counsel
United Airlines*

Marie Oh Huber

*Senior Vice President, Legal Affairs, General Counsel &
Secretary
eBay Inc.*

Sandra Leung

*Executive Vice President and General Counsel
Bristol-Myers Squibb Company*

Sarah Hlavinka McConnell

*Executive Vice President, General Counsel & Secretary
ABM Industries Incorporated*

J. Keith Morgan

*Executive Vice President and Chief Legal Officer
TIAA*

Thomas M. Moriarty

*Executive Vice President, Chief Strategy Officer and General
Counsel
CVS Health Corporation*

Michael J. Parini

*Executive Vice President and Chief Legal Officer
Vertex Pharmaceuticals Inc.*

Tracy L. Rich

*Executive Vice President General Counsel and Corporate
Secretary
Guardian Life Insurance Company of America*

Kim M. Rivera

*Chief Legal Officer
HP, Inc.*

Karen Roberts

*Executive Vice President and General Counsel
Wal-Mart Stores, Inc.*

David C. Robinson

*Executive Vice President and General Counsel
The Hartford*

Mark Roellig

*Executive Vice President and General Counsel
MassMutual Financial Group*

Gloria Santona

*Executive Vice President & General Counsel
McDonald's Corporation*

Laureen E. Seeger

*Executive Vice President & General Counsel
American Express Company*

Craig Silliman

*Executive Vice President of Public Policy & General Counsel
Verizon Communications Inc.*

Laura Stein

*Executive Vice President - General Counsel & Corporate
Affairs
The Clorox Company*

Lawrence P. Tu

*Senior Executive Vice President and Chief Legal Officer
CBS Corporation*

Trish Walsh

*Executive Vice President and Chief Legal Officer
Voya Financial*

Tony West

*Executive Vice President, Government Affairs, General
Counsel & Corporate Secretary
PepsiCo, Inc.*

AMERICAN BAR ASSOCIATION
DIVERSITY & INCLUSION | 360 COMMISSION
REPORT TO THE HOUSE OF DELEGATES
RESOLUTION

- 1 RESOLVED, That the American Bar Association urges all providers of legal services,
2 including law firms and corporations, to expand and create opportunities at all levels of
3 responsibility for diverse attorneys; and
4
5 FURTHER RESOLVED, That the American Bar Association urges clients to assist in the
6 facilitation of opportunities for diverse attorneys, and to direct a greater percentage of the
7 legal services they purchase, both currently and in the future, to diverse attorneys; and
8
9 FURTHER RESOLVED, That for purposes of this resolution, “diverse attorneys” means
10 attorneys who are included within the ambit of Goal III of the American Bar Association.

REPORT

I. Introduction

The American Bar Association (“ABA”) has four Goals. When the Goals were established, it was determined that no one goal is more important or carries more weight than the others. Goal III is to eliminate bias and enhance diversity,¹ and was borne as an extension of former Goal IX. As amended, Goal IX was “to promote the full and equal participation in the profession by minorities, women, persons with disabilities, and persons of differing sexual orientations and gender identities.” It is well established that when organizations are diverse and inclusive at every level, clients and the public are better served, which favorably impacts the ABA’s Goal II, to improve our profession. Moreover, the well-established business case for diversity and inclusion demonstrates that clients, the legal profession and society are best served when the makeup of lawyers reflects the community in which legal services are provided.² Against this backdrop, the ABA President created the Diversity & Inclusion 360 Commission (the “DI360 Commission”) to examine the many facets of diversity and inclusion in the profession, and to formulate methods, policy, standards and practices to best advance diversity and inclusion over the next ten years.

