

American Bar Association Calls for Diverse Hiring Approach in Law Firms Beyond Grades and Class Rank

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2 The American Bar Association (ABA) has underscored the need for law firms to reassess their hiring
4 criteria. The ABA’s House of Delegates, the organization’s policy-making body, recently adopted a
6 resolution advising law firms to expand their evaluation methods when considering potential
8 associates. This call for change comes as the legal community grapples with limited diversity among
10 lawyers and equity partners.

12 Traditionally, law firms have heavily emphasized academic achievements, such as class rank and grades,
14 in their recruitment processes. However, the ABA contends that this narrow focus has hindered efforts
16 to achieve a more diverse and inclusive legal profession. The ABA’s resolution urges law firms to
18 consider a broader range of factors when selecting law students for positions, aiming to mitigate the
20 disparity in minority representation within the legal field.

22 The resolution specifically recommends that law firms consider attributes beyond academic metrics.
24 These include a candidate’s legal research and writing skills, engagement in pro bono work and
26 community service, participation in extracurricular activities, personal qualities like teamwork and
28 resilience, as well as the individual’s background and unique experiences. By adopting a more
30 comprehensive evaluation approach, law firms can identify candidates with diverse skill sets and
perspectives, ultimately contributing to a more dynamic workforce.

The ABA’s Law Student Division, which submitted the resolution, emphasizes the need to revisit hiring
practices, particularly during the on-campus interview process. The report accompanying the
resolution underscores the significance of reevaluating these practices to ensure greater diversity and
inclusivity in the legal profession.

The issue of diversity in the legal industry is not new, with various bar associations, law schools, and
law firms working over the years to increase the representation of minority lawyers. However, concerns
have arisen due to a recent U.S. Supreme Court ruling that restricts the consideration of race in college
admissions. This ruling has raised apprehensions that efforts to increase the number of minority law
students may face challenges, potentially reducing their presence in the legal pipeline.

Current statistics further highlight the existing diversity gap within law firms. Only 9% of law firm equity
partners identified as people of colour in 2021, and merely 22% were women. The conventional
practice of relying heavily on class rank and grades during the summer associate recruiting process,
known as OCI (on-campus interview), has been criticized for limiting the discovery and integration of
diverse talent into law firms.

Research has shown that minority law students, particularly Black and Latino students, often score
lower than their white counterparts on standardized tests such as the Law School Admission Test and
the bar exam. Implicit biases in testing, educational inequalities, and being first-generation college or
law students are among the factors contributing to these disparities.

The ABA’s resolution argues that the exclusive emphasis on academic achievements also disadvantages
students who have faced additional challenges, such as those working part-time to finance their legal
education or those with non-traditional academic backgrounds. Such students may possess valuable
skills and perspectives that could enrich law firms’ environments.

USA: Despite recent unionisation in smaller law firms, Big Law associates remain unlikely to unionise

Bloomberg Law, 7 Aug 2023

Big Law partners need not fear unionization among their firms' associate ranks despite a recently successful organizing campaign at a premier plaintiffs' firm, industry observers say.

That doesn't mean associates at large corporate firms lack reasons to seek a collective voice to help improve their job conditions.

The work life of Big Law associates is often defined by intense demands and expectations of 24-7 availability that can take a toll on their mental health, observers said. "There basically aren't limits on what an associate can be asked to do, as long as it's legal," said Kate Reder Sheikh.

There's nothing strange about lawyers forming unions: legal aid attorneys and government lawyers ranging from county public defenders to federal agency attorneys have done so.

Although National Labor Relations Board precedent on the topic is limited, existing case law presents no obvious obstacles that would prevent associate attorneys in the private sector from unionizing.

But for associates at large corporate law firms, a range of barriers makes unionizing attempts highly unlikely anytime soon.

Those hurdles stem from a variety of factors, legal industry observers said. They include the type of people who choose lucrative, high-stress work, frequent associate turnover, and certain fundamental aspects of the legal service industry.

