

# DIVERSITY

## NEWSLETTER

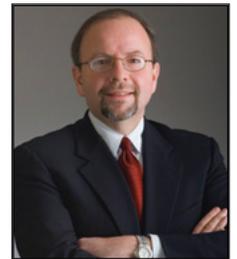
### The Birth of K&L Gates

K&L Gates was born on January 1 of this year. As newborns go, this one has quite a history. Three of its predecessor firms date back to the 19th Century, while others existed for decades in the 20th Century. K&L Gates is a rich tapestry of practices and traditions that reflects the finest qualities of our profession.

At K&L Gates, diversity starts at the top. We are governed by a firmwide Management Committee whose international Executive Committee is believed to be among the most diverse governance bodies in the legal world. The Executive Committee's seven members include two women, an Asian American man and an African American man. This diverse leadership group is no accident. Its members are products of law firm cultures that viewed diversity in the workplace as an essential strength. This view has been genetically programmed into K&L Gates.

Our firmwide Diversity Committee is chaired by a member of our Management Committee and Executive Committee. The Diversity Committee works with and provides directional guidance to the Chief Diversity Officer ("CDO"). Because the CDO reports directly to the firm's Chairman and Global Managing Partner, there is no doubt in any quarter as to the priority that the firm attaches to its diversity initiative.

No mention of diversity at this law firm is complete without a statement of appreciation to our clients. Major clients have been instrumental in the profession's embrace of the diversity principle, and they have supplied leadership and wisdom to this firm as it has sought to vindicate the diversity principle in its own backyard. Major clients have put their muscle where the profession's mouth has been. They have addressed diversity in their own workplaces, and then they have brought that message forward for all to hear. They have been sufficiently courageous to supply a business case for diversity to couple with the moral case. Clients are doing their part. At K&L Gates, we're committed to doing ours as well.



Peter J. Kalis  
Global Managing Partner

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Newsletter

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Carl G. Cooper  
Chief Diversity Officer

### A Word on Hiring Disabled Lawyers

We've changed our name and we've changed our look. However, our diversity mission remains the same: talent management of a diverse workforce, not just representation which is always shifting. We have an opportunity to do more and to do better. The first step is to understand where we are so that we can plan a strategy as to where we want to go and what we want our profession to be.

That being said, this issue of the Diversity Newsletter will focus on a discreet group in the legal profession, lawyers with physical disabilities. This particular group has been overshadowed and underrepresented; their inclusion has been unrecognized and unfulfilled. Of the approximately 132,000 lawyers collectively reported in the 2006-2007 National Association of Law Professionals Directory of Legal Employers, just 200, or 0.17%, were identified as disabled. Overall, about 10% of offices/firms reported at least one disabled lawyer, but less than 1% reported at least one disabled summer associate. In fact, out of more than 11,000 summer associates, only 10 were reported as disabled. The number of reported lawyers who are disabled does not seem to vary significantly either by firm size, or by associate/partner status, with the numbers reported being very low in virtually every category. The articles that follow articulate, very clearly, this troubling situation.

## Breaking Down Barriers to Hiring Lawyers with Disabilities



Dick Thornburgh  
*Of Counsel, K&L Gates*

Law firms often lag behind their clients in observing and responding to cultural changes. While the American workplace underwent a vast transformation in opening up opportunities for women and minorities, law firms remained until very recently predominantly white and male, especially at the partner level.

And surveys show that lawyers with disabilities still struggle to find jobs. I have even heard it expressed that legal employers are reluctant to consider lawyers with disabilities because they have doubts as to their abilities or that they may cost their firms too much money. As our firm embarks on an ambitious program in this area, it is well to keep in mind how misguided such views are.

My personal introduction to lawyers with disabilities came during my first year at the University of Pittsburgh Law School, where I met a blind student named **Ed Schelhammer**. To the great pride and some disbelief of his classmates, Ed served as a member of the law review and graduated near the top of our class of 1957. That class, incidentally, failed to graduate a single woman and graduated only one African American, the distinguished scholar Derrick Bell! Ed Schelhammer later served a long stint as a successful county public defender in Pennsylvania, with little accommodation for his disability.

