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Rebecca Bernhard

Dorsey & Whitney LLP

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REBECCA BERNHARD

Listen With Curiosity

By Haley Wilson-Freeman

Rebecca Bernhard is a partner and firm-wide diversity and inclusion co-chair at one of Minnesota's most distinguished law firms, Dorsey & Whitney LLP. Bernhard advises companies, cooperatives and financial institutions in matters spanning labor and employment, immigration and corporate transactions.



From her combined years as a corporate labor relations executive; a senior vice president of human resources and associate general counsel, for one of the nation's largest student loan guarantors; and a private legal practitioner, Bernhard has adopted a conviction that drives both her client advocacy and peer leadership: *listen with curiosity as opposed to skepticism.*

Bernhard said, "As lawyers, we're trained to listen carefully and actively to clients, to opposing counsel, and during depositions and trial. But we often shut down when it comes to running a law firm, and we stop listening. Our success depends on the simple act of listening in all areas of the profession."

A native of Pittsburgh and the daughter of a union electrician, Bernhard's first career took her to Washington D.C. and then California, where the company she worked for unionized and suddenly made her responsible for managing a unionized

workforce. "Nobody wanted to deal with it in the early '90s," she said, "but it was interesting to me. I ended up finishing my degree in labor studies at San Francisco State University, and by the time I decided to go to law school, I was the director of labor relations for a company with offices throughout the country. We had seven different union contracts that I was responsible for, which included helping to negotiate successor contracts and grievances."

At the prompting of her colleagues and with the support of her husband, Bernhard applied and was accepted to the University of Minnesota Law School. "I was actually pregnant at the time I took the LSAT. My husband is the greatest guy in the world. He was willing to relocate, do the heavy lifting financially and help with child care so I could go to school as if it were a full-time job. I'm so grateful for that gift. We decided Minneapolis would be a great place to raise a family. We end-

ed up staying, and I have practiced here for my whole legal career."

During her years as a corporate insider in both attorney and non-attorney roles, Bernhard has learned to listen for cues that aid her in crafting sound legal solutions. "I understand the pressures GCs are under, the role they play in their businesses and what they really need from outside firms. Because of that, I have empathy. A business is made up of individuals, and they have people and political pressures that are inherent to their jobs. I'm not just dealing with a new legal problem, it's a real person with issues they're wrestling through. You have to be willing to ask questions to get to what they really need."

Bernhard's practice is dedicated to helping companies succeed in all areas of talent management, and matters of diversity are often at the forefront. In the current political climate, this includes managing new challenges relating to business immigration.

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There was a time when anti-discrimination was the driver – the idea of treating everyone the same. The new generation celebrates diversity and wants to be embraced for their otherness. They don't want to be treated the same.

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Bernhard talking with marketing communications manager, Jeri Longtin-Kloss, about an upcoming diversity town hall meeting.

“It’s been very dynamic this year – frustrating and sometimes heart-breaking. Changes have been uncertain and dramatic, making it hard to help clients stay in front of it. While there have not been statutory or regulatory changes, executive orders aimed at buying American and hiring American have affected how individuals at agencies do their jobs. There is extra scrutiny, and a Request for Evidence is almost like filing a second petition. I’ve been lucky that mine have been approved, but in the Twin Cities we’re seeing H-1B and L-1 denials we’ve never seen before.”

But the skilled labor so vital to America’s ability to compete globally often comes from other parts of the world. She added, “In the Twin Cities, the food, agribusiness and medical device industries need sophisticated science and engineering professionals, and the majority of people being trained in these fields at our U.S.

universities are foreign. If they can’t stay here, they will go someplace else.”

For more than 100 years, Dorsey has stood side-by-side with businesses, protecting their interests and making way for new opportunities. Companies from varied industries and from around the world turn to the attorneys at Dorsey for legal guidance.

