

3-31-2020

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Recommended Citation

Peter Blanck, Ynesse Abdul-Malak, Meera Adya, Fitore Hyseni, Mary Killeen & Fatma Altunkol Wise, *Diversity And Inclusion In The American Legal Profession: First Phase Findings From A National Study Of Lawyers With Disabilities And Lawyers Who Identify As LGBTQ+*, 23 U.D.C. L. Rev. 23 (2020).
Available at: <https://digitalcommons.law.udc.edu/udclr/vol23/iss1/3>

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Diversity And Inclusion In The American Legal Profession: First Phase Findings From A National Study Of Lawyers With Disabilities And Lawyers Who Identify As LGBTQ+

Authors

Peter Blanck, Ynesse Abdul-Malak, Meera Adya, Fitore Hyseni, Mary Killeen, and Fatma Altunkol Wise

**DIVERSITY AND INCLUSION
IN THE AMERICAN LEGAL PROFESSION:**

**FIRST PHASE FINDINGS FROM A NATIONAL STUDY OF
LAWYERS WITH DISABILITIES AND
LAWYERS WHO IDENTIFY AS LGBTQ+**

Peter Blanck,* Ynesse Abdul-Malak, Meera Adya,***
Fitore Hyseni,**** Mary Killeen,***** & Fatma Altunkol Wise*******

INTRODUCTION

Purpose: This article presents initial, descriptive findings from the first phase of a national study, with a planned longitudinal component, conducted in collaboration with the American Bar Association (“ABA”).¹ With representation from all U.S. regions and states, as well as the

* University Professor & Chairman Burton Blatt Institute (“BBI”) at Syracuse University. This program of study is, in part, supported by the American Bar Association Commission on Disability Rights (we thank Amy Allbright, Director) and the American Bar Association Commission on Sexual Orientation and Gender Identity (we thank Malcolm “Skip” Harsch, Director). It also is supported, in part, by grants from the Administration on Community Living (“ACL”) and the National Institute on Disability, Independent Living, and Rehabilitation Research (“NIDILRR”), and the following specific grants: the U.S. Department of Health & Human Services for the NIDILRR Southeast ADA Center Grant #90DP0090-01-00, the NIDILRR Community Living and Supported Decision-Making Disability and Rehabilitation Research Projects (“DRRP”) Grant #90DP0076, and the NIDILRR Americans with Disabilities Act Participatory Action Research Consortium (“ADA-PARC”) Grant #H90DPAD0001. For information on these projects, see <http://bbi.syr.edu>. Many people contributed in important ways to the development of this article, including Angel Baker, Joseph Battisto III, Geraldine Linares, Bruce Sexton, Ptahra Jeppe, Nicole Caine, and Angela Winfield. Mary Trevor’s editing and review greatly improved the quality of the article. After Dr. Blanck, the ordering of the authors in the article heading is alphabetical. © 2020.

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¹ This investigation has been a collaborative effort, with many people and organizations graciously giving of their time to enhance the diversity and inclusiveness of the legal profession. Leaders from the ABA, Chairman Scott LaBarre of the Disability Rights Bar Association (“DRBA”), President Wes Bizzell of the National LGBT Bar Association, and other non-profit and state legal leaders and associations contributed to this effort. Many people from across the United States acted as members of the project’s Blue-Ribbon Advisory Panel, providing feedback and insight into the development of the first phase survey. Countless other legal professionals provided feedback, and we have vetted our ideas at national and state legal association meetings and educational programs. This investigation would not be possible but for this engagement by such leaders in the diverse community of legal professionals, law firms, state bar associations, not-for-profit legal associations, and others. The views expressed herein represent the opinions of the authors, and not those of any funding agency, university, or other entity. They have not been approved by the House of Delegates or the Board of Governors of the ABA and, accordingly, should

District of Columbia, the study examined lawyers with diverse backgrounds, with a primary focus on lawyers who identify as having health conditions, impairments, and disabilities, and on lawyers who identify as lesbian, gay, bisexual, transgender, queer, or as having other sexual orientations and gender identities (“LGBTQ+” as an overarching term). Importantly, the investigation also considered the intersectional nature of these identities.

A number of prior efforts in the legal profession have focused on diversity and inclusion (“D&I”), as has this study. But these studies have examined (largely) visible social identities, such as race, ethnicity, gender, age, and others that are readily apparent. Relatively less information is available on the experiences of the people examined here—people with mixed-visible and nonvisible identities such as LGBTQ+ and having a disability.

In this article, we present the results of our study, including information on the respondents’ demographics, as well as their professional experiences in private and public organizations of different sizes, practice venues, and types. We consider respondents’ perceptions of, and experiences with, workplace accommodations or adjustments to the nature of their work. We examine reports of overt and subtler (e.g., “unconscious”) bias and discrimination in the workplace, and organizational strategies to address and prevent them. A quick overview of our approach follows.

Methods: We invited ABA and non-ABA members, a total of nearly 200,00 people, to participate in an online survey about their experiences in the legal profession. We recruited via email invitations sent to lawyers we found through national organizations of people with disabilities and people in the LGBTQ+ community, as well as state and regional bar associations, law firms, the judiciary, and legal academics. Each email invited the recipient to participate in a survey, which we envision as the initial phase of a multi-phase longitudinal project.

The survey included quantitative and qualitative (open-ended) questions. We used a mixed-methods approach to develop the survey, including interviews with key stakeholders. We deployed both novel and previously validated survey questions, such as those based on prior studies of organizational culture.

The core descriptive findings presented for this initial phase of the study cover respondents’: (1) demographics; (2) professional profiles; (3) accommodation requests and provisions; (4) perceptions of bias and discrimination; (5) perceptions of bias and discrimination mitigators; and (6) compensation. In order to convey the complex and nuanced nature of an individual’s experience in context, each of these general categories focuses on multiple identity characteristics.

Results: The total number of respondents was 3,590. Of these people, slightly more than half (53.4%) identified as women. About forty-six percent (45.6%) identified as men, and 1.0% identified as transgender, non-binary, non-binary-non-gender-conforming, genderfluid, gender nonconforming, androgynous, or agender. Approximately one in six lawyers (16.6%) reported identifying as lesbian, gay, or bisexual (“LGB”), and 0.4% identified their sexual orientation as

not be construed as representing the position of the ABA or any of its entities. All authors declare they have no conflicts of interest.

other (e.g., using no labels, having no label yet known, demi-sexual, or pan-sexual). The majority of responding lawyers identified their sexual orientation as straight (83.1%) and their gender identity as cisgender (98.5%).

One quarter (25.0%) of respondents reported a health impairment, condition, or disability. A total of 830 lawyers answered the question, “What type of health condition, impairment or disability do you have?” For this question, respondents could choose more than one option. Of 1,374 total responses, almost one-third of the lawyers (30.8%) reported a mental condition, which could include depression and anxiety, as well as cognitive conditions such as learning disabilities, attention deficit hyperactivity disorder, autism, and sleep disorders.

Of the respondents who reported health and disability issues, 18.7% identified as LGB; 53.9% identified as women; 44.7% identified as men; and 1.4% reported other gender identities. For these respondents, in terms of race, 82.6% were White, 4.2% African American, 3.0% Hispanic, 2.8% Asian, and 6.0% multi-racial. In terms of career stages, 42.1% were in the later stages of their legal career, while 38.5% were mid-career and 19.3% were early career.

With outcomes similar to those in previous findings, respondents reported whether they had experienced discrimination, harassment, and bias (subtle or overt) in the workplace and, if they had, what type of experience they had. About 40.2% of respondents selected more than one item on the checklist for this question, and there were 2,798 selections overall. Almost four of ten (38.5%) of the selections were perceiving or experiencing subtle but unintentional biases. More than one in five selections (21.7%) were experiencing subtle and intentional biases.

In addition, 16.0% of the selections indicated experiencing discrimination, 11.9% harassment, and 11.9% bullying. The most commonly selected form of bias was “subtle but unintentional bias,” for example, for people with health conditions and impairments (33.1%), identifying with disabilities (29.9%), identifying as LGB (47.1%) and other gender identities (36.0%), and for minorities (38.0%) and women (38.2%).

Approximately one in five (20.5%) responses identified mentoring in their workplaces as an effective bias and discrimination mitigation strategy. A similar proportion (18.4%) of responses identified mentoring outside their organization as an effective bias and discrimination mitigation strategy. Membership in a specialized law network or support group was also noted (16.1%) as an effective means of bias and discrimination mitigation.

Not surprisingly, lawyers working in private practice reported higher salary ranges than those working in venues such as government offices and non-profit organizations. Other groups tending to report relatively lower salary ranges included respondents with health conditions or impairments, people identifying as a person with a disability, women, people reporting other gender identities, racial and ethnic minorities, and, predictably, earlier-career lawyers.

We consciously aimed to oversample lawyers with multiple marginalized identities. But despite this effort, we generated a relatively small number of responses from lawyers in this group. Nonetheless, preliminary analyses suggest that these respondents tend to report differences in their experiences of discrimination, bias, and other workplace-related phenomena, providing an important additional insight to the literature on workplace discrimination.

Conclusions: Understanding the experiences of diverse people, such as people with disabilities and who identify as LGBTQ+, is important in its own right. However, preliminary findings from this survey suggest that the intersectional experiences of these groups are complex and merit enhanced attention. Current D&I concepts may be too narrow to adequately address these complexities.

Accordingly, this article suggests ways to enhance the D&I experience in the legal profession. We propose an expansion of the traditional D&I concept: a “D&I +” (i.e., with accommodation) approach. We predict it will add value to organizations by enhancing acceptance and maximization of talent.

I. STUDY FORERUNNERS

The present study is among the first and largest undertaking of its kind to focus on lawyers with health impairments and conditions or who identify as having disabilities, and lawyers who identify as LGBTQ+. But it does build upon and extend prior examinations of the legal profession, such as the seminal longitudinal study, *After the JD*, conducted from 2004 to 2019 by the American Bar Foundation (“ABF”) and the National Association for Law Placement (“NALP”).²

Likewise, this study furthers efforts of the Institute for Inclusion in the Legal Profession (“IILP”), discussed in this article, which are presented in the *State of Diversity and Inclusion in the Legal Profession*.³ Additionally, this investigation follows on efforts spearheaded by NALP, an organization that collects information about legal professionals, law students, law schools, and legal organizations and professional development practices. NALP, like this study, collects information for the purpose of including people with multiple identities, such as across and within the spectrums of disability and LGBTQ+, in the legal profession.

Overall, this investigation derives from and builds upon the ABA’s and other legal entities’ increasing recognition that successful organizations of the twenty-first century seek to hire and retain diverse talent.⁴ Further, it rests on the recognition that “success” in the legal profession

² See Ronit Dinovitzer et al., *After the JD: First Results of a National Study of Legal Careers*, THE NAT’L ASS’N FOR L. PLACEMENT FOUND. FOR L. CAREER RES. & EDUC. (“NALP”) & AM. B. FOUND. (“ABF”) (2004), <http://www.americanbarfoundation.org/research/project/118>. The study was done in three phases with the Second Results coming in 2009. The Third Results came in 2014 [hereinafter *After the JD (2014)*]. To aid in comparing the *After the JD* studies and our study, where possible we have conformed our data tables to those adopted in the *After the JD* reports. See also Robert L. Nelson et al., *Perceiving Discrimination: Race, Gender, and Sexual Orientation in the Legal Workplace*, 44 L. & SOC. INQUIRY 1051 (2019). For an excellent overview, see DIVERSITY IN PRACTICE: RACE, GENDER, AND CLASS IN LEGAL AND PROFESSIONAL CAREERS (Spencer Headworth et al. eds., 2016).

³ See Inst. for Inclusion in the Legal Prof., *IILP Review 2019-2020: The State of Diversity and Inclusion in the Legal Profession* [hereinafter *IILP Review 2019-2020*], http://www.theiilp.com/resources/Documents/IILP_2019_FINAL_web.pdf.

⁴ Talent and competence are culturally, situationally, and contextually loaded concepts. See, e.g., Tomas Chamorro-Premuzic, *Ace the Assessment*, HARV. BUS. REV., July-Aug. 2015, at 118, 120–21 (success on job includes competence, work ethic, and emotional intelligence); see also Alison Akant, *Diversity and Inclusion in the Legal Profession: The Competencies Approach*, THE PRACTICAL LAWYER, Apr. 2011, at 13, 14–15 (“There is no single, controlling definition of ‘competency’ as applied to the task of growing diversity and inclusion in the legal workplace. . . . A competency is the particular knowledge, skill, or behavior required to be successful in a professional role. . . . A diversity competency is the particular knowledge, skill or behavior required to be successful in the role of creating an organizational climate that respects and values differences and in which all attorneys have a

can be measured in a variety of ways, such as personal and professional experience, work ethic and competence, emotional intelligence, and the values, such as integrity, that underpin the legal profession.⁵

II. PERSONAL AND PROFESSIONAL ATTRIBUTES ADDRESSED IN THE STUDY

Personal and professional attributes are expressed in both individual and intersectional qualities. These qualities are mediated by context, time, group and task formation, and other factors.⁶ In other words, people's identities are not monochromatic: there are myriad ways to understand and consider the complexity and richness of the human experience.⁷ So, too, the diverse population of people who report physical and mental impairments, who report other health conditions, who identify as "disabled," and who identify as LGBTQ+.⁸ Individual identities for all people exist in complex combinations that are not simply additive, but are instead intertwined and embedded in social context and experience.⁹

fair and equitable chance to thrive. . . . The competencies approach rests upon the business case for diversity, that is, the premise that a diverse and inclusive law office is a key component of a successful enterprise. The competencies approach recognizes that in law firms, corporate legal departments, government law offices, and the judiciary, diversity is no longer a mere accommodation to demands, a response to advocacy by discreet [sic] groups, or a compliance-driven tactic.") (bullet points omitted).

⁵ Chamorro-Premuzic, *supra* note 4, at 119 ("[V]alid tests help companies measure three critical elements of success on the job: competence, work ethic, and emotional intelligence. Though employers still look for evidence of those qualities in résumés, reference checks, and interviews, they need a fuller picture to make smart hires. Research shows that tests for such traits are much better predictors of performance than are years of experience or education—the sort of data that candidates typically highlight in their applications."). For critiques of traditional views of meritocracy and the assessment of job "talent" as reflective of the political and economic power of elites (typically white males), and related discrimination and inequalities, see, e.g., Thomas Edsall, *The Meritocracy Under Siege*, N.Y. TIMES, June 12, 2019, <https://www.nytimes.com/2019/06/12/opinion/meritocracy-tests-education.html?smid=nytcore-ios-share> (citing studies in support, and stating: "Testing for 'merit' is certain to remain as a crucial element in education and training in such professions as medicine, the law, . . .") (citing Daniel Markovits, *THE MERITOCRACY TRAP* (2019) (meritocracy concentrates economic and political power and results in inequalities)).

⁶ For a classic discussion of intersectionality, see Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1 U. CHI. LEGAL F. 139, 139 (1989) ("I will center Black women in this analysis in order to contrast the multidimensionality of Black women's experience with the single-axis analysis that distorts these experiences."). See generally *After the JD* (2014), *supra* note 2.

⁷ Ashleigh Shelby Rosette et al., *Intersectionality: Connecting Experiences of Gender with Race at Work*, 38 RES. ON ORG'L BEHAV. 1 (2018).

⁸ See, e.g., Joanne Davila et al., *Bi+ Visibility: Characteristics of Those Who Attempt to Make their Bisexual+ Identity Visible and the Strategies They Use*, 48 ARCHIVES OF SEXUAL BEHAV. 199, 199 (2019) ("Bisexual+ individuals face significant stressors and stigma, much like gay and lesbian individuals do, including prejudice, discrimination, harassment, and violence . . . bisexual+ individuals also face unique forms of stigma that gay and lesbian individuals do not. Bisexual individuals, due to their attraction to more than one gender, are often assumed to be disloyal, untrustworthy, and promiscuous.") (citations omitted); Sarah K. Lipson et al., *Gender Minority Mental Health in the U.S.: Results of a National Survey on College Campuses*, 57 AM. J. PREVENTATIVE MED. 293, 293 (2019) (Compared to cisgender people: "Gender minority (GM) individuals have a gender identity or expression that differs from their assigned sex at birth or does not fit within the male-female binary. This term encompasses transgender, genderqueer, and gender nonconforming individuals, as well as those who have another self-identified gender. With regard to mental health, GM adolescents and young adults represent an underserved and under researched population.") (citations omitted).

⁹ See Angela Frederick & Dara Shifrer, *Race and Disability: From Analogy to Intersectionality*, 5 SOC. RACE & ETHNICITY 200 (2019); see also Dara Shifrer & Angela Frederick, *Disability at the Intersections*, 13 SOC. COMPASS 1 (2019).

We recognize that disability and LGBTQ+ identities, as with other identities such as race, gender, and age, constitute overly-broad conceptions that are necessarily influenced by, and in turn influence, culture and attitudes.¹⁰ Nonetheless, for lack of more refined conceptions, we have used these identities as a starting point to better understand D&I and accommodation practices¹¹ across the spectrum of lawyers engaged in the professional context, with the long-term goal of developing a more refined understanding.¹²

III. D&I OVERVIEW

It is not our intent to review the D&I research comprehensively, but we recommend that interested readers examine this body of work. Broad and diverse conceptualizations of D&I are possible and important. “Formal” D&I is said to reflect proportionate representation and “substantive” D&I meaningful participation.¹³ The concepts are related and both acknowledge D&I in the legal profession as “an imperative and fundamental goal.”¹⁴ We start with the general principle that increased understanding of D&I in the workplace, as it concerns people identifying with disabilities and those identifying as LGBTQ+, is important for many reasons. Among them are improved individual health and well-being, as well as economic, social, demographic, ethical, and legal benefits.

Promoting D&I is an ongoing process that, when well-done, advances organizational knowledge about the strengths and experiences of people within the organization, as well as knowledge of people outside the organization, such as customers, clients, and community members. To achieve this “D&I advantage,” the organization must recognize that the process requires acknowledging a wide array of individual and multiple identities and experiences, such as identification on the basis of one’s gender, race, ethnicity, age, and family history, and identification among and within these and other dimensions.¹⁵

¹⁰ See, e.g., Nancy Naples et al., *Gender, Disability, and Intersectionality*, 33 GENDER & SOC’Y 5 (2019) (reviewing feminist disability and feminist Black studies, and LGBTQ and disability studies); see also LGBT PSYCHOLOGY AND MENTAL HEALTH: EMERGING RESEARCH AND ADVANCES 1 (Richard Ruth & Erik Santacruz eds., 2017); Elizabeth Hirsh & Sabino Kornrich, *The Context of Discrimination: Workplace Conditions, Institutional Environments, and Sex and Race Discrimination Charges*, 113 AM. J. SOC. 1394 (2008).

¹¹ See, e.g., U.S. Equal Opportunity Commission (“EEOC”), *Reasonable Accommodations for Attorneys with Disabilities* (2017), <https://www.eeoc.gov/facts/accommodations-attorneys.html>.

¹² Compare Alex Long, *Reasonable Accommodation as Professional Responsibility, Reasonable Accommodation as Professionalism*, 47 U.C. DAVIS L. REV. 1753 (2014).

¹³ See, e.g., Eli Wald, *A Primer on Diversity, Discrimination, and Equality in the Legal Profession or Who is Responsible for Pursuing Diversity and Why*, 24 GEO. J. LEGAL ETHICS 1079, 1079 (2011) (“Racial, ethnic, socioeconomic, religious, LGBT and disabled minorities are woefully under-represented in the profession, and women ... suffer considerable inequities, especially at the profession’s upper echelons.”). Wald further notes, “It is not just that some of the causes of inequality at large law firms, such as prejudicial presumptions about capabilities and commitment, stereotyping, in-group bias, conservative and rigid workplace structures, and backlash, impact lawyers outside of large law firms, but rather, . . . the practice realities at large law firms are symptomatic of ambivalence, inconsistency and confusion about diversity throughout the profession, rendering prospects for advancement quite bleak. . . . [N]ot only is the legal profession lagging behind other occupations in achieving diversity and equality, but its quest is further frustrated by conceptual disagreement and confusion about the meaning of diversity, means of pursuing it, and responsibility for doing so. In sum, while minority under-representation and inequity constitute a serious problem, the diversity discourse is stuck in a state of counterproductive disarray.”). *Id.* at 1080 (footnotes omitted).

¹⁴ *Id.* at 1141.

¹⁵ Compare Naples et al., *supra* note 10, at 11 (quoting Nancy Naples, *Pedagogical Practice and Teaching Intersectionality Intersectionally*, in INTERSECTIONAL PEDAGOGY: COMPLICATING IDENTITY AND SOCIAL JUSTICE

Generally speaking, stigma and bias are antithetical to D&I, as are intentional and unintentional discrimination and uninformed and negative attitudes. When these approaches play a role in an organization, its members, regardless of professionally relevant characteristics such as competence, are perceived to have qualities that are devalued in context or circumstance. This devaluation may be expressed in many ways—such as through “implicit” or “unconscious,” intentional or unintentional, verbal and nonverbal, attitudes, statements, and behaviors. It may also be expressed in internal and external organizational and structural mechanisms, such as policies, procedures, practices, and norms.

Stigma, bias, and discrimination are perceived, experienced, and reported differently depending upon the individuals and groups engaged in the interaction. All respondents are affected by their sense of self-identity, personal and professional experience, culture, age, and other individual factors, as well as the organizational and broader contexts.¹⁶ In turn, stigma, bias, and discrimination, in all their explicit or implicit forms,¹⁷ are viewed and analyzed differently by researchers, lawyers, the general public, and others depending upon their own contexts, normative values, and the passage of time.

