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Advanced Corporate Counsel

September 30-October 1, 2021

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Feature Release 4.1

August 2020

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Please feel free to contact ICLEF with additional suggestions on ways we may further improve our electronic publications. Thank you.

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ADVANCED CORPORATE COUNSEL

September 30-October 1, 2021

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Agenda

September 30, 2021

- 1:30 P.M. Program Registration and Refreshments**
– outside of EB Rhodes Room, lower level of WB
- 2:00 P.M. Welcome! Program Begins
- *Adam J. Richter*, Program Chair
- Session 1: Intellectual Property Concerns for the In-House Counsel
- *William H. McKenna*, Discussion Leader
- 3:30 P.M. Refreshment Break**
- 3:45 P.M. Session 2: Managing a Legal Team – different legal team structures, team building in the time of remote work, and workplace professional development
- *Kellie M. Barr and Jennifer H. Richter*, Discussion Leaders
- 5:15 P.M. Adjourn Day One**
- 5:30 P.M. Hosted Reception – Caddy Sinclair Room
- located near WB Hotel Desk in Lobby

October 1, 2021

- 8:00 A.M. Continental Breakfast Items and Coffee Available**
– EB Rhodes Room, lower level of WB
- 8:30 A.M. Session 3: Diversity, Equity and Inclusion - what does it all mean for the in-house counsel?
- *Tim J. Brown and Adam J. Richter*, Discussion Leaders
- 10:00 A.M. Coffee Break**
- 10:15 A.M. Session 4: The Road to Recovery: Legal Challenges of the Post-Pandemic World
- *Tami A. Earnhart and Christina Laun Fugate*, Discussion Leaders
- 11:45 A.M. Adjourn**

September 30-October 1, 2021

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ADVANCED CORPORATE COUSEL



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September 30-October 1, 2021

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Adam J. Richter

Vice President, General Counsel Gene B. Glick Co., Inc.



Adam Richter leads the company's legal and risk management departments, where he oversees the management of transactional and litigious legal matters and develops programs designed to keep Glick's residents, employees and properties safe. He is passionate about the opportunities this role presents, especially the diversity of issues that change daily and require critical thinking skills.

Adam is pleased to be a member of the Glick team for many reasons, but the Founders' legacy of philanthropy and ethical standards top the list. He is most proud of Glick's risk management advancements and the growth of the Gene B. Glick Family Housing Foundation.

Adam joined Glick after several years of large-firm private practice where he routinely represented high profile real estate developers, investors and institutional clients in a wide range of commercial real estate related issues. Prior to becoming an attorney, Adam developed his own successful portfolio of investment properties and he continues to be an active real estate investor. Adam received his Bachelor of Science degree in business from Indiana University Kelley School of Business and his JD from Indiana University School of Law-Bloomington, both with honors.

In addition to his corporate duties, Adam is a member of the Indianapolis Chamber of Commerce- Accelerate Indy Leadership Committee, a Board Member and former Chairman of Indianapolis Cultural Trail, Inc., the former Board Chairman of Morning Light, Inc. (f/k/a the Visiting Nurse Service Foundation, Inc.), an active member of the Indiana Affordable Housing Council, and a mentor for and member of the Urban Land Institute (Indiana Chapter). He is also a graduate of the United Way of Central Indiana Leadership United Generation Now Series. When not tending to his professional duties, Adam enjoys spending time outdoors with his wife, Jennifer, and their two young boys.

Kellie M. Barr

IU Health, Indianapolis



Kellie M. Barr is a corporate healthcare attorney for Indiana University Health. She is the Lead Attorney for IU Health Physicians, which is IU Health's largest employed physician group. Kellie transitioned to her in house practice after being a litigator for over a decade. In her prior roles, Kellie was the Career Law Clerk to Judge Jane Magnus-Stinson on the United States District Court for the Southern District of Indiana, a litigation and appellate associate at Bose McKinney & Evans, and a Law Clerk to John G. Baker on the Indiana Court of Appeals. In her free time, Kellie enjoys spending time with her family, reading, and coaching her undefeated U8 soccer team. No, the youth soccer team is not actually supposed to be keeping score...

Tim J. Brown

Indy Chamber, Indianapolis



Tim Brown serves as the General Counsel, Director of Policy & Legislative Affairs for the Indy Chamber. In this role, he is responsible for negotiating, writing, reviewing, summarizing, researching and executing a wide variety of agreements for companies and clients, including marketing agreements, entertainment, licensing, real estate leases, confidentiality agreements, and other general business contracts both domestically and internationally. Tim also works on Chamber policies, directs the Chamber's legislative strategies, builds coalitions with different community leaders and chamber members to advance Chamber positions along with the Business Advocacy Team. Tim holds a Juris Doctorate degree from the Indiana University McKinney School of Law and a Masters in Public Affairs from the O'Neill School of Public and Environmental Affairs (J.D./M.P.A.). He was a double major in Business Administration/Political Science earning a Bachelor of Science degree from Fisk University in Nashville, TN.