The underlying sense of urgency for the DI360 Commission’s work and its one-year timeframe stem from the crisis in confidence that many Americans – particularly young Americans – feel about the fairness of our justice system. The ABA has the responsibility to do what only a national association of nearly 400,000 attorneys and judges can do: help restore confidence in our justice system. The ABA strives to uphold the principles of fairness, equality and inclusion, yet the legal profession lags behind other professions in reflecting the diversity of our nation.³

¹ Goal III: Eliminate Bias and Enhance Diversity. Objectives:

1. Promote full and equal participation in the association, our profession, and the justice system by all persons.
2. Eliminate bias in the legal profession and the justice system. American Bar Association. “ABA Mission and Goals.” Americanbar.org.

http://www.americanbar.org/about_the_aba/aba-mission-goals.html (accessed April 14, 2016). Within the ambit of Goal III, diverse attorneys include lawyers who are racial and ethnic minorities, women, LGBT, and have disabilities.

² See, e.g.,

Diaz, Luis and Meade, Richard, “What Gets Measured Gets Done: The Case for Uniform D&I Metrics in The Legal Procurement Process.” *New Jersey State Bar Association Diversity Committee Newsletter*, September 2015

Roellig, Mark, DeGraffenreidt Jr., James, and Minehan Cathy. “Fixing What’s Broken: Strategies for Increasing Diversity in Law Firms.” *ACC Docket*, March 2015

Roellig, Mark, “WHY’ Diversity and Inclusion Are Critical to the Success of Your Law Department” (paper presented at the PLI Corporate Counsel Institute, New York, New York, October 2012).

³ Deborah L. Rhode, *Law is the least diverse profession in the nation. And lawyers aren’t doing enough to change that*, THE WASHINGTON POST, May 27, 2015, <https://www.washingtonpost.com/posteverything/wp/2015/05/27/law-is-the-least-diverse-profession-in-the-nation-and-lawyers-arent-doing-enough-to-change-that/>.

To fulfill its mission, the DI360 Commission is developing sustainable action plans, producing practical tools, and recommending specific action items to move the needle on diversity and inclusion in an impactful way. The DI360 Commission has conducted its 360-degree review through four working groups, one of which is the Economic Case working group, which seeks to identify specific ways to expand economic opportunities for diverse attorneys.⁴

The economic well-being and success of diverse attorneys makes a difference and is crucial to moving the needle on diversity and inclusion. Diverse attorneys need meaningful opportunities to compete for and attain the best client work. Their success would positively impact other aspects of diversity and inclusion. The economic success of diverse attorneys would attract others into the profession, thereby building the pipeline; upend the implicit bias that stifles opportunities now; and result in the full and unhindered participation of diverse attorneys in the profession, thereby making the profession more representative of the populations it serves. Undoubtedly, a win for diversity and inclusion and the realization of Goal III is a win for our entire profession and the society we serve. As explained below in Section II of this report, the resolution is consistent with Goal III and would take diversity and inclusion to the next level by calling for specific and measurable action by entities that employ lawyers and by clients.

II. Justification for Expanding Economic Opportunities for Diverse Attorneys

A. Survey Data

Despite significant efforts, the legal profession lags behind other professions when it comes to diversity and inclusion. Members of racial and ethnic groups, women, members of LGBT groups and lawyers with disabilities continue to be vastly underrepresented in the legal profession.⁵ According to the Report of the Ninth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms,⁶ the nation’s largest law firms have made virtually no progress since the first survey conducted by the National Association of Women Lawyers (NAWL) in 2006 in promoting women into the highest ranks, whether measured by the percentage of equity partners, compensation, representation on the firm’s highest governance committees, or rainmaking credit. While focusing its attention on the status of women lawyers in law firms, the NAWL survey reveals that the data are just as challenging for other diverse groups, including lawyers of color and LGBT lawyers.

⁴ For an explanation of the term “diverse attorneys,” see note 1, *supra*.

⁵ For example, 88 percent of lawyers are white – women (although 47 percent of law students and more than one-third of the profession) account for only about one-fifth of law firm partners, general counsels of Fortune 500 corporations and law school deans, and people of color make up fewer than 7 percent of law firm partners and 9 percent of general counsels of large corporations. See http://www.nalp.org/lawfirmdiversity_feb2015 for statistics on under-representation of lawyers with disabilities (based on lawyers with disabilities in 740 law offices, covering 73,081 lawyers). See <http://www.nalp.org/1215research> for statistics on LGBT representation among lawyers (for openly LGBT lawyers based in 943 offices/firms reporting counts.)