In light of changes in the legal profession over the past twenty-five or so years, the importance of “diversity” and “inclusion” to the legal profession—understood, in part, as anti-stigma, bias, and discrimination mechanisms—is now recognized.¹⁸ The ABA Diversity and

113 (K. Case ed., 2017)): “[T]o successfully produce an intersectional analysis, ‘a researcher must clearly specify what makes the study intersectional, discuss why certain methodologies chosen for the study are the most productive for intersectional research, and reflect on which aspects of intersectionality are brought into the frame and which are left out or treated less centrally in the analysis.’” Consequently, “given the diversity of conceptualizations and disciplinary approaches, it is often difficult for new researchers to identify the most effective intersectional perspectives and models for their own research.”

¹⁶ Taylor M. Cruz, *Assessing Access to Care for Transgender and Gender Nonconforming People: A Consideration of Diversity in Combating Discrimination*, 110 SOC. SCI. & MED. 65, 65 (2014).

¹⁷ Cf. Nelson et al., *supra* note 2, at 1052 (“Contrary to the common assertion that most discrimination today entails implicit bias and subtle forms of unequal treatment, respondents’ accounts show that workplace bias is often explicit. Both overt workplace interactions and implicit bias appear to reinforce the very hierarchies of race, gender, and sexual orientation decried by leaders of the legal profession. These findings extend our theoretical understanding of discrimination and have important implications for equal opportunity within the legal profession and the prospects for equal justice under the law.”) (citations omitted).

¹⁸ In this regard, see the important work of Joan Williams and her colleagues. E.g., Joan Williams, *Hacking Tech’s Diversity Problem*, HARV. BUS. REV., Oct. 2014, at 96, 99, <https://hbr.org/2014/10/hacking-techs-diversity-problem>; Cynthia L. Cooper, *Can Bias Interrupters Succeed Where Diversity Efforts Have Stalled*, AM. BAR ASSOC. (July 10, 2017),

<https://www.americanbar.org/groups/diversity/women/publications/perspectives/2017/summer/cbiinterrupters-succeed-where-diversity-efforts-have-stalled/>. For application to lawyers, see Joan C. Williams, Marina Multhaup, Su Li & Rachel Korn, *You Can’t Change What You Can’t See: Interrupting Racial & Gender Bias in the Legal Profession*, Report prepared for American Bar Association’s Commission on Women in the Profession and the Minority Corporate Counsel Association, 1, 7-9 (2018) (“how implicit gender and racial bias—documented in social science for decades—plays out in everyday interactions in legal workplaces and affects basic workplace processes such as hiring and compensation. . . . [for] law firm and in-house attorneys, for example, finding “Women of color, white women, and men of color reported that they have to go “above and beyond” to get the same recognition and respect as their colleagues. . . . Women of color reported that they are held to higher standards than their colleagues. . . . White women reported [] bias at a level 44 percentage points higher than white men, and men of color reported this bias at a level 23 percentage points higher than white men. . . . Women of all races reported pressure to behave in feminine ways, . . . Women of all races reported that they were treated worse after they had children; . . . Women and people of color reported higher levels of bias than white men regarding equal opportunities [in law firm practice]. . . . Women of color often reported the highest levels of bias of any group. . . . Women of color agreed that

Inclusion Center “promotes collaboration, coordination, and communication . . . to eliminate bias and enhance diversity and inclusion throughout the Association, legal profession, and justice system.”¹⁹ The significance of D&I in the legal profession is driven by social, political, economic, demographic, and other factors affecting the workforce.

A.

D&I “Plus”

The design of the study presented in this article was guided by a conception of organizational D&I that may be called D&I+. It breaks the general conception of D&I down into three core elements, or focus areas, that may be applied across settings to advance an organization’s mission and objectives:

- ***Diversity of talent***: Appreciating and meaningfully representing economic, intellectual, task-specific, social, reputational, and other valued benefits;
- ***Inclusion of talent***: Understanding, accepting, and meaningfully engaging with colleagues with different perspectives, skills, backgrounds, and other valued benefits;
and
- ***Accommodation of talent***: Providing meaningful support for individualized adjustments to work that enable qualified people to contribute to the maximum extent possible.²⁰

These diversity, inclusion, and accommodation strategies, both individually and in combination, contribute to an organization’s mission and success. They also contribute to individual commitment to and satisfaction with the organization.²¹ The “plus” in D&I+ is designed to address the divergence between the person’s particular profile of job-related

their pay is comparable to their colleagues of similar experience and seniority at a level 31 percentage points lower than white men; white women agreed at a level 24 percentage points lower than white men. . . . in-house white women reported roughly the same level of compensation bias as their law firm counterparts. . . . About 25% of women but only 7% of white men and 11% of men of color, reported that they had encountered unwelcome sexual harassment at work.”; concluding “Although implicit bias is commonplace, it can be interrupted. Implicit bias stems from common stereotypes. Stereotype *activation* is automatic: we can’t stop our brains from making assumptions. But stereotype *application* can be controlled: we can control whether we act on those assumptions. . . . [using] Bias Interrupter Toolkits, . . . [that] provide easily implementable, measurable tweaks to existing workplace systems to interrupt racial and gender bias in law firms and in-house departments. Many bias interrupters will help individuals with disabilities, professionals from nonprofessional families (“class migrants”), and introverted men, in addition to leveling the playing field for women and attorneys of color.”) (emphasis in original).

¹⁹ See ABA Diversity and Inclusion Center, <https://www.americanbar.org/groups/diversity/>.

²⁰ Peter Blanck, *Communicating the Americans with Disabilities Act: Transcending Compliance: A Case Report on Sears Roebuck & Co.*, ANNENBERG WASHINGTON PROGRAM (1994), <https://wayback.archive-it.org/6321/20140428150341/http://www.annenberg.northwestern.edu/pubs/sears/>; Peter Blanck, *The Economics of the Employment Provisions of the Americans with Disabilities Act: Part I – Workplace Accommodations*, 46 DEPAUL L. REV. 877 (1997); Michael Ashley Stein et al., *Accommodating Every Body*, 81 U. CHI. L. REV. 689 (2014); Lisa Schur et al., *Accommodating Employees With and Without Disabilities*, 53 HUM. RESOURCE MGMT. 593, 621 (2014).

²¹ See John Monahan & Jeffrey Swanson, *Lawyers at the Peak of Their Careers: A 30-Year Longitudinal Study of Job and Life Satisfaction*, 16 J. EMPIRICAL LEGAL STUD. 4 (2019); see also Joni Hersch & Erin E. Meyers, *Why are Seemingly Satisfied Female Lawyers Running for the Exits? Resolving the Paradox Using National Data*, 102 MARQ. L. REV. 915 (2019) (satisfaction in legal profession varies as function of gender and individual characteristics; studies show female, as compared to male, lawyers experience worse working conditions and opportunities for advancement, lower salaries, and higher levels of discrimination and harassment).

strengths and needs, and their work environment. This conception of “D&I+”²² is dependent, as others have found,²³ upon context (firm type, size, history, leadership), economics (consumer and client demands, motivations, values), and culture (organizational, local, regional, national, global), among other interacting forces internal and external to an organization.²⁴

In the D&I+ context, there are, of course, other forces beyond the organization itself that affect approaches to diversity, inclusiveness, and accommodation. Examples from recent times include the “#MeToo”²⁵ and “Black Lives Matter” movements.²⁶ Such broader context influences are beyond the scope of this article. Here, the focus is on diversity, inclusion, and accommodation, as illuminated in particular by the legal professionals with disabilities, and who identify as LGBTQ+, who responded to the present study.²⁷

B. *D&I+, Disability, and LGBTQ+*

There are relatively few empirical studies of the experiences of lawyers across the spectrum of disability and LGBTQ+ identities.²⁸ Related research shows that people with disabilities and people who identify as LGBTQ+ are among those minority groups most stigmatized by society

²² The further-refined concept of “D&I+, i.e., with accommodations” proposed in this article, enables the valued worker to become fully engaged in the organization. The range of accommodation is potentially limitless, but bounded by the reasonable needs and objectives of the organization. The D&I+ objective is to determine the support needed to enable the qualified person to succeed in the organizational environment. D&I+ promotes the social ecological model of the workplace. It changes the paradigm from whether the qualified person is “able” to engage productively, to how individualized and reasonable support enables qualified workers.

²³ Wald, *supra* note 13, at 1082.

²⁴ See, e.g., Stella Nkomo et al., *Introduction to Special Topic Forum Diversity At A Critical Juncture: New Theories For A Complex Phenomenon*, 44 ACAD. MGMT. REV. 498-517 (2019) (diversity theorizing is at a critical juncture because of possibility for decisive transition).

²⁵ See also Jeannette Espinoza, *The Chilling Effect of the #MeToo Movement on Promotion of Female Law Associates: The Case for Sponsorships*, in *IILP Rev. 2019-2020*, *supra* note 3.

²⁶ See, e.g., Blanck, *Communicating the Americans with Disabilities Act: Transcending Compliance*, *supra* note 20; Deborah Rhode, *Leadership in Law*, 69 STAN. L. REV. 1603 (2017).

²⁷ See, e.g., Peter Blanck, *eQuality: The Struggle for Web Accessibility by Persons with Cognitive Disabilities*, 32 BEHAV. SCI. L. 4 (2014); Helen Scharzt et al., *Workplace Accommodations: Evidence-Based Outcomes*, 27 WORK 345 (2006); Schur et al., *Accommodating Employees*, *supra* note 20; Lisa Schur et al., *Disability at Work: A Look Back and Forward*, 27 J. OCCUPATIONAL REHAB. 482 (2017).

²⁸ Legal profession organizations, state bar associations, and the ABA have conducted a range of surveys in this area and many are cited herein. For a review, see, e.g., Donald Stone, *The Disabled Lawyers Have Arrived; Have They Been Welcomed with Open Arms into the Profession? An Empirical Study of the Disabled Lawyer*, 27 L. & INEQUALITY J. 93 (2009) (survey of hiring and managing partners at fifty U.S. law firms); Asher Alkoby & Pnina Alon-Shenker, *Out of the Closet and Up the Ladder? Diversity in Ontario's Big Law Firms*, 34 WINDSOR YEARBOOK ACCESS TO JUST. 40 (2017) (small exploratory study of the lived experiences of 15 LGBTQ+ lawyers working in large Canadian law firms, and noting limited quantitative data available in this area); see also Emir Ozeren, *Sexual Orientation Discrimination in the Workplace: A Systematic Review of Literature*, 109 PROCEDIA – SOC. AND BEHAV. SCI. 1203, 1203 (2014) (“It is apparent that traditional diversity management research focused limited attention on sexual orientation discrimination. In fact, the topic has almost been ignored. Until now, very few scholars have examined this notion as a particular aspect of diversity management in the workplace. Previously, diversity management scholars tended to focus on more visible aspects of diversity such as age, gender, and ethnicity.”). Ozeren further notes “Emerging themes related to sexual orientation discrimination in the workplace were identified: ‘coming out’, ‘wage inequality’, ‘GLBT employee groups’, ‘the effects of GLBT (non) discrimination on the workplace and business outcomes.’” *Id.* at 1206.

and in the workplace.²⁹ These people often are targets of negative attitudes and stereotypes, and they experience adverse career, economic, and health consequences.

Even when people with disabilities, and those who identify as LGBTQ+, advance professionally, they still encounter organizational barriers. These may be manifested in policies, inaccessible workplaces and technology, and lack of workplace accommodations. They may manifest as attitudinal bias, expressly or subtly, through verbal and nonverbal “microaggressions.”³⁰ Sometimes this bias is intentional; often, it is expressed unintentionally and without conscious effort or recognition.³¹ Regardless of origin, these barriers impede the full and equal integration of these people into workplaces, and negatively affect the performance of their work groups.³²

²⁹ Peter Blanck, “*The Right to Live in the World*”: *Disability Yesterday, Today, and Tomorrow*, 13 TEX. J. CIV. L. & C.R. 367-401 (2008); Peter Blanck, *Disability and Diversity: Historical and Contemporary Influences, Workplace Inclusion of Employees with Disabilities, Managing Diversity in Today's Workplace: Vol. 1: Gender, Race, Sexual Orientation, Ethnicity, and Power*, 173-208 (2012), in WOMEN IN CAREERS MANAGEMENT SERIES (Michele Paludi ed. 2012); Blanck, *eQuality*, *supra* note 27; Peter Blanck, *ADA at 25 and People with Cognitive Disabilities: From Voice to Action*, 3 INCLUSION 46 (2015); Peter Blanck, *The First “A” in the ADA: And 25 More “A”s Toward Equality for Americans with Disabilities*, 4 INCLUSION 46 (2016); ROUTLEDGE HANDBOOK OF DISABILITY LAW & HUMAN RIGHTS (Peter Blanck & Eilionóir Flynn eds., 2017); Peter Blanck & Mollie Marti, *Attitudes, Behavior, and the Employment Provisions of the Americans with Disabilities Act*, 42 VILL. L. REV. 345 (1997).

³⁰ Peter Blanck & Robert Rosenthal, *Developing Strategies for Decoding “Leaky” Messages: On Learning How and When to Decode Discrepant and Consistent Social Communications*, in DEVELOPMENT OF NONVERBAL BEHAVIOR IN CHILDREN 203 (R.S. Feldman ed., 1982); Peter Blanck et al., *The Appearance of Justice: Judges’ Verbal and Nonverbal Behavior in Criminal Jury Trials*, 38 STAN. L. REV. 89 (1985); Alecia Santuzzi, Pamela Waltz, Lisa Finkelstein, & Deborah Rupp, *Invisible Disabilities: Unique Challenges for Employees and Organizations*, 7 INDUS. & ORG’L PSYCHOL. 204 (2014). This project does not specifically address “implicit bias,” which may be described as “unconscious” or “subliminal.” For a review of this area, see, e.g., Linda Krieger & Susan Fiske, *Behavioral Realism in Employment Discrimination Law: Implicit Bias and Disparate Treatment*, 94 CALIF. L. REV. 997 (2006); Anthony Greenwald & Linda Krieger, *Implicit Bias: Scientific Foundations*, 94 CALIF. L. REV. 945 (2006); *see also* Elizabeth Cooper, *The Appearance of Professionalism*, 70 FLA. L. REV. 1, 26-27 (2019) (microaggressions in the legal profession); Kevin Nadal et al., *Caught at the Intersections: Microaggressions toward Lesbian, Gay, Bisexual, Transgender, and Queer People of Color*, in LGBT PSYCHOLOGY AND MENTAL HEALTH: EMERGING RESEARCH AND ADVANCES, *supra* note 10 (microaggressions as subtle forms of discrimination).

³¹ For a review, see Isabel Bilotta et. al, *How Subtle Bias Infects the Law*, 15 ANN. REV. OF L. & SOC. SCI. 227 (2019). Bilotta states, “Subtle bias is a discrete prejudice or preference toward a certain group, person, or thing that can drive one’s decisions and actions. Biases are belief systems that can be extremely problematic to both the individual who holds the biased belief and the target or object of these beliefs.... As we take in information about different kinds of races, ages, genders, and abilities, we begin to form stereotypes.... These stereotypes can be either altered or reinforced based on the new information that we receive from our environments throughout our early development. Bias can be broken into two types: explicit and implicit. ...the difference lies in the degree to which individuals are aware of their biases. Explicit biases are the beliefs that people consciously possess and intentionally express, whereas implicit biases are composed of well-learned associations that reside below conscious awareness and can automatically drive behavior in a manner that is inconsistent with one’s personal attitudes. ... Interpersonal discrimination is one of the forms in which subtle bias can manifest as subtle discrimination. Interpersonal discrimination can be reflected in less eye contact, shorter interactions, and colder facial expressions. Another way that subtle biases can manifest is in the form of microaggressions.... [S]ubtle discrimination that emerges as a result of implicit biases is just as harmful as overt discrimination, if not more so, because the target is more likely to internalize the experience than to discount it as discrimination.” *Id.* at 228-229 (citations omitted).

³² Mollie Marti & Peter Blanck, *Attitudes, Behavior, and the ADA*, in EMPLOYMENT, DISABILITY, AND THE AMERICANS WITH DISABILITIES ACT: ISSUES IN LAW, PUBLIC POLICY, AND RESEARCH 356-84 (Peter Blanck ed., 2000).

In the broader national and international context, recognition of these barriers for some historically stigmatized people has been gradually emerging for some time, often painfully slowly, through civil rights movements. For people with disabilities, however, a civil rights approach to overcoming barriers has emerged only recently. Disability civil rights rejects the long-pervasive, nineteenth-century medical view of disability—a condition to be cured, pitied, or tolerated for those who are “worthy”—and advocates for acceptance of disability, and the right of people with disabilities to be afforded accommodations as needed to demonstrate their abilities. This civil rights approach is based upon a “social” or socioecological model of the human experience.³³

Under this social model, disability is viewed as the result of societally imposed barriers rather than as a reflection of some people having, or lacking, certain characteristics or abilities that others have or lack.³⁴ Viewed from the perspective of the social model, for example, a lawyer who uses a wheelchair only becomes “disabled” when physical barriers such as stairs prohibit equal entry to an office building. A blind judge only becomes “disabled” when she must use inaccessible computer technologies. Perceived and actual bias, along with discrimination, result from socially imposed structural barriers in organizations and society, rather than any inherent ability or value of the people in question.

There is a substantial body of research showing that employment decisions for people with both disability and other minority identities are particularly susceptible to attitudinal stereotyping and bias, especially when such decisions are made in the absence of objective and clearly defined organizational policies and practices.³⁵ Our own research, as well as that of others, shows employment barriers, and explicit and subtle bias, towards people with disabilities in general. For people with “non-visible,” less obvious characteristics such as mental disabilities or identification as LGBTQ+, these effects may be mitigated when organizational leaders, supervisors, and co-workers are made aware of the biases and their underlying presumptions.

This awareness is at the heart of traditional D&I training.³⁶ However, most D&I efforts to date have focused on visible social identities such as race, ethnicity, gender, and age.³⁷ Left

³³ Blanck, *eQuality*, *supra* note 27. For a historical perspective on the medical model, see LARRY LOGUE & PETER BLANCK, *HEAVY LADEN: UNION VETERANS, PSYCHOLOGICAL ILLNESS, AND SUICIDE* (2018); LARRY LOGUE & PETER BLANCK, *RACE, ETHNICITY, AND DISABILITY: VETERANS AND BENEFITS IN POST-CIVIL WAR AMERICA* (2010).

³⁴ See Schur et al., *Accommodating Employees*, *supra* note 20.

³⁵ See, e.g., Adrienne Colella, *Coworker Distributive Fairness Judgments of the Workplace Accommodation of Employees with Disabilities*, 26 ACAD. MGMT. REV. 100 (2001); Adrienne Colella et al., *The Impact of Ratee's Disability on Performance Judgments and Choice as Partner: The Role of Disability—Job Fit Stereotypes and Interdependence of Rewards*, 83 J. APPLIED PSYCHOL. 102 (1998); Adrienne Colella & Arup Varma, *Disability-Job Fit Stereotypes and the Evaluation of Persons with Disabilities at Work*, 9 J. OCCUPATIONAL REHAB. 79 (1999); Adrienne Colella et al., *Appraising the Performance of Employees with Disabilities: A Review and Model*, 7 HUM. RESOURCE & MGMT. REV. 27-53 (1997). Research shows favoritism towards members of the majority group (“in-group bias”) as defined by “out groups” comprising people with disabilities (as well as others with differing sexual orientations and gender identities, gender, race and ethnicity). See, e.g., Philip Tetlock, *The Impact of Accountability on Judgment and Choice: Toward a Social Contingency Model*, 25 ADVANCES EXPERIMENTAL SOC. PSYCHOL. 331 (1992) (mitigating out-group bias by holding decision makers accountable for their personnel decisions, with monitoring and objective oversight).

³⁶ See, e.g., Leonard Sandler & Peter Blanck, *Accessibility as a Corporate Article of Faith at Microsoft: Case Study of Corporate Culture and Human Resource Dimensions*, 23 BEHAV. SCI. & L. 39, 64 (2005).

relatively unexplored is the experience of people with the less obvious or nondisclosed identities.³⁸

One of the exceptions to this trend has been efforts spearheaded by the NALP. To further its goal to support D&I in the legal profession, NALP regularly collects employment data on legal professionals.³⁹ NALP reports that only about 0.5%, a very small proportion of the more than one-hundred thousand lawyers in private firms, self-identify as having a disability. And various elements of disability also are not routinely reported, such as disability onset, type, and severity. Lawyers reporting a disability are less likely to be employed, as compared to women, racial minorities, and those identifying as LGBTQ+. ⁴⁰ The proportion of partners and associates reporting disabilities has increased only very slightly in the past decade.⁴¹

³⁷ See, e.g., Alexander Kalev et al., *Best Practices or Best Guesses? Diversity Management and the Remediation of Inequality*, 71 AM. SOC. REV. 589 (2006).

³⁸ See Judith Clair et al., *Out of Sight But Not Out of Mind: Managing Invisible Social Identities in the Workplace*, 30 ACAD. OF MGMT. REV. 78, 78 (2005) (“Demographic diversity, defined as any characteristic that serves as a basis for social categorization and self-identification, comes in two types: visible and nonvisible. Visible characteristics usually include sex, race, age, ethnicity, physical appearance, language, speech patterns, and dialect. Nonvisible characteristics usually include differences like religion, occupation, national origin, club or social group memberships, illness, and sexual orientation. Most organizational scholarship on diversity in the workplace has focused on such visible social identities as age, race, and gender, but left relatively unexplored are the dynamics of invisible social identities.”) (citations omitted).