Many who go to work at large corporate firms see their lives as a tournament and are always trying to outperform those in their group, said Peter Zeughauser, chair of a law firm consultancy.

The pressure put on associates at large firms is coupled with high starting salaries.

That compensation is part of what makes Big Law associate a highly sought-after job, despite the loss of control they have over their entire schedules.

Yet acting individually, associates are "relatively powerful professionals" who can negotiate one-on-one with their firms—and if they're unsatisfied, they can move laterally to other firms, said Eli Wald, a law professor.

Another factor discouraging union campaigns is that associates often leave their first firms after a handful of years, either to join another Big Law firm or find work in a setting with more work-life balance, he said.

Moreover, the main complaint that presumably would motivate unionization—the 24-7 availability at the demand of a client—isn't something that would likely change via collective bargaining because it's a fundamental feature of the industry, Wald said.

Although Big Law associate unionizing appears to be a nonstarter for the time being, legal industry observers said there are other private-sector lawyers who are more likely to organize.

The successful union campaigns at Outten & Golden and Segal Roitman suggest that associates may continue organizing outside of the Big Law setting. Outten & Golden, a 65-lawyer U.S.-based law firm that represents plaintiffs in labour and employment litigation, said it has voluntarily recognized a union formed by its associate attorneys.

The union, Outten & Golden United, was a "logical next step" given the firm's work representing workers and unions". We're very much supportive of the union movement," Klein said. "We're aligned with their interests." It said in a statement that it believes that labour unions are "uniquely situated to promote workplace democracy, equity, and transparency throughout the legal profession and beyond." Klein said he did not think much will change in the firm's daily operations. Before the union formed, the firm had an associate committee that provided input on the firm's operations.

Keep AI away from family court

By Jonathan Whettingsteel 14 August 2023

2 Falling down an online rabbit hole, I learned about the Estonian Ministry of Justice piloting AI software
4 that hears and decides small claims of under €7,000; the world's 'first robot lawyer' called 'DoNotPay'
6 that successfully appealed 160,000 of 250,000 (that's 76%) of parking tickets in London before its
8 second anniversary; and how the Supreme People's Court in China has been using an AI judge since
10 2017.

12 At the Law and Technology conference in June, master of the rolls Sir Geoffrey Vos supported the use
14 of AI, but only in low level civil cases. When considering family law, Vos said: 'There are some decisions
16 – like for example intensely personal decisions relating to the welfare of children – that humans are
18 unlikely ever to accept being decided by machines.'

20 What about the profession? Lawyers in the US with a personal injury case against an airline were
22 recently forced to admit to using ChatGPT when opposing counsel could not find six of the cases cited
24 in his legal brief. It turned out they were fiction. At the disciplinary hearing, the lawyers' defence was
26 that they were not aware the information from ChatGPT could be false.

28 In my area of family law, AI may have a place analysing financial documents such as bank statements,
30 looking for irregularities or suspicious transactions, or generating financial proposals by undertaking
calculations using matrimonial assets, but without empathy, sensitivity and nuance, how can it provide
a satisfactory outcome?

I decided to put the question to the accused. I asked ChatGPT: 'Should AI be used to decide family court
cases?' The response was certainly one that sounded very impressive: 'Deciding family court cases
involves complex and sensitive matters that often require consideration of personal circumstances,
emotions, and the well-being of individuals involved. While AI can assist in analysing data and providing
insights, it should not be solely relied upon to make decisions in family court cases.'

However, '...AI can still be used as a supportive tool in family court cases. It can help with tasks such as
organizing and analysing relevant data, identifying patterns in past cases, and providing
recommendations based on legal principles and guidelines. This can assist judges in making more
informed decisions.....'

And you know what? I found it hard to disagree.

People who come to see a family lawyer are often going through highly emotive, distressing personal
matters and are in need of calm, gentle and kind reassurance before even getting to their legal
situation.