Tami A. Earnhart

Ice Miller LLP, Indianapolis



Tami Earnhart is a partner in the Labor and Employment Group and Health Care Group. She represents employers in all aspects of employment and labor law, including discrimination and other litigation, claims filed with administrative agencies, and labor arbitrations. She helps employers avoid employment disputes, when possible, and advises companies in making personnel decisions and creating policies in compliance with state and federal laws, including FMLA and affirmative action policies.

Tami frequently trains boards, human resources professionals, managers and non management employees on issues such as discrimination, harassment, discipline and discharge, hiring practices, and FMLA compliance. She also regularly defends employers in discrimination, wage and hour, and other litigation before state and federal courts; claims filed with administrative agencies such as the Equal Employment Opportunity Commission and the Indiana Civil Rights Commission; and labor arbitrations. In addition, she has prepared articles and is a frequent speaker on employment issues, such as harassment, FMLA, health care reform, affirmative action and the Fair Labor Standards Act.

Tami is originally from Elkhart, Ind. and received her Bachelor of Science in legal administration from the University of Evansville, graduating *magna cum laude*. Tami earned her juris doctor, *magna cum laude*, from Indiana University Maurer School of Law and was elected to the Order of the Coif. While attending law school, she served as senior managing editor for the *Indiana Law Journal* and the publicity coordinator for the Sherman Minton Moot Court Board.

Tami is admitted to practice in all Indiana State Courts, the United States Court of Appeals for the Seventh Circuit and the U.S. District Courts in the Northern and Southern Districts of Indiana. She has also been admitted to defend companies in employment lawsuits in various other state and federal courts across the country.

Christina Laun Fugate
Ice Miller LLP, Indianapolis



Christina Fugate chairs Ice Miller's Franchise and Distribution team. More than just an advocate for her clients, Christina is dedicated to serving as a trusted advisor who helps clients solve problems and expand their businesses. Responsive, thoughtful and strategic, Christina is a counsellor who remains focused on her client's end game.

An understandable, diplomatic communicator who takes the time to really listen to what each client needs to succeed, Christina advises entrepreneurs and emerging franchisors in determining whether franchising is the right model to grow and maintain their brands and whether they are ready to franchise. Christina counsels clients on compliance with state and federal regulatory issues and offers extensive skill in advising growing and experienced franchise systems. With more than a decade of experience representing franchise clients in a variety of commercial litigation matters, Christina advises on resolving disputes pertaining to contracts, non-competition covenants, protection of trademarks and trade secrets, among others.

A smart and practical advocate, Christina provides litigation counsel to a number of different clients in a variety of industries. She regularly defends Fortune 500 manufacturers, distributors and retailers against product liability, warranty and indemnification claims. She also frequently counsels clients with respect to real estate disputes and general competitive business litigation, as well as assists clients in conducting internal investigations.

An active member of the International Franchise Association, Christina completed the Association's Certified Franchise Executive designation. She is also an active member of the ABA Forum on Franchising, has written several articles for the ABA Franchise Journal and has been a featured speaker at the Forum's annual meeting. In the community, Christina serves as President of Butler University's Central Indiana Alumni Chapter and a member of the Dean's Advisory Council for Butler University's Lacy School of Business. She is also a member of the IndyCREW Board of Directors, President of Heritage Place of Indianapolis, Inc., and Secretary of Project 44, Inc. Notably, Christina is the co-founder of the Women's Network Forum.

WOODARD, EMHARDT, HENRY, REEVES & WAGNER, LLP



William A. McKenna
Partner

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Bill represents clients in all phases of intellectual property litigation, including actions filed throughout the United States in many popular forums including the Eastern District of Texas and the Federal Circuit. His litigation experience includes matters involving software, electrical, mechanical arts, computer telephony, complex electrical circuitry, robotic navigation, aviation tracking, medical monitoring, and mobile devices.

Bill also advises clients on the procurement and strategic development of trademark and patent portfolios for technology startup companies, and assists them with protection strategies for core intellectual property assets and clearance of products to avoid the intellectual property of others.

Prior to becoming a lawyer, Bill was a software engineer in hardware and product development for Pinnacle Systems. While in school, Bill served as a network engineer to Cisco Systems.

In recognition of his professional achievements, Bill has been selected to *The Best Lawyers in America* in the fields of Litigation - Intellectual Property, Litigation - Patent, and Patent Law, and to the Indiana Rising Stars list by *Indiana Super Lawyers*[®] in the field of Intellectual Property Litigation. He serves as a member of the Firm's Management Committee.

Bill lives in Fishers with his wife Krista, sons Liam and Brendan, and is an avid golfer.

Education

- Rose-Hulman Institute of Technology, *B.S., Computer Science and Mathematics, 2002*
- Indiana University Maurer School of Law, *J.D., 2005*

Representative Experience

- ***RaceTech v. Exacta Systems***
Obtained Rule 12(b)(6) dismissal finding all three asserted patents directed to historical horse racing as unpatentable subject matter under 35 USC 101 in Kentucky and subsequent affirmance by the Federal Circuit.
- ***Oaklawn et al v. Exacta Systems***
Defeated motion for preliminary injunction and obtained early dismissal of trademark infringement and unfair competition claims based upon the display of a race track's name as the location of a historical horse race and subsequent affirmance by the 6th Circuit.
- ***Ingersoll Rand v. Crayon Interface***
Lead counsel in Indiana case defending software company against its corporate product development partner. Case settled on favorable terms.
- ***Sabasta v. Buckaroos***
Second chair in Southern District of Iowa obtaining summary judgment of inequitable conduct on behalf of Defendant in the building products manufacturing business accused of patent infringement.