Many Washingtonians no doubt remember the late **Chuck Ruff**, an outstanding Washington practitioner, whom I first met while I served as U.S. Attorney for Western Pennsylvania in the 1970s. Chuck was quiet about his disability. Indeed, little is known except that he became paralyzed after acquiring Guillain-Barre syndrome shortly after graduating from Columbia Law School. From that point forward Chuck used a wheelchair to get around. He developed a reputation as both a tough “down-in-the-dirt” prosecutor and brilliant defense attorney. Chuck’s professional career was a powerful testament that wheelchair use need not have any bearing on one’s legal skills.

Technology can also help level the playing field for lawyers with disabilities. During my tenure as Attorney General, I had the privilege of having attorney and health care financing specialist **Drew Batavia** join my staff as a White House Fellow. Drew broke his neck when he was sixteen years old after being thrown from the backseat through the windshield of a crashing automobile, thereby losing all physical functions below the neck. These limitations did not affect one of the sharpest legal minds I’ve ever encountered. After his injury Drew obtained degrees from Harvard Law School and Stanford Medical School’s public health program. He wrote two books

“I also want to emphasize that we should not be thinking only in terms of people who are blind or who use wheelchairs”

and more than 50 scholarly articles while working as a private lawyer and academic scholar. And he did it all by tapping away at a computer keyboard with a mouthstick, at a steady, deliberate pace of 25 words per minute, five to eight hours a day. All we at the Department of Justice had to do was provide Drew a workspace with a wall-mounted computer and telephone and elevated tables so his wheelchair could fit underneath. The accommodations were cheap, and Drew’s productivity rivaled the best of us until his recent untimely death.

I also want to emphasize that we should not be thinking only in terms of people who are blind or who use wheelchairs. While people like Ed Schelhammer, Chuck Ruff and Drew Batavia had conspicuous disabilities, many more people have hidden disabilities. One of them is **Andy Imperato**, who stands at the forefront of a younger generation of people with disabilities that are building on the great work of those who helped pave the way to the ADA. Andy has bipolar disorder. A graduate of Yale University and Stanford Law School, Andy has served on the Equal Employment Opportunity Commission, as General Counsel to the National Council on Disability, and

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presently as the President of the American Association of People with Disabilities. Andy reminds us that psychiatric disabilities need not be a barrier to entering the legal profession.

These are but a few of the examples of top-flight lawyers with disabilities that I've been privileged to know and work with. Many more stand ready to make their mark in our profession if given the chance.

Let me end with a story which illustrates where we were, where we are and where we must go. In 1964, a young man named **Evan J. Kemp, Jr.** graduated from the University of Virginia School of Law. At the time, Evan walked with a bit of a lurch due to a form of muscular dystrophy he acquired at birth—enough to be noticed but not enough to impair his capacity to be a great lawyer. Evan graduated in the top ten percent of his class. Like other top law students from our nation's best law schools, Evan had set his sights on private practice. To his shock and dismay, however, Evan faced rejection from each of

**“I would love to see our firm at the forefront of a sustained, targeted recruitment effort to increase the number of talented lawyers with disabilities in our complement of excellent practitioners”**

the 39 law firms to which he applied for a position. He finally took a government job with the Internal Revenue Service after he realized that law firms weren't interested in hiring someone with an abnormal gait. Regrettably, Evan's battle with discrimination did not end there. When he later went to work for the Securities and Exchange Commission, Evan was denied a promotion after an injury forced him to use a wheelchair. In 1977 Evan filed a discrimination suit against the SEC and prevailed.

It was only fitting that, in 1987, and after a stint in the private sector as a disability rights advocate, Evan became a Commissioner of the United States Equal Employment Opportunity Commission. Two years later, the first President Bush appointed Evan EEOC Chairman, where Evan helped guide the passage of the Americans with Disabilities Act (“ADA”). None of the 3,000 people who gathered on the South Lawn of the White House will ever forget the tremor of excitement that surged through the crowd when President George H.W. Bush signed the ADA into law on July 26, 1990. And Evan Kemp was there at the President's side. All of us then hoped that the types of discrimination that our now departed friend Evan once faced would be a thing of the past.