³⁹ For more information, see *What is NALP?*, <http://www.nalp.org/whatisnalp>; NALP, *2018 Report on Diversity in U.S. Law Firms*, <https://www.nalp.org/reportondiversity> (2018 data from NALP’s annual Employment Report and Salary Survey (“ERSS”), Jobs & JDs report series (Jobs & JDs), and NALP Directory of Legal Employers (“NDLE”)). The ERSS gathers information about law school graduates’ employment and salary outcomes ten months after graduation. It includes employment outcome data on 98% of graduates of ABA-approved law schools. The resulting data is then compiled annually in the Jobs & JDs series. Data on law firm demographics is compiled annually in the NDLE. The NDLE provides data on more than one hundred thousand partners, associates, and other lawyers in more than 1,000 law offices, and more than six thousand summer associates in nearly one thousand law offices. The following is a brief summary of recent NALP statistics. By way of comparison to lawyers with disabilities, during the past ten years the number of openly LGBTQ+ lawyers has more than doubled. In 2014, the NALP first collected data on LGBT law school graduates; the number of graduates self-identifying as transgender was too small to provide separate analysis. But about one-third (38%) of graduates self-reported sexual orientation. Four percent self-identified as L, G, or B, half were male and three-quarters were white; less than one-third were white women. NALP found, however, that employed legal professionals who were LGBT were more likely to work for a public interest organization as compared to employed law graduates, and they were less likely to be working at law firms as compared with other demographic groups based on gender, race, and ethnicity. LGBT graduates taking a job in private practice are more likely to take that job at a large firm (251+ attorneys) as compared to law graduates as a whole. NALP reports an increase in the representation of LGBTQ+ partners at law firms of 100 or fewer attorneys (0.63% in 2009 to 2.86% in 2018). In 2018, more than half (55%) of reported openly LGBTQ+ lawyers practiced in the four major cities of New York City, Washington, D.C., Los Angeles, and San Francisco. The percentage of openly LGBTQ+ lawyers generally was stagnant from 2014 to 2018 (2.34% to 2.86%), with the small increase attributed to a rise among law firm associates (5.73%).

⁴⁰ See NALP, *2018 Report on Diversity in U.S. Law Firms*, *supra* note 39. NALP finds fewer graduates with disabilities pass the bar or obtain J.D. positions, and more graduates with disabilities take professional jobs other than lawyering. Law associates with disabilities represent 0.46% of associates in law firms in the 2018 NALP Directory. About 0.52% of law partners represented in the 2018 NALP Directory reported having a disability.

⁴¹ See also Philip Lee, *The Demographics of the Profession*, in *IILP Rev. 2019-2020*, *supra* note 3. According to Lee, the “percentage of graduates with disabilities who start off in private practice has declined in recent years, whereas the percentage who start off in business or public interest has increased. In 2016, 40.9% of law graduates with disabilities started off in private practice, down from 48.9% in 2011; whereas 20.7% started off in business and 11.5% in public interest in 2016, compared to 16.9% and 9.3%, respectively, in 2011.”

In comparison with the information about lawyers with disabilities, the NALP statistics present a more mixed picture about LGBTQ+ lawyers. During the past ten years, the number of openly LGBTQ+ lawyers has more than doubled.⁴² But their presence in the legal community is not widespread. NALP finds that legal professionals who identify as LGBTQ+ are more likely to work for public interest organizations, both as compared to private law firms, and as compared to other demographic groups based on gender, race, and ethnicity.⁴³ There is also a certain level of geographic limitation. For lawyers identifying as LGBTQ+, slightly more than half report practicing in the four major cities of New York City, Washington, D.C., Los Angeles, and San Francisco.⁴⁴ The percentage of openly LGBTQ+ lawyers remained relatively stagnant from 2014 to 2018 (2.34% to 2.86%), with the small increase attributed to a rise among law firm associates who identify as LGBTQ+.⁴⁵

As openness and information slowly increase about people with disabilities and those who identify as LGBTQ+, however, at least one area remains relatively unexplored. The attitudinal bias and structural barriers discussed in this article may be even more challenging for those with multiple identities and roles that intersect (i.e., are “intersectional”),⁴⁶ such as people of differing sexual orientations and gender identities who also have disabilities.⁴⁷ People with multiple minority identifications experience among the largest disparities in employment and areas of daily life.⁴⁸

The NALP does provide some information regarding the intersection of gender and race. As examples, the NALP reports that there were relatively small gains in the proportion of women and Black/African Americans at U.S. law firms from 2009 to 2018.⁴⁹ In 2018, the proportion of women in law firms was about 46%. Additionally, in 2018, for those reporting, about 16% of law firm associates reported as minorities, and of those people, 8% reported as minority women.⁵⁰

⁴² *Id.*; see also *supra* notes 39, 40 (summarizing NALP material).

⁴³ LGBT graduates taking a job in private practice are more likely to take that job at a large firm (251+ attorneys) as compared to law graduates as a whole. See NALP material summarized in notes 39 & 40, *supra*.

⁴⁴ See also Erin Smith, *Where Are the Gay Attorneys? The 25 Firms with The Most GLBT Lawyers*, BUSINESS INSIDER (Mar. 15, 2010), <http://www.businessinsider.com/where-are-the-gay-attorneys-a-look-at-firms-numbers-2010-3> (“projections of what percentage of Americans are GLBT go from ‘2-3% of men, and 2% of women’ by The Family Research Report and 3-8% of both sexes by The National Gay and Lesbian Task Force. Either way, most firms are well below the 2% point.”).

⁴⁵ *NALP Bulletin*, LGBT REPRESENTATION AMONG LAWYERS IN 2015 (Dec. 2015), <https://www.nalp.org/1215research>.

⁴⁶ See, e.g., Maria Veronica Reina et al., *Defying Double Discrimination*, 8 GEO. J. INT’L AFF. 95 (2007).

⁴⁷ See J. Christensen & C. Embury, *Intersections of Identity: Exceptionality and LGBTQ*, 45 COMMUNIQUE/NAT’L ASS’N OF SCH. PSYCHOLOGISTS 23 (2016); M.K. Witter, *Gay Men with Physical Disabilities: A Qualitative Study* (unpublished doctoral dissertation), Alliant Int’l Univ., San Francisco (2016); Naples et al., *supra* note 10.

⁴⁸ See, e.g., Rachel Kahn Best et al., *Multiple Disadvantages: An Empirical Test of Intersectionality Theory in EEO Litigation*, 45 L. & SOC. REV. 991 (2011); Catherine E. Harnois, *Jeopardy, Consciousness, and Multiple Discrimination: Intersecting Inequalities in Contemporary Western Europe*, 30 SOC. F. 971 (2015); Alkoby & Alon-Shenker, *supra* note 28, at 43, 45 (citing 2004 study in Canada showing that 88% of LGBTQ+ lawyers reported discrimination on basis of sexual orientation in the legal profession).

⁴⁹ See NALP, *2018 Report on Diversity in U.S. Law Firms*, *supra* note 39.

⁵⁰ See *id.* NALP reports the overall representation of minorities in law firms in 2018 at about sixteen percent, roughly one in six lawyers. For law firm partners, NALP reports that 3.63% were Asian (1.38% women), 2.49% Hispanic (0.77% women), and 1.83% Black/African American (0.68% women). For law firm associates, NALP reports that 11.69% were Asian (6.64% were women), 4.71% Hispanic (2.45% women), and 4.28%

But the NALP has not presented detailed information about people who identify with multiple stigmatized identities,⁵¹ such as persons with a disability and an LGBTQ+ identity, in consideration of race, gender, and age.

IV.

D&I+ AND THE PRESENT STUDY

Despite the modest increase in lawyers from diverse backgrounds, by many accounts, D&I-associated training outcomes remain elusive. In one meta-analysis of sixty-five studies of D&I outcomes, Zachary Kalinoski and colleagues examined the efficacy of D&I training efforts, such as attitude-emotional-motivational, cognitive-knowledge, and skill-behavior-awareness based outcomes.⁵² They considered these trends during the short- and longer-term, and accounted for the attitudes held by the respondents prior to the trainings and the importance of the trainings to the respondents' workplace success. The effects of D&I training were modest and varied, with larger beneficial effects from cognitive and skill-based learning than from the affective-based approaches.

Although improving D&I in the legal profession is a mantra today, with national and international organizations espousing the benefits of D&I assessments, scorecards, and trainings,⁵³ relatively little has been done concerning D&I and the experiences of lawyers with disabilities and who identify as LGBTQ+.⁵⁴ The focus of prior efforts has been directed towards persons of color and women, and understandably so in light of need and the visibility of their identity.⁵⁵ But little exploration has focused on persons who also are in need but are less

Black/African American (2.55% women). NALP concludes that the levels of minority representation may be largely attributed to the increased representation among Asian associates.

⁵¹ Wallace et al., *LGBT Psychology and Ethnic Minority Perspectives: Intersectionality*, in *LGBT PSYCHOLOGY AND MENTAL HEALTH: EMERGING RESEARCH AND ADVANCES*, *supra* note 10, at 87 (intersectionality involves the experience of people with multiple stigmatized identities); Deanna Cor & Christian Chan, *Intersectional Feminism and LGBTIQQA+ Psychology: Understanding Our Present by Exploring Our Past*, in *id.* at 109 (LGBTIQQA+ is the community of "lesbian, gay, bisexual, transgender, intersex, queer, questioning, agender, and asexual," for which feminism has played a crucial and inclusive role).

⁵² See, e.g., Zachary Kalinoski et al., *A Meta-Analytic Evaluation of Diversity Training Outcomes*, 34 J. ORG'L BEHAV. 1076–1104 (2013) (larger effects for interpersonally active forms of instruction); see also Lincoln Quillian et al., *Meta-Analysis of Field Experiments Shows No Change in Racial Discrimination in Hiring over Time*, 114 PROCEEDINGS NAT'L ACAD. SCI. 10870, 10870 (2017) (for past thirty years, no change in discrimination levels in hiring for African Americans; modest decline in discrimination against Latinx).

⁵³ Alliance for Board Diversity, *Missing Pieces: Women and Minorities on Fortune 500 Boards* (2013), <https://theabd.org/>; Cliff Oswick & Mike Noon, *Discourses of Diversity, Equality, and Inclusion: Trenchant Formulations or Transient Fashions?* 25 BRITISH J. MGMT. 23 (2014); Orlando Richard et al., *The Impact of Racial and Gender Diversity in Management on Financial Performance: How Participative Strategy Making Features can Unleash a Diversity Advantage*, 24 INT'L J. HUM. RESOURCE MGMT. 2571 (2013).

⁵⁴ See generally Schur et al., *Accommodating Employees*, *supra* note 20. See also András Tilcsik, *Pride and Prejudice: Employment Discrimination against Openly Gay Men in the United States*, 117 AM. J. SOC. 586 (2011); Mustafa Bilgehan Ozturk & Ahu Tatli, *Gender Identity Inclusion in the Workplace: Broadening Diversity Management Research and Practice through the Case of Transgender Employees in the UK*, 27 INT. J. HUM. RESOURCE MGMT. 781 (2014); Shanna K. Kattari et al., *Policing Gender through Housing and Employment Discrimination: Comparison of Discrimination Experiences of Transgender and Cisgender LGBQ Individuals*, 7 J. SOC'Y FOR SOC. WORK & RES. 427 (2016).

⁵⁵ See Fernando Martin Alcazar et al., *Workforce Diversity in Strategic Human Resource Management Models: A Critical Review of the Literature and Implications for Future Research*, 20 CROSS CULTURAL MGMT. 39 (2013); Devon Carbado et al., *After Inclusion*, 4 ANN. REV. L. SOC. SCI. 83 (2008); Nancy DiTomaso et al., *Workforce Diversity and Inequality: Power, Status, and Numbers*, 33 ANN. REV. SOC. 473 (2007).

visible—stigmatized groups such as those with mental, cognitive,⁵⁶ and other hidden disabilities,⁵⁷ as well as persons who identify as LGBTQ+.⁵⁸

Nonetheless, in recent years the ABA, and state, private, and governmental organizations, have spearheaded advances in general diversity and bias reduction efforts in the legal profession.⁵⁹ Yet, causality is far from clear: Do inclusive and diverse organizational cultures tend to engage in D&I training? Or is D&I training associated with the development of diverse and inclusive organizations? Likely, D&I causation goes in both directions, happens to differing degrees, and is moderated by internal and external normative factors.⁶⁰

This study seeks to fill in, or to start to fill in, some of the many gaps in knowledge about the use and effects of D&I+ in the legal workplace, using the respondents' reports of their organizational culture. The questions that must be asked have varied and complex answers. Given, too, that both internal and external factors are associated with individual perceptions and experiences of work bias, stigma, and discrimination at an organization, future analysis will be needed as to the particular factors involved in these perceptions.⁶¹

Because the first phase of this project is descriptive, we have aimed to paint a broad portrait of respondents' perceptions, considered in light of individual, group, and organizational factors associated with lawyers with disabilities and who identify as LGBTQ+, and in comparison to respondents who do not identify with these identities. Our questions have complex answers, just as all people perceive themselves as having complex, multiple identities.

Something as seemingly “simple” as having a given identity, such as having a disability, ignores the fact that a disability may be identified as involving one or more mental or physical conditions, and vary in impact according to severity, onset, and numerous other factors. We therefore emphasize the non-additive and complex calculus of multiple minority identities,

⁵⁶ See Blanck, *eQuality*, *supra* note 27; Peter Blanck, *The Struggle for Web Equality by Persons with Cognitive Disabilities*, 32 BEHAV. SCI. & THE LAW 4 (2014).

⁵⁷ Blanck, *eQuality*, *supra* note 27.

⁵⁸ See Melanie C. Steffens et al., *Discrimination at Work on the Basis of Sexual Orientation: Subjective Experience, Experimental Evidence, and Interventions*, in SEXUAL ORIENTATION AND TRANSGENDER ISSUES IN ORGANIZATIONS 367-388 (Thomas Kollen ed., 2016); Katina Sawyer et al., *Queering the Gender Binary: Understanding Transgender Workplace Experiences*, in SEXUAL ORIENTATION AND TRANSGENDER ISSUES IN ORGANIZATIONS 21 (Thomas Kollen ed., 2016).

⁵⁹ See, e.g., Kalinoski et al., *supra* note 52; see also Katerina Bezrukova et al., *A Meta-Analytical Integration of over 40 Years of Research on Diversity Training Evaluation*, 142 PSYCHOL. BULL. 1227, 1228 (2016). According to Bezrukova, “Diversity training is generally seen as a separate branch within the training literature because it often elicits more emotionally charged responses than other types of training. It is a set of educational activities offered by a university or an organization to its students or employees. Research on diversity training is ideally placed at the interface between psychological theory on diversity and the organizational reality of training programs.” *Id.* (2016 meta-analytic review of over forty years of research on D&I training, finding D&I training as “as a distinct set of instructional programs aimed at facilitating positive intergroup interactions, reducing prejudice and discrimination, and enhancing the skills, knowledge, and motivation of participants to interact with diverse others.”) (citations omitted).

⁶⁰ See Bezrukova et al., *supra* note 59.

⁶¹ See Hirsh & Kornrich, *supra* note 10, at 1398; see also *id.* at 1402, 1404 (noting “organizations are embedded in larger legal and normative environments, and characteristics of these environments influence workplace structures and behavior,” and that larger establishments with formalized personnel practices should have fewer reports of discrimination claims.).

whether in terms of disability, LGBTQ+,⁶² gender, race, age, and/or other individual characteristics.⁶³

With these broad objectives in mind, we proceed as follows. The next part overviews the investigation's research questions and methods. We then preview preliminary findings, focusing on lawyers in the LGBTQ+ community and lawyers who identify with disabilities. The final part considers the implications of these initial findings and identifies next steps in this project.

V. RESEARCH QUESTIONS AND METHODS

To examine the individual and systemic “D&I+” issues in the legal workplace, we first sought to understand some basic questions:

- What are the main demographic characteristics of respondents and of their organizations?

⁶² See also Kimberley Forte, *Embracing the “SOGI/E” Spectrum Through Deliberate Action, in IILP Review 2019-2020*, *supra* note 3. Forte explains, “The goals of the initiative [discussed in the article] are to increase the Society’s cultural humility to better represent lesbian, gay, bisexual, transgender, gender non-conforming/non-binary, and queer (‘LGBTGNCQ+’)” individuals. *Id.* at 186. Further, “In discussing sexual orientation, it is important to recognize that the terminology ‘sexual preference’ is erroneous. This term suggests that our romantic and physical attraction to others is a choice and therefore can be cured. Terminology relating to sexual orientation is fairly common in today’s lexicon: lesbian, gay, bisexual, and heterosexual. It is important to not assume what label an individual uses for themselves and to not transfer an identity from one person to another even if you assume they have the same orientation. ... It is also common to assume clients’ or colleagues’ sexual orientation based on personal expression.” *Id.* at 189. Forte also observes, “When discussing gender identity and expression, understand that everyone is assigned a sex at birth. ... However, an individual’s gender identity is an internal identity of being male/ female, masculine/feminine, neither or both. Gender identity begins to manifest around two to three years of age. Some of us have a gender identity that matches our sex assigned at birth. Those individuals are cisgender. Some individuals have a gender identity that does not match their sex assigned at birth. Some of these individuals identify as transgender, genderqueer, and/ or non-binary. One common identity is gender nonconforming—an umbrella term for all people who do not dress or express themselves based on traditional expectations of the sex assigned to them at birth. Finally, some people do not identify with binary gender at all. ... The idea that there are only two genders is sometimes called a ‘gender binary,’ because binary means ‘having two parts,’ male and female. Therefore, ‘non-binary’ is one term people use to describe genders that do not fall into one of these two categories, male or female.... When discussing these concepts of identity, it is important not to confuse or conflate the two. Do not assume that because a client has a gender identity that is different from their sex assigned at birth that they have a sexual orientation that is not heterosexual. Do not assume that a client who identifies as gay, lesbian, bisexual, or asexual has a gender identity different than their sex assigned at birth regardless of your perception of their gender expression.” *Id.* at 190 (citing Nat’l Center for Transgender Equal, *Understanding Non-Binary People* (July 2016), https://transequality.org/sites/default/files/docs/resources/Understanding-Non-Binary-July-2016_1.pdf).

⁶³ Cf. Dinovitzer et al., *Lawyers and the Legal Profession*, in *THE HANDBOOK OF LAW AND SOCIETY* 107-08 (Austin Sarat & Patrick Ewick eds., 2015). As the Handbook authors note, in 2010, U.S. non-white lawyers comprised about 12% of the profession; of these, 4.8% were Black, 3.7% Hispanic, and 3.4% Asian. In addition, legal profession organizations, state bar associations, and the ABA have conducted a range of surveys in this area that are cited in this article. For a review of this area, see, e.g., Stone, *supra* note 28 (survey of hiring and managing partners at fifty U.S. law firms); Alkoby & Alon-Shenker, *supra* note 28 (small exploratory study of lived experiences of 15 LGBTQ+ lawyers in large Canadian law firms, noting limited quantitative data available in this area). See generally Ozeren, *supra* note 28. Ozeren notes, “It is apparent that traditional diversity management research focused limited attention on sexual orientation discrimination. In fact, the topic has almost been ignored. Until now, very few scholars have examined this notion as a particular aspect of diversity management in the workplace. Previously, diversity management scholars tended to focus on more visible aspects of diversity such as age, gender, and ethnicity.” *Id.* at 1203. Ozeren also notes, “emerging themes related to sexual orientation discrimination in the workplace were identified: ‘coming out’, ‘wage inequality’, ‘GLBT employee groups’, ‘the effects of GLBT (non) discrimination on the workplace and business outcomes.’” *Id.* at 1206.

- What are the workplace experiences of respondents who report or identify as having a health condition, impairment, or disability?
- What are the workplace experiences of respondents who identify as LGBTQ+?
- What types of barriers and discrimination do respondents experience?
- What bias and discrimination mitigation strategies do respondents report?
- What are the experiences of respondents requesting and receiving workplace accommodations?
- What are the ranges of salary remuneration of respondents?

We used closed- and open-ended survey items to collect information via an online, anonymous survey. Quantitative analysis helped us to understand the patterns and frequencies in the self-reports. Qualitative analysis aided in understanding the depth of the respondents' experiences in the legal profession.

Because the focus of this study is on the experiences of a sample of lawyers identifying as members of the disability and LGBTQ+ communities, we targeted our recruitment efforts through entities associated with these communities. The Disability Rights Bar Association ("DRBA") and the National LGBT Bar Association were among our core partners in disseminating the survey instrument to geographically dispersed lawyers in all fifty states, working across venues, types, and sizes of organizations.

To fully develop our survey, we used a mixed-methods approach, including interviews with stakeholders and feedback from our presentations to lawyers.⁶⁴ Other research on the workplace experiences of employees with disabilities has used analogous methods.⁶⁵

To further validate the initial survey, our project team organized an expert "Blue Ribbon Panel" drawn from the legal community, the ABA leadership, and professional organizations representing the interests of diverse lawyers.⁶⁶ Advisory members included members from the DRBA and the National LGBT Bar Association. The research team discussed the proposed survey with these stakeholders during the project's development to enhance the real-world validity and relevance of the survey.⁶⁷

⁶⁴ Bertram Gawronski & Galen Bodenhausen, *Associative and Propositional Processes in Evaluation: An Integrative Review of Implicit and Explicit Attitude Change*, 132 AM. PSYCHOL. ASS'N 692 (2006); Leanne S. Son Hing, Greg A. Chung-Yan, Leah K. Hamilton & Mark P. Zanna, *A Two-Dimensional Model that Employs Explicit and Implicit Attitudes to Characterize Prejudice*, J. PERSONALITY SOC. PSYCHOL. 971 (2008); Samantha Evans, *Exploring Social Class Differences at Work*, in BRITISH UNIVERSITIES INDUSTRIAL RELATIONS ANNUAL CONFERENCE (Univ. Leeds June 29 to July, 1 2016), <https://kar.kent.ac.uk/58846/>; see also NALP data discussion, *infra* (geographical concentrations of LGBTQ+ legal professionals).