Dorsey may be an old firm, but it is an old firm with new ideas. Rather than identifying as a last bastion of the white shoe set, Dorsey is deliberate and inclusive about recruiting, hiring and retaining the best legal talent necessary to meet the ever-changing demands of a diverse client community. “If we are to remain one of the best firms in the world and give our clients the best service, we have to be open to the best and brightest, wherever they are from. That dovetails with our succession planning, too. We have to embrace changes coming with the younger generation and make this an institution they believe in and will carry on. For them, that means inclusion.”

She continued, “There was a time when anti-discrimination was the driver -- the idea of treating everyone the same. The new generation celebrates diversity and wants to be embraced for their otherness. They don’t want to be treated the same. It means making room for the lesbian who wants to bring her wife to the firm dinner



Judge Nicole J. Starr and Bernhard at one of Dorsey's LGBTQ events.

or allowing someone with migraines to work in a quiet space with the lights off and not be seen as weird. We still have a ways to go, and there is always pressure from various constituencies who don't see things the same way. On the one hand, some feel like, 'Aren't we past this yet?' And on the other hand, there are folks saying, 'Whoa, the world is moving way too fast.'

This is when listening with curiosity can help bridge the gap. Bernhard recently published an article titled "Why should Diversity and Inclusion Leaders Listen to #BlackLivesMatter and #MeToo?". Her discussion centered on the idea that these recent social movements have erupted out of a need for previously disenfranchised groups of people to be truly seen, heard and acknowledged. As Dorsey's diversity and inclusion co-chair, Bernhard is committed to seeing, hearing and acknowledging without judgment or skepticism. "Diversity is important to our survival as a firm, but it's also the morally right thing to do. If we're going to work with the smartest people, we also need to make them feel welcome. I'm proud of what we're able to do, but we still have challenges. We win on the recruitment side, but we tend to fall down on retention. Dorsey is making good moves, both from a leadership perspective and in our systems. We have lawyer recruitment committees, so no one person makes a decision. We're training leadership on current thinking on unconscious bias. Last year, we started measuring and holding leaders accountable on how assignments are made and whether they are using a diverse pool."

Dorsey encourages individual offices worldwide to create diversity and inclusion initiatives tailored to the needs of their unique workforces. Opportunities are provided for offices to share their successes and for some of those ideas to be implemented companywide. Dorsey is also developing diversity initiatives for staff members, whose needs may be different from those of attorneys. Regular leadership retreats and open town hall-style meetings keep communication open and ideas flowing.

An example of Dorsey's progressive policies is its three types of flexible work arrangements for attorneys: reduced hours expectation, flexible full-time, and telecommuting for part of the work week. "Sometimes, firms put initiatives in place, but you know if you take advantage of them, your career is dead. That's not true here. We've had a female associate make partner the year she was out on maternity leave, and our male associates regularly take advantage of parenting leave."

Once we can honestly say that we've listened to one another with curiosity, there is a new question to be asked in this conversation about diversity and inclusion: Where do we find the common ground to come together as human beings?

Bernhard offered an answer: "The hashtag movement is just a way of saying, 'I'm in a tribe, and my tribe hasn't been listened to.' It's time to acknowledge that we have differences, but we also have similarities. I think we need to hear the differences to move on to the similarities. In our differences, we get robust ideas, but our similarities get us working together to solve problems. It's important for leaders to not let this be an echo chamber. We must say, 'I've heard you, now what can I do to help move us forward?' I'm solution-oriented. We all have to be willing to hold out an olive branch and say, 'I've been listened to. Now let's do the work.'"

AT A GLANCE

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Practice Areas

Labor & Employment
Business Immigration
Support to Mergers & Acquisitions

Education

Juris Doctor, University of Minnesota Law School
Bachelor of Science in Labor Studies, San Francisco State University

Affiliations

Minnesota State Bar Association, Labor & Employment Law Section Council Member, 2015-Present
Minnesota Women Lawyers
Minnesota Mother Attorneys Association
Veterans Pro Bono Consortium, 2003-Present
Legal CORPS, 2004-Present

Honors

MSBA North Star Lawyer, 2014-2016
Minnesota Lawyer Up & Coming Attorney, 2010