But the challenge remains for today's legal employers. I would love to see our firm at the forefront of a sustained, targeted recruitment effort to increase the number of talented lawyers with disabilities in our complement of excellent practitioners. This will not happen, however, without our major commitment from top to bottom to emphasize the ability and not the disability of every potential recruit. Our partner, Mike Greco, former President of the American Bar Association, put it well in opening the ABA's first National Conference on the Employment of Lawyers with Disabilities last spring:

“People with disabilities have come out of the shadows of our society over the past several decades, justifiably demanding that their rights be respected and their contributions be valued. Those contributions must be increased in the legal profession, which serves as the guardian of the rights of all the people in our society.”

We must persevere in our attempts to see that Kirkpatrick & Lockhart Preston Gates Ellis LLP leads the way in the effort to diversify our corps of professionals so that we may take advantage of those talents which lawyers with disabilities can offer to us and to our clients.

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*Dick Thornburgh*

## Employing Lawyers with Disabilities



Michael S. Greco  
Partner, K&L Gates

The first-ever National Conference on the Employment of Lawyers with Disabilities, which I hosted in Washington, DC, as President of the American Bar Association (ABA) in May 2006, challenged legal employers to hire and retain lawyers with disabilities.

The Conference was sponsored by the ABA Commission on Mental and Physical Disability Law, the ABA Office of the President and the federal Equal Employment Opportunity Commission. This historic event was part of my commitment to make the legal profession more open to lawyers with disabilities in the same way that the profession has reached out to women and persons of color and from racially and ethnically diverse backgrounds.

As my esteemed law partner, former U.S. Attorney General Richard Thornburgh, said in delivering the Conference's keynote address:

“there are very few lawyers with disabilities in law firms, a remarkable fact given the estimated 50 million people in our country who have disabilities”

We can talk a good game about diversity and about how we're open to hiring lawyers with disabilities. But if we don't really do it, don't do the recruiting we need to do, or don't change our profession's attitudes and practices, then the aims of this Conference will not have been achieved.

Nor, may I add, will the legal profession reflect the true diversity of our nation.

President John F. Kennedy once told us that “a journey of a thousand miles starts with a single step.” The first two steps in the journey to make law offices across America

diverse with regard to disability have been taken. The May 2006 Conference was an unqualified success, and the Conference Report, which is available on the ABA Commission's web site ([www.abanet.org/disability](http://www.abanet.org/disability)), has been issued. The next step is up to the leaders of law offices and other legal employers throughout our country.

### What Is the Nature of the Problem?

The exact number of law students and lawyers with disabilities is currently unknown and extremely difficult to estimate. Most legal employers, the ABA, and even the federal government do not track such information, and many lawyers with physical or mental impairments choose not to disclose their conditions or to consider themselves disabled.

Nevertheless, the one aspect of disability diversity that most in the legal profession can agree upon is that there are very few lawyers with disabilities in law firms, a remarkable fact given the estimated 50 million people in our country who have disabilities. The ABA Commission believes that this employment disparity is due to a number of factors.

First, it is difficult for college graduates with disabilities to gain law school admission and, once admitted, to obtain needed financial support. People with disabilities are one of the most economically disadvantaged groups in America, making them particularly dependent on scholarships and aid to pay for college and law school. Moreover, many of these students need reasonable accommodations both to take the initial admissions test and throughout the school year. But accommodation requests are frequently denied, unavailable, or provided only partly.

Second, the few students with disabilities—who are gifted and determined—who do graduate from law school must overcome challenges posed by bar admissions requirements. Examinations can be mentally and physically grueling, and appropriate accommodations typically are unavailable. Moreover, bar admissions forms that require applicants to reveal intimate information regarding possible disability pose a disincentive.

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Finally, as is true with non-legal employers, law firms hire and retain persons with disabilities at rates far below the national averages. Barriers to legal employment include discrimination in hiring, salary disparities and lack of reasonable accommodations in the workplace.

This employment disparity reflects the cold fact that our justice system does not truly reflect the diversity of our country. We in the legal profession, finally, must address this inequity.

### **What Needs To Be Done?**

In the legal profession, disability diversity encompasses two main categories: (1) lawyers already employed when they become impaired, and (2) lawyers with a disability during all or most of their lives.

The major concern of the first group is accommodations that will allow them to continue as they have in the past. Such impairments typically occur later in life, and often these lawyers choose not to consider themselves as having a disability. Also, because recently disabled lawyers already are part of a firm, there is less resistance to providing them with reasonable accommodations.

