



Maine State Bar Association
DIVERSITY, EQUITY
& INCLUSION
Report 2021



Report issued on October 21, 2022

The First Diversity, Equity & Inclusion Annual Report of the Maine State Bar Association

A diverse legal profession positively impacts the administration of justice, ensures fairness, and promotes the rule of law. Indeed, every effort to accomplish these goals directly reflects the MSBA's mission: to support the public's interest in a fair and effective system of justice. The MSBA is committed to diversity, equity, and inclusion among the Maine Bar, its staff, and its Board of Governors. It is also committed to increasing the number of lawyers from historically underrepresented populations.

Angela P. Armstrong
Executive Director



Dear Members:

As recent events throughout the nation and in Maine placed diversity, equity, and inclusion in high relief, it became clear that the MSBA needed to take decisive action on these issues. In 2020, the Board of Governors created the Diversity Committee. This Committee is charged with analyzing and addressing the diversity and inclusivity of the Association. As one of its initial efforts, the Committee formed a section for attorneys who identify as Black, indigenous, and people of color, now called the BIPOC Lawyers Section. The BIPOC Lawyers Section is similar to the Women's Law Section in that it serves specific demographics rather than a specific law practice area. The Committee has also worked with expert facilitators to provide training around diversity, inclusion, harassment, bias, and equity.

This inaugural Diversity Report summarizes the MSBA's initial efforts to create a more diverse and inclusive Bar. It incorporates:

- demographic data from members during dues renewal and new member registration to present a picture of the state of the profession in Maine from a diversity and inclusion standpoint.
- descriptions and demographics of the BIPOC Lawyers Section and Women's Law Section.
- the CLE programs presented in 2021 related to harassment and discrimination training.
- a summary of the results of the MSBA's 2020 survey, "Racial and Ethnic Discrimination in Maine's Legal Community."

I encourage you to read through this report to learn more about the early efforts we have taken to educate our members, staff, and Board; identify our diverse populations; and begin to reach out to historically underrepresented populations in Maine's legal community. And if you have suggestions for how the MSBA can continue its work in this important area, please reach out to me, or your Board representative.

Sincerely,

A handwritten signature in blue ink, appearing to read "Angela P. Armstrong".

About the Maine State Bar Association

Chartered in 1891, by act of the Maine Legislature, the Maine State Bar Association (MSBA) has proudly supported the lawyers and worked to advance justice for the laypeople of Maine for more than 125 years. The MSBA's mission is to promote the honor, dignity, and professionalism of lawyers, advance the knowledge, skills and interests of its members, and support the public interest in a fair and effective system of justice.

About the Diversity Committee

The Diversity Committee is a committee of the Board of Governors. It is charged with analyzing the diversity and inclusivity of the Association and recommending changes to increase both; educating attorneys about diversity, equity, and inclusion; and addressing the effects of historical prejudices and discrimination. The Diversity Committee's goal is to help the Association achieve a diverse membership, leadership, and prominence of all groups in similar ratios to those in the general population.

Current Diversity Committee members are Jason Anton, Angela Armstrong, Shamara Bailey, Frank Bishop (chair), Thomas Douglas, Asha Echeverria, Aria Eee, Susan Faunce, Deborah Ibonwa, Shana Cook Mueller, and Stacey Neumann.

2021 Diversity Committee members



Jason D. Anton, Esq.
*Office of the Attorney General
Augusta*
**Public Service Sector
Board of Governors**



Aria Eee, Esq.
*Board of Overseers of the Bar
Augusta*



Angela P. Armstrong
*Maine State Bar Association
Augusta*
Staff Liaison



Susan A. Faunce, Esq.
*Berman & Simmons PA
Lewiston*
**District 5
Board of Governors**



Shamara S. Bailey, Esq.
*Bailey Law Firm, PLLC
Patten*



Deborah Ibonwa, Esq.
*Maine Equal Justice
Augusta*



Frank H. Bishop Jr., Esq.
*Hudson Cook LLP
Portland*
**President-Elect
Board of Governors**



Kelly W. McDonald, Esq. (Chair)
*Murray Plumb & Murray
Portland*
**President
Board of Governors**



Thomas L. Douglas, Esq.
*Douglas McDaniel & Campo LLC PA
Westbrook*
**Co-chair of the BIPOC Lawyers
Section**



Stacey D. Neumann, Esq.
*Murray Plumb & Murray
Portland*
**Women's Law Section
Board of Governors**



Asha A. Echeverria, Esq.
*Bernstein Shur
Portland*
**BIPOC Lawyers Section Representative
to the Board of Governors**



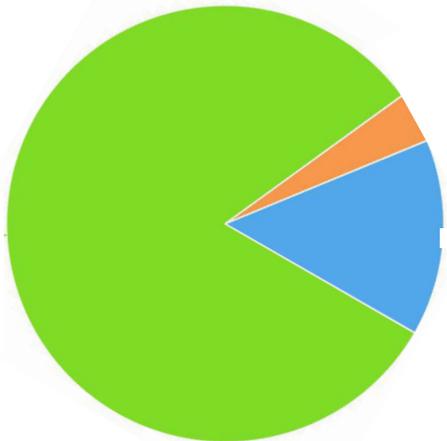
John W. Tebbetts, Esq.
*Tebbetts Law Office, LLC
Presque Isle*
**District II
Board of Governors**

MSBA Member Demographics

The MSBA collected the following demographic information from its members during the annual dues renewal period.