⁶⁵ See Schur et al., *Accommodating Employees*, *supra* note 20; Andrew J. Houtenville et al., *Annual Disability Statistics Compendium: 2015*, INSTITUTE ON DISABILITY (2016).

⁶⁶ This Blue-Ribbon Panel was comprised of approximately thirty people with diverse backgrounds who could provide breadth and ensure representation and perspectives. The group's composition was developed in collaboration with the ABA to include members from organizations such as the ABA Commission on Sexual Orientation and Gender Identity ("SOGI"); the National LGBT Bar Association, an affiliate of the ABA; Bay Area Lawyers for Individual Freedom ("BALIF," the nation's oldest and largest association of lesbian, gay, bisexual and transgender persons in law, see <http://www.balif.org/>); the ABA Commission on Disability Rights; the Disability Rights Bar Association ("DRBA," disability counsel, legal non-profits, and advocacy groups committed to legal representation of people with disabilities, see <http://disabilityrights-law.org/>).

⁶⁷ In collaboration with the Blue-Ribbon Panel, we identified metrics already in use and developed new metrics in areas where needed. Throughout this project, we have focused attention on the intersectionality of issues

The survey used both quantitative and qualitative questions,⁶⁸ with fixed-choice and open-ended response opportunities. For the quantitative approach, we employed both new and prior-validated survey questions based on our work on organizational culture. To further increase the advantages gained by combining quantitative and qualitative methods, we linked each qualitative, open-ended question to a quantitative survey question.⁶⁹ For instance, we asked respondents if they had experienced discrimination or bias at work, and if so, to categorize the type of bias they experienced, such as discrimination, bullying, harassment, subtle and intentional bias, and subtle but unintentional bias.⁷⁰ The survey allowed the respondents to broadly describe their professional lives,⁷¹ including the opportunity to select from multiple items on response lists to gain a holistic view of their workplace experiences.⁷²

The sections of the survey explored respondent demographics; professional profiles and annual compensation; experiences at work as a person with a health condition, impairment, or disability; and experiences at work as a person identifying as LGBTQ+. The sections covered

across sexual orientation, gender identity, disability, race, and gender. *See also* Bonnie O'Day & Mary Killeen, *Research on the Lives of Persons with Disabilities: The Emerging Importance of Qualitative Research*, 13 J. DISABILITY POL'Y STUD. 9 (2002).

⁶⁸ Cf. Nelson et al., *supra* note 2, at 1052 ("Quantitative results demonstrate the resilience of ascriptive hierarchies across practice contexts and career stages. The qualitative data complement and qualify the quantitative findings as they reveal that perceptions of discrimination are connected to the identities of disadvantaged groups and the particular types of bias they experience in the workplace and other professional contexts.").

⁶⁹ Accord Monahan & Swanson, *supra* note 21 ("Methodologically, it can be difficult to separate age, period, and cohort effects without having comparable data on people of different ages, measured at different times, and in different historical moments. ... using qualitative data to capture respondents' own interpretations of period effects—for example, asking whether people experience a significant change in the environment affecting their career—can sometimes illuminate such effects in ways that statistics alone cannot.").

⁷⁰ *See, e.g.,* David Parnell & Patrick McKenna, *Bullying, Lack of Respect, Me First, Law Firms Suffer the Behaviour they Tolerate*, LEGAL BUSINESS WORLD (Oct. 21, 2016), <https://www.legalbusinessworld.com/single-post/2016/10/21/Bullying> (citing study finding high reporting by law firms of bullying, lack of respect, and "me-first" attitudes among their ranks, despite most having written value statements against such behavior); Kerri Lynn Stone, *Bullying in the Legal Profession*, in SPECIAL TOPICS AND PARTICULAR OCCUPATIONS, PROFESSIONS AND SECTORS 1, 4-5 (P. D'Cruz et al. eds., 2018) (lack of empirical study in this area, discussing personality types for people in legal profession, and discussing nature and culture of organizations that employ legal professionals).

⁷¹ We took this same approach with a question that asked each respondent if they had witnessed discrimination or bias directed at another employee or employees. This question was followed by an invitation to share what they had witnessed. This sequence was designed to capture a more complete picture of types of bias witnessed and an understanding of how the experience of bias and discrimination impacts those to whom it is not directed. In addition, each respondent was asked if they had seen or experienced strategies or practices that had been especially effective in lessening either overt or subtle forms of bias. This question was followed by an invitation to describe those effective strategies. Respondents' written responses to each open-ended qualitative question were imported into QDA Miner qualitative data analysis software for coding and analysis. We used a modified grounded theory approach (Kathy Charmaz, *Constructivist Grounded Theory*, 12 J. POSITIVE PSYCHOL. 299-300 (2017); Juliet Corbin, *Grounded Theory*, *id.* at 301-302) to content-code the data into categories representing the issues focused on and deemed relevant by respondents. During the coding process we continued to evaluate the categories chosen—adding or merging categories, as necessary, to ensure that all significant domains were captured. Once we completed coding all responses, we use QDA Miner to generate coding reports that contain the data related to each issue discussed by each participant sub-group. Our analysis of these coding reports will inform our qualitative findings.

⁷² Thus, when we report percentages for these types of questions, we show the number of total responses, not only the number of respondents, since one person may select more than one item on the checklist. For example, there are 3,359 people who responded to the question: "What's your sexual orientation? Please select all that apply." 3,499 answers were provided, and for these answers 390 people identified as gay or lesbian, which is 11.1% of the total number of answers provided (3,499).

perceptions of bias and discrimination, practices and strategies aimed at lessening bias and discrimination, organizational policies towards D&I, and workplace accommodations.⁷³ Each survey sub-section was comprised of numerous questions from which more general or composite categories were then created and presented in the summary data tables. For example, demographics are presented by state and region of country, size and type of organization, health impairment and disability identification, LGBTQ+ identification, race and ethnicity identification, accommodation request and provision, and so forth.

For the descriptive analyses presented next, we purposefully oversampled from the DRBA, the National LGBT Bar Association, and other organizations of lawyers with disabilities and from the LGBTQ+ community. We deployed the survey electronically and in accessible formats to geographically dispersed private and public people working in the legal profession across types and sizes of organizations.⁷⁴ Additionally, the ABA emailed a sub-sample of its members who were willing to receive surveys from the association.

In accordance with our strategy, we sent email requests that included the survey link to national and state legal organizations focused on diversity and inclusion of lawyers with disabilities and who identify as LGBTQ+. Using law firm listings across the fifty states, we also sent the survey to state bar organizations and to large, medium, and small law firms. In this first wave, 198,533 people received the email with the survey link.

These efforts led 5,543 people to open the survey link. Of these people, 4,532 started the survey. In the end, 3,590 people completed and submitted the survey, although not all of them necessarily completed all the survey questions.⁷⁵ Of those people who opened the survey link, about four in five completed it—suggesting strong motivation to participate. This drive to participate was true regardless of whether the survey was sent to a sub-group of the general ABA membership or to other legal organizations separately.

We used frequency, percentage, and tabs reflecting multiple respondent characteristics and organizational dimensions to present the survey results in tables, which are found in Appendix A. We refer to these tables below in the description of the survey findings. The tables present substantial information to the interested reader, going beyond what it was possible to discuss in the body of this article.

We emphasize that, due to our intentional oversampling, the proportion of lawyers reporting as disabled or LGBTQ+ in this study is higher than that reported in the legal profession overall.

⁷³ Phase One Survey is available from this article's first-listed author.

⁷⁴ The project and its components were conducted in accordance with protocols approved by the Syracuse University Human Research Protections Program, Institutional Review Board ("IRB"), to ensure compliance with federal and state regulations, University policy, and the highest ethical standards in the conduct of human subjects research. Responses to the online survey were anonymous and confidential. Quantitative survey information is presented in the aggregate. Qualitative information, such as in comments in the survey, is not identified by individual writer.

⁷⁵ For respondents who are lawyers and who were sent the survey by the ABA: 1,794 opened the survey link; 1,478 started the survey; and 1,149 completed the survey (thus, 64% who opened the survey completed the survey). For other targeted groups of legal professionals (some of whom included other legal professionals): 3,749 opened the survey link; 3,054 started the survey; and 2,441 completed the survey (thus, 65% who opened the survey completed the survey). It appears that for these self-selecting groups, sampling by ABA membership or, more generally, legal professionals did not affect the degree to which this sample of people completed the survey.

The magnitude of these sub-samples, therefore, may not be representative of that population in the legal profession. However, they may be considered as comparators to other sub-populations sampled, in particular for gender, race, and age. For reasons stated below, these appear reasonably representative of the legal profession.

VI.

FINDINGS

A.

Demographics

The maximum number of respondents for each question is 3,590, but the sample numbers in the tables in Appendix A vary because not all respondents answered every question in every category. One-quarter (25%, 840) of the respondents reported having a health impairment, condition, or disability. Within that group, approximately one-third (31.6%, 260) identified as a person with a disability. Of course, depending upon the nature of their health condition and other circumstances, some people may have chosen not to identify as a person with a disability.⁷⁶ This lack of identification may be due to personal or organizational reasons, such as the perception or reality of stigma, bias, and discrimination towards people with disabilities, or in responses to requests for accommodation, which are issues we discuss below.

Approximately one in six lawyers (16.6%, 553) reported identifying as lesbian, gay, or bisexual (“LGB”), and 0.4% (13 people) identified their sexual orientation as other (e.g., using no labels, having no label yet known, demi-sexual, and pan-sexual). The majority of responding lawyers identified their sexual orientation as straight (83.1%, 2,775), and their gender identity as cisgender (98.5%, 3,349).⁷⁷

In accord with prior studies, of 3,590 people reporting, a bit more than half (53.4%, 1,816) were women, 45.6 % (1,551) were men, and 0.9% (32) reported other gender identities. Also generally consistent with prior studies, most respondents were White (Caucasian/non-Hispanic, 82.2%, 2,967).⁷⁸ The race and ethnicity of other respondents were reported as Black (4.9%, 177), Hispanic or Latino (4.2%, 153), Asian (South Asia or Middle East, 4.0%, 144), Multiracial

⁷⁶ See, e.g., Angela Winfield, *Attorneys with Disabilities: Shedding Light on the Invisible Element of Diversity*, in 2017 Inst. for Inclusion in the Legal Prof., *IIIP Review 2017: The State of Diversity and Inclusion in the Legal Profession* 199 [hereinafter *IIIP Review 2017*].

⁷⁷ Data on sexual orientation are presented in Tables 1.1 and 1.2 in Appendix A. These tables represent data that have been coded more globally for initial presentation here. Table 1.1 includes qualitative responses in addition to the items checked by the respondents. Table 1.2 includes only quantitative items selected by respondents.

⁷⁸ AM. BAR ASS’N, NATIONAL LAWYER POPULATION SURVEY 10-YEAR TREND IN LAWYER DEMOGRAPHICS (Aug. 5, 2019), https://www.americanbar.org/resources_for_lawyers/profession_statistics.html (finding about 5% of lawyer population is African-American, 3% Asian, 85% Caucasian/White, 5% Hispanic, 1% Native American, 1% Multiracial and less than 1% Hawaiian/Pacific Islander; 64% of lawyers male, and 36% female.) (Note: The sample presented in this initial article included only lawyers.); AM. BAR ASS’N, ABA PROFILE OF THE LEGAL PROFESSION (2019), <https://www.americanbar.org/content/dam/aba/images/news/2019/08/ProfileOfProfession-total-hi.pdf>, (last visited Mar. 12, 2020) (showing 368 lawyers with disabilities at 693 law offices across the country, representing 0.53% of the 69,854 lawyers in those offices—slightly more than one-half of 1%. In 2018, a survey by the Department of Labor (“DOL”) found 2,827 LGBT lawyers at 914 law offices across the country, representing 2.86% of 98,942 lawyers at those firms.); see also U.S. DEP’T OF LAB., BUREAU OF LAB. STAT. (2018), <https://www.bls.gov/cps/cpsaat11.htm> (discussing the DOL sample, which included lawyers, judicial law clerks, judges, magistrates, and other judicial workers, paralegals and legal assistants, and miscellaneous legal support workers. According to the DOL study, 85.7% of the legal profession is Caucasian/White, 7.3% Black or African-American, 4.7% Asian, and 9.9% Hispanic.).

(2.3%, 84), American Indian or Alaska Native (0.8%, 28), and Native Hawaiian or Pacific Islander (0.2%, 7). The majority of the sample worked full-time (89.2%, 3,101).⁷⁹

The age range of those responding spreads over the professional life span, but was moderately skewed toward older ages, with 22.3% (795) at 35 years of age or younger; 40.2% (1,430) at 36-55 years of age; and 37.5% (1,335) at 56-66+ years of age. We will consider this age distribution further in subsequent analyses, given that some, though not all, health impairments and disabilities may be associated with increasing age.⁸⁰ (*Tables 1.1, 1.2 in Appendix A.*)

As mentioned, one quarter of the sample identified as having a health condition, impairment, or disability. Of those respondents, 18.7% identified as LGB, about half (53.9%) as women, 1.4% as “other” gender identity, and 17.4% as minority in terms of ethnicity and race. For this sub-group, 42.1% identified as older in terms of being late-career—ages 56 and over.

Despite our efforts to oversample and identify respondents with multiple and intersecting minority identities, the sample numbers are small for those reporting more than two intersecting identities. For example, there are 153 respondents (just over 4.0% of the overall sample) who both identified their sexual orientation as LGB and reported a health condition, impairment or disability. Of these people, 43.8% (67) were women. In addition, for this subgroup less than 1.0% (9) reported their gender identity as transgender, and about 19.0% (29) were Hispanic, and non-white ethnic and racial minorities.

A total of 830 lawyers answered the question “What type of health condition, impairment or disability you have?”⁸¹ For this question, respondents could choose more than one option. Of 1,374 such selections, almost one-third (30.8%, 423) reported a mental health condition, such as depression and anxiety, as well as cognitive conditions such as learning disabilities, attention deficit hyperactivity disorder (“ADHD”), autism, and sleep disorders.

Of this subgroup, about one-quarter (26%, 358) reported general health issues. About one in six people (17.0%, 314) reported orthopedic and mobility impairments. Approaching one-quarter (22.8%, 229) reported sensory (e.g., visual and hearing impairments), nervous system, and neurological conditions. Less than 5% (3.6%, 49) reported other health issues, such as injuries, accidents, traumas, concussions, cerebral palsy, and unspecified health conditions and impairments. (*Table 1.3 in Appendix A.*)

⁷⁹ Information about respondents’ race/ethnicity was obtained by a multi-response type of question. Respondents could report more than one answer. These numbers illustrate the distribution of the responses. Data on sexual orientation are presented in Tables 1.1 and 1.2 in Appendix A. These tables represent data that have been coded more globally for presentation purposes here. Table 1.1 includes qualitative responses in addition to those items checked by the respondents. Table 1.2 includes only quantitative items selected by respondents.

⁸⁰ See, e.g., Sarah Babineau & Jason Goitia, *Disability Diversity: A Primer for the Legal Profession*, in *IILP Review 2017*, *supra* note 76, at 191.

⁸¹ A total of 840 people reported they have a health condition, impairment, or disability, and 830 people answered the question of “What type of health condition, impairment or disability do you have?” This question was a multi-response question and respondents could choose more than one item on the checklist. The 830 people provided, in total, 1,374 answers for this question. Over half (53.5%, 449) chose one item from the checklist; 381 (46.5%) chose more than one item.

Estimates are that non-apparent or hidden disabilities, such as mental, cognitive, and some health-related disabilities, constitute a substantial proportion of disabilities, and our findings comport with this expectation.⁸² A bit fewer than one-third (30.8%, 423) of respondents reported mental conditions (e.g., mental health and learning disabilities) when responding whether they had any “health issues, impairments and conditions.” Of those people, more than half (56%) reported other health conditions, such as diabetes and immune system issues.

Of sixty-seven women who identified as lesbian and bisexual, as well as having a health condition, impairment, or disability, almost two-thirds (63.0%, 42) reported at least one mental health or cognitive condition, such as anxiety, depression, Post-Traumatic Stress Disorder (“PTSD”), autism, sleep disorders, or learning disabilities. Of nine transgender respondents who also identified both as LGB and as having a disability, six reported at least one type of mental health condition. For twenty-nine respondents who identified both as an ethnic or racial minority and as LGB, two-thirds (66.0%, 19) reported mental health conditions.

For people reporting a health condition, about one in six (17.0%, 138) had experienced their health condition, impairment, or disability since birth. More than three-quarters of these people (82.7%, 659) reported they had acquired conditions or impairments after they were born. Many respondents reported their disability, impairment, or health condition began when they were young adults (37.0%, 240). Of 840 people who reported a health condition, a bit more than half (53.9%, 446) identified as women, with fewer than half as men (44.7%, 375), and 1.4% as non-binary (15).

Almost one in five (18.7%, 153) of those respondents who identified as LGB also reported a health condition, impairment, or disability. (*Table 1.4 in Appendix A.*) Other studies have found that disability prevalence rates are higher for people who identify as LGBTQ+ than for those who identify as straight and cisgender.⁸³ As mentioned, about 1.0% (32 people) of the sample

⁸² Babineau & Goitia, *supra* note 80, at 192.

⁸³ See, e.g., Franco Dispenza et al., *Career Development of Sexual and Gender Minority Persons Living with Disabilities*, 47 THE COUNSELING PSYCHOL. 98, 99-100 (2019). The authors note that the prevalence rates of disability were higher “for individuals who identify as sexual minorities than for individuals who identify as heterosexual. ... odds of lesbian and bisexual women having a disability were 1.7 to 2.2 times higher than those of heterosexual women—even after controlling for secondary health-related conditions (e.g., asthma, obesity), health risk factors (e.g., smoking, lack of exercise), and other sociodemographic variables. ... (controlling for health and sociodemographic factors) bisexual men were 2.7 times more likely to report having a disability than heterosexual men. Similarly, the odds of gay men having a disability were 1.4 times higher than those of heterosexual men. Sexual minority persons also report more impairment related to activities of daily living, using more adaptive modifications to achieve functionality ... sexual minority individuals, compared to those who are heterosexual, report significantly higher occurrences of cardiovascular disease, digestive issues, chronic pain, and psychological and substance use disorders ... among a sample of 174 older transgender adults between the ages of 50 and 95, approximately 62% indicated that they were living with a disability. There are no conclusive factors known to contribute to the higher prevalence rates of disability among sexual and gender minority persons, but scholars have some conjectures. ... that higher rates of chronic illness and health-related risk behaviors (e.g., smoking, substance use, mental distress, poor health management behaviors) contribute to heightened prevalence rates of disability among sexual minority persons. Stigma and minority stress (e.g., harassment, discrimination, internalized homonegativity, rejection) have also been linked to physical health outcomes among sexual and gender minority persons.” (citations omitted). See also Barbara Wallace & Erik Santacruz, *Health Disparities and LGBT Populations*, in LGBT PSYCHOL. AND MENTAL HEALTH: EMERGING RESEARCH AND ADVANCES 177, *supra* note 10 (mental and physical health disparities experienced by LGBTQ+ populations in the United States).

reported gender identities such as transgender, non-binary, non-binary-non-gender-conforming, genderfluid, gender non-conforming, androgynous, and agender.⁸⁴

The trends suggest that further analysis may be fruitful as to the type of health and disability issues reported by persons with other minority identities. Overall, relatively high rates of mental health conditions were reported among women, those identifying as LGB, those identifying as a person with a disability, minorities, and earlier-career lawyers. (*Tables 1.5, 1.6 in Appendix A.*)

B. *Professional Profile*⁸⁵

Across the United States, the respondents included 29.5% (982) from the Mideast Region;⁸⁶ 16.3% (543) from the South East Region; 14.7% (487) from the Far West Region; 11.7% (389) from the Great Lakes Region; 10.5% (348) from the Southwest Region; 8.2% (272) from the Plains Region; 5.4% (181) from the New England Region; and 3.5% (117) from the Rocky Mountain Region. (*Table 2.1 in Appendix A.*) These regional trends are unweighted, and comparison is needed with the ABA's study of the legal profession in 2019.⁸⁷

The Mideast Region (Delaware, D.C., Maryland, New Jersey, New York, Pennsylvania) had the highest proportion of respondents identifying as having disabilities and as LGBTQ+. Almost one in three (29.1%) respondents from this region had a health condition, impairment, or disability. In this region, 32.7% identified as a person with a disability and 34.5% identified as LGB. The Far West (Alaska, California, Hawaii, Nevada, Oregon, Washington) had the second highest proportion of lawyers reporting a health condition, impairment, or disability (17.3%), identifying as a person with a disability (23.2%), and identifying as LGB (25.8%). (*Table 2.3 in Appendix A.*)

As expected, larger numbers of respondents worked at private law firms (58.9%, 1,904). A bit more than one-quarter (29%, 551) worked at small firms, with two to twenty-four lawyers. The second largest group of respondents worked at large firms with 500+ lawyers (27.4%, 521). Almost one in seven respondents (15.3%, 290) worked as solo private lawyers. (*Table 2.2 in Appendix A.*)

About one-quarter (24.7%, 867) of respondents identified their practice area as primarily litigation, while fewer (9%, 316) reported family and juvenile law practices. Other areas of primary practice included 6.7% (234) in employment, employee benefits, ERISA, labor, and workers' compensation; 5.4% (188) in corporate and securities law; and 5.3% (184) in intellectual property and technology. Additionally, 4.9% (171) practiced in real estate; 4.7% (163) in civil rights; 3.8% (133) in disability and elder law; and 3.7% (131) in trust and estate law. (*Table 2.4 in Appendix A.*)

⁸⁴ Table 1.1 shows that 32 people report other gender identities. This number differs from the prior sexual orientation and gender identity question because people sometimes responded with more than one answer.