The primary concern for the second group is obtaining employment and the availability and effectiveness of reasonable accommodations once employed. What law firms should do for members of these two groups differs depending on whether the issues involve hiring or retention.

### **Hiring Practices**

Some of the most important steps that law offices can take to improve hiring practices involve common sense, including these:

- Appointing a diversity representative well-versed in disability issues to the firm's management committee.
- Understanding the requirements of the Americans with Disabilities Act (ADA) and state disability discrimination laws.

- Referencing persons with disabilities in the equal opportunity language in job announcements.
- Writing job descriptions that only include the specific tasks essential to the position to be filled, and evaluating candidates based on ability to perform them.
- Asking interview questions first that highlight candidates' strengths, and then inquiring about any limitations.

### **The Workplace**

Once a lawyer with a disability is hired, both the individual and the law office benefit by making the workplace "disability friendly" in ways that may improve the workplace for all employees. For example:

- Incorporating flexible work arrangements in which all employees may participate.
- Examining billable hour requirements to avoid unnecessarily penalizing employees who have medical conditions, such as by prorating billable hours or billing hours directly to the firm.
- Appointing a committee chaired by a well-respected senior partner that includes representatives from all employment levels to address diversity issues, including disability.
- Specifying in the firm's business plan that diversity, including persons with disabilities, is an important value, and monitoring the progress of lawyers with disabilities in the firm.
- Creating an active mentor program for all young lawyers in the firm, and individualizing the program to meet the different needs of lawyers, including those with disabilities.
- Creating a centralized fund to pay for reasonable accommodations.
- Holding firm-sponsored social events in locations and under circumstances that provide reasonable access to all lawyers in the office.

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### **Concluding Thoughts**

I have suggested above some concrete actions that law offices can take to make the hiring and retention of lawyers with disabilities more successful. Other practical suggestions and perspectives are contained in the ABA Commission's Conference Report, which I hope you will read. The adoption of such suggestions and perspectives by law firms will increase the potential that lawyers with disabilities will be hired and retained.

**“Finally, the legal profession will benefit because it will better reflect and honor the great diversity in our nation”**

Who will benefit from increased hiring and retention of outstanding lawyers who, by fate and not choice, face physical and mental challenges that lawyers and others not so challenged perhaps do not fully appreciate?

First, lawyers with disabilities themselves will benefit by having the opportunity to share their considerable talents and skills for the benefit of clients, their law offices and society.

Second, the fifty million people who have some form of disability will benefit from the legal profession's recognition of the fundamental worth that persons with disabilities can provide as productive members of society.

Third, the hiring law firm will benefit threefold, at least: by adding to its ranks lawyers with outstanding skills, by the recognition that it is helping to open the profession to all, and by the knowledge that the principle of “equal justice under the law” in America applies not only to clients represented by counsel in the firm, but also to counsel in the firm.

Finally, the legal profession will benefit because it will better reflect and honor the great diversity in our nation, and help insure that everyone in society is represented in the halls of justice.

Much hard work remains before we will be able to see the day when the face of our profession is truly diverse, and all lawyers with and without disabilities are considered equal before the Bar. That day will come only when you and I, and our law firm colleagues across the land, make the commitment to hire and retain lawyers with disabilities. It is past time for us to make that commitment.

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*Michael S. Greco*

## **Disability as Diversity**



**Jonathan Young**  
*Contributing Author*

We've come a long way since the days when families regularly sheltered disabled relatives in attics and basements, public schools routinely and legally barred children with disabilities from classrooms, and governments and businesses repeatedly closed their doors to millions of Americans simply

by designing inaccessible structures and services. As embodied in laws such as the Individuals with Disabilities Education Act and the Americans with Disabilities Act, our nation now embraces policies of inclusion and empowerment for people with disabilities. But disabled Americans, including lawyers with disabilities, remain unemployed at alarming and unacceptable rates.

Diversity initiatives have helped close the employment gaps for women and minorities, who have also faced disproportionate unemployment rates. However, most people, and certainly most law firms, don't generally think of disability as an equal partner with race and gender in “diversity” initiatives. At first blush, women and minorities are typically viewed as requiring little more than a commitment not to discriminate, while people with disabilities are viewed as requiring specialized accommodations. But the distinction is (or should be) blurred.