⁶ Rikleen, Lauren Stiller, *Report of the Ninth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms*. Chicago: National Association of Women Lawyers, 2015. Accessed April 14, 2016. <http://www.nawl.org/2015nawlsurvey>.

The demographics of large law firms have not kept pace with an increasingly diverse pool of talent. The percentage of law school graduates of color has almost doubled in the past two decades to just over 25 percent.⁷ And the percentage of associates who are of color increased to 21.63 in 2014 from 8.36 percent in 1993.⁸ Yet, lawyers of color accounted for only 7.33 percent of partners in the nation's top 200 law firms in 2014.⁹ According to the latest Vault/MCCA Law Firm Diversity Survey Report, “[a] higher proportion of minority partners are salaried than hold equity in their firms. Attorneys of color represent 10.21% of non-equity partners, compared to 7.53% of equity partners. Among women of color specifically, the contrast between equity and non-equity status is even greater: just 2.27% of equity partners are minority women, compared to 4.35% of non-equity partners.”¹⁰

B. The Role of Law Firms

Many law firms have diversity and inclusion programs. Despite valiant and commendable efforts, however, our profession has been unable to move the needle in a meaningful way. This resolution urges law firms to expand and increase opportunities at all levels of responsibility for diverse attorneys.¹¹ Due to the increasing numbers of diverse law school graduates, the partnership pipeline is richer today more than ever. Yet women comprise just 18 percent of the equity partners in firms responding to the Ninth Annual NAWL Survey.¹² Attorneys of color comprise a mere 8 percent of equity partners, of whom few are women, and at firms reporting data for partners who identify as LGBT, only 2 percent of female and 1 percent of male equity partners are LGBT.¹³ Information about lawyers with disabilities is difficult to come by in reported surveys. According to a press release issued in February 2015 by the National Association for Law Placement, “the information that is available suggests that partners with disabilities (of any race or gender) are scarce, with about one-third of 1 percent of partners reported as having a disability in the three most recent years.”¹⁴

⁷ American Bar Association Section of Legal Education and Admissions to the Bar, *ABA Approved Total JD and Minority Degrees Awarded: Fall 2013 (Data from the 2013 Annual Questionnaire)*, 2013. Accessed April 26, 2016. http://www.americanbar.org/groups/legal_education/resources/statistics.html.

⁸ NALP, “Diversity Numbers at Law Firms Eke Out Small Gains – Numbers for Women Associates Edge Up After Four Years of Decline,” February 17, 2015. http://www.nalp.org/lawfirmdiversity_feb2015.

⁹ *Id.*

¹⁰ *Vault/MCCA Law Firm Diversity Survey Report*.

http://www.mcca.com/_data/global/downloads/research/reports/VaultMCCA_Survey-2015-v03.pdf, at 5.

¹¹ While the resolution focuses on the ability of clients to impact economic opportunities for diverse attorneys in the law firms with which they do business, it also urges all providers of legal services to increase opportunities at all levels of responsibility for diverse attorneys. This could include entities that employ attorneys in both the public and private sectors.

¹² Rikleen, Lauren Stiller, *Report of the Ninth Annual NAWL National Survey on Retention and Promotion of Women in Law Firms*. Chicago: National Association of Women Lawyers, 2015. Accessed April 14, 2016. <http://www.nawl.org/2015nawlsurvey>, at 2.

¹³ *Id.*

¹⁴ NALP, “Diversity Numbers at Law Firms Eke Out Small Gains – Numbers for Women Associates Edge Up After Four Years of Decline,” February 17, 2015. http://www.nalp.org/lawfirmdiversity_feb2015. The NALP report did not differentiate between equity and non-equity partners.

