

This issue of Voices of Excellence focuses on one of the core components of Barclay Damon’s three-pronged approach to diversity, equity, and inclusion (DEI): equity. The term “equity” refers to fairness and justice and is distinguished from equality, which means providing the same to all. Equity means recognizing that we do not all start from the same place and must acknowledge and make adjustments for imbalances. The process is ongoing, requiring us to identify and overcome intentional and unintentional barriers arising from bias or systemic structures. Equity recognizes each person has different circumstances and needs, meaning different groups of people need different resources and opportunities allocated to them in order to thrive.

QUOTE OF THE QUARTER

“When we listen and celebrate what is both common and different, we become a wiser, more inclusive, and better organization.”

—Pat Wadors, chief people officer at workforce management company UKG



Rochester Office DEI Challenge

by Patrick Burke, Rochester Office Manager

In an effort to gain a better understanding about each other and the different challenges that some encounter in their personal and professional lives, Barclay Damon’s Rochester office participated in an office-wide DEI Challenge this past June. The challenge was simple—each Wednesday, a Rochester Diversity Leadership Team member distributed a weekly topic, including celebrating Pride Month, basic DEI concepts, understanding biases, and celebrating Juneteenth, with links to short articles, videos, podcasts, reflections, and more. Then, our attorneys and staff chose one of the recommended articles, videos, or podcasts and completed a brief survey to share one takeaway from it. The goal of the Rochester DEI Challenge was to develop a deeper understanding of how inequity and racism affect our lives and our communities and ways that we can address them moving forward.

In this article, we want to share more information about one of the topics included in the DEI Challenge: basic DEI concepts. Links to the resources featured during the DEI Challenge are included in this article, as well as takeaways from our colleagues.

As background, DEI is vital to creating and maintaining a successful workplace—one founded on the principle that all people can thrive personally and professionally. Before we begin to reevaluate our efforts and implement new practices, it’s important that we fully understand each component, both individually and how they work together.

- **Diversity:** Welcoming differences of race and ethnicity, gender and gender identity, sexual orientation,

socioeconomic status, language, culture, national origin, religious commitment, age, (dis)ability status, and political perspective.

- **Equity:** A commitment to fair and impartial opportunities for all, often through actively challenging and responding to bias, harassment, and discrimination.
- **Inclusion:** A commitment to ensuring that differences are welcomed, every person feels a sense of belonging, and everyone’s voice is valued and heard.

Accenture: “Accenture Inclusion & the Power of Diversity” (Video)

Takeaways

- “We all need to be reminded from time to time to celebrate differences and make sure that we are being inclusive and recognize and work to change when we are not fulfilling that goal.”
- “There are probably a much greater number of people who would benefit if everyone was more inclusive than I had originally thought.”
- “There are so many ways people fail to include others, whether intentional or unintentional. I found this video to be very powerful, as it represented so many different situations where assumptions are made based on a person’s age, gender, race, and parental status.”
- “I don’t think I realized the issue of getting talked over that others (especially women) have to deal with regularly.”

Center for Global Policy Solutions: “Closing the Racial Wealth Gap” (Article and Additional Resources)

Takeaways









- “I had never heard of ECON prior to reading this article. I was pleased to learn about this organization and the list of policies they hope to enact to close the racial wealth gap. I was amazed at how many different items need to be addressed in order to accomplish this important goal.”
- “It is hard to deny that being white has privileges in this country that are not experienced by all races.”

Emmanuel Gospel Center, “5 Mind-Blowing Realities About Race (That White People May Not Know)” (Blog)

Takeaways

- “When we think about racism, intentional acts are what come to mind. However, people can have the best of intentions yet act in a way that has a disproportionate impact on race.”

2022 DIVERSITY PARTNER COMMITTEE MEMBERS

 Sheila Gaddis, Chair Rochester	 Zach Forward Syracuse
 Jerry Mackey, at Large Rochester	 Bob Heary Buffalo
 Jen Leonardi, Pro Bono at Large Buffalo	 Penny Mason Major Markets
 David Cost Albany	 Mark Whitford Rochester

- *“Racism is a cultural construct, but can become embedded at the systemic level.”*
- *“My biggest takeaway is to be much more mindful of my words or actions that can unintentionally contribute to racism.”*

As/Is: “What Is Privilege?” (Video)

Takeaways

- *“During the privilege walk, the act of leaving someone behind and not able to ‘bring someone with you’ was a strong demonstration.”*
- *“The visual representation of privilege put it into an entirely different perspective for me. This is the first time I have seen*

it presented in this manner, and it truly does have a more profound impact. The most profound for me was when the woman in the very back of the group described the reason she feels she was so far back was due to the questions regarding safety; that, as an African American gay woman, she had to take a step backward for every question regarding fear for her safety level.”