⁸⁵ About 66.2% of the respondents are current ABA members (2,339 people); 33.8% of the respondents are not current members of the ABA (1,192 people).

⁸⁶ 16.9% (564) respondents were from the State of New York, which has the most lawyers per state.

⁸⁷ ABA PROFILE OF THE LEGAL PROFESSION (2019), *supra* note 78, at 6 (states with the most lawyers are: New York (182,296); California (170,117); Texas (91,244); Florida (78,448); Illinois (62,720); Washington D.C. (56,135); Pennsylvania (50,039); and Massachusetts (42,736)).

More than one-quarter of respondents (28.4%, 807) reported requesting a workplace accommodation from their organization. Of the 730 respondents who reported a health condition, impairment, or disability, somewhat fewer than half (42.9%, 313) had requested an accommodation.⁸⁸

For the 226 people who identified as a person with a disability, almost two-thirds (65.0%, 147) had submitted an accommodation request. Separately, more than one-quarter (26.6%, 127) of respondents who identified as LGB reported requesting accommodations. For others requesting accommodations, more than one-third (34.6%, 496) were women, 20.9% (249) men, 33.3% (153) minorities, and 27.5% (651) White/Caucasian. The highest relative proportion of accommodation requests were by mid-career lawyers (34.8%, 394) versus early career (24%, 155) and late career (24.3%, 257) lawyers. (*Tables 3.1, 3.2, 3.3 in Appendix A.*)

About twenty percent of the sample (776) answered the question: “What type of change or accommodation did you request from your organization?” Because respondents could choose the types of accommodation options that applied, there were 2,112 answers in total. Of these answers, 365 people (17.3% of the responses) had asked for “Changes to a work schedule (such as flex time, shift change, part time).” In addition, 344 people (16.3% of the responses) had requested “Modifying the individual work environment (orthopedic chair, lower desk, etc.).” There were 333 people (15.8% of the responses) who had requested working from home or teleworking.⁸⁹

For respondents reporting a general health condition, almost one-third (30.1%, 84) had requested changes in work tasks, job structure, or job schedule. For those reporting mental health conditions, 29.3% (79) had requested such accommodations. For those reporting orthopedic and mobility impairments, 28.4% (63) had requested physical changes to their workplace. Respondents with sensory conditions, such as visual and hearing impairments and nervous system and neurological conditions, tended to request accommodations involving new or modified office equipment (27.4%, 55).

Of 807 respondents requesting accommodations, 757 of them answered the follow-up question “Was the change or accommodation made?” Slightly more than three-quarters (76%)

⁸⁸ Cf. Steven Peuquet et al., *Survey of Delaware State Bar Association Members to Assess the Presence of Conditions that Hinder their Practice of Law*, 23 WIDENER L. REV. 233, 234-40 (2017) (only 25% of respondents reporting disabilities requested accommodations, suggesting “some attorneys may be unaware of potential accommodations or fear drawing attention to a personal condition.”). The Peuquet study sample of 960 respondents was comparable to the size of the present study, and was split across age and career period—25% age 35 and under, 26% age 36-45, 23% age 46-55, and 25% age 56 or older; 56% men and 44% women; 96% white/Caucasian. Eleven percent reported a condition that hindered their ability to practice law (with a high percentage reporting mental health or socioemotional conditions, with most respondents reporting their conditions as non-visible), and a high proportion of people reporting such a condition worked in solo law practice and in firms with less than 30 lawyers. Respondents reporting a condition earned less than those not reporting such a condition. *Id.* at 238. The first-listed author of this article (Blanck) was first engaged as an expert witness soon after the ADA’s passage in 1990. The case involved an attorney with bi-polar disorder who was denied accommodations for the condition and then terminated; after litigation the attorney received a large monetary settlement and attorneys’ fees and costs.

⁸⁹ Cf. Stone, *supra* note 28, at 118 (“Accommodations reported were modification of work schedule, architectural accessibility, accessible technology, additional secretarial support, and modification of equipment.”).

indicated that the accommodations were made, whereas 10.4% indicated accommodations were not made, and 15% indicated some of the requested accommodations were made. (*For further detail, see Table 3.4 in Appendix A.*)

D. *Perceptions of Bias and Discrimination*

With outcomes similar to those in previous findings,⁹⁰ respondents reported whether they had experienced discrimination, harassment, and bias (subtle or overt) in the workplace and, if they had, the type experienced. About 40.2% (1,435) of respondents selected more than one item on the checklist for this question, and there were 2,798 selections overall. Almost four of ten (38.5%, 1,076) of the selections were for perceiving or experiencing subtle but unintentional biases. More than one in five selections (21.7%, 607) were for experiencing subtle and intentional biases.

In addition, 16.0% of the selections (448) indicated experiencing discrimination, 334 of the selections (11.9%) were for harassment, and 333 of the selections (11.9%) were for bullying. The most commonly selected form of bias was “subtle but unintentional bias,” for example, for people with health conditions and impairments (33.1%, 286), identifying with disabilities (29.9%, 106), identifying as LGB (47.1%, 268) and other gender identities (36.0%, 9), and for minorities (38.0%, 245) and women (38.2%, 735).

There appear to be differences among groups in the reporting of discrimination and bias in the workplace, and these differences require further analysis. For example, people with a health condition or impairment, and who identify as a person with a disability, reported experiencing proportionately more overt forms of discrimination, such as bullying and harassment, as compared to people who do not have such conditions. Prior research shows that people with different disabilities perceive and report variations in the experience of discrimination.⁹¹ By comparison, almost half (47.1%, 268) of the people identifying as LGB, and about one-third (36.0%, 9) of the people identifying with other gender identities such as transgender, agender, or genderfluid, reported subtle but unintentional biases. LGB respondents reported experiencing relatively less intentional bias, discrimination, and harassment as compared to other groups.

Women reported harassment and unintentional bias at slightly higher rates than men. Minorities reported somewhat higher levels of discrimination than did White respondents. Early-career lawyers reported subtle but unintentional bias more frequently than did mid-career and late-career lawyers. (*Tables 4.1, 4.2, 4.3, 4.4, 4.5 in Appendix A.*)

Of 153 LGB people reporting a health condition, impairment, or disability, more than half (60.1%, 92) reported experiencing at least one incident of discrimination. Of 67 women who identified as LGB with a health condition, slightly more than half (52.2%, 35) reported that they had experienced discrimination in their workplaces. For the smaller sample of respondents identifying as transgender and who had a health condition or impairment, five of nine (55.6%) reported they had experienced discrimination.

⁹⁰ See, e.g., Peuquet et al., *supra* note 88, at 242 (“31% of respondents reported encountering comments over the prior twelve months that made them feel uncomfortable.”).

⁹¹ Kristin M. Graham et al., *Patterns of Workplace Discrimination Across Broad Categories of Disability*, 64 REHAB. PSYCHOL. 194 (2019).

E.

Bias and Discrimination Mitigators

Respondents reported a range of bias and discrimination mitigators (e.g., individual and organizational efforts and strategies), such as mentoring and sponsoring within or outside of the organization, and membership in law and non-law networks or affinity groups.⁹² A total of 2,356 people answered the question “In your organization, have you seen or experienced strategies or practices that have been especially effective in lessening either overt or subtle forms of bias?”

A bit fewer than half of these respondents (46%) reported that they had perceived or experienced strategies and practices that had been effective in lessening bias and discrimination in their workplaces. Many respondents identified mentoring within (20.5% of responses, 1,490) and outside (18.4% of responses, 1,335) their organizations as among effective bias and discrimination mitigation strategies. (*Table 5.1 in Appendix A.*)

F.

Compensation

Extensive prior research has looked into compensation in the legal profession.⁹³ We focus discussion here on compensation as reported by people with disabilities and those identifying as LGBTQ+.⁹⁴

First, for all respondents, more than half reported income ranges between \$100,000 and \$400,000 (56.5%, 1,674). Not surprisingly, respondents in public interest venues, such as non-profit organizations, reported salary ranges lower than those in private practice settings. (*Tables 6.1, 6.2, 6.3, 6.4 in Appendix A.*)

In general, groups of respondents reporting relatively lower salary ranges included those with health conditions or impairments or who identified as a person with a disability, women (relative to men), people who reported other gender identities, minorities, and (as would be expected) earlier-career lawyers.

Slightly fewer than half (48%) of respondents identifying as LGB and as having a health condition, impairment or disability reported their income ranges as between \$100,000 and \$400,000. Almost half of lesbian and bisexual women (45%, 30), and about two-thirds of LGB non-White respondents (62.1%, 18) with a health condition, reported their annual income as between \$50,000 and \$100,000.

⁹² See Destiny Peery, *Report of the 2018 NAWL Survey on Retention and Promotion of Women in Law Firms*, 5-6 MANAGING PARTNER F. (Mar. 1, 2019), <http://www.managingpartnerforum.org/tasks/sites/mpf/assets/image/MPF%20FEATURED%20WHITE%20PAPER%20-%20202018%20NAWL%20Survey%20-%20PEERY%20-%20203-1-19.pdf>.

⁹³ See, e.g., Stone, *supra* note 28, at 15-16 (discussing compensation as a form of the law firm power dynamic).

⁹⁴ Cf. Ghazala Azmat & Rosa Ferrer, *Gender Gaps in Performance: Evidence from Young Lawyers*, 125 J. POL. ECON. 1306 (2017) (discussing performance measures in law firms, finding “male lawyers bill 10% more hours and bring in more than twice as much new client revenue as female lawyers. The differential impact across genders in the presence of young children and differences in aspirations to become a law firm partner account for a large share of the difference in performance. We show that accounting for performance has important consequences for gender gaps in lawyers’ earnings and subsequent promotion.”).

Certainly, reported differences in compensation are due to a variety of factors.⁹⁵ Some variations are likely independent of professional competence and skill, and are instead related to the type and substantive area, and venue, of legal practice. But they are also likely related to individual and organizational factors, such as a lack of effective accommodation for a lawyer with a disability. Other differences may be external to the individual, such as attitudinal bias or structural discrimination, as reflected, for instance, in the lack of networking opportunities for lawyers with disabilities or for those with other minority identities.⁹⁶

VII.

DISCUSSION

A.

TRENDS

The present findings are descriptive and preliminary, but they begin to unpack the complex nature of individual difference and D&I in the legal profession. Several trends observed in our study comport with those recognized in prior studies. For example, respondents overall reported relatively high rates of mental health conditions such as anxiety and depression. This may be a function of self-selection, the characteristics of the legal profession, consequences of negative stereotyping, or, likely, all of these factors.⁹⁷

The high rate of reported mental health conditions in the study appeared to be especially pronounced for women, people identifying as LGBTQ+, racial and ethnic minorities, and early-career lawyers.⁹⁸ Even with prior recognition that there are high levels of mental health and

⁹⁵ See Bilotta et al., *supra* note 31, at 605. According to the authors, “The percentage of women equity partners has increased, albeit on a very small scale, in the last 10 or so years, moving from 15–16% in 2007 to 19% in 2017. According to the NAWL 2017 Survey, women constitute ‘30% of nonequity partners, 46% of associates, 42% of nonpartner track attorneys...and 39% of “other” attorneys’. ... women are more likely to be found in lower-status or non-partner-track positions in the law firm and are less likely to be represented in the higher-status position of equity partner. In 2016, the Bureau of Labor Statistics reported that female lawyers’ weekly salary equated to 77.6% of that of their male counterparts (citing American Bar Association, *A Current Glance at Women in the Law* (Jan. 2018)).” The authors also cited and summarized studies: “When you look at race in combination with gender, women of color (including Black, Asian, and Latina women) constitute just 12% of women equity partners and approximately 2% of all equity partners. And 53% of minority female lawyers report having equal opportunities for high-quality assignments compared with 80% of White male lawyers. Primary reasons for the underrepresentation of women and minorities at the top level and their overrepresentation in lower-status positions include ‘organizational cultures that do not support diversity, unconscious and concealed biases, extended hours and resistance to flexible work schedules, and lack of access to mentors, sponsors, choice assignments, and business networks.’ Although the hiring rates of Black attorneys as junior associates, for example, have increased, these Black associates ultimately show a much higher attrition rate than their White counterparts owing to poor job satisfaction, lower-quality work assignments, and lack of opportunity for promotion to equity partner. Ultimately, women account for fewer than 20% of equity partners, people of color fewer than 6%, LGBTQ individuals fewer than 2%, and persons with a disability fewer than 1%. Although firms continue to diversify their personnel in lower-status positions, inclusion at the top level remains abysmally low. Subtle bias provides part of the explanation for the lack of representation of people from diverse backgrounds in the legal profession.” *Id.* at 612-13.

⁹⁶ Azmat & Ferrer, *supra* note 94.

⁹⁷ For a review, see Monahan & Swanson, *supra* note 21, at 5 (2019). See also Steven Peuquet et al., *supra* note 88 (mental health conditions among highest proportion of conditions to hinder ability to practice law); Jonathan Koltai et al., *The Status–Health Paradox: Organizational Context, Stress Exposure, and Well-being in the Legal Profession*, 59 J. HEALTH & SOC. BEHAV. 20 (2018) (higher-status lawyers have mental health disadvantages relative to peers in public sector and are no better off in terms of health).

⁹⁸ Cf. Philip Bialer & Christopher A. McIntosh, *Discrimination and LGBT Mental Health*, 21 J. GAY & LESBIAN MENTAL HEALTH 275 (2017) (reviewing studies).

associated issues facing lawyers, there is relatively little empirical research on these issues.⁹⁹ One recent national study of more than 12,000 lawyers found high levels of depression among men, anxiety and stress among women, and alcohol use among men.¹⁰⁰

In accord with prior studies, many respondents who requested workplace accommodations from their organizations reported health conditions, impairments, and disabilities, yet many others did not report such conditions. On a positive note, respondents reported high levels of accommodation requests being fulfilled. Many such accommodations involved a change in work tasks, job structure, and scheduling.

Also consistent with prior reports, we found relatively high numbers of respondents declaring they had experienced both subtle and overt forms of discrimination at their workplaces. Among the forms commonly reported was "subtle but unintentional bias," and this appeared for those with disabilities and those identifying as LGBTQ+. As evidenced in prior studies, subtle forms of bias can be as destructive as explicit harassment, bullying, and discrimination. This is often because of the difficulties in addressing these issues directly and in reporting them. In future analyses, we will examine the degree to which respondents with certain health conditions, impairments, or disabilities, such as those with mental health conditions, report relatively higher levels of discrimination than do people without such disabilities. It also will be important to consider the intersectional nature of such trends.

As of this writing, the world is in the throes of the COVID-19 pandemic, with many tragic consequences that will long affect our planet and its peoples. But it is also impacting daily lives in other transformative ways. Many people are experiencing mass sheltering-in-place, and many of them are teleworking from home. It seems likely that one aftereffect of the pandemic, among others, may be a new appreciation and use of flexible and remote workplace arrangements. The changes in attitudes and practices may not only affect future conceptions of work and the workplace but may also accrue to the benefit of those talented individuals with disabilities, and others, who have been excluded from work because of the lack of such accommodations.

This study's initial findings about one part of today's professional community merely skim the surface of the complex and intertwined factors associated with attitudinal and structural bias experienced by persons with disabilities and LGBTQ+ individuals, and other minority groups and people of multiple identities, across the professions. There are myriad strategies, trainings, and toolkits to assess and "interrupt" bias in the profession. But forms of subtle (implicit) and overt discrimination and bias likely change over time, along with social norms and other factors. As a further complication, the intersectional nature of human experience makes assessment and

⁹⁹ See Patrick Krill et al., *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys*, 10 J. ADDICTION MED. 46, 47, 51-52 (2016) (survey of 12,825 legal professionals finding substantial rates of behavioral health problems such as depression, anxiety, stress, and substance abuse).

¹⁰⁰ *Id.* at 49. The authors report, "[l]evels of depression, anxiety, and stress among attorneys reported here are significant, with 28%, 19%, and 23% experiencing mild or higher levels of depression, anxiety, and stress, respectively. In terms of career prevalence, 61% reported concerns with anxiety at some point in their career and 46% reported concerns with depression. ... our study reveals significantly higher levels of depression, anxiety, and stress among those screening positive for problematic alcohol use." Further, "[a]ttorneys working in private firms experience some of the highest levels of problematic alcohol use compared with other work environments, which may underscore a relationship between professional culture and drinking." *Id.* at 51.

mitigation of bias in the workplace difficult to stamp out.¹⁰¹ Both overt and subtle bias and discrimination are linked to multifaceted attitudinal and structural forces inside and outside of the workplace.¹⁰²

B.

Implications

This article presents findings regarding what we have termed “D&I+” in the legal profession, with a focus on the experiences of lawyers who identify as having disabilities and as LGBTQ+, along with other multiple identities. We have approached D&I+ in the legal profession broadly, as involving interrelated dimensions tied to the quality of work and to life experiences.¹⁰³ Prior research suggests that earlier conceptions of D&I may add value on an array of individual, group, organizational, and external dimensions. These include enhanced engagement, work team quality, firm economics, and client attraction and retention.¹⁰⁴ Yet, as we discuss below, documentation of the longer-term benefits associated with traditional D&I efforts remains elusive.

Based on prior studies and the results of this study, we propose an expansion of the traditional D&I concept: a “D&I +” (i.e., with accommodation) approach. We predict it will add yet more value to organizations by further enhancing acceptance and maximization of talent, and in measurable ways. D&I+ is based, in part, on the value added from individual adjustments to work (whether at the workplace or remote from it) designed to maximize a worker’s talent and contribution to the firm endeavor. An organizational culture that embraces D&I+, we believe, will enable diverse and talented people to participate and contribute (individually and in workgroups), and to believe that they truly belong to an organization’s mission, all as measured against more traditional approaches. D&I+ thus promotes and embraces an organization’s

¹⁰¹ See, e.g., Robyn Lewis Brown & Mairead Eastin Moloney, *Intersectionality, Work, and Well-being: The Effects of Gender and Disability*, 33 GENDER & SOC’Y 1 (2019) (stating “women with disabilities on average are more psychologically affected by inequitable workplace conditions, partly because they earn less, are exposed to more workplace stress, and are less likely to experience autonomous working conditions”); see also Ethan H. Mereish, *The Intersectional Invisibility of Race and Disability Status: An Exploratory Study of Health and Discrimination Facing Asian Americans with Disabilities*, 5 ETHNICITY & INEQ. IN HEALTH & SOC. CARE 52 (2012) (“Asian American and Pacific Islanders with learning, emotional, or physical disabilities report more experiences of everyday discrimination, greater psychological and physical distress, and poorer physical and mental health ratings, than AAPIs without reported disability.”).

¹⁰² Cf. Nelson et al., *supra* note 2, at 1052 (summarizing studies showing that, although in recent years women and persons of color increasingly have gained entry-level positions in large law firms, they are underrepresented in partnership positions, and female attorneys earn significantly less than male counterparts, regardless of productivity); see also Michelle Maroto, David Pettinicchio, & Andrew C. Patterson, *Hierarchies of Categorical Disadvantage: Economic Insecurity at the Intersection of Disability, Gender, and Race*, 33 GENDER & SOC’Y 64 (2019); Milan Markovic & Gabriele Plickert, *The Paradox of Minority Attorney Satisfaction*, 60 INT’L REV. L. & ECON. (2019); Pamela Newkirk, *Why Diversity Initiatives Fail*, THE CHRON. REV. (Nov. 6, 2019), <https://www.chronicle.com/interactives/20191106-Newkirk>.

¹⁰³ Laura Sherbin & Ripa Rashid, *Diversity Doesn’t Stick Without Inclusion*, HARV. BUS. REV., Feb. 1, 2017, https://hbr.org/2017/02/diversity-doesnt-stick-without-inclusion?referral=00563&cm_mmc=email-newsletter-daily_alert-alert_date&utm_source=newsletter_daily_alert&utm_medium=email&utm_campaign=alert_date&spMailingID=16466199&spUserID=MTk2NDkwMjE1NwS2&.

¹⁰⁴ See Schartz et al., *supra* note 27, at 346-51; Schur et al., *Accommodating Employees*, *supra* note 20, at 5.

mission to the maximum extent possible, whether embedded in law firms, their client organizations, or other labor market sectors.¹⁰⁵

This initial phase of our project is among the first to propose and examine the underlying nature of D&I+ in the legal profession, both for people in general and for those who identify as having disabilities, as LGBTQ+, and as intersectional. As could be expected, our results are preliminary, and we raise more questions than we answer. But these questions have value. They make it clear that there is a critical need for longitudinal follow-up surveys and use of other mixed-methods. We hope they also will encourage replication, clarification, and extension of our findings by interested others.