Equity partnership is but one measure of economic success for diverse attorneys in law firms. The ABA must urge law firms to provide opportunities for diverse attorneys to develop and advance to meaningful levels and positions of responsibility within their firms, including:

- Firm chair, managing partner, or co-managing partner
- Senior leadership (Executive/Management Committee or equivalent)
- Regional office managing partner
- Practice group or department leader
- Committee chair
- Partner Review Committee (or equivalent) member
- Compensation Committee member
- Hiring partner or equivalent
- Relationship partner receiving origination credit
- Lead partner for significant matters
- Equity partner

C. The Role of Clients

Corporate clients are frustrated. Despite the business imperative for diversity, law firm demographics have not kept pace with the demand by clients for meaningfully diverse teams to handle their matters. In order for clients to understand and properly demand results, clients must collect specific data on the diversity and inclusion practices of firms they engage or are considering engaging; set clear expectations with law firms; and include diversity and inclusion performance as a criterion in their decisions on which firms they retain. To assist in these efforts and to provide efficiency and uniformity in the collection of data, the DI360 Commission has developed a Model Diversity Survey, as described and explained below in Section II.D of this report.

Specifically, this resolution urges clients to assist in the facilitation of opportunities for diverse attorneys and to direct a greater percentage of the legal services they purchase to diverse attorneys (whether practicing as solo practitioners, in firms whose majority ownership is by diverse attorneys, or in majority-owned firms).

Many corporations have supported diversity within their approved law firms for years, if not over a decade, and more companies join this quest each year. These corporations have collectively spent hundreds of millions of dollars in support of legal diversity through sponsorship, legal spend, and otherwise. Yet, data reveal that little has changed in our nation's law firms and, for some, it is getting worse.

Corporations want to see a return on their investment and they want to know that they are using law firms that reflect the diversity of their employees, customers, other stakeholders, and society as a whole. Corporations as clients need a resource to help ensure that they are engaging law

firms that embrace these laudable goals. Law firms that are truly reflective of our diverse society at all levels need a uniform way to demonstrate their dedication. More importantly, corporations that are new to, but interested in, this effort need guidance and uniform information on the metrics that are most important to fulfilling our shared goals. Law firms that are not currently part of these efforts need inspiration and a uniform tool to help them move forward.

The business case for diversity applies equally to other clients, including municipal corporations, state and federal agencies, and other governmental entities. In their procurement of legal services, they, too, would benefit from the ability to understand the diversity and inclusion practices of law firms with which they do business.

D. The Role of the ABA

To serve these needs, the DI360 Commission is creating a means for all stakeholders to understand and improve diversity and inclusion through use of a model survey and accompanying guidance on best practices for its effective use. No organization but the ABA has the breadth and diversity of membership to take on this task and fulfill our collective goal of increasing diversity and inclusion in our profession.

Specifically, the DI360 Commission has developed a Model Diversity Survey (“ABA Model Survey”)¹⁵ that will enable clients to measure the effectiveness of diversity and inclusion in the legal teams that they engage. The ABA Model Survey will allow clients to gather diversity data from law firms that are uniform and consistent, and not based just on anecdotal brochures. Uniformity of data will allow for: (1) uniform measurement and comparison; (2) better business decisions by clients and law firms; and (3) reduction in the time, cost and burden for legal professionals to respond to myriad and voluminous requests for diversity data.¹⁶

Although other organizations conduct surveys on law firm diversity, these surveys have significant limitations. Many are directed to large law firms only, to the exclusion of mid-to-small firms and, significantly, to women-owned and minority-owned firms, which often fall in the small-firm category. Some surveys focus on only a subset of Goal III attorneys, so they fail to capture comprehensive data on all diverse attorneys. The results of some surveys are available only for a fee, and yet another survey charges a fee to law firms in order to complete the survey.

The ABA Model Survey will overcome these limitations by capturing key data from law firms of all sizes on their diversity and inclusion practices as they apply to all attorneys considered diverse under Goal III. The ABA Model Survey will be available at no cost and its accompanying toolkit will provide guidance to corporate clients on how best to use the tool in

¹⁵ The current version of the ABA Model Survey is available by clicking on this hyperlink: http://www.americanbar.org/content/dam/aba/images/office_president/presidents_diversity_inclusion_model_survey.pdf.