The feedback we received from this DEI Challenge has been extremely thoughtful and appreciated and will influence our firm-wide DEI initiatives moving forward. Similar challenges have been sponsored by the United Way and other community organizations, so be on the lookout for challenges like this one in other communities in the future. We hope you find these challenges to be as informative and rewarding as we did.

Pro Bono Kudos

Congratulations to [David Fulvio](#) on his efforts in a trial on behalf of a pro bono client in a very difficult prisoner’s rights case. David tried the case in the Northern District of New York (NDNY) before a jury. We represented the former prisoner plaintiff as part of our long partnership with the NDNY pro bono project, and the three defendant corrections officers were represented by the Attorney General’s Office. The client had been incarcerated from 1972 to 2018 for second-degree murder. During his prison term, he sustained two fractures to his left leg following an encounter with the three defendants. Our client claimed that two of the officers held him down while the other placed his baton underneath the client’s leg and jumped on it, alleging he was attacked as payback for his regular protests of certain prison policies as well as racism. Because there were no witnesses other than the parties and other corrections officers, the trial came down to credibility. Through effective cross-examination of the defense witnesses, David exposed inconsistencies, flaws, and downright absurdities in the defense testimony and theory of the case, but it was not enough to get the jury to side with the plaintiff. Said [Matthew Larkin](#) in summing up the case, “Despite the fact that the jury found that the defendants were not liable (which was the expected verdict), David did a tremendous job preparing the case and conducting the trial. The client expressed satisfaction with David’s hard work.”

David’s takeaways from the trial:

- *“As lawyers, we have great power and responsibility. We are able to give a voice to the voiceless and power to the powerless—my client was incarcerated for 47 years for a conviction that occurred when he was 18. His accused attackers likely never thought they’d have to defend the case he brought against them because of who they were and who he was. No matter who you are or what you did previously, you are entitled to your rights and dignity. It is important for us as lawyers to shine a light on and advocate for those in the shadows.”*
- *“Identity matters when it comes to jury deliberations. You can have a strong case, but if the jury does not sympathize with your client because of who he is or how he carried himself while on the witness stand, they are unlikely to find in your favor. This is only further complicated when there are race, class, or gender differences between the parties and the jury. It is important to keep in mind potential cognitive biases in evaluating cases.”*



Everyone should be inspired by David’s hard work and dedication to providing pro bono representation to those most in need. There is no time like the present to build on the great work David and others in our firm have provided this year by providing pro bono services to those in need.

Pro Bono Corner

Teaming Up to Provide Pro Bono Service

Pro bono matters are just like any other engagement from a lawyering perspective. As such, it is often best to work with others: another lawyer and a paralegal. All of our full-time attorneys and paralegals are required to provide pro bono service, and working with others is a great way to provide client service and achieve our goal to serve the public good. The next time an interesting pro bono project comes to your attention, reach out to members of your practice area. Working on a team can be satisfying and even more so when serving the needs of those who cannot afford to pay for legal service.

Pro Bono Partnership (PBP) and Law Firm Antiracism Alliance (LFAA)

These organizations offer a wide range of pro bono projects. Many of our attorneys and paralegals have taken on projects offered by [PBP](#). [LFAA](#) offers lawyers and law firms a way to work collaboratively across the country. LFAA recognizes and embraces the role that law firms, particularly when acting collectively, can play to help bring about systemic change and racial equity in the law. LFAA’s goal is simple: racial equity. Facilitating pro bono work is the primary mechanism by which LFAA pursues this goal.