Do you identify as a member of the LGBTQ+ Community?

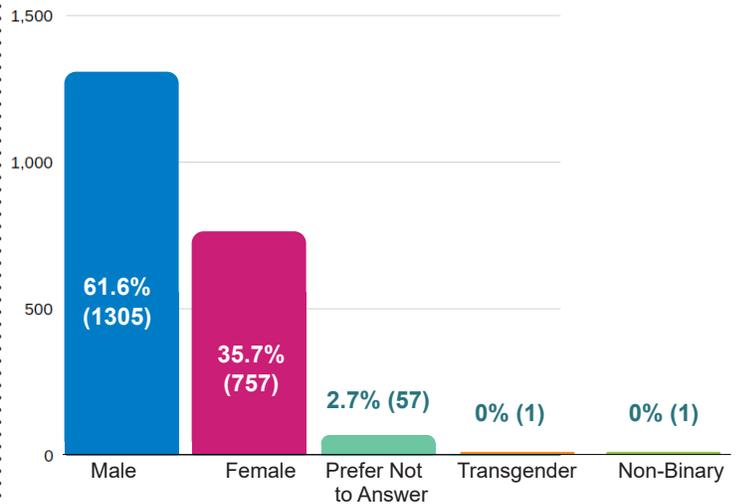
Of 2,021 respondents who answered the question:



- No: 82% (1651)
- Yes: 4% (76)
- Prefer Not to Answer: 14% (294)

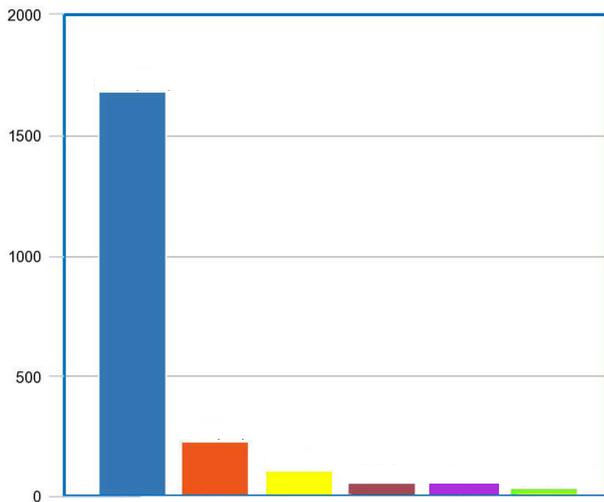
Gender

Of 2,120 respondents who answered the question:



Military Status

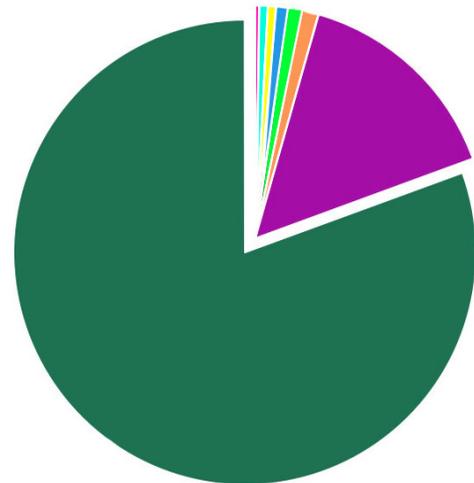
Of 2,026 respondents who answered the question:



- None: 82.9% (1680)
- Prefer Not to Answer: 11.4% (231)
- Veteran: 5.2% (105)
- Reserve: 0.2% (4)
- Retired: 0.2% (4)
- Active Duty: 0.1% (2)

Race/Ethnicity

Of 1981 respondents who answered the question:



- White: 82.6% (1669)
- Prefer not to answer: 15.4% (312)
- Multi-Racial/Other: 0.8% (17)
- Asian: 0.4% (9)
- American Indian or Alaska Native: 0.2% (5)
- Black or African American: 0.2% (4)
- Hispanic or Latino: 0.2% (4)
- Native Hawaiian or Other Pacific Islander: 0.0% (1)

About the BIPOC Lawyers Section

The Black, Indigenous, and People of Color (BIPOC) Lawyers Section is open to members of the MSBA who identify as BIPOC or who wish to support its mission of providing support, mentoring, networking education, and fellowship for Maine's BIPOC legal community, addressing the unique issues faced by Maine attorneys of color, and increasing diversity in the Maine Bar. Current section chairs are Carlos Diaz and Thomas Douglas.

2021 Section Chairs

Carlos Diaz, Esq.
Cumberland County District Attorney's Office
Portland



Thomas L. Douglas, Esq.
Douglas McDaniel & Campo LLC PA
Westbrook

Number of Members

31

Gender

15
Female

13
Male

2
No
Response

1
Prefer Not to
Answer

Identify as a Member of the LGBTQ+ Community?

No 21

Yes 1

No Response 6

Prefer Not to Answer 3

Ethnicity/Race

American Indian or Alaska Native 3

Asian 6

Black or African American 2

Hispanic or Latino 4

Multi-Racial/Other 5

White 4

No Response 6

Prefer Not to Answer 1

Military Status

None 22

Veterans 3

No Response 5

Prefer Not to Answer 1

About the Women's Law Section

The Women's Law Section (WLS) works to engage in activities that promote the advancement and support of women in the profession of law and in the community, to develop educational programs to, among other things, address discrimination against women lawyers and the unique problems they encounter in pursuing their professional careers, and discrimination against women generally in all areas of the law, and to advance issues of interest to women in the legal environment. Current section chairs are Alexis Chardon and Katie Day.