¹⁶ According to a law firm diversity professional who is a member of the DI360 Commission, a firm typically receives more than 50 diversity surveys per year from existing or prospective clients.

making decisions about which law firms to retain and in evaluating their performance and progress in the diversity and inclusion arena. In addition, the ABA Model Survey will relieve law firms of the burden of completing many different, well-intentioned surveys, developed by various clients and groups. It will become the “gold standard” and will continue to evolve and improve over time.

The ABA is uniquely qualified to take the lead in spearheading a much-needed model tool in the diversity arena. The ABA will provide law firms and clients the means to accomplish the objective of the resolution by introducing the ABA Model Survey and providing instruction and guidance to corporate clients on its most effective use. Further, the work of the DI360 Commission lays the foundation for the collection and aggregation of law firm data gathered by the uniform survey. Through publication of the aggregate data on the ABA website, the profession and the public we serve will be able to assess annual changes in diversity metrics and gain an understanding of the legal providers that are making the most progress on diversity. In addition, a buyer of legal services will be able to compare responses from the firms they use to the aggregated data. This will enable clients to determine how focused – or not – their providers are on improving diversity.

The DI360 Commission anticipates that the ABA Model Survey will be the most utilized survey of its kind due to the fact that it will be made available, unlike similar surveys, for free and to the widest selection of law firms and corporations in the legal world. The survey and resulting data should become the standard-bearer for measuring our profession’s progress in this imperative, yet slow-moving, charge. While we create uniformity, simplicity, and education in this space, we also believe that collection and aggregation of this data will facilitate the addition of newcomers to this effort.

III. Why the ABA Should Take Action Now

A. Why is the House of Delegates Being Asked to Adopt this Resolution?

The ABA serves as the national representative of the legal profession, and also is the world’s largest organization of lawyers and judges. Leadership by the ABA can stir the conscience of the legal profession and inspire individual and collective commitments and, most importantly, *action and results*. Consistent with its status as the world’s leading organization of lawyers and judges, the Association must take a leadership position. Adoption of this resolution would provide an example for other organizations and the profession to follow. By urging action, this resolution would increase economic opportunities for diverse lawyers and thereby help realize the objective of Goal III.

B. The ABA Plays a Unique Role in the Legal Profession

No segment of society is so strategically positioned to address the issues of diversity as the legal profession. No other profession has a higher duty to do so. That duty arises out of the unique

offices that lawyers hold as ministers of the law and guardians of its conscience. The legal profession has a long and proud heritage as champions of individual rights and freedoms. The Association is uniquely qualified for the task. If adopted by the House of Delegates, this resolution would allow the ABA to play a crucial role in leading the legal profession to embrace and promote diversity at a higher level in law firms and corporations. Adoption of this Resolution would proclaim the Association's unwavering commitment to equality for all lawyers.

C. The ABA's Historical Stances on Diversity in the Legal Profession

The ABA has a long and proud history of demanding equality for lawyers of color and women. With the passage of Goal IX, "to achieve the full and equal participation of minorities and women within the profession," and the creation of the Commission on Opportunities For Minorities in the Profession (currently known as the Commission on Racial & Ethnic Diversity in the Profession) in 1986, the ABA took bold steps to create its first and now the oldest entity to deal with facilitating racial and ethnic change in the ABA and the legal profession. The ABA's creation of the Commission demonstrates one of the most successful, decisive and comprehensive actions taken by the legal profession to achieve the goal of equal opportunities for diverse lawyers.

Among the recommendations from the 1986 Report that created the Commission on Racial & Ethnic Diversity, Recommendation 3.4 directed the ABA to "take concrete actions with regard to the hiring, recruitment, promotion and advancement of minority lawyers."¹⁷ In fact, the 1986 Report laid the foundation for the issues that this resolution addresses. Then, in 2008, the ABA adopted Goal III to eliminate bias and enhance diversity. Goal III replaced original Goal IX and demonstrated to the legal profession and the greater public that the ABA embraced diversity and inclusion as a core value. As a testament to the ABA's leadership and influence, we witnessed an increase in the adoption of goals similar to Goal III by bar associations, law firms, corporations, and other legal entities throughout the country.

