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THE LEADERSHIP ISSUE

Neurodiversity in the Practice of Law

Great minds don't always think alike.

M. Suzanne Hartness & John D. Bowers

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Judy Singer, an Australian sociologist, first used the term “neurodiversity” in her sociology honors thesis paper in 1998. Harvey Blume, with whom Singer corresponded about their mutual interest in autism, further popularized the word in a 1998 issue of *The Atlantic* stating, “Neurodiversity may be every bit as crucial for the human race as biodiversity is for life in general. Who can say what form of wiring will prove best at any given moment?”

In our relatively brief exposure to the concept of neurodiversity, we discovered employees with such capabilities have been working in the legal industry for decades, whether in a lawyer capacity or staff role. The change sweeping the marketplace, however, is the intentional recruiting and employment of neurodiverse individuals to serve in predefined functions that recognize their talents and play to their strengths.

We are joined by Tim Vogus and Haley Moss in this roundtable exploring the organizational aspects of working with and hiring neurodiverse talent in the legal industry.

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Haley Moss is an attorney, writer, speaker and consultant based in Coral Gables, Florida. She made international headlines for becoming Florida's first openly autistic attorney admitted to The Florida Bar. She co-hosts the *Spectrumly Speaking* podcast produced by Different Brains and serves on the Florida Bar Young Lawyers Division Board of Governors and the Miami-Dade Florida Association for Women Lawyers.

Tim Vogus is the Brownlee O. Currey, Jr. Professor of Management at Vanderbilt University Owen Graduate School of Management in Nashville. Vogus serves also as the faculty director of the Leadership Development Program and the deputy director of the Frist Center for Autism and Innovation.

Q Law Practice (LP): As we explore neurodiversity, what is a concise definition of what it is and isn't?

A Tim Vogus (TV): It is variation in the human brain regarding sociability, learning, attention, mood and other mental functions; the range of diverse functions as a continuum and the natural variation that is simply part of the human experience. The big takeaway from neurodiversity is to move away from difference as being seen as a deficit—it is not a deficit, it is *just* difference.

There are categories that help to align neurodiversity: autism spectrum disorder (ASD), social anxiety, attention deficit hyperactivity disorder, dyslexia, depression. There are people who carry around the labels placed on them. Our hope is that as we continue to learn more and

center on the lived experience of neurodiverse individuals, we will develop a fuller picture of the wide and varied neurodiverse strengths. To the extent that adaptations and accommodations are needed, most are practices that would make the workplace more inclusive for all employees.

Q LP: As the first openly autistic lawyer in Florida, will you describe your job search experience?

A Haley Moss (HM): I got my first law firm job by chance. Right before my 2L year in law school, I met a lawyer who was showing a unit in my apartment complex. Our conversation in the elevator eventually led to an invitation for a summer internship with the firm.

The managing partner of the firm has an autistic son, so his interest in my capabilities was something really personal for him. My full-time postgrad offer was contingent upon passing the bar exam, which I passed and was sworn in to the Florida Bar in January 2019.

Q LP: What is going on culturally with neurodiverse employees?

A TV: There is certainly a movement afoot to build technologies and transform workplaces in a way that increases employment opportunities—and not just any employment but sustained, meaningful employment for neurodiverse individuals. That is the guiding mission of the Frist Center for Autism and Innovation at Vanderbilt. Technologies and workplace transformation are needed because many talented neurodiverse individuals experience disproportionate levels of under- and unemployment, with some estimates upwards of 80 percent. This is clearly far too high in general, but especially in relation to the actual skills and talents of the people we're talking about.

Q LP: What resources did your firm put in place to support you, or has this been necessary?

A HM: I look at this as something that both employers and employees really need to partner on. Each person is very different, as are neurodiverse profiles, so any accommodations vary depending on each person's needs.

It's been clear to me that any accommodations I need may change over time depending on how aware I am of the things I struggle with. Using headphones at work has been a game changer for me because I can focus without being distracted by the hum of fluorescent lights or office chatter.

Having certain tasks explained to me was a distinct change to make practice accessible. Often the mentality is “sink or swim” for new associates. I felt overwhelmed when I was asked to write a motion on a case for the first time. After spending significant time accomplishing nothing, I went back to my boss to ask him to break the process down for me step by step. I was able to write the motion more efficiently by having piecemeal deadlines that culminated in a single full draft.

Explaining expectations and processes helps provide a better understanding of the final product, no matter whom you work with. If the work can't be explained in a plain-language way, it's likely that the requester simply doesn't know what they need.