Issues that remain for consideration by us and others include improving understanding of the meaning of D&I, let alone D&I+, for people with disabilities and identifying as LGBTQ+, across professions and workplaces in the United States and comparatively.¹⁰⁶ The levels of reported mental health conditions we find, in particular, suggest that generalized accommodation and work-family-life programs may benefit not only people in our areas of focus, but also a wide swath of the profession. Indeed, many law firms have announced mental health initiatives as a topic of central importance to their professionals and to the culture of the firm. Such initiatives

¹⁰⁵ See, e.g., *Novartis Launches New Preferred Firm Program for Legal Services*, NOVARTIS.COM (Feb. 12, 2020), <https://www.novartis.com/news/novartis-preferred-firm-program-legal-services-launched> (announcing its “Preferred Firm Panel of Global and U.S. law firms”). The announcement noted, “As part of the new program, Novartis preferred firms will make specific diverse staffing commitments for each engagement.” It further noted, “Novartis is reimagining how it collaborates with law firms and legal services providers alike with the bold ambition to redefine shared value in its collaborations while at the same time driving more diversity and inclusion in the legal profession. . . . Novartis preferred firms will make specific diverse staffing commitments for each engagement (and in any event commit that not less than 30% of billable associate time and 20% of partner time will be provided by females, racially/ethnically diverse professionals, or members of the LGBTQ+ community, with an expectation that such commitments will move to parity over the next several years). If a firm does not meet its agreed-upon diverse staffing commitment for a particular matter, Novartis will withhold 15% of the total amount billed over the life of that specific matter. In addition, . . . [Novartis will also] design fee models that replace time-based billing with financial remuneration tied to the value that the Novartis legal team jointly creates with its law firms.” For other such efforts, see, e.g., *Five US Law Firms Commit to Spending \$5m on Collaborative Diversity Lab*, THE GLOB. LEGAL POST (Feb. 5, 2020), [http://www.globallegalpost.com/big-stories/five-us-law-firms-commit-to-spending-\\$5m-on-collaborative-diversity-lab-85615214](http://www.globallegalpost.com/big-stories/five-us-law-firms-commit-to-spending-$5m-on-collaborative-diversity-lab-85615214) (discussing five US law firms committing \$5 million to improve D&I in the legal profession over a five-year period, organized by the Move the Needle Fund (“MTN”)). For information on MTN, see *Greater Diversity & Inclusion Through Experimentation, Collaboration, Accountability, Transparency & Metrics*, MTNFUND2025.COM, <https://www.mtnfund2025.com> (last visited Mar. 13, 2020) (“Greater Diversity & Inclusion Through Experimentation, Collaboration, Accountability, Transparency & Metrics. The Move the Needle Fund (“MTN”) is the first collaborative effort designed and funded with \$5M to test innovative initiatives to create a more diverse and inclusive legal profession.”); conducted in collaboration with Diversity Lab, *Boosting Diversity through Innovation, Data & Behavioral Science*, DIVERSITYLAB.COM, <https://www.diversitylab.com/> (last visited Mar. 14, 2020); *Black General Counsel 2025 Initiative*, BLACKGC2025.COM, <https://www.blackgc2025.com/> (last visited Mar. 14, 2020) (discussing project to increase number of black general counsel at Fortune 1000 companies).

¹⁰⁶ Cf. Lea S. Gutierrez, *Missing: Where is the Public Sector in Discussions about Diversity in the Legal Profession?*, in *IILP Review 2019-2020*, *supra* note 3, at 78 (discussing limits of D&I programs in the legal profession as particularly limited by organization culture). See generally PETER BLANCK, *DISABILITY LAW AND POLICY* (2020) (prominent example of accommodation principle is the ADA’s command that employers make “reasonable accommodations” for qualified applicants and employees; discrimination includes not making reasonable accommodations of the physical or mental limitations of a qualified individual with a disability who is an applicant or employee in absence of “undue hardship” on the business.).

are essentially a form of individualized accommodation of professional talent.¹⁰⁷ Studies suggest that such accommodations of qualified people do not necessarily come at high expense or at the expense of other employees, and that often the benefits outweigh the costs.¹⁰⁸

Our study suggests that among the most requested types of accommodations are changes in work tasks, job structures, and schedules. If, as referenced earlier, today's pandemic responses to "workplace accommodation" become standard best practices in the future, the present findings suggest that such changes will benefit many, including people working in the private and public sectors and people who are self-employed or working in smaller businesses.

Significantly, the present findings suggest that many lawyers requesting accommodations neither identify as disabled nor report a health condition or impairment. It is therefore likely that the D&I+ accommodation principle proposed here may have a broader and longer-term impact in the traditional area of D&I than it might appear at first.¹⁰⁹ Because the accommodation principle remains a subject of debate, future research and practice considering D&I+ in the legal and other professions could look at its use both for persons with disabilities and for others.

Given the planned longitudinal nature of this investigation, we suggest that D&I+ should be viewed in a broader context than law practice, and with a long-term lens. Robert Grey, a leader in D&I efforts in the legal profession and former President of the ABA, has commented that D&I

¹⁰⁷ See, e.g., *Year of Mental Health Begins with Powerful Message of Support*, WINSTON & STRAWN LLP (Jan. 18, 2019), <https://www.winston.com/en/careers-winston/year-of-mental-health-begins-with-powerful-message-of-support.html> (law firm kick-off of "Year of Mental Health," theme for Winston Wellness initiatives in 2019). The announcement notes, "Winston's goals for Year of Mental Health are to cultivate a culture of caring at the firm and provide its members with strategies to enhance their own mental health and that of their loved ones and colleagues." *Id.*; see also *ABA Launches Pledge Campaign to Improve Mental Health and Well-Being of Lawyers*, AM. BAR. ASS'N (Sept. 10, 2018), <https://www.americanbar.org/news/abanews/aba-news-archives/2018/09/aba-launches-pledge-campaign-to-improve-mental-health-and-well-b/>. The ABA announcement notes, citing Krill et al., *supra* note 99, "The campaign, organized by the ABA Working Group to Advance Well-Being in the Legal Profession, is designed to address the profession's troubling rates of alcohol and other substance-use disorders, as well as mental health issues. Recent studies have documented that lawyers struggle with these problems at levels substantially above both the general population and other highly educated professionals." There are other examples of such initiatives, including the world's largest law firm rolling out a pilot program for on-demand behavioral health benefits and other emotional health supports to help partners and employees manage and maintain behavioral health, as well as a pilot program offering Headspace in the Workplace, a meditation program to enhance mental health and wellness. See *Dentons Pilots Ginger Behavioral Health Program*, DENTONS.COM (May 8, 2019), <https://www.dentons.com/en/whats-different-about-dentons/connecting-you-to-talented-lawyers-around-the-globe/news/2019/may/dentons-pilots-ginger-behavioral-health-program>.

¹⁰⁸ See, e.g., Stein et al., *Accommodating Every Body*, *supra* note 20, at 689 ("accommodations should be predicated on need or effectiveness instead of group-identity status."); Schur et al., *Accommodating Employees*, *supra* note 20, at 2 (report on accommodations requested and granted in case studies of eight companies, based on more than 5,000 employee and manager surveys, as well as interviews and focus groups with 128 managers and employees with disabilities, finding people with disabilities more likely than those without disabilities to request accommodations, but that the types of accommodations requested and reported costs and benefits were similar for disability and non-disability accommodations; fears of high accommodation costs and negative reactions of coworkers were not realized; all groups reported generally positive coworker reactions, and granting accommodations had positive spillover effects on attitudes of coworkers and of requesting employees); see also Schartz et al., *supra* note 27, at 345 (accommodations studied were low cost, beneficial, and effective).

¹⁰⁹ But see BLANCK, *DISABILITY LAW AND POLICY*, *supra* note 106, at 37-43 (accommodation principle applied in context of religion in earlier legal cases). Cf. Michael Ashley Stein, *Same Struggle, Different Difference: ADA Accommodations as Antidiscrimination*, 153 U. PA. L. REV. 579, 580 (2004); Stein et al., *Accommodating Every Body*, *supra* note 20, at 693-94.

is “not a law firm problem. It [is] not a client problem. It [is] everyone’s problem, and everyone [has] to work together to address the challenge. ... [Moreover] this [is] a long-term commitment.”¹¹⁰ But at this stage, there is still a relative dearth of close study about D&I efficacy in the legal profession,¹¹¹ let alone of lawyers identifying as having disabilities or as LGBTQ+.

Likewise, study is needed of the long-term career experiences of legal professionals who identify with multiple marginalized and/or minority identities, such as Black women with disabilities in the lesbian community, or Hispanic men with mental health conditions who are gay.¹¹² As one example of an area of need, others have reported that, although Hispanics and Latinx are growing minority groups in the United States, their representation and status, and knowledge of their experiences in the legal profession, is limited.¹¹³ The Hispanic National Bar Association suggests the existence of a “multi-layered glass ceiling” that negatively affects the advancement, retention, and careers of Hispanic attorneys at the intersection of race, ethnicity, and gender. Disability and LGBTQ+ identification may be added to this list.¹¹⁴

Researchers find similar trends for Black women and men;¹¹⁵ they are likely also true for other minority groups such as Asian Americans, Hispanics and Latinx, and Native Americans.¹¹⁶

¹¹⁰ Robert J. Grey, Jr., *The Leadership Council on Legal Diversity: Realizing the Vision*, 52 IND. L.J. 95, 101 (2019). Grey notes, “Leaders of LCLD are not naive about what it will take to move the needle on diversity and inclusion. The statistics on women, minority, LGBT, and disabled attorneys are stubborn, sometimes even regressing a little year to year. But much is happening behind the numbers. Individuals from diverse backgrounds are indeed rising to positions of leadership, Many of those who are seeing their careers move upward credit LCLD with helping them navigate the systems, traditions, and habits of mind that have historically worked against the advancement of diverse attorneys. On an individual basis, as well as generally, there are success stories that give me tremendous optimism for the future.”

¹¹¹ See, e.g., Ozeren, *supra* note 28, at 1209 (limited number of studies place focus on effects of LGBTQ+ non-discrimination policies on business or financial outcomes, such as stock performance).

¹¹² See, e.g., Babineau & Goitia, *supra* note 80, at 191-98. For discussions of intersectionality and D&I in the legal profession, see, e.g., Jill Lynch Cruz, *Latina Lawyers—Still Too Few and Far Between: The Hispanic National Bar Association Latina Commission’s Efforts to Chart a More Open Path*, in *IILP Review 2017*, *supra* note 76, at 219; Keith Earley, *A Qualitative Study of the Lived Experiences of Black Women Equity Partners in Elite Law Firms*, in *id.* at 226; Jay Mitchell, *Barring Black Men: Character and Fitness and the Underrepresentation of Black Men in the Legal Profession*, in *id.* at 237; Tiffany Harper & Chasity Boyce, *Expanding the Pie: A New Approach to Big Law’s Never-Ending Diversity Problem*, in *id.* at 246; Mona Mehta Stone, *South Asian American Women Lawyers: Supporting Each Other*, in *id.* at 250; see also Jenny K. Rodriguez et al., *The Theory and Praxis of Intersectionality in Work and Organizations: Where Do We Go from Here?* 23 GENDER, WORK & ORG. 201 (2016); Angel Love Miles, “Strong Black Women”: African American Women with Disabilities, Intersecting Identities, and Inequality, 33 GENDER & SOC’Y 41 (2019); Moya Bailey, *Work In The Intersections: A Black Feminist Disability Framework*, 33 GENDER & SOC’Y 19 (2019); Brown & Moloney, *supra* note 101, at 19 (“intersectional analysis demonstrates that the employment experiences of working women with disabilities are shaped by dual disadvantages associated with disability and gender, and that these disadvantages impact psychological well-being.”).

¹¹³ See, e.g., Cruz, *supra* note 112, at 219 (citing in support studies of the Hispanic National Bar Association). As used in studies by Cruz and associates, “‘Latina’ refers to women who self-identify as being of Latin American descent, including but not limited to women from Mexico, Central America, South America, Puerto Rico, Cuba, and the Dominican Republic.” *Id.*

¹¹⁴ *Id.* (citing Jill Cruz & Melinda Molina, *FEW AND FAR BETWEEN: THE REALITY OF LATINA LAWYERS* (2009), <http://hnba.com/wp-content/uploads/2015/02/Latina-Commission-Publication.pdf>; Jill Cruz et al., *LA VOZ DE LA ABOGADA LATINA: CHALLENGES AND REWARDS IN SERVING THE PUBLIC INTEREST* (2010), <http://hnba.com/wp-content/uploads/2015/02/La-Voz.pdf> (last visited Mar. 13, 2020)).

¹¹⁵ See, e.g., Mitchell, *supra* note 112, at 237.

¹¹⁶ See, e.g., Lawrence R. Baca, *Today You Are My Brother; But Tomorrow, Maybe Not (The Scourge of Tribal Disenrollment)*, in *IILP Review 2019-2020*, *supra* note 3, at 135; Rockwell (“Rocky”) Chin et al., *Asian*

Although the experiences of Black women and men as legal professionals have been examined, empirical information is lacking as to the experiences of those people who also identify as disabled or LGBTQ+. ¹¹⁷ Researchers suggest that by “disaggregating lawyers of color,” that is, using an intersectional perspective, a more complete view can be attained. That view can help advance issues of D&I+ across the profession. ¹¹⁸

Despite our efforts to oversample lawyers with multiple minority identities, we obtained a small number of such respondents. There are few, if any, large-scale empirical studies available against which to compare the present findings. Nonetheless, we will closely examine these reports, for instance, as to differences in discrimination and bias, accommodation, salary, and other areas. We expect that such analysis will highlight how individual, social, and political identities together shape workplace experience. ¹¹⁹

In a similar vein, Lisa Nishii and colleagues have approached research on D&I in organizations using such a “multi-level process model.” ¹²⁰ Their review considers the efficacy of D&I policies and practices, such as mentoring, targeted recruiting, training, and work-life integration. However, Nishii and colleagues have found the results disappointing because, for most studies, “the results were mixed or inconclusive and occasionally even negative.” ¹²¹ They have concluded: “If, as these findings suggest, organizations cannot rely on specific diversity related activities to consistently produce favorable results, the logical question to ask is: ‘Why?’ ... [Because] the overall theme that emerges relates to the absence of a holistic view of the situation.” ¹²²

Nishii and colleagues suggest that D&I programs are not effective because often they do not have specific and desired objectives, and they are frequently implemented without full appreciation for, or in isolation from, the intersectional human experience. ¹²³ This observation naturally leads to the need to examine integrated programs and organizational efforts that transcend current D&I approaches. ¹²⁴ New approaches to workplace accommodation, examined in light of emerging technologies and the COVID-19 pandemic, undoubtedly will re-conceptualize D&I+ as only one element of a comprehensive notion of work-life-health considerations in the legal profession and the new “gig-economy.” ¹²⁵ These future approaches

Pacific Americans and Affirmative Action: Challenges in the Struggle to Achieve Equal Opportunity for All, in *id.* at 148; Jill Lynch Cruz, *Latinas in the Legal Profession: Navigating the Cultural Divide*, in *id.* at 213.

¹¹⁷ See, e.g., Earley, *supra* note 112, at 226 (citing studies in support).

¹¹⁸ *Id.*

¹¹⁹ See, e.g., Justine E. Egner, “The Disability Rights Community Was Never Mine”: *Neuroqueer Disidentification*, in 33 GENDER & SOC’Y 123 (2019); Tuuli Lähdesmäki et al., *Fluidity and Flexibility of “Belonging”*: *Uses of the Concept in Contemporary Research*, 59 ACTA SOCIOLOGICA 233, 240 (2016).

¹²⁰ Lisa Nishii et al., *A Multi-Level Process Model for Understanding Diversity Practice Effectiveness*, 12 ACAD. MGMT. ANNALS 37 (Aug. 21, 2018), <https://doi.org/10.5465/annals.2016.0044>.

¹²¹ *Id.* at 37.

¹²² *Id.*

¹²³ *Id.* (emphasis added). Cf. Nelson et al., *supra* note 2, at 1054 (traditionally marginalized groups more likely to perceive discrimination in workplace and as objective experience) (citing Quillian et al., *supra* note 52).

¹²⁴ See Bilotta et al., *supra* note 31, at 240 (stating “as a means to foster diversity, [law] firms might adopt an integration and learning approach, using bias-awareness policies and initiatives to create inclusive communities that are conscious of the systems that perpetuate implicit bias and work to combat disproportionate representation.”) (citation omitted).

¹²⁵ See, e.g., Shonagh Rae, *From Inclusion to Support: How to Build a Better Workplace*, N.Y. TIMES (June 17, 2019), <https://www.nytimes.com/2019/06/17/business/recommendations-diverse-workplace-new->

likely will transcend traditional D&I “benchmarking” and “rankings,” and increasingly consider more individualized and fluid conceptions of legal practice.

C. *Strengths and Limitations of this First Study*

One strength of the present study is that it is among the first larger-scale attempts to understand the professional lives of lawyers with diverse backgrounds across different life periods who identify with disabilities or as LGBTQ+. However, given the exploratory nature of this phase, as well as the recruitment of our respondents largely via national and local organization email listings, it is not possible to make definitive statements about the representativeness of the survey sample or, as yet, to calculate accurate response rates.¹²⁶

It also is apparent that our study reflects a volunteer response bias, particularly because we purposefully oversampled legal professionals with disabilities and who identified as LGBTQ+. However, once respondents chose to open the survey link, they generally completed the survey, which appears to have been as true for people identifying as having disabilities or LGBTQ+ as for others who did not identify in those ways.

Aggregate data for lawyers identifying as disabled or LGBTQ+, and comparable national labor statistics, by and large are not readily available. Additional information is needed regarding the proportion and experiences of lawyers with disabilities and who identify as LGBTQ+. This lack of data well may contribute to slow advancement of D&I efforts involving these groups, as well as in the broader D&I+ endeavor.¹²⁷

Because this survey relied on self-reported information, there was no way to verify the nature of the individual experiences recounted, such as accommodation (or lack thereof), compensation, bias, and discrimination.¹²⁸ Future research is needed to consider associations (not causal relations), for instance, among professional experiences and outcomes over time using self- and other-reported information. The complexity and heterogeneity of individual experience within the disability and LGBTQ+ communities also require further study. We recognize that the use of overly broad terms such as “disability” and “LGBTQ+” do not adequately acknowledge unique individual identities across and within the spectrums of disability and LGBTQ+.¹²⁹

rules.html?smid=nytcare-ios-share (prioritizing organizational and leadership diversity and inclusion, transparency and accountability); see also Paul Harpur & Peter Blanck, *Workers with Disabilities in the Gig Economy: Universal Design Implications*, J. OCCUPATIONAL REHAB. (forthcoming 2020).

¹²⁶ Cf. Krill et al., *supra* note 99, at 51-52. A scan of the respondents by state shows disparities by state and region of the country as compared to national findings. These disparities will be examined in subsequent analyses. See also *After the JD* (2014), *supra* note 2, at 96-97 (unweighted and weighted percentage distribution of lawyers across the U.S. states). *After the JD* presented initial survey data in unweighted form, with subsequent survey wave results (Phase 2 and 3) over time expected to vary as “differential selection probabilities and nonresponse are taken into account in weights.” *Id.* at 90. A similar approach is to be adopted in our planned longitudinal study.

¹²⁷ Frank Dobbin & Alexandra Kalev, *Why Doesn't Diversity Training Work? The Challenge for Industry and Academia*, 10 ANTHROPOLOGY NOW 48, 52 (2018) (“In isolation, diversity training does not appear to be effective.”).

¹²⁸ Accord Nelson et al., *supra* note 2.

¹²⁹ See, e.g., Ozeren, *supra* note 28. As Ozeren explains, “transgender is a gender identity that differs from sexual orientation. Individuals who identify as transgender are more vulnerable to open homophobic attacks and are at greater risk of violent discrimination than gays or lesbians. ... bisexual or transgender employees’ work-related difficulties have received less attention. These individuals have been underrepresented in the mainstream diversity management literature, in comparison with gay or lesbian colleagues, with the exception of a few studies ... In

Despite the limitations mentioned (and surely others), we are reasonably confident that this sample is representative concerning demographic dimensions for which there are prior and extensive national data available. For example, the trends shown in our sample generally comport with findings of the NALP and the American Bar Foundation's *After the JD* longitudinal study.¹³⁰ Similarly, our findings generally are in accord with those of the U.S. Department of Labor, *Labor Force Statistics from the Current Population Survey* (for lawyers).¹³¹

VII.

CONCLUSION AND NEXT EFFORTS

This project would not have been possible without the support and engagement of diverse and committed people who gave of their time to convey their unique perspectives and experiences. Their contributions have helped to improve our understanding of what we have called “D&I+” as applied to people across the spectrum of disabilities and who identify as LGBTQ+. Yet, a more complete understanding is needed to advance knowledge and awareness about the intersectional experiences of all people with differing and multiple identities;¹³² this study has been one start.

A cumulative and diverse body of information, derived from multi-method and transdisciplinary efforts, and considering collective and individual voices and life course experiences, is needed. One primary benefit to such a diverse and inclusive approach is that assembling information from a multitude of perspectives is likely to reveal unfounded assumptions.¹³³

addition, multiple memberships and related multiple prejudices may exist in a number of cases An individual's sexual orientation must not be considered in a vacuum. Rather, an individual's sexual orientation, in all likelihood, can be linked to that individual's ethnic, religious, and other forms of identity.” *Id.* at 1211.

¹³⁰ *Cf. After the JD* (2014), *supra* note 2, at 20. For example, about half the lawyers surveyed are women, and four-fifths are White; lawyers of Asian descent (AJD3 6.3%, present study 4.2%); Black lawyers (AJD3 4.4%, present study 5.1%); Hispanic lawyers (AJD3 3.2%, present study 4.4%); Native American attorneys (AJD3 0.5%, present study 0.8%); lawyers who reported multiracial mixed or other ancestries (AJD3 2.8%, present study 2.6%, [present sample: 2.3% multiracial and 0.2% Native Hawaiian or Pacific Islander]. *Id.* For age category in the present study: Early Career (18-35) 22.3%, Mid-Career (36-55) 40.2%, Late Career (56-66+) 37.5%; in AJD, samples weighted differently, for example, ADJ1 18-35 (79.1%), ADJ2 18-35 (45%), and ASJ3 18-35 (0.2%), such that AJD2 & 3 longitudinal analyses tend to have older samples. *Id.* at 28-29. For firm size in the present study: solo (11.6%); 2-24 lawyers (34.8%); 25-99 lawyers (16%); 100-499 (17%); 500+ (20.6%); e.g., in ADJ three samples (solo: 5.4, 9.6, 10%) (2-20 lawyers: 25.1, 18.3, 18%) (250+ lawyers: 18.2, 11.1, 8.3%). The distribution among size of private firm sample composition is more evenly spread in the present study as compared to the AJD three waves. *Id.* at 45 (income levels by firm size); *see also id.* at 90 (finding that the AJD sample corresponded to racial and gender composition of like national samples based on U.S. Census data).