This resolution provides continuity with the 1986 Report and fulfills its mandate for "concrete actions." This resolution also goes beyond the mandate of the 1986 Report by applying to all Goal III attorneys.

IV. Conclusion

The ABA represents the earliest coalescence of the legal profession. It is the seminal foundation for myriad legal organizations around the world and is, without question, the most diverse and influential of all voluntary legal organizations. The stated mission of the ABA includes serving equally its members, our profession, and the public, by defending liberty and delivering justice as the national representative of the legal profession. In order to achieve that mission, our

¹⁷ ABA Task Force on Minorities in the Legal Profession, Report with Recommendations (January, 1986).

profession must be truly diverse at all levels, in all areas, and in all occupations. We must relentlessly pursue Goal III by promoting full and equal participation in the ABA, the profession, and the justice system. In order to do so, all areas of the profession must be wholly reflective of the diversity we find in our society. While we have work to do in all areas of the profession, we have great work to do in law firms.

As the buyers of legal services, corporations and other types of clients may have the greatest impact in increasing diversity in the legal profession. They can use their power to drive change through the buying choices they make in their retention of legal services and their decisions regarding the continued use of certain legal providers, all based on the diversity of the firms and their progress toward improvement. Corporate America is well aware of the value of embracing diversity and inclusion and the correlation between its support and corporate results, employee engagement, and the need to focus on the broad customer base. With more consistent data available, corporates boards, chief executive officers, and general counsels can rationally and consistently measure and be held accountable for how they are doing.

This resolution calls for a two-pronged approach by urging law firms to focus on their diversity and inclusion practices in a meaningful way, and clients to use their purchasing power to increase economic opportunities for diverse attorneys. Working together, law firms and clients can have tangible impact in moving the needle on diversity and inclusion in the legal profession.

The Diversity and Inclusion 360 Commission respectfully urges the House of Delegates to adopt this resolution.

Respectfully submitted,

Eileen M. Letts, Co-Chair David B. Wolfe, Co-Chair
Diversity & Inclusion 360 Commission

MODEL DIVERSITY SURVEY

PURPOSE:

The American Bar Association has designed this Model Diversity Survey to assist law firms and clients in analyzing the role of minorities, women, LGBT, and disabled lawyers in law firms and on client matters. As firms and clients track information over time, the Model Diversity Survey can become a vehicle for benchmarking the diversity of lawyers providing legal services as well as regular discussions between clients and their outside counsel on the topic of diversity.

To provide the broadest possible base of information about diverse lawyers at all levels of practice, we have included firms of all sizes in this survey.

INSTRUCTIONS:

1. Only numerical data may be entered in charts. When completing charts, please enter “0” where the number is zero. Please enter “N/A” if the question is not applicable to your firm.
2. Unless otherwise stated, all answers should reflect **U.S. lawyers only**. Do not include temporary or contract attorneys in your responses.
3. The information you provide should be correct **as of December 31, 20_____**.
4. The “Client Matters” section is intended to be submitted to individual clients and not uploaded onto the ABA portal.
5. Where a lawyer fits more than one diversity category, that lawyer may be counted in all applicable categories (e.g., an African-American female, disabled lawyer may be counted as a minority lawyer, a female lawyer and a disabled lawyer).

PLEASE USE THE FOLLOWING DEFINITIONS TO ANSWER ALL QUESTIONS:

6. For purposes of this survey, **diversity** is limited to ABA Goal III entities and is defined as race/ethnicity, gender, LGBT status, and disability status. If you wish more information about Goal III entities, please see <http://www.americanbar.org/groups/diversity/DiversityCommission/goal3.html>.
7. For purposes of this survey, **minorities** are defined as: those whose race is other than White/Caucasian and include the following categories designated by the Equal Employment Opportunity Commission: African-American/Black (not Hispanic or Latino); Hispanic/Latino; Alaska Native/American Indian; Asian; Native Hawaiian/Other Pacific Islander; and Multiracial (those who identify with two or more of the above races). PLEASE NOTE: no attorney can be counted in more than one minority category.
8. **Equity partner** receives a Form K-1 tax form from their law firm and receives no more than half their compensation on a fixed-income basis. **Non-equity partner** receives more than half their compensation on a fixed basis, though they may have voting rights in firm matters.
9. **Counsel** means a lawyer known as of counsel, counsel, or special counsel, or senior attorney, and is neither an associate, nor a partner. He/she is a permanent salaried employee of the firm and not a temporary or contract attorney.
10. **Other lawyer** means a lawyer who is not a counsel, associate or partner. He/she is a permanent salaried employee of the firm and not a temporary or contract attorney
11. **Lead lawyer** means having the primary role and responsibility for directing the firm’s work for the client on a particular matter or matters.
12. **Reduced Hours Schedule** means the schedule of a lawyer who works less than full-time hours and remains eligible for partnership, including equity partnership.
13. **“Minority-owned firm”** means a firm that is at least 51 percent owned, operated and controlled by minority group members, as described in the above definition of “minorities.”
14. **“LGBT-owned firm”** means a firm that at least 51 percent owned, operated and controlled by individuals who are self-identified as LGBT.
15. **“Women-owned firm”** means a firm that is at least 51 percent owned, operated and controlled by women.
16. **“Disabled-owned firm”** means a firm that at least 51 percent owned, operated and controlled by one or more individuals with disabilities.

QUESTIONNAIRE:

1. Firm Name: _____

2. Head of Firm/CEO/Firm-wide Managing Partner: _____

3. Date of Survey Completion: _____

4. Survey Contact Name: _____ Title: _____ Email: _____

5. Total number of lawyers firm-wide, as of December 31, 20__ : _____

6. Total number of U.S. lawyers, as of December 31, 20__ : _____

6A. Based on your answer to Question 6, please check the size category that fits your firm:

- Sole Practitioner – 1 attorney
- Small Firm – 2-20 attorneys
- Medium Firm – 21 to 100 attorneys
- Large Firm – 101-300 attorneys
- Big Firm – 301+ attorneys

7. Is your firm women-owned, minority-owned, disabled-owned or LGBT-owned? Yes No

7A. If yes, what is the category of ownership? _____

7B. If yes, is the firm certified? _____

7C. Please name the certifying entity: _____

8. Please provide your firm's demographic profile for all U.S. offices on December 31, 20__ (numbers only).

	Overall Firm Demographics					
	Equity Partners	Non-Equity Partners	Associates	Counsel/	Other Lawyers	Totals
American Indian/Alaska Native						
African American						
Asian						
Hispanic						
Multiracial						
White						
Women						
LGBT						
Disabled						

9. Please identify your firm’s demographic profile for lawyers in leadership positions in 20___. If your firm does not have such positions, indicate with a “N/A” (not applicable). The information requested here might not be applicable to smaller firms.

	Firm Leadership/Management Demographic Profile						
	Total	Minority Male	Minority Male	White Female	White Male	LGBT	Disabled
Number of attorneys who serve on the highest governance committee of the firm							
Number of lawyers who lead offices							
Number of lawyers who lead Firm-wide practice groups or departments							
Number of lawyers who lead local office practice groups or departments.							
Number of lawyers who lead Firm-wide committees							
Number of attorneys on the Partner Review Committee or the equivalent							
Number of lawyers who serve on the Firm-wide compensation committee							
Number of hiring partners or equivalent							

10. Please identify the demographic profile of “Homegrown Partners” in the past year, ” i.e., those associates in all U.S. offices who were promoted to partner in 20 XX.