Pro Bono Corner continued

Fee Credit Program for Approved DEI Activities

Barclay Damon associates, counsel, and paralegals can take advantage of the Fee Credit Program for Approved DEI Activities. The policy, which came out in summer 2020, supports and promotes Barclay Damon's commitment to diversity, equity, and inclusion; solicits engagement; and documents execution of DEI activities. Under the policy, eligible attorneys and paralegals can record up to 10 hours annually for approved DEI activities and will receive billable hour and fee credit in the same manner and as part of the existing budgeted pro bono fee credit system. Like with the shadowing and pro bono credits, year-end performance reviews will include an evaluation of associate, counsel, and paralegal contributions as transparent billable time (no separation or demarcation) and fee receipts. Eligible attorneys can still receive credit for a total of 75 pro bono hours or a mix of 65 pro bono hours and 10 DEI hours. Similarly, paralegals can receive credit for a total of 20 pro bono hours or a mix of 10 pro bono hours and 10 DEI hours. If you have any questions regarding the Fee Credit Program for Approved DEI Activities, please contact [Jen Leonardi](#), [Mitch Katz](#), or your office's diversity partner.

Office Updates

NYSBA Committee on Diversity, Equity, and Inclusion

[Sharon Brown](#) and [Dena DeFazio](#) are members of the New York State Bar Association Committee on Diversity, Equity, and Inclusion. Dena was appointed co-chair of the Programming Subcommittee, and Sharon was appointed chair of the Events Subcommittee.

DEI State of the Firm Awardees

Congratulations to [David Burch](#) and [Megan Glynn](#) on their well-deserved DEI awards, which were announced during the DEI State of the Firm presentation.



ALBANY

Albany Office Community Day

The Albany Office had its annual Community Day with firm client Northern Rivers in August, during which it helped demolish and remove an old shed and performed gardening work on the Northern Rivers campus.



Legal Aid Society's Justice for All Kickoff Event

Members of the Albany office attended the Legal Aid Society of Northeastern New



York's Justice for All Kickoff Event for a campaign to raise money to support free legal services to those who cannot afford them.

New York State Bar Association Pro Bono Panel

For the New York State Bar Association's Partnership Conference Pro Bono Coordinators' Network, [David Cost](#) was on a panel concerning law firms' pro bono efforts, particularly ways to strengthen collaboration with pro bono legal service providers.

Recognition for a Job Well Done

[Amanda Miller](#) and [Samuel Chubb](#) volunteered to take on a pro bono case the Northern District of New York (NDNY) assigned to the firm involving a prisoner's alleged First Amendment violations. Amanda and Sam were recognized during a reception at the NDNY courthouse for their pro bono service this year. They're shown here with [Brienna Christiano](#).



Feed Albany

Members of the Albany office volunteered with Feed Albany to prepare meals for the Thanksgiving holiday. [David Solimeno](#), [Amanda Miller](#), [Dan Krzykowski](#), [Kristen Abele](#), and [Paige Beyer](#) were among those who boxed over 200 dinners, and other members of the Albany office made donations.

Albany (Fun)draising Run

Colleagues in the Albany office took part in the Albany County Bar Association Law Day 3.5-mile race at the Crossings Park of Colonie, New York. The annual fundraiser supports local organizations that assist domestic violence victims and their families and that provide access to justice at the Albany County Family Court.

BUFFALO

Minority Bar Association of WNY Board of Directors Meeting

The Buffalo office hosted the October meeting of the Minority Bar Association of WNY (MBAWNY) board of directors. Larry Watters, the current MBAWNY president, and other board members, including [Oliver Young](#), convened in the Morey Board Room in the Avant Building. Attorneys and staff who work in the office were invited to stop in and say hello before the meeting got started.

Share the Warmth Drive in Buffalo

The Buffalo office collected mittens, gloves, hats, scarves, and socks as part of its Share the Warmth Drive, which helps those in the Buffalo community stay warm, comfortable, and safe all winter long. The beneficiary of this year's drive was Journey's End Refugee Services.

2022 Barclay Damon United Way Campaign

This year, Barclay Damon's Buffalo office raised over \$8,000 for the United Way. Donations helped those in the Western New York community, including helping children reach their full potential, families achieve financial stability, and people live healthier lives. Thank you to everyone who participated!

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Office Updates continued

BOSTON | NEW HAVEN | NEW YORK

Connecting in Connecticut

Thanks to [Penny Mason](#) for this a photo of a fun event: a combined surprise party for [Karen Francis](#) to celebrate her upcoming wedding and an end-of-summer party for the New Haven office. “Everyone was there, including [Jack O’Keefe](#), who took the picture,” said Penny.