The WLS proudly presents the biennial Caroline Duby Glassman Award to a woman who is a member of the Maine Bar and who has demonstrated excellence in helping to remove barriers and advance the position of women in the profession or community; worked to educate the Bench, the Bar, or the public on the status of women in the profession; and/or has acted as a role model for younger or less experienced women lawyers. See a list of recipients [here](#).

2021 Section Chairs



Alexis G. Chardon, Esq.
*Terry Garmey and Associates
Portland*

Jennifer H. Rohde, Esq.
Cumberland

Number of Members

197

Gender

181
Female

1
Male

11
No
Response

4
Prefer Not to
Answer

Identify as a Member of the LGBTQ+ Community?

No **136**

Yes **10**

No Response **26**

Prefer Not to Answer **25**

Ethnicity/Race

American Indian or Alaska Native **1**

Asian **3**

Multi-Racial/Other **4**

White **140**

No Response **24**

Prefer Not to Answer **25**

Military Status

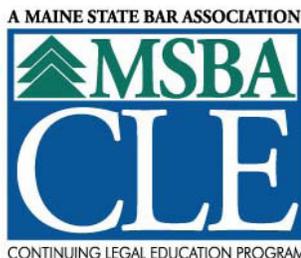
None **153**

Retired **1**

Veterans **4**

No Response **20**

Prefer Not to Answer **19**



2021 CLE PRESENTATIONS

In 2021, the MSBA provided numerous continuing legal education programs focusing on diversity, equity and inclusion. In addition to providing opportunities for open dialogue and community and personal growth, these programs qualified for CLE credit in the recognition and avoidance of harassment and discriminatory communication or conduct related to the practice of law as set out in the Maine

Rules of Professional Conduct. Qualifying topics include harassment or discriminatory communication or conduct on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, or gender identity.

- At the Frontiers of Anti-Discrimination Law: Live
- Bias and the Jury: Live
- Counseling the Client Regarding Form I-9: Webinar
- Dealing with Difficult People: Webinar Live
- Equity & Diversity in Law Practice: Audio Webcast
- How to Maintain A Diverse Legal Workforce: Webinar
- Learn Mindfulness to Curtail Implicit Bias: Webinar
- Maine Lawyers Respond to Controversial ABA Article: WLS Webinar
- Me Too: Sexism, Bias & Sexual Misconduct: Webinar
- Microaggressions, Bias Interruption, & Confronting Bias in the Legal Workplace: Live
- Moving Beyond Diversity 2021: Webinar
- Moving Beyond Diversity: Understanding Neuropsychology of Implicit Bias: Webinar
- Practical Skills to Respond to Bullying, Harassment & Discrimination: Live
- What the Blues Teach About Bias and Inclusion in the Law: Live
- "When there are Nine" - Sexual Bias in the Legal Profession: Webinar

CLE Committee Members: Hon. Donald G. Alexander; Karen E. Boston, Esq.; Travis Brennan, Esq.; Jennifer L. Frank, Esq.; Michael H. Griffin, Esq.; Hon. Thomas Humphrey; Linda Morin-Pasco (staff liaison); Kyle Noonan, Esq.; Stacy O. Stitham, Esq.; Erica Veazey, Esq. (chair); and Debby L. Willis, Esq.

Racial & Ethnic Discrimination in Maine's Legal Community: Survey Results

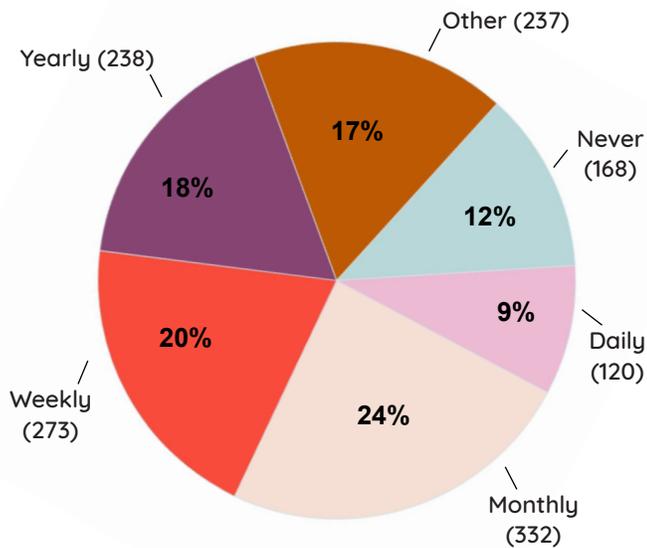
The MSBA distributed a survey relating to racial and ethnic discrimination in Maine's legal community by email on Sept. 18, 2020 to approximately 5,500 attorneys licensed to practice law in Maine. The survey closed on Oct. 2, 2020, with a total of 1,376 attorneys responding to the survey. The survey, consisting of 14 questions, followed a simple logic progression based on a respondent's answers. For example, if a respondent answered yes in question 2, "Within the context of Maine's legal community, have you experienced or witnessed discrimination, disparate treatment, or problematic comments that you believe were made on account of race or ethnicity?" then the respondent was sent to the next question in the survey. However, a no response skipped the respondent directly to the last two questions of the survey. The survey also included several open-ended questions that elicited several hundred responses. Although we are unable to share all responses, as many of them contain names or other identifying information, we have shared sample comments representative of the responses to each of these questions in this report.