People in the disabled community are often told we are unable to do things or are mistaken as lazy. As legal industry leaders, we should instill confidence in people in order to help them overcome acceptance of disability stereotypes.

Q LP: What are some of those known biases across all industries related to neurodiversity?

A TV: One of the biases that really gets in the way is cost and corresponding risk. Organizations can be described as uncertainty-reducing systems. Any time there is some kind of difference coming into the organization, including neurodiversity, there is often a presupposition that expensive accommodations are immediately required. As with Haley's headphone example, accommodations for neurodiversity are typically inexpensive, and oftentimes the adaptations benefit a broad swath of neurotypical employees as well.

In addition, research has documented that companies may be interested in hiring in more diverse ways but do not know what to do organizationally. They don't know what it takes to source neurodiverse talent (i.e., where to look) and how to best assess skills given the known limitations and potential biases in employment interviews.

The other pervasive problem in a range of industries is hiring based on “cultural fit.” How similar is a candidate to people who are already in the organization? Since neurodiversity is variation by definition, the value of such candidates is their different ways of seeing the world and thinking. As such, they will likely not be the same as those existing within the organizations already. We need to shift people away from the cultural fit ideal—what makes them comfortable—to a focus on *cultural contribution*. What can a different perspective bring to the organization to push it ahead and achieve more innovation as a result?

Q LP: What recommendations do you have for prospective employers that might improve the hiring experience?

A HM: In the interview process, you have to be transparent, and I think you have to check your biases at the door. I am someone who is terrible at making natural eye contact. That being said, interviewers view eye contact as a sign of trustworthiness. Do you want me to look at you and not pay attention but look like I'm paying attention, or do you actually want me to listen to everything you are saying? If I look at you, it absorbs all my energy focusing on you and making you feel comfortable versus focusing on the message. This is true for a lot of people on the spectrum. A lot of cultural biases, such as what we perceive eye contact to mean, must be checked at the door.

Q LP: What are some advantages neurodiverse lawyers and staff may offer?

A HM: Most autistic employees lack filters. Feedback from these individuals is no-nonsense and telling it exactly how it is, which yields transparency. In document review, my ability to focus yields catching something really quickly: I love finding the anomaly in the data! In every case that I've been on, I have caught details that others missed.

Q LP: How do we as law practices uncover our common, unconscious biases so that we can address them and break them down?

A TV: It is most important to diagnose what your organization values, supports and rewards. A lot of times such introspection manifests assumptions that are tough to articulate: We are guided by our culture but can't put our finger on exactly what it is. Who does really well in our organization and why? What do people get promoted for? Those are the things that the organization is valuing. How many of these factors are essential? How much will we have to change in order to be more inclusive?

Early research consistently suggests that leaders at the top of organizations saying, "Neurodiversity is something that we are committed to and we will pursue" goes a long way to beginning a real investment. Such a statement of intent is sufficient to push people to begin to think a little differently. Leaders can also overcome biases by creating psychological safety, establishing a workplace where it's safe to take an interpersonal risk. This is accomplished by making the "undiscussable" a little more open to discussion, such as leaders speaking about their own vulnerabilities or challenges, which don't even have to be about diversity, disability

or neurodiversity to open up that conversation. It starts to make the organization more inclusive.

Grasping the Opportunity

Neurodiversity represents a new frontier for hiring considerations within the legal industry for both lawyer and nonlawyer roles. It is being included in our industry's broader diversity and inclusion conversations and strategies. There is an untapped pool of talented resources within our reach, which can provide tremendous insight and valuable innovation for our firms.

As we learned from Vogus, we have organizational work to do within our industry and our firms to specifically address biases. We must also improve our hiring practices and processes to prevent excluding viable candidates based on traditional practices.

Moss' experience gives a personal voice to the need to identify biases within the interview process and to make necessary adjustments in our HR departments. As she so eloquently stated: "If you are truly looking for talent and also looking to do better, you have to keep in mind that neurodiversity brings innovation. Disability in general brings innovation. We need all kinds of people. We need all kinds of minds on our teams."

Neurodiversity may appear as unplanned challenges at first blush, but it represents a key advantage for the legal industry. A growing list of nonlegal employers have leveraged the abilities of neurodiverse professionals for years in order to meet needs in key growth areas and fuel innovation and productivity. To drive sustainable growth, firms need to continually innovate, diversify our workforces and recruit new sources of talent. The time has come for law practices to get on board: Neurodiverse assets are already on firm payrolls; now it is a matter of identifying and building channels for their strengths.

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