	20XX-- Number of Promotions from Associate to Partner___					
	Minority	Minority	White	White	LGBT	Disabled
Male						
Female						

11. Please identify the number of lawyers who left the firm in 20__.

	20 __ Attrition Lawyers who left the firm (include voluntary and involuntary)						
	Equity Partners	Non-Equity Partners	Associates	Counsel	Other Lawyers	Totals	
American Indian/Alaska Native							
African American							
Asian							
Hispanic							
Multiracial							
White							
Women							
LGBT							
Disabled							

12. Please Identify the number of lawyers who joined the firm in 20__

	20XX Hires					
	Equity Partners	Non-Equity Partners	Associates	Counsel	Other Lawyers	Totals
American Indian/Alaska Native						
African American						
Asian						
Hispanic						
Multiracial						
White						
Women						
LGBT						
Disabled						

13. Please identify the number of lawyers who worked a reduced hours schedule in 20__

	Lawyers Working Reduced Hours Schedule					
	Non-Equity Partners	Equity Partners	Associates	Counsel	Other lawyers	Totals
Male						
Women						
Minorities						
LGBT						
Disabled						

14. Please provide the demographics of the top 10% highest compensated partners in the firm. The information requested in this question might not be applicable to smaller firms

	Men	Women
American Indian/Alaska Native		
African American		
Asian		
Hispanic		
Multiracial		
White		
LGBT		
Disabled		
TOTALS		

15. Please indicate whether your firm has undertaken the following initiatives or actions. Include any comments or explanations in the comments column. We recognize that the information requested below might not be applicable to smaller firms. Please use the comments column to provide additional explanation as needed.

Number	Initiative	“X” if yes	Comments
A.	Firm has a written diversity strategy that has been communicated to all firm attorneys.		
B.	Firm gives billable credit for work that is directly related to diversity efforts (but is not pro bono work).		
C.	Firm ties a component of partner compensation to diversity efforts.		
D.	Firm has a diversity committee that includes senior partners and that reports to the firm’s highest governing body.		
E.	Firm has a full or part-time diversity professional who performs diversity-related tasks.		
F.	Firm has affinity or employee resource groups for its women and diverse attorneys, which meet at least quarterly.		
G.	Firm has a succession plan that specifically emphasizes greater inclusion of women and diverse lawyers.		
H.	Firm mandates and monitors that minority and women attorneys have equal access to clients, quality work assignments, committee appointments, marketing efforts and firm events.		
I.	Firm requires inclusion of at least one diverse candidate in all hiring decisions.		
J.	Firm policy specifically prohibits discrimination based on sexual orientation, gender identity and gender expression.		
K.	Firm provides opportunity for attorneys to voluntarily disclose their sexual orientation or gender identity and expression through Firm data collection procedures.		
L.	Firm policy specifically provides for paid maternity leave.		
M.	Firm policy specifically provides for paid paternity leave.		
N.	Firm has a formal, written part-time policy that permits partners to be part-time.		
O.	Firm has a flex-time policy.		
P.	Firm provides for or mandates diversity training for all lawyers and staff.		
Q.	Firm has a supplier diversity program.		

CLIENT MATTERS:

This section of the survey is intended to be submitted to individual clients and not uploaded on the ABA portal

1. Name of Relationship/Client Partner: _____
2. Pursuant to ABA Goal III definition, is this individual diverse? _____
3. If yes, what is the category of diversity: _____
4. What are the demographics of the lawyers working on [Company name] matters as well as total fees billed in 20__?
The information requested here might not be applicable to smaller firms.

	Equity Partners	Non-Equity Partners	Associates	Counsel	Other Lawyers	Total
American Indian/Alaska Native	Number of hours					
	Total Fees					
African American	# of hours					
	Total Fees					
Asian	# of hours					
	Total Fees					
Hispanic	Number of hours					
	Total Fees					
Multiracial	Number of Hours					
	Total Fees					
Minority Totals	Number of Hours					
	Total Fees					
White	Number of hours					
	Total Fees					
Women	Number of hours					
	Total Fees					
Men	Number of hours					
	Total Fees					
LGBT	Number of hours					
	Total fees					
Disabled	# of hours					
	Total Fees					

5. What are the demographics of lead lawyers on [name of client] matters in 20__?

	Men	Women
American Indian/Alaska Native		
African American		
Asian		
Hispanic		
Multiracial		
White		
LGBT		
Disabled		