The MSBA published an article related to this survey in the fall 2021 edition of the *Maine Bar Journal*. The article, "BIPOC Lawyers in Maine: Past, Present and Future," was authored by BIPOC Lawyers Section Co-Chair Tom Douglas and Diversity Committee members Shamara Bailey and Deborah Ibonwa. The article appears at the end of this report.

Question 1: All respondents were asked this question.

How often on average do you interact with black, indigenous or people of color within your work as an attorney in Maine?

Of 1,368 respondents who answered the question:



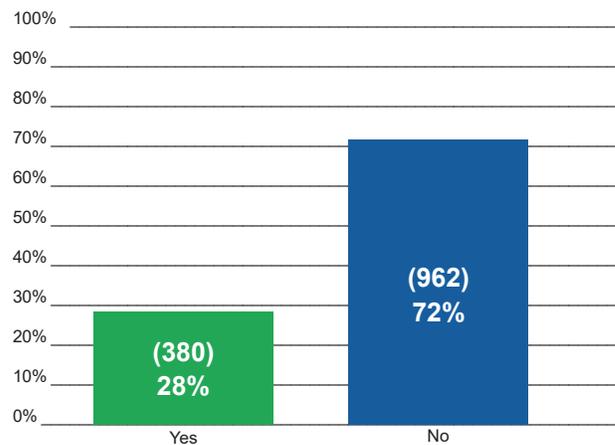
Question 2: All respondents were asked this question.

Those who answered yes moved on to Question 3.

Those who answered no skipped to Question 13.

Within the context of Maine's legal community, have you experienced or witnessed discrimination disparate treatment, or problematic comments that you believe were made on account of race or ethnicity?

Of 1,342 respondents who answered the question:

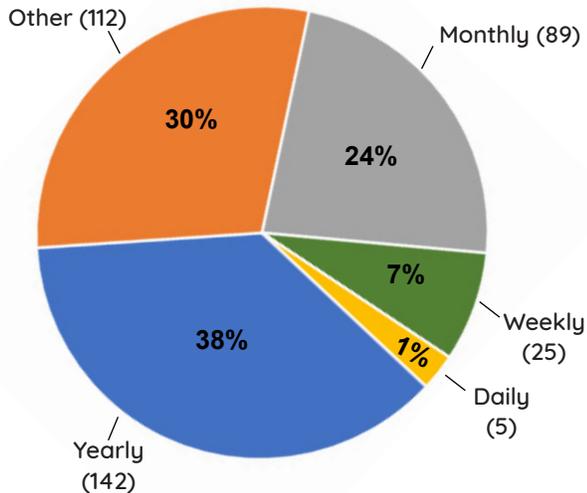


Racial & Ethnic Discrimination in Maine's Legal Community: Survey Results

Question 3: The 380 respondents who answered yes to Question 2 were asked this question.

Within the context of Maine's legal community, how often (on average) have you experienced or witnessed racially or ethnically-motivated discrimination, disparate treatment, or problematic comments?

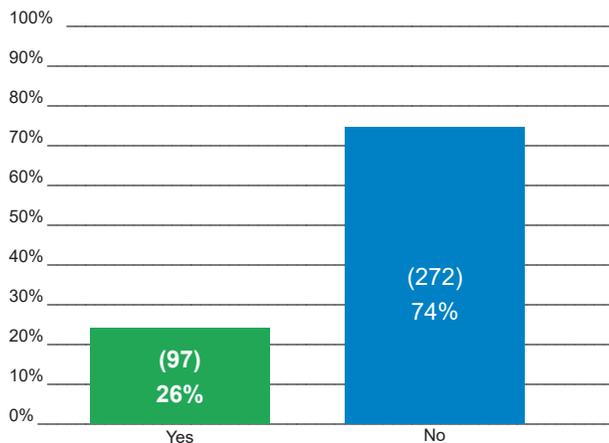
Of 373 respondents who answered the question:



Question 4: The 380 who answered yes to Question 2 were asked this question. Those who answered yes moved on to Question 5 and those who answered no skipped to Question 6.

Have you experienced or witnessed racially or ethnically-motivated discrimination, disparate treatment, or problematic comments between clients and attorneys?

Of 369 respondents who answered the question:



Question 5: This question provided respondents the opportunity to describe their experiences or observations of racially or ethnically-motivated discrimination, disparate treatment, or problematic comments between clients and attorneys. Of the 97 who said yes to Question 4, 68 provided responses comments and/or descriptions of their experiences or observations.

"I have witnessed quite a number of white attorneys talk down to and be generally condescending towards their non-white clients. I have also seen clients react poorly to nonwhite associate attorneys being staffed on their cases."

"I've seen attorneys doing pro bono work be dismissive and rude to clients that are not white or do not speak English as their first language."

"Casual use of racial/ethnic epithets by clients, not by attorneys - but not addressed/corrected by attorneys."

"Generally, I hear clients being the party to make racially charged comments — disparaging other party for dating a black man, etc. I rarely have heard attorneys engage in this, but I also don't see the clients being chastised for such talk."