Inclusion Lunches

The New Haven office continues to hold an all-hands BYO lunch in the office every Thursday as part of its Inclusion Initiative.

Volunteering With DESK

[Karen Francis](#), a senior legal assistant in the New Haven office, has signed up to volunteer once a month with the New Haven Downtown Evening Soup Kitchen (DESK). This is the soup kitchen that the New Haven office assisted as part of its Community Day. Thank you, Karen!

Connecticut Bar Association Diversity, Equity & Inclusion Summit

[Penny Mason](#) represented the firm at the Connecticut Bar Association Diversity, Equity & Inclusion Summit. The Diversity, Equity & Inclusion Summit is an innovative and collaborative professional development experience designed to empower leaders in the legal profession to act toward making Connecticut a more diverse and inclusive bench and bar.

Ask-a-Lawyer Clinic at Yale University

In partnership with the New Haven County Bar Association, [Keith Costa](#) volunteered to serve as a pro bono lawyer at their Ask-a-Lawyer (AAL) Clinic in September at Yale University’s McDougal Graduate Student Center in New Haven. Keith met with several Yale graduate students whose legal problems ranged from an auto warranty issue to a landlord-tenant dispute. Each person was entitled to receive a free 15-minute consultation. Keith’s role was to serve as the New Haven County Bar Association’s intake attorney since AAL Clinics do not provide individual legal representation; all matters were then referred to local private attorneys. Keith also served at the AAL Clinics on October 19 and November 16.

Pro Bono Pays Off for First Responders

[Charles Nerko](#) was quoted in a story in the *Blue Stone Press*, “First Aid Squad Gets Help With New Paid EMTs,” regarding his pro bono work for the Kerhonkson-Accord First Aid Squad (KAFAS), which, with the firm’s assistance, secured funding to hire EMTs to supplement declining numbers of EMS volunteers. [Kevin Szczepanski](#) also worked on this matter, advising on insurance arrangements. As noted in the article, Charles is chair of KAFAS’s advisory board.

ROCHESTER

Rochester Office Community Day

The Rochester Diversity Leadership Team completed its Community Day with Foodlink. Foodlink is a Rochester-based not-for-profit dedicated to ending hunger and building healthier communities by addressing both the symptoms and root causes of food



insecurity. They serve as the hub of the emergency food system across a 10-county service area. As a leading public health organization, Foodlink administers many programs and initiatives that aim to build the health and wealth of communities. Our volunteers spent the afternoon in the warehouse at food sorting stations, sorting and inspecting donated items before they left the facility.

Bivona Holiday Lights Tour

Barclay Damon is once again sponsoring the Bivona Holiday Lights Tour. This has been an extremely popular event for the last couple years that many people enjoyed participating in. The Bivona Child Advocacy Center partners “with some of the brightest and most festively decorated homes in our area to bring you a fun, socially distant, and family centered Holiday Lights Tour.” The Bivona Child Advocacy Center provides support and services for children experiencing child abuse.

Adopt-a-Family With Cameron Community Ministries

This year, the Rochester office adopted a family through Cameron Community Ministries. The family has four children, and each child provided a wish list as well as clothing sizes. Members of the Rochester office provided wrapped gifts and monetary donations, completely fulfilling the family’s wish lists.



Yoga at the Rochester Office

The Rochester office held a yoga session with Vesna Sanders, a local yoga teacher, followed by a vegan lunch on October 18. Hosting activities like yoga is just one way the firm supports wellness on the job.

SYRACUSE

Syracuse DLT Lunch ‘n’ Learn

The Syracuse Diversity Leadership Team hosted a lunch ‘n’ learn on October 3, during which Paula Johnson discussed her cold case justice initiative. Johnson is a professor at Syracuse University College of Law and was recently appointed to the Franklin H. Williams Judicial Commission. This commission advises and educates decision makers in the New York Court System on issues surrounding litigants and employees of color, implementing recommendations in addressing these issues to ensure equitable justice in New York State.

PEACE, Inc.’s Big Brothers Big Sisters Field Day and Backpack Giveaway

Volunteers from our Syracuse office participated in PEACE Inc.’s Big Brothers Big Sisters Field Day and Backpack Giveaway Event on September 10 at Santaro Park. They helped set up and run yard games. The Bigs and Littles took part in a kickball game and field-day games, and prizes were given out to the winners.