First, although many employers fear that hiring people with disabilities will be costly, many people with disabilities

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require little or nothing by way of accommodations. When I joined K&L Gates as a first-year associate, for instance, my only accommodation was a typing brace I use to compensate for paralysis in my left hand - something I actually brought with me to the firm (and which costs less than \$10 in any event). I also opted not to use the typical chair designated for associates and instead requested an ergonomic chair - not exactly a formal “disability” accommodation as many other lawyers and staff used the same chair simply because it promotes good posture! Many people with disabilities do not require any workplace accommodations at all. Indeed, many disabled individuals with “hidden” disabilities may not even choose to disclose their disability identity to coworkers and supervisors.

Second, the idea of providing “accommodations” is not alien to racial and gender diversity. Many firms have tried to be more welcoming of women by providing flexibility in schedules to accommodate familial commitments. For example, K&L Gates has developed a “balanced hours” initiative that can enable lawyers to design a part-time schedule that keeps them on the partnership track. At its most basic level, this program simply recognizes that every valuable employee need not fit the same mold. Making the workplace “friendly” to people with disabilities need not be any different. It means acknowledging individual needs and developing creative solutions to maximize individual contributions. Two months after joining K&L Gates I had to undergo surgery on my right wrist. The firm was gracious in providing me with time off to heal. And while my mobility was limited during a high profile and time-pressured team project, we focused my efforts on tasks where I could take advantage of speech-recognition software.

Disability should be viewed as part of diversity for another critical reason. Disability does not respect boundaries - be they income level, racial, geographic, gender, ethnic, or anything else. In fact, many racial and ethnic minorities experience rates of disability significantly higher than those of non-minorities. This means that we cannot truly address the needs of minority and women lawyers if we disregard minorities and women who are disabled too.

This is not to say that there are no meaningful differences between disability on one hand and race and gender on the other. To be sure, in practice, providing the accommodations needed by some people with disabilities will require doing more than what one would expect to do for minority or female lawyers. Being a good colleague to lawyers with a disability could mean taking the time to read a menu to a person who is blind. It could mean taking a different form of transportation or finding an alternate, accessible entrance on the way to a client meeting. It could mean that the firm has to purchase some form of technology.

**“Mr. Thornburgh can provide K&L Gates with an unmatched platform for attracting top talent among disabled lawyers”**

But I’d like to suggest that embracing disability diversity is really about embracing human diversity. Large law firms can be impersonal places. The pressure of billable hours makes it difficult for people to take the time to treat one another with the respect we all deserve. Embracing diversity often means doing little things. Looking people in the eye. Taking an interest in a coworker’s life. Pointing someone in the right direction. Providing someone with the right desk or chair. Spreading the workload to allow someone to care for oneself or a loved one. Reading a menu for someone who speaks another language or cannot see. Helping someone think through a problem. And if we can manage these little things, some of the bigger things - like hiring, retention, and promotion - should flow naturally.

K&L Gates is well positioned to promote disability diversity. Dick Thornburgh has long been a champion of disability rights and was instrumental in the passage and implementation of the Americans with Disabilities Act. Mike Greco, when serving as Chair of the American Bar Association, convened the first ever National Conference on the Employment of Lawyers with Disabilities.

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Messrs. Thornburgh and Greco can provide K&L Gates with an unmatched platform for attracting top talent among disabled lawyers. No less significantly, one of the firm's largest clients, Microsoft, has long been recognized as one of industry's leading disability advocates. Microsoft understands that making its products marketable to the greatest number of people means designing products that are maximally usable by all. And that means integrating features designed for people with disabilities into its standard products. A law firm following Microsoft's example would recognize that making its workplace

attractive to the largest numbers of prospective clients and talented lawyers would mean designing a workplace that is usable by all, including people with disabilities.

Changing law firm culture regarding disability will take more than a few outspoken individuals and progressive clients. Real change depends upon the efforts of a law firm's rank and file. But K&L Gates is on the right track in setting the right "tone at the top." Now it's time to follow through on some of the steps discussed in this newsletter.

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*Jonathan Young*

## K&L | GATES

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