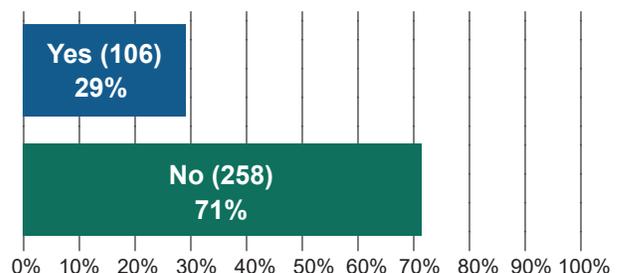
"Mostly clients making racist or prejudiced comments in conversation with attorneys and attorneys laughing or not calling it out."

"Attorneys too often cater to their client's biases and too often remain silent when a client behaves in an inappropriate manner that is clearly sexist or racist."

Question 6: The 380 who answered yes to Question 2 were asked this question. Those who answered yes moved on to Question 7 and those who answered no skipped to Question 8.

Have you experienced or witnessed racially or ethnically-motivated discrimination, disparate treatment, or problematic comments in the legal employment realm among coworkers?

Of 364 respondents who answered the question:



Racial & Ethnic Discrimination in Maine's Legal Community: Survey Results

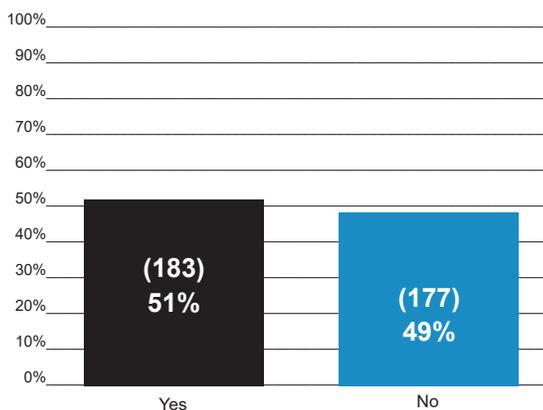
Question 7: This question provided respondents the opportunity to describe their experiences or observations regarding interactions in the legal employment realm among coworkers. Of the 106 who answered yes in Question 6, 62 provided comments and/or descriptions of their experiences or observations.

- “Joking and inappropriate comments.”
- “Jokes, microaggressions, ignorant comments.”
- “Insensitive comments or questions.”
- “Overheard some disparaging comments and discussions regarding race and ethnicity.”
- “Problematic, insensitive, or racist comments.”
- “Inappropriate jokes.”
- “Expressed presumptions re: “lesser than” backgrounds, education, integrity, intelligence, work histories, etc. “Us versus them” polarization.”

Question 8: The 380 respondents who answered yes to Question 2 were asked this question. The 183 respondents who answered yes moved on to Question 9 and the 177 respondents who answered no skipped to Question 10.

Have you experienced or witnessed racially or ethnically-motivated discrimination, disparate treatment, or problematic comments involving other Maine attorneys? (e.g., at a networking event or CLE, in court, or other event associated with the legal profession)

Of 360 respondents who answered the question:



Question 9: This question provided respondents the opportunity to describe their experiences or observations regarding other Maine attorneys. Of the 183 respondents who answered yes to Question 8, 117 provided comments.

- “My experience has been that there is a lack of appreciation that different individuals have different life experiences. In my experience, many white attorneys in Maine assume that their experiences are the “norm.””
- “White attorneys who are totally oblivious to serious issues facing attorneys of color and assuming that it doesn’t happen.”
- “Lawyers using racist and anti-Semitic language when talking with other lawyers outside of court.”
- “There is a significant amount of ignorance around racial discrimination. Some of it seems to be willful, given how opposed some members of the Bar have been to H&D training requirements. Others assume (wrongly) that racism is not a problem in Maine.”

“During employment interviews conducted by attorneys, questions asked about citizenship status based solely on presumed ethnicity/nationality.”

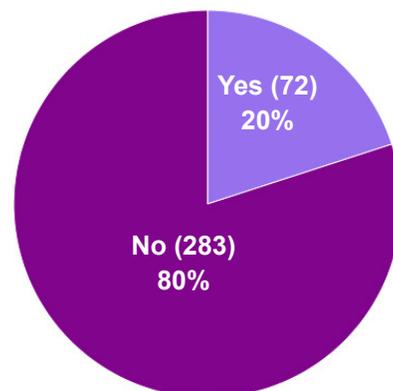
“When white men (particularly white men over 50) believe they are in “safe” company, remarks that indicate both conscious and unconscious racists, sexist are not uncommon.”

“Mostly comments based on lack of experience/contact with people of other races.”

Question 10: The 380 respondents who answered yes to Question 2 were asked this question. The 72 respondents who said yes moved on to Questions 11 and 12, and the 283 who answered no skipped to Question 13.

Have you experienced or witnessed racially or ethnically-motivated discrimination, disparate treatment, or problematic comments involving members of the Judicial Branch?

Of 355 respondents who answered the question:



Racial & Ethnic Discrimination in Maine's Legal Community: Survey Results

Question 11: This question provided respondents the opportunity to *describe their experience or observations regarding members of the judiciary*. Of the 72 who responded yes to Question 10, 49 respondents provided comments.