¹³¹ *See, e.g., Labor Force Statistics from the Current Population Survey*, U.S. BUREAU OF LAB. STAT. (2018), <https://www.bls.gov/cps/cpsaat11.htm> (last updated Jan. 22, 2020). National statistics for lawyers: Legal occupations overall—Lawyers: women 51.6%, white 85.7%, Black or African American 5.5%, Asian 4.9%, Hispanic or Latino 6.1%; Judges, magistrates, and other judicial workers: women 32.3%, white 85.4%, Black or African American 13.3%, Asian 1.2%, Hispanic or Latino 6.7%; Paralegals and legal assistants: women 86.4%, white 79.1%, Black or African American 11.3%, Asian 5.3%, Hispanic or Latino 18.5%; Miscellaneous legal support workers: women 73.1%, white 86.8%, Black or African American 7.2%, Asian 2.9%, Hispanic or Latino 16.6%.

¹³² *See Nelson et al., supra* note 2, at 1077 (when “lawyers of different races, genders, and sexual orientations are exposed to discrimination that limits their career development, it will erode the capacity of the legal profession to provide equal representation to all groups in society. ... The fate of equal justice may be tied to the fate of equal opportunity in lawyer careers.”).

¹³³ *See, e.g., Sandler & Blanck, supra* note 36, at 62-63.

The first phase of this investigation was designed to lay a foundation for subsequent exploration. Further descriptive, univariate (e.g., correlational), and multivariate (e.g., regression) analyses are underway for the individual and composite variables.¹³⁴ In future publications, we also plan to present qualitative information provided by lawyers with multiple identities. We will report our analyses of respondents' experiences, their views of effective bias mitigation strategies, and accommodation outcomes.

We plan to follow up with legal professionals who have participated in this investigation to facilitate and validate planning for the next longitudinal and cross-sectional phases. We aim to further consider intersectional life identities reported in different contexts—for example, by firm type, size, venue and location,¹³⁵ market sector,¹³⁶ accommodation requests,¹³⁷ and compensation. We will continue our focus on people who identify primarily as having disabilities and as LGBTQ+, along with other interlocking and multiple minority identities across the human life span.¹³⁸

In subsequent studies, we also will examine whether people who perceive bias and stigma proceed to file a formal claim of discrimination, either within the organization or externally. Prior researchers have considered whether people with marginalized and multiple identities who perceive bias, stigma, and discrimination proceed to make such claims. It will be important to examine associated patterns of career progression and job satisfaction, accommodations, and attrition and tenure, as well as physical and mental health status, across organizational types and sizes.¹³⁹

¹³⁴ Factor analyses will be used to combine individual variables into meaningful composite variables, enhancing understanding of the magnitude and direction of the relationships among the variables.

¹³⁵ See, e.g., Mona Mehta Stone, *Bigger City v. Smaller City: Differences in Practice*, in *IILP Review 2019-2020*, *supra* note 3, at 84.

¹³⁶ See, e.g., Gutierrez, *supra* note 106, at 81 (“data on the profession’s public sector suggests that it possesses similar diversity issues as the private sector, ... illustrates a need for further action, especially given the public sector’s role in society. A necessary first step in tackling this issue is collecting demographic data at various levels of public sector organizations.”); Jennifer H. Zimmerman, *A Note about Diversity to In-House Lawyers*, in *IILP Review 2019-2020*, *supra* note 3, at 101.

¹³⁷ See, e.g., Elizabeth F. Emens, *Integrating Accommodation*, 156 U. PA. L. REV. 839, 921 (2008) (“Integration under the ADA means more than integrating people with disabilities; it also means integrating accommodations.”). In future examinations, we will consider accommodations for other groups of people without disabilities, such as women and members of the LGBTQ+ community. See also Christopher Buccafusco, *Disability and Design*, SSRN, at 5 (Dec. 3, 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3497902 (“Although people with disabilities stand to gain under any regime that successfully incentivizes accessible innovation, they are far from the only beneficiaries.”) (citing Emens, *id.* at 854); Stein et al., *Accommodating Every Body*, *supra* note 20.

¹³⁸ See, e.g., Rosette et al., *supra* note 7, at 1; *id.* at 3 (“Being both female and Black is more than the sum of being a member of either category. This intertwining of social categories changes social identities and social perceptions, and it is associated with different stereotypes, relationships, and circumstances for individuals embedded in organizations. ... [W]e define intersectionality as overlapping social categories, such as race and gender, that are relevant to a specified individual or group’s identity and create a unique experience that is separate and apart from its originating categories.”); Dispenza et al., *supra* note 83, at 101 (“Persons living with disabilities also may live with low self-esteem and experience difficulty independently implementing career choices in relation to their environmental contexts. Similarly, sexual and gender minority persons contend with significant hardships in the world-of-work, but there is limited research on sexual and gender diversity in relation to the career trajectory of persons living with disabilities.”) (citations omitted).

¹³⁹ See Nelson et al., *supra* note 2, at 6 (citing studies in support, such as Hirsh & Kornrich, *supra* note 10, and noting that few workers who experience discrimination proceed to legal action); Todd Collins et al., *Intersecting Disadvantages: Race, Gender, and Age Discrimination Among Attorneys*, 98 SOC. SCI. Q. 1642, 1649-50 (2017).

Apparent in the present findings is the incidence across individual identities of self-reported mental health conditions, and of the perception and experience of bias and discrimination in the workplace.¹⁴⁰ We plan to examine closely reports of bias and discrimination in light of disability type and severity, along with other individual and organizational correlates.¹⁴¹ We also have yet to fully analyze information collected from hundreds of survey respondents who are engaged in the legal profession as support professionals, such as paralegals and human resource professionals.¹⁴²

There remain uncounted diverse perspectives to hear and understand in the legal profession. They are associated with individual job satisfaction, retention, and advancement, along with organizational success and sustainability. The longer-term objectives of this project are to measurably enhance the professional lives of lawyers and others engaged in the legal profession, and to mitigate pernicious sources of attitudinal stigma and structural bias in the profession.¹⁴³

The authors note that minority attorneys perceive unfair treatment based on race significantly more often than white attorneys; female attorneys are more likely than men to perceive unfair treatment due to gender; but female minority attorneys report highest levels of unfair treatment based on gender, race, and age. In addition, for career satisfaction, the more satisfied respondents are with their legal careers, the less likely they report unfair treatment. *Id.* at 1650-51. As an example, they note that solo practitioners and attorneys in small firm practice express lower levels of career satisfaction compared to those in larger firms. *Id.* at 1653; *see also* Eliza Pavalko et al., *Does Perceived Discrimination Affect Health? Longitudinal Relationships between Work Discrimination and Women's Physical and Emotional Health*, 44 J. HEALTH & SOC. BEHAV. 18, 28 (2003) (physical and emotional health costs to women from perceived discrimination). The authors find prior physical and emotional health conditions do not affect later perceptions of discrimination, but individual perceptions and structural factors place women at risk of perceiving discrimination, which appears frequently in private sector jobs, and in occupations, such as law. *Id.* at 29; *see also* Monique Payne-Pikus, John Hagan, & Robert L. Nelson, *Experiencing Discrimination: Race and Retention in America's Largest Law Firms*, 44 L. & SOC. REV., 553-84 (2010).

¹⁴⁰ Cf. Nelson et al., *supra* note 2, at 1075-76 (“While these are self-reports and therefore subject to attribution error, we find striking differences in levels of perceived discrimination along the lines of race, gender, and sexual orientation. In the most recent wave of the survey (conducted in 2012–2013) over one-half of African-American women reported being the target of discrimination in their workplace in the last two years, as did 43% of African American men, between 29 and 45% of women in other racial and ethnic groups, and 30% of LGBTQ attorneys. Multivariate analyses that controlled for several other variables did not explain away these ascriptive patterns. Qualitative comments describing these discriminatory experiences largely supported the quantitative results, gave content to the nature of bias that disadvantaged groups perceive, but also identified some disjunctures between quantitative results and individual perceptions. Interestingly, the comments also suggest that much of the bias in the workplace is overt in character, which contradicts a common narrative that most contemporary discrimination operates through unconscious or implicit bias.”).

¹⁴¹ *See, e.g.,* Angela C. Winfield & Fran Ortiz, *How Attorneys with Disabilities Get the Job Done: Service Animals and the Law*, in *IILP Review 2019-2020*, *supra* note 3, at 181.

¹⁴² *See* Stone, *supra* note 70, at 10-11 (discussing bullying in law firms as directed towards staff).

¹⁴³ Peter Blanck, *Why America is Better Off Because of the Americans with Disabilities Act and the Individuals with Disabilities Education Act*, 35 *TOURO L. REV.* 605 (2019).

Appendix A: Tables

Table 1.1: Participants Demographics

		N	%
Health Condition, Impairment	HAVE a Health Condition or Impairment	840	25.0
	DON'T HAVE a Health Condition or Impairment	2,526	75.0
	Total	3,366	100
Identify as a Person with a Disability	I Identify as a person with a disability	260	31.6
	I DON'T Identify as a person with a disability	564	68.4
	Total	824	100
Sexual Orientation ("LGB")	Straight	2,775	83.1
	Lesbian, Gay, Bisexual	553	16.6
	Other	13	0.4
	Total	3,341	100
Identify as Transgender, Transsexual, or a Person with a History of Transitioning Sex	No	3,349	98.5
	Yes	33	1.0
	I don't know	18	0.5
	Total	3,400	100
Gender Identity	Woman	1,816	53.4
	Man	1,551	45.6
	Other Identities	32	0.9
	Total	3,399	100
Race	White (Caucasian, non-Hispanic)	2,967	82.2
	Black	177	4.9
	Hispanic or Latino	153	4.2
	Asian (South Asia, Middle East)	144	4.0
	Multiracial	84	2.3
	American Indian or Alaska Native	28	0.8
	Native Hawaiian or Pacific Islander	7	0.2
	Total¹	3,452	100
Age	Early Career (26-35)	795	22.3
	Mid-Career (36-55)	1,430	40.2
	Late Career (56- 66+)	1,335	37.5
	Total	3,560	100

¹ Totals include people from other races (27 responses; 0.8% of participants), and people who report they did not know their race (23 responses; 0.7% of participants).

Table 1.2: Participants' Sexual Orientation (Broadly Defined)¹

	N	%
Straight	2,782	79.5
Gay or lesbian	390	11.1
Bisexual	157	4.5
Queer	107	3.1
Asexual	26	0.7
Aromantic	14	0.4
Other	23	0.7
Total	3,499	100

¹ *This question is a multi-response question, and respondents may choose more than one item provided on the checklist. There are 3,359 people who responded, and 3,499 answers were provided for this question. The numbers in the table show the distribution of these responses. For example, for the question: “What’s your sexual orientation? Please select all that apply.” 390 people identify as gay or lesbian, which is 11.1% of the total number of responses (3,499).*

Table 1.3: Participants' Health Condition, Impairment, Disability¹

	N	%
1. General Health Conditions	358	26.0
Difficulties when doing errands alone such as visiting a doctor's office or shopping because of a physical, mental, or emotional condition. ²	65	4.7
Diabetes	53	3.9
Bowel, kidney, stomach liver and lung issues	42	3.1
Autoimmune and immune system conditions	39	2.8
Cancer and conditions related with cancer treatment	38	2.8
Heart problems	26	1.9
Chronic nonspecific issues	21	1.5
Asthma	19	1.4
High cholesterol, Hypertension, High blood pressure	15	1.1
Migraine and inner ear issues	12	0.9
Thyroid	8	0.6
Obesity	8	0.6
Blood vein and blood vessel related issues	8	0.6
Skin issues	4	0.3
2. Mental Condition	423	30.8
Serious difficulties on concentrating, remembering or making decisions because of a physical, mental or emotional condition. ²	184	13.4
Mental health issues (Depression, anxiety, PTSD)	160	11.6
Learning disabilities, ADHD, Autism	64	4.7
Sleep disorders	15	1.1
3. Orthopedic Issues and Mobility Impairments	314	16.8
Serious difficulties when walking or climbing stairs. ²	156	11.4
Orthopedic Issues (Osteoarthritis, Arthritis) and Mobility impairments	100	7.3
Have difficulty dressing or bathing ²	34	2.5
Spinal issues	11	0.8
Wheelchair user, Paraplegic, Amputee	14	1.0

¹ This question is a multi-response question and respondents may choose more than one item on the checklist. There are 840 people who report they have a health condition, impairment, or disability, and 830 people answered this question. There are 1,374 total answers provided. 449 people (53.5%) chose only one item; 381 people (46.5%) chose more than one item. Thus, the numbers in the table show the distribution of these responses. For example, 65 people choose: "Difficulties when doing errands alone such as visiting a doctor's office or shopping because of a physical, mental, or emotional condition," for the question "What type of health condition, impairment or disability do you have? Please select all that apply." This constitutes 4.7% of the total number of responses (1,374).

² Question from American Community Survey ("ACS"), which asks three questions (with subparts for a total of six questions) about disability, functioning, and independent living; available at: <https://www.census.gov/acs/www/about/why-we-ask-each-question/disability/>. The ACS is an annual survey conducted by the United States Census Bureau; available at: <https://www.census.gov/programs-surveys/acs/about.html>.

Table 1.3 (cont.): Participants' Health Condition, Impairment, Disability

4. Sensory, Nervous System and Neurological Conditions	229	22.85
Deaf or have serious difficulties hearing ¹	133	9.7
Blind or have serious difficulties seeing even when wearing glasses ¹	56	4.1
Neurological disorders, Nervous system issues	22	1.6
Muscle and nerve related issues	18	1.3
5. Other Health Issues	49	3.6
Injuries, Accidents, Traumas, Concussion	14	1.0
Cerebral palsy	6	0.4
Other	29	2.1
Total	1,374	100

¹ Question from ACS, *supra*, Table 1.3, n2.

Table 1.4: Participants’ Health Condition, Impairment by Onset, Sexual Orientation, Gender, Race, and Age

		N	%
Have a Health Condition, Impairment	Yes	840	25.0
	No	2,526	75.0
	Total	3,366	100
by Onset¹	Pre-Adult (1-19 years)	139	21.5
	Early Adulthood (20-39 years)	240	37.0
	Middle Adulthood (40-59 years)	192	29.6
	Late Adulthood (60+ years)	77	11.9
	Total	648	100
by Sexual Orientation (“LGB”)	Straight	664	81.3
	Lesbian, Gay, Bisexual	153	18.7
	Total	817	100
by Gender Identity	Woman	446	53.9
	Man	375	44.7
	Other Identities	15	1.4
	Total	836	100
by Ethnicity/ Race	Caucasian (White, non-Hispanic)	690	82.6
	Black	35	4.2
	Hispanic or Latino	25	3.0
	Asian (South Asia, Middle East)	23	2.8
	Multiracial	50	6.0
	Total²	835	100
by Age	Early Career (26-35)	162	19.3
	Mid-Career (36-55)	323	38.5
	Late Career (56- 66+)	353	42.1
	Total	838	100

¹ A total of 138 people (17.3% of the participants) report they had health condition or impairment since birth. 659 people (82.7%) who have such conditions report acquiring such conditions after birth.

² Totals include American Indian or Alaska Natives (3 people; 0.4% of participants with health condition or impairment); Native Hawaiian or Pacific Islanders (1 person; 0.1% of participants with health condition or impairment); people from other races (1 person; 0.1% of participants with health condition or impairment); and people report they did not know their race (7 people; 0.8% of participants with health condition or impairment).

Table 1.5: Participants’ Health Condition, Impairment by Disability¹ Identification, Sexual Orientation, and Gender

Type of Health Condition, Impairment	by Disability Identification				by Sexual Orientation				by Gender Identity					
	Identify as a Person with a Disability		Don’t Identify as a Person with a Disability		Straight		Lesbian, Gay, Bisexual (“LGB”)		Woman		Man		Other	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
General Health Conditions	81	22.0	230	31.6	252	28.4	58	28.6	142	26.8	145	30.7	5	29.4
Orthopedic Issues and Mobility Impairments	92	24.9	122	16.8	184	20.7	28	13.8	111	20.9	89	18.9	7	41.2
Sensory, Nervous System and Neurological Conditions	77	20.9	136	18.7	195	22.0	22	10.8	82	15.5	124	26.3	4	23.5
Mental Health Issues	99	26.8	211	29.0	220	24.8	84	41.4	178	33.6	92	19.5	1	5.9
Other Health Issues	20	5.4	28	3.9	37	4.2	11	5.4	17	3.2	22	4.7	0	0.0
Total	369	100	727	100	888	100	203	100	530	100	472	100	12	100

¹ The question of “type of health condition or impairment” is a multi-response question and respondents may choose more than one item on the checklist. The numbers in the table show the distribution of these responses. For example, there are 815 people who answered the question: “Do you identify as a person with a disability?,” and reported the type of health conditions. 92 people who identify as person with a disability chose general health issues. This is 22.0% of the total number of responses for people who identify as person with a disability (369). Another example from the table: 809 people reported their sexual orientation and type of health condition. They provided 1,091 total answers. 252 people who identify as straight report general health issues from the checklist. This reflects that 28.4% of the total responses of people identifying as straight (888). The total amount of people who responded the questions about their gender identity and health condition is 751, together they provided 1,019 total responses.

Table 1.6: Participants' Health Condition, Impairment¹ by Race (Combined) and Age

Type of Health Condition, Impairment	by Ethnicity/ Race				By Age					
	White		Minority		Early Career (26-35)		Mid-Career (36-55)		Late Career (56-66+)	
	N	%	N	%	N	%	N	%	N	%
General Health Conditions	264	28.6	51	26.4	55	25.8	124	29.2	136	28.4
Orthopedic Issues and Mobility Impairments	184	20.0	35	18.1	30	14.1	60	14.1	130	27.1
Sensory, Nervous System and Neurological Conditions	180	19.5	40	20.7	20	9.4	70	16.5	131	27.3
Mental Health Issues	251	27.2	61	31.6	102	47.9	144	33.9	66	13.8
Other Health Issues	43	4.7	6	3.1	6	2.8	27	6.4	16	3.3
Total	922	100	193	100	213	100	425	100	479	100

¹ The question of “type of health condition or impairment” is a multi-response question and respondents may choose more than one item on the checklist. The numbers in the table show the distribution of these responses. For example, 826 people answered the question: “What’s your race/ethnicity?,” and the type of health conditions they have. 264 people who identify as White/Caucasian report general health issues, which responses are 28.6% of the total number of responses provided by White lawyers (922). Another example: 828 people answered the questions about their age and the type of health condition questions they have. There are 1,117 total responses. Of these, 55 early career lawyers chose general health issues from the checklist. This is 25.8% of the total responses by early career lawyers (213).

Table 2.1: Participants' Location by Region and State

Regions	STATES	N	%
Mideast	New York	564	16.9
	District of Columbia	247	7.4
	Pennsylvania	74	2.2
	Maryland	51	1.5
	New Jersey	38	1.1
	Delaware	10	0.3
	Total	982	29.5
South East	Florida	107	3.2
	Virginia	89	2.7
	Tennessee	72	2.2
	North Carolina	64	1.9
	Georgia	60	1.8
	Kentucky	35	1.1
	Louisiana	35	1.1
	South Carolina	27	0.8
	Alabama	18	0.5
	Arkansas	15	0.5
	West Virginia	15	0.5
	Mississippi	6	0.2
	Total	543	16.3
Far West	California	286	8.6
	Washington	119	3.6
	Oregon	48	1.4
	Nevada	17	0.5
	Hawaii	11	0.3
	Alaska	7	0.2
	Total	487	14.7
Great Lakes	Illinois	162	4.9
	Ohio	79	2.4
	Wisconsin	69	2.1
	Michigan	41	1.2
	Indiana	38	1.1
	Total	389	11.7

Table 2.1 (cont.): Participants' Location by Region and State

Regions	STATES	N	%
Southwest	Texas	177	5.3
	Arizona	121	3.6
	New Mexico	26	0.8
	Oklahoma	24	0.7
	Total	348	10.5
Plains	Missouri	98	2.9
	Minnesota	80	2.4
	Iowa	35	1.1
	Nebraska	28	0.8
	Kansas	15	0.5
	South Dakota	11	0.3
	North Dakota	5	0.2
	Total	272	8.2
New England	Massachusetts	76	2.3
	Connecticut	38	1.1
	New Hampshire	35	1.1
	Maine	19	0.6
	Rhode Island	8	0.2
	Vermont	5	0.2
	Total	181	5.4
Rocky Mountain	Colorado	62	1.9
	Utah	23	0.7
	Idaho	16	0.5
	Montana	10	0.3
	Wyoming	6	0.2
	Total	117	3.5
Total¹		3,331	100

¹ Totals include people from Puerto Rico (4 people; 0.1% of participants), and people who do not reside in United States (5 people; 0.2% of participants).