“Certain members of the bench appear to perceive certain individuals who come before them as more or less culpable based on whether or not they can personally relate to them.”

“Judges have implicitly (through sighs and body language) and explicitly expressed from the bench their frustration with using interpreters and the delay they cause in proceedings.”

“I regularly observe disparate treatment of black defendants in charging, setting bail, pretrial release, and sentencing in cases, particularly drug cases, compared to white defendants charged with similar crimes.”

“In general, I have observed that defendants of color receive disparate treatment from judges in Maine’s court system.”

“Judges frequently refer to attorneys of color and female attorneys as “Mr.” and “Ms.” instead of “Attorney”.”

Question 12: This question provided respondents the opportunity to *describe their experiences or observations regarding courthouse staff*. Of the 72 who said yes to Question 10, 35 respondents provided comments.

“In appropriate comments by judicial marshals. Clerks appointing colleague to represent clients only when the clerk perceives/assumes that the attorney (who identifies as a member of a racial minority group) shares the client’s race.”

“I have observed court personnel treat people of color with less care than others.”

“I have never witnessed any staff member of the judiciary make any inappropriate or discriminatory comments.”

“Courthouse staff, particularly judicial Marshalls, regularly make racist remarks and racist jokes.”

“I have not seen the problem with the staff.”

Question 13: This question was open to all respondents for additional comments. There were 479 respondents who provided comments.

Please describe any other experiences or observations you have had regarding racism in Maine’s legal community.

“I have observed non-white families, especially those who are not English proficient, struggle to understand court and legal processes. Language and cultural barriers limit our ability to adequately serve non-white families.”

“I have observed what I perceive to be harsher sentences offered by prosecutors when my clients are not white.”

“I think there is a general unwillingness from the legal community as a whole to recognize the intrinsic racism especially in the criminal justice system. Understandably, no one wants to recognize that they may have inadvertent racist tendencies in charging decisions, plea negotiating, attention given to certain clients, and sentencing.”

“I have seen disparities in sentencing between white and black co-defendants. When these disparities are pointed out to prosecutors, they themselves inevitably say they are not making any decisions based on race. If you talk about systemic effects, the response invariably involves some form of the comment ‘Are you calling me a racist?’”

“Coming to Maine from a much more racially diverse place, the dearth of racial diversity in Maine’s legal community is startling.”

“My observation is that racism in the Maine legal profession is not overt and is mainly manifested in the form of unconscious bias and white privilege.”

“Native Americans and Blacks receive less favorable treatment in the criminal system.”

“Comments regarding people of color being associated with drug trafficking and general comments derogatory of Native Americans.”

“My clients who are of a different race often express concern about whether a jury would be fair.”

“Microaggressions in white-dominated Maine law firms and legal circles committed against BIPOC attorneys or people are extremely prevalent and hurt the Bar (examples, people touching Black attorney’s hair or asking to touch Black attorney’s hair, assuming you have met a Black attorney before but it was the only other Black attorney in the town, etc.)”

Racial & Ethnic Discrimination in Maine's Legal Community: Survey Results

Question 14: This question was open to all respondents for additional comments. There were 931 respondents who provided comments.

As we contemplate racism in Maine, it is helpful to understand how members of our legal community define racism. What is your working definition of racism?

"Bias against or for one race over another based on race."

"Classifications, assumptions, behavior arising from views (whether perceived, or taught/inherited, collectively, or individually) based on race, color, ethnicity, language (accents), appearance."

"Treating persons differently because of their race."

"Disparate treatment solely because of race, religious beliefs/background, nationality, or ethnicity."

"Superiority of one race over another or distinguishing a race as inferior to yours."

"Racism is the belief in the inferiority or superiority of a group or groups of people based upon race."

"A belief that one group of people is better or worse than another based on race."

"Intolerance of ethnic diversity."

"Making assumptions about characteristics or traits held by individuals that are based upon their race alone."

"Racism is the act of discriminating against members of one race or stereotyping members of one race as inferior to members of another race."

"Racism is individual or systemic oppression, discrimination, or altered treatment based on a person's perceived race."

"Yes. Racism = the disparate treatment of another individual (either in action, thought, or access to services or process) on the basis of color, ethnicity, nationality, or culture."

"Any individual behavior (whether action or inaction) based on conscious or subconscious biases related to an individual's race, as well as any systemic or institutional policy or practice with an outcome that disparately impacts individuals due to race."

"The negative disparate treatment of individuals based on race. Also, negative statements and/or promoting a negative belief about individuals of a certain race as a whole."

"A conscious or subconscious belief that people have different abilities, characteristics, feelings, attitudes, or behaviors based upon their race."



THOMAS DOUGLAS is an experienced litigator with Douglas, McDaniel & Campo in Westbrook. He may be reached at tdouglas@douglasmcdaniel.com.



DEBORAH IBONWA is a Policy and Legal Advocate at Maine Equal Justice. She leads on housing policy advocacy, immigrant access to benefits, provides legal services and works on impact litigation. She may be reached at dibonwa@mejp.org.



SHAMARA BAILEY is a Staff Attorney/Mental Health Advocate with Disability Rights Maine. She may be reached at sbailey@drme.org.

BIPOC Lawyers in Maine: Past, Present and Future

Diversity is . . . a fundamental component of productivity, and I believe that law is the ultimate tool in the pursuit of freedom and justice.” Danielle Conway, former dean of the Maine Law School.

Depending on what year it is, Maine is either the whitest or second whitest state in the U.S., a persistent reality mirrored by the racial composition of the Maine Bar since its inception. To the extent that there were BIPOC (Black, Indigenous, and People of Color) lawyers in Maine in the 19th century, all available evidence suggests that they did not find our state a particularly welcoming place. On July 3, 1844, Macon Bolling Allen was admitted to the Maine Bar, becoming the first African American attorney to be admitted to practice law in any jurisdiction in the United States. A year later, he relocated to Massachusetts, reportedly because whites were unwilling to hire him and the sparse African American community could not afford his services. While in Massachusetts, Attorney Allen became the first Black man in the U.S. to appear as counsel during a jury trial, and he subsequently served as a justice of the peace in Middlesex County, Massachusetts. He then emigrated to South Carolina, opening what is widely believed to be the first African American law firm in the U.S. before being elected by the state legislature to serve as a Charleston County judge in 1873 and again in 1876.

Thirty-four years later in 1879, John H. Hill, born into slavery in Charles Town, Virginia, became the second BIPOC attorney to be admitted to practice in Maine. Shortly thereafter, Attorney Hill moved back to West Virginia where he became the first African American admitted to the bar of that state in 1881. Following Attorney Hill’s departure from Maine,

there appears to be no record of any BIPOC attorneys here for another 33 years.

In 1913, Milton Roscoe became the first African American to graduate from the University of Maine School of Law and to actually practice law in Maine. Attorney Roscoe maintained his law practice in Bangor for 51 years and was acknowledged to be the only Black lawyer in the state when he passed away in 1964.

Three African American lawyers in 120 years! By contrast, South Carolina, the former cradle of the Confederacy, reportedly admitted 168 African American jurists to its bar between 1868 and the advent of the civil rights movement of the late 1960s, and some studies estimate that around the turn of the 20th century, three quarters of all African American lawyers in the U.S. were practicing in former Confederate states.

Until last year, not much had changed in Maine since Attorney Roscoe took down his shingle. Although no statistics were kept until recently, it is generally accepted that during the first decade of the 21st century, there were less than 10 BIPOC attorneys practicing in Maine. Perhaps more illustrative is the fact that there has been exactly one African American state court judge in our 201-year history. No BIPOC lawyer has ever been appointed to sit on the federal bench in Maine.

The brutal murder of George Floyd at the hands of the Minneapolis police on May 25, 2020, engendered a heightened awareness of racial inequity and injustice in all of our

Racism and implicit and explicit bias thrive in a vacuum where there can be no challenge to erroneous assumptions. On the other hand, it is our firm belief that a more diverse Maine Bar in which all aspects of our communities are amply represented will ultimately result in a more equitable legal system for all Mainers, a goal to which every member of Maine’s legal community should aspire.

institutions, including the Maine Bar and Maine’s judiciary. Demographic information collected by the Board of Overseers of the Bar and the Maine State Bar Association (MSBA) in the immediate wake of Floyd’s murder revealed that of the roughly 3800 active members of the Maine Bar, there are approximately 29 BIPOC attorneys practicing in Maine. This figure simultaneously represents less than one percent of active Maine lawyers and the highest number of BIPOC attorneys at any point in Maine’s history.

The MSBA also circulated a survey seeking data about its members’ experiences and observations regarding “Racial and Ethnic Discrimination in Maine’s Legal Community.” The survey results are more or less what could be expected from members of a Bar that is more than 99 percent white. The majority of respondents opted not to answer several of the questions, presumably because they either had no interest or because they had nothing to report. To the extent that our colleagues did respond, for the most part a majority indicated that they had not witnessed any racial or ethnic discrimination. This can hardly be surprising, given the pronounced lack of diversity in our state.

The survey data leaves one with the distinct impression that as of 2021, Maine’s BIPOC legal community remains largely invisible to most members of the Maine Bar. One succinct comment appears to sum up the general import of the survey data: “I have not observed any racist acts, but there is admittedly very little diversity in Maine and [in] the Maine Bar.”

In order to have a collective voice in these post-Floyd discussions, in July 2020 Maine’s BIPOC legal community decided to form its own section within the MSBA, the first organization exclusively devoted to BIPOC attorneys in Maine’s history. Upon surveying the unique difficulties faced by minority lawyers in Maine, the BIPOC Lawyers Section resolved to provide support, mentoring, networking, education and fellowship for Maine’s BIPOC legal community, to

address the unique issues faced by Maine attorneys of color and to increase diversity in the Maine Bar.

Some may ask: why does the Maine legal community need to be more diverse, especially when the vast majority of Maine’s residents are Caucasian? How will these efforts benefit the Maine Bar, Maine’s judiciary, etc.?