Table 2.2: Participants' Practice Venue and Firm Size

		N	%
Practice Venue	Private Practice	1,904	58.9
	Government¹	494	15.3
	Public Interest	378	11.7
	In-House Legal	290	9.0
	Academia	66	2.0
	Other venues²	101	3.1
	Total	3,233	100
Size of the Private Firm	Solo	290	15.3
	2 to 24 Lawyers	551	29.0
	25 to 99 Lawyers	187	9.8
	100 to 499 Lawyers	351	18.5
	500 + Lawyers	521	27.4
	Total	1,900	100

¹ Including: judges, court staff, local, municipal, state, federal government attorneys, supervising or managing attorneys.

² Other legal work venues, such as alternative legal business, volunteer, retired, not actively practicing law, and legal publishing.

Table 2.3: Participants' Location by Health Condition, Impairment, Disability Identification, Sexual Orientation

Main Regions	Have a Health Condition, Impairment				Identify as a Person with a Disability				Sexual Orientation			
	Yes		No		Yes		No		Straight		Lesbian, Gay, Bisexual	
	N	%	N	%	N	%	N	%	N	%	N	%
Mideast	230	29.1	707	29.6	80	32.7	838	29.0	750	28.7	183	34.5
South East	127	16.1	390	16.3	30	12.2	479	16.6	444	17.0	60	11.3
Far West	137	17.3	333	13.9	57	23.3	402	13.9	324	12.4	137	25.8
Great Lakes	73	9.2	304	12.7	17	6.9	359	12.4	336	12.8	40	7.5
South West	84	10.6	251	10.5	15	6.1	317	11.0	294	11.2	39	7.3
Plains	63	8.0	195	8.2	18	7.3	234	8.1	217	8.3	39	7.3
New England	44	5.6	129	5.4	14	5.7	158	5.5%	152	5.8	18	3.4
Rocky Mountain	32	4.1	80	3.3	14	5.7	95	3.3	98	3.7	14	2.6
Total¹	790	100	2,392	100	245	100	2,885	100	2,617	100	531	100

¹ Totals include people who do not reside in United States (5 people; 0.2% of participants).

Table 2.3 (cont.): Participants' Location by Gender Identity, Race (Combined), Age

Main Regions	Gender Identity						Race				Age					
	Man		Woman		Other		White/ Caucasian		Minority		Early Career (26-35)		Mid-Career (36-55)		Late Career (56-66+)	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Mideast	405	30.2	461	28.0	8	32.0	813	29.9	146	27.1	235	31.4	376	27.8	367	30.1
South East	222	16.6	261	15.8	6	24.0	439	16.1	95	17.7	129	17.2	223	16.5	190	15.6
Far West	163	12.2	261	15.8	4	16.0	357	13.1	121	22.5	118	15.8	223	16.5	146	12.0
Great Lakes	174	13.0	196	11.9	1	4.0	342	12.6	37	6.9	83	11.1	147	10.9	159	13.0
South West	124	9.2	199	12.1	1	4.0	276	10.1	66	12.3	74	9.9	152	11.3	122	10.0
Plains	120	8.9	127	7.7	2	8.0	240	8.8	29	5.4	55	7.4	112	8.3	105	8.6
New England	82	6.1	82	5.0	2	8.0	157	5.8	22	4.1	34	4.5	59	4.4	88	7.2
Rocky Mountain	49	3.7	60	3.6	0	0.0	95	3.5	20	3.7	20	2.7	58	4.3	39	3.2
Total¹	1,341	100	1,648	100	25	100	2,721	100	538	100	748	100	1,351	100	1,220	100

¹ Totals include people who do not reside in United States (5 people; 0.2% of participants).

Table 2.4: Participants' Practice Area

	N	%
Litigation	867	24.7
Family Law, Juvenile, Child Welfare	316	9.0
Employment Law, Employee Benefits, Worker's Compensation, ERISA	234	6.7
Corporate and Securities	188	5.4
Intellectual Property and Technology, Privacy-Cybernetic, Communications/Telecommunications	184	5.3
Real Estate, Tenants and Landlords Rights, Construction, Transportation and Logistic	171	4.9
Civil Rights	163	4.7
Disability and Elder Law	133	3.8
Estates and Trusts	131	3.7
Insurance, Health, Health Care Law	128	3.7
Crime, White Collar Crime, Domestic and Sexual Violence	127	3.6
Business Law, Antitrust, Contract Law, Franchising, Entertainment	98	2.8
Banking, Bankruptcy and Restructuring	96	2.7
Judge	91	2.6
Patent, Administrative Law, Regulatory	82	2.3
Tax Law	66	1.9
Non-Profit, Public Interest, Legal Aid	61	1.7
Academia, Academic, Teaching	59	1.7
Municipal Law	47	1.3
Government	45	1.3
Retired or Not Practicing Law Anymore	36	1.0
Energy and Environmental and Natural Resources	27	0.8
Immigration	26	0.7
International	26	0.7
Court Staff	25	0.7
Multiple Practice Areas	16	0.5
Other	15	0.4
Arbitration, Mediation, ADR, Dispute Resolution	13	0.4
Poverty Law	11	0.3
In-House Counsel	8	0.2
Not Applicable	8	0.2
Tribal and Indian Law	4	0.1
Social Security and Medicaid	2	0.1
Total	3,504	100

Table 3.1: Accommodation Request by Health Condition, Impairment, Disability Identification, Sexual Orientation

Have you ever requested from this organization any change or accommodation?	Have a Health Condition, Impairment				Identify as a Person with a Disability				Sexual Orientation			
	Yes		No		Yes		No		Straight		Lesbian, Gay, Bisexual	
	N	%	N	%	N	%	N	%	N	%	N	%
Yes	313	42.9	489	23.2	147	65.0	633	24.6	661	28.6	127	26.6
No	417	57.1	1,616	76.8	79	35.0	1,937	75.4	1,650	71.4	350	73.4
Total	730	100	2,105	100	226	100	2,570	100	2,307	100	477	100

Table 3.1 (cont.): Accommodation Request by Gender (Man/Woman), Race (Combined), and Age

Have you ever requested from this organization any change or accommodation?	Gender				Race				Age					
	Man		Woman		Minority		White/ Caucasian		Early Career (26-35)		Mid-Career (36-55)		Late Career (56-66+)	
	N	%	N	%	N	%	N	%	N	%	N	%	N	%
Yes	249	20.9	496	34.6	153	33.3	651	27.5	155	24.0	394	34.8	257	24.3
No	945	79.1	936	65.4	307	66.7	1715	72.5	492	76.0	739	65.2	801	75.7
Total	1,194	100	1,432	100	460	100	2,366	100	647	100	1,133	100	1,058	100

Table 3.2: Accommodation Request Type¹

		N	%
Changes in Work Tasks, or Job Structure or Schedule	Changes to work schedule (flex time, shift change, part time)	365	17.3
	Working from home or telework	333	15.8
	Moving to another location	72	3.4
	Restructuring the job (changing or sharing job duties)	41	1.9
	Moving to another job (or reassignment)	31	1.5
New or Modified Equipment	Using a new or different type of computer equipment or information technology	172	8.1
	Using a new or different type of other equipment	137	6.5
	Modifying a type of computer equipment or information technology	103	4.9
	Modifying another type of equipment	54	2.6
Physical Changes to Workplace	Modifying the individual work environment (orthopedic chair, lower desk)	344	16.3
	Modifying the worksite (changes in parking, bathrooms, break areas, or adding ramps, lighting, or mirrors)	62	2.9
Other Changes	Formal or company education of co-workers	50	2.4
	Changing supervisor methods	41	1.9
	Making transportation accommodations	29	1.4
	Other ²	67	3.2
Policy Changes to Workplace	Policy Changes to Workplace ³	130	6.2
Changes in Communication or Information Sharing	Use of an interpreter, reader, job coach, service animal, or personal assistance	26	1.2
	Providing information in an alternative format or allowing more time to complete tasks (large print, taped text, Braille)	21	1.0
	Providing written job instructions	19	0.9
	Modifying examination/testing approaches or training materials	15	0.7
Total		2,112	100

¹ This question is a multi-response question and respondents may report more than one answer. For this question, there are 776 respondents who provided 2,112 total responses, and 72.2% of people (560 people) chose more than one answer. The numbers in the table show the distribution of these responses. For example, 365 people report “Changes to a work schedule (such as flex time, shift change, part time)” from the accommodation checklist, which is 17.3% of the total responses (2,112).

² For example: written evaluation process and procedures, videoconferencing for meetings, using document management software and creating a website, unconscious bias training, time off for health or personal reasons, change of supervisors or manager, change of status to “independent” counsel from “assisted counsel.”

³ For example: who is CC’d on emails, updated policy on leave related to children, accommodate retirement from partner status, time off to teach, requested firm offer domestic partner benefits, begin writing and cataloging policies, smoke-free locations, access.

Table 3.3: Accommodation Request Type (Reduced Categories) by type of Health Condition, Impairment

Type of Accommodation or Change	General Health Conditions		Orthopedic Issues and Mobility Impairments		Sensory, Nervous System and Neurological Conditions		Mental Health Issues	
	N	%	N	%	N	%	N	%
Changes Tasks, Job Structure, Schedule	84	30.1	60	27.0	45	22.4	79	29.3
Physical Changes to Workplace	63	22.6	63	28.4	44	21.9	61	22.6
New or Modified Equipment	59	21.1	51	23.0	55	27.4	54	20.0
Policy Changes in Workplace	22	7.9	18	8.1	14	7.0	20	7.4
Changes Communication, Information Sharing	18	6.5	8	3.6	25	12.4	20	7.4
Other Changes	33	11.8	22	9.9	18	9.0	36	13.3
Total	279	100	270	100	222	100	201	100

Table 3.4: Accommodation Request Outcome by Practice Venue, Size of Firm

		All requested changes were made, or other changes were made that were just as good		Some of the requested changes were made, not as good as what was requested		None of the requested changes were made	
		N	%	N	%	N	%
Venue	Private Practice	269	50.8	50	46.7	22	34.4
	Government*	89	16.8	24	22.4	20	31.3
	Public Interest	93	17.5	17	15.9	10	15.6
	In-House Legal	55	10.4	9	8.4	8	12.5
	Academia	12	2.3	5	4.7	2	3.1
	Other	12	2.3	2	1.9	2	3.1
	Total	530	100	107	100	64	100
Size Of the Private Firm	Solo	23	8.6	6	12.0	4	18.2
	2 to 24 Lawyers	87	32.3	16	32.0	7	31.8
	25 to 99 Lawyers	30	11.2	6	12.0	3	13.6
	100 to 499 Lawyers	54	20.1	10	20.0	6	27.3
	500 + Lawyers	75	27.9	12	24.0	2	9.1
	Total	269	100	50	100	22	100
Size of the Other Practice Venues	Solo	5	2.1	2	4.0	2	5.1
	2 to 24 Lawyers	120	49.4	21	42.0	13	33.3
	25 to 99 Lawyers	66	27.2	16	32.0	11	28.2
	100 to 499 Lawyers	37	15.2	6	12.0	9	23.1
	500 + Lawyers	15	6.2	5	10.0	4	10.3
	Total	243	100	39	100	50	100

Table 4.1: Discrimination Reported¹

	N	%
Subtle, but Unintentional Bias	1,076	38.5
Subtle and Intentional Bias	607	21.7
Discrimination	448	16.0
Harassment	334	11.9
Bullying	333	11.9
Total	2,798	100

¹ *This is a multi-response question and respondents may report more than one answer. Of 1,435 people (40.2%) who answered this question, a sub-group of 728 people (50.7%) chose more than one answer, and there are 2,798 total responses. The numbers in the table show the distribution of these responses. For example, 1,076 people report subtle but unintentional biases at work, which is 38.5% of the total responses to this question (2,798).*

Table 4.2: Discrimination¹ by Health Condition, Impairment, Disability Identification

	Have a Health Condition, Impairment				Identify as a Person with a Disability			
	Yes		No		Yes		No	
	N	%	N	%	N	%	N	%
Subtle, but Unintentional Bias	286	33.1	787	41.1	106	29.9	949	39.9
Subtle and Intentional Bias	191	22.1	412	21.5	74	20.9	517	21.7
Discrimination	166	19.2	278	14.5	77	21.8	359	15.1
Bullying	118	13.7	212	11.1	51	14.4	275	11.6
Harassment	103	11.9	227	11.8	46	13.0	278	11.7
Total	864	100	1,916	100	354	100	2,378	100

¹ This question is a multi-response question and respondents may report more than one answer. The numbers in the table show the distribution of these responses. For example: 1,431 people answer the question if they have a health condition or not, and the type of discrimination they experienced. There are 286 people with a health condition, impairment, or disability who report subtle but unintentional bias, and this is 33.1% of the total responses by people who have health conditions (864). There also are 1,409 people answered the questions about reported discrimination, and if they identify as a person with a disability. This group provided 2,732 total responses. A total of 106 people who identify as a person with a disability report they experienced subtle but unintentional biases at work. This is 29.9% of the total responses by people who identify as a person with a disability (354).

Table 4.3: Discrimination¹ by Sexual Orientation (“LGB”)

	Sexual Orientation			
	Straight		Lesbian, Gay, Bisexual	
	N	%	N	%
Subtle, but Unintentional Bias	788	36.6	268	47.1
Subtle and Intentional Bias	472	21.9	119	20.9
Discrimination	357	16.6	79	13.9
Bullying	276	12.8	46	8.1
Harassment	262	12.2	57	10.0
Total	2,155	100	569	100

¹ *This question is a multi-response question and respondents may report more than one answer. The numbers in the table show the distribution of these responses. For example, 1,407 people answered the question about their sexual orientation and type of discrimination they experienced. There are 788 straight people who report subtle but unintentional bias, and this is 36.6% of the total responses by straight people (2,155). There are 268 people who identify LGB who report subtle but unintentional bias. This is 47.1% of the total responses to this question by people who identify as LGB (569).*

Table 4.4: Discrimination¹ by Gender Identity

	Gender Identity					
	Man		Woman		Other	
	N	%	N	%	N	%
Subtle, but Unintentional Bias	222	36.8	735	38.2	9	36.0
Subtle and Intentional Bias	145	24.0	408	21.2	7	28.0
Discrimination	104	17.2	302	15.7	5	20.0
Bullying	70	11.6	234	12.2	1	4.0
Harassment	63	10.4	246	12.8	3	12.0
Total	604	100	1,925	100	25	100

¹ *This question is a multi-response question and respondents may report more than one answer. The numbers in the table show the distribution of these responses. For example, 1,306 people answered the question about their gender identity and the type of discrimination experienced. There are 735 women who report subtle but unintentional biases, which is 38.2% of the total responses by women (1,925).*

Table 4.5: Discrimination¹ by Race (Reduced Categories), Age/Career Stage

	Race/Ethnicity				Age/Career Stage					
	Minority		White/Caucasian		Early Career (26-35)		Mid-Career (36-55)		Late Career (56-66+)	
	N	%	N	%	N	%	N	%	N	%
Subtle, but Unintentional Bias	245	38.0	826	38.8	315	47.7	522	39.5	238	29.3
Subtle and Intentional Bias	140	21.7	461	21.7	128	19.4	275	20.8	203	25.0
Discrimination	121	18.8	321	15.1	73	11.0	207	15.7	167	20.6
Bullying	72	11.2	257	12.1	75	11.3	160	12.1	97	12.0
Harassment	66	10.2	264	12.4	70	10.6	157	11.9	106	13.1
Total	644	100	2,129	100	661	100	1,321	100	811	100

¹ *This question is a multi-response question and respondents may report more than one answer.* The numbers in the table show the distribution of responses. For example, 1,425 people answered the question about their race/ethnicity and type of discrimination they experienced. There are 245 respondents from different racial and ethnic backgrounds, and who report subtle but unintentional bias. This is 38.0% of total answers by people from different racial and ethnic backgrounds (644).

Table 5.1: Bias and Discrimination Mitigation Strategies¹ by Practice Venue

	Private Practice		Government		Public Interest		In-house Legal		Academia		Total ²	
	N	%	N	%	N	%	N	%	N	%	N	%
Mentoring Within Organization	931	20.8	203	21.0	180	22.3	114	17.3	32	19.2	1,490	20.5
Mentoring Outside Organization	788	17.6	182	18.8	178	22.1	118	17.9	40	24.0	1,335	18.4
Membership in Specialized Law Network or Group	690	15.4	179	18.5	126	15.6	115	17.5	30	18.0	1,166	16.1
Membership in Non-law Network or Group	503	11.2	111	11.5	77	9.6	72	10.9	13	7.8	793	10.9
Membership in External Diversity Network or Affinity Group	430	9.6	120	12.4	113	14.0	71	10.8	22	13.2	778	10.7
Sponsor Within Organization	342	7.6	36	3.7	24	3.0	43	6.5	9	5.4	465	6.4
Membership in Workplace Diversity Network or Affinity Group	257	5.7	33	3.4	33	4.1	42	6.4	10	6.0	382	5.3
Sponsor Outside Organization	191	4.3	37	3.8	20	2.5	22	3.3	6	3.6	289	4.0
One-to-one Coaching Program Within Organization	182	4.1	27	2.8	27	3.3	31	4.7	3	1.8	275	3.8
One-to-one Coaching Program Outside Organization	134	3.0	22	2.3	23	2.9	29	4.4	1	0.6	215	3.0
Other³	37	0.8	16	1.7	5	0.6	2	0.3	1	0.6	63	0.9
Total	4,485	100	966	100	806	100	659	100	167	100	7,251	100

¹ This question is a multi-response question and respondents may report more than one answer. There are 2,356 people who answered questions about effective mitigation strategies they witnessed, and the type of venue in which they are working. They provided 7,251 responses. The numbers in the table show the distribution of these responses. For example, 931 respondents at private law firms report they witnessed “Mentoring within the organization” as an effective bias mitigation strategy. This is 20.8% of the total responses by the lawyers working at private law firms (4,485).

² Total includes participants from other venues, such as alternative legal business, volunteer, retired, not actively practicing law, and legal publishing (92 people: 3.0% of participants).

³ For example: informal support group, religious community supports, Diversity & Inclusion committees, Bar Association committees, therapy, local LGBT Bar Association, networks, friendships and personal Relationships.

Table 6.1: Participants' Practice Venue by Annual Salary Remuneration¹

	Practice Venue										Total	
	Private Practice		Government		Public Interest		In-house Legal		Academia			
	N	%	N	%	N	%	N	%	N	%	N	%
\$0 to \$50,000	115	6.6	24	5.2	59	16.0	8	3.1	6	10.3	229	7.7
\$50,001 to \$100,000	253	14.5	172	37.3	211	57.2	49	19.0	14	24.1	723	24.4
\$100,001 to \$400,000	1,064	61.1	262	56.8	98	26.6	179	69.4	38	65.5	1,674	56.5
\$400,001 to \$700,000	186	10.7	2	0.4	0	0.0	13	5.0	0	0.0	205	6.9
\$700,001 and over	123	7.1	1	0.2	1	0.3	9	3.5	0	0.0	134	4.5
Total ²	1,741	100	461	100	369	100	258	100	58	100	2,965	100

¹ Including Regular Bonuses and Cash Benefits.

² Totals include participants from other legal work venues (alternative legal business, volunteer, retired, not actively practicing law, and legal publishing) (92 people; 3.0% of participants).

Table 6.2: Participants' Salary Remuneration¹ by Health Condition, Impairment, Disability Identification, Sexual Orientation (“LGB”)

	Have a Health Condition, Impairment				Identify as a Person with a Disability				Sexual Orientation			
	Yes		No		Yes		No		Straight		LGB	
	N	%	N	%	N	%	N	%	N	%	N	%
\$0 to \$50,000	110	14.2	136	5.9	47	19.5	192	6.9	203	8.0	34	6.4
\$50,001 to \$100,000	232	29.9	528	22.9	75	31.1	670	24.0	613	24.3	138	26.1
\$100,001 to \$400,000	382	49.3	1,347	58.4	105	43.6	1,598	57.2	1,425	56.4	289	54.7
\$400,001 to \$700,000	35	4.5	173	7.5	10	4.1	197	7.1	166	6.6	42	8.0
\$700,001 and over	16	2.1	124	5.4	4	1.7	135	4.8	118	4.7	25	4.7
Total	775	100	2,308	100	241	100	2,792	100	2,525	100	528	100

¹ Including annual regular bonuses, and cash benefits.

Table 6.2 (cont.): Participants' Salary Remuneration¹ by Gender, Race (Combined)

	Gender						Race			
	Man		Woman		Other Gender Identities		Minority		White/Caucasian	
	N	%	N	%	N	%	N	%	N	%
\$0 to \$50,000	99	7.7	133	8.4	4	17.4	42	7.9	212	8.1
\$50,001 to \$100,000	221	17.3	498	31.3	8	34.8	164	30.7	611	23.3
\$100,001 to \$400,000	760	59.5	849	53.4	10	43.5	290	54.3	1,483	56.6
\$400,001 to \$700,000	112	8.8	69	4.3	0	0.0	25	4.7	185	7.1
\$700,001 and over	86	6.7	40	2.5	1	4.3	13	2.4	131	5.0
Total	1,278	100	1,589	100	23	100	534	100	2,622	100

¹ Including annual regular bonuses, and cash benefits.

Table 6.2 (cont.): Participants' Salary Remuneration¹ by Age

Total Annual Salary Remuneration	Age					
	Early Career (26-35)		Mid-Career (36-55)		Late Career (56-66+)	
	N	%	N	%	N	%
\$0 to \$50,000	77	10.1	75	5.7	107	9.5
\$50,001 to \$100,000	317	41.5	282	21.5	185	16.5
\$100,001 to \$400,000	351	46.0	773	58.9	675	60.1
\$400,001 to \$700,000	14	1.8	112	8.5	85	7.6
\$700,001 and over	4	0.5	70	5.3	71	6.3
Total	763	100	1,312	100	1,123	100

¹ Including regular bonuses, and cash benefits.