Perhaps the most significant finding of the MSBA survey is that to the extent that Maine’s non-BIPOC legal community has witnessed racism, disparate treatment, etc., these observations are entirely consistent with firsthand accounts of what BIPOC attorneys and litigants regularly experience while navigating Maine’s legal system. The following non-exhaustive list is a sampling of observations that have been reported by both Maine’s BIPOC attorneys and survey respondents:



- BIPOC attorneys being held to different standards of practice than white attorneys, being treated as suspect with respect to their skills, credentials, etc.
- Court staff assuming that attorneys of color are not lawyers, treating them in a less favorable manner even after they are identified as attorneys, etc.
- Comments espousing beliefs in negative racist stereotypes about different minority groups by attorneys and members of the judiciary;
- Disparate treatment of BIPOC litigants in Maine’s criminal justice system, including with respect to bail conditions, plea agreements, sentencing, etc.;
- Prosecutors making racist assumptions that Black males from out of state only travel to Maine to engage in drug trafficking or to otherwise engage in criminal activity;
- BIPOC attorneys being treated as the “other,” subjected to racist, insensitive inquiries, etc. Example: a white attorney asking to touch a female BIPOC lawyer’s hair;

and

- Civil litigants actively forum shopping for a venue in which anti-minority sentiment against the opposing party was perceived to be more likely.

Only 49 of 1376 survey respondents accepted the MSBA's invitation to "describe . . . experiences or observations [with racism, disparate treatment, etc.] regarding members of the judiciary," and only 35 responded to a similar query about courthouse staff. That said, for the most part these responses consistently describe the disparate treatment of BIPOC litigants, particularly criminal defendants. More specifically, survey respondents describe an environment in which BIPOC litigants endure both explicit and implicit bias in Maine's courthouses, as expressed in various ways – disparate bail and sentencing decisions, offhand inappropriate comments, and studied disinterest or pronounced skepticism with respect to the testimony of BIPOC defendants and witnesses, to cite a few examples. Perhaps equally telling are comments suggesting that some members of Maine's judiciary lack experience in dealing with minorities and otherwise display a lack of cultural awareness and empathy.

All of these comments demonstrate the need for increased diversity in Maine's judicial system. Racism and implicit and explicit bias thrive in a vacuum where there can be no challenge to erroneous assumptions. On the other hand, it is our firm belief that a more diverse Maine Bar in which all aspects of our communities are amply represented will ultimately result in a more equitable legal system for all Mainers, a goal to which every member of Maine's legal community should aspire. To state this premise more colloquially, it becomes more difficult to cast a person as the "other" after you've walked with them for a piece.

That said, it has proved difficult to convince BIPOC attorneys and law students to come to Maine, perhaps equally challenging to convince these folks to stay. The political climate in recent years, as reported by the national media and otherwise, has only strengthened the outward perception that, as in Attorney Allen's day, Maine is not particularly welcoming to BIPOC attorneys or minorities in general. In order to counter this unfortunate narrative, the BIPOC Lawyers Section and the MSBA's Diversity Committee are working to increase the visibility of Maine's BIPOC community, both within and out of the state,, and to implement and support initiatives and programs to recruit and retain BIPOC attorneys. We welcome the support of all members of Maine's legal community in this endeavor.

MSBA Undertakes First-Ever Diversity Survey

On Sept. 18, 2020, the Maine State Bar Association and the Board of Overseers of the Bar distributed a survey called "Racial & Ethnic Discrimination in Maine's Legal Community" to all MSBA members and attorneys licensed to practice in Maine. The survey, which remained open through Oct. 2, 2020, was taken by 1,376 individuals, and provided insight into the experiences of attorneys here in Maine.

Of the survey's 14 questions, several were open-ended and designed for comments only. The others were designed to provide more sophisticated, quantifiable feedback. On the next page you will find some highlights of the data collected.

Q: How often on average do you interact with black, indigenous or people of color within your work as an attorney in Maine?

Out of 1,368 respondents, answers ranged from monthly (24.27 percent) and weekly (19.96 percent) to never (12.28 percent).

Q: Within the context of Maine's legal community, have you experienced or witnessed discrimination, disparate treatment, or problematic comments that you believe were made on account of race or ethnicity?

Out of 1,342 respondents, 72 percent said no and 28 percent said yes.

Q: Within the context of Maine's legal community, how often (on average) have you experienced or witnessed racially or ethnically-motivated discrimination, disparate treatment, or problematic comments?

Out of 373 respondents, 38 percent said yearly and 24 percent said monthly. Thirty percent, however, checked "Other" and provided a wide range of comments.

Q: Have you experienced or witnessed racially or ethnically-motivated discrimination, disparate treatment, or problematic comments between clients and attorneys?

Out of 369 respondents, 74 percent said no and 27 percent said yes.

Q: Have you experienced or witnessed racially or ethnically-motivated discrimination, disparate treatment, or problematic comments in the legal employment realm among coworkers?

Out of 364 respondents, 71 percent said no and 29 percent said yes.

Q: Have you experienced or witnessed racially or ethnically-motivated discrimination, disparate treatment, or problematic comments involving other Maine attorneys? (e.g., at a networking event or CLE, in court, or other event associated with the legal profession)

Out of 360 respondents, 51 percent answered yes and 49 percent answered no.

Q: Have you experienced or witnessed racially or ethnically-motivated discrimination, disparate treatment, or problematic comments involving members of the Judicial Branch?

Out of 355 respondents, 80 percent answered no and 20 percent answered yes.

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The survey results include many hundreds of comments the Diversity Committee has reviewed and considered in its discussions about how to move forward in addressing diversity, equity, and inclusion among the Maine Bar. Look for a comprehensive summary of the survey on www.mainebar.org soon. In addition, more information on the MSBA's efforts to curb racism, discrimination, and harassment, and to promote a more inclusive Bar will be shared on our website and in our publications in the new year.