McKenna | 1

- ***Microlog v. Continental Airlines et al***
Second chair in Eastern District of Texas defending case involving call center software and systems. Case settled on favorable terms.
- ***Matthews v. BioSafe***
Appeal to the Federal Circuit affirming dismissal based on lack of jurisdiction for declaratory judgment action.
- ***Arrival Star v. LHP Telematics***
Lead counsel in Northern District of Illinois case defending product tracking manufacturer against patent infringement claim. Case settled on favorable terms.
- ***AMS v. Bear Archery***
Second Chair in a Western District of Wisconsin case obtaining summary judgment of non-infringing with respect to an arrow attachment device for use in bow fishing.

Honors & Awards

- *The Best Lawyers in America* in the fields of Litigation - Intellectual Property, Litigation - Patent, and Patent Law, 2021-2022
- Rising Star, *Indiana Super Lawyers*®, 2012-2020
- Distinguished Young Alumni Award, Rose-Hulman Institute of Technology

Professional Affiliations

- American Intellectual Property Association
- American Society for the Communication of Mathematics
- Association for Computing Machinery
- Indiana State Bar Association
- Indianapolis Bar Association
 - Bar Leader Series, Class IX
- Indianapolis Bar Foundation
 - Chair, Lawyer Links Classic
- The Indianapolis Intellectual Property American Inn of Court

Speaking Engagements

- Periodic Presenter, Legal Topics for Professional Engineers, Rose-Hulman Institute of Technology
- *Best Practices Regarding 101 Patentable Subject Matter From Claim Drafting to Litigation*, Advanced Issues in Patent Litigation, Indiana Continuing Legal Education Forum, July 15, 2016.
- Presenter, *IP Litigation Summit*, Woodard, Emhardt, Moriarty, McNett & Henry LLP
- Guest lecturer, in Dr. Rick Stamper's *IP Law for Engineers course*, Rose-Hulman Institute of Technology on the topic of patent litigation, 2014-2019.
- Guest lecturer, *Business Law*, Rose-Hulman Institute of Technology

Civic & Community Involvement

- The First Tee of Indiana
 - Organizer, The BLS Open

Bar Admissions

- Indiana
- U.S. Patent and Trademark Office
- U.S. Court of Appeals for the Federal Circuit

Jennifer H. Richter
Ascension Health, Indianapolis



Jennifer is Legal Division Lead Human Resources and Contested Matters with Ascension Health in Indianapolis. Her previous positions with Ascension included Senior Director Legal Services & Employment Law Counsel, as well as Legal Counsel and Corporate Responsibility Officer, Ministry Service Center.

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Diversity, Equity and Inclusion

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Section One

Intellectual Property Concerns for the In-House Counsel

William A. McKenna

Woodard, Emhardt, Henry, Reeves & Wagner, LLP
Indianapolis, Indiana

Section One

Intellectual Property Concerns for the In-House Counsel..... William A. McKenna

Trending Issues

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Intellectual Property Concerns for the In-House Counsel

Trending Issues:

Counterfeit or Infringing Products Online – utilizing patent, trademark, or copyright assets, often times a takedown can be achieved within 48 hours. A special neutral evaluation program exists for patent infringement claims.

Copyright Infringement Trolls – stock photography sites set traps by hosting their images online at deceptive websites such as freestockphotos.com and claim that the images are “free to use.” However, the terms of use or other disclaimers limit this to personal and not commercial use. If your team posts on its website, social media or uses it elsewhere you may get a letter seeking \$10,000s for copyright infringement.

Patent vs. Trademark vs. Copyright

Patents – covers processes, functions and structure. Requires an application to be examined. Costs between \$10,000 and \$30,000 and protection lasts 20 years.

Trademarks – covers names, slogans or symbols that customers recognize and associate with your company. Protection automatically applies but is reinforced by a registration, which requires an application to be examined. Registration, which is advised but not required, costs between \$1,000 and \$2,500 and protection lasts as long as you continue using the mark (potentially forever).

Copyrights – covers works of expression such as text, drawings, source code, and videos. Protection automatically applies but is reinforced by a registration. Registration costs \$300 and protection lasts 95 years or more.

Need to Know IP Rules:

If you want to obtain a U.S. Patent, you must file an application *within one year of your first sale and/or public disclosure of the invention.*

If you hope to obtain patents internationally, you must file an application *before your first sale/or public disclosure.*

Possible \$\$ Savers:

If you federally register your copyrights (i.e. catalog, website, software) and someone subsequently copies them, you are entitled to recover statutory damages and your attorney’s fees.

Indiana has a tax credit for revenue generated from patented technologies. IC 6-3-2-21.7.

If you have an intellectual property infringement issue arise, be sure to check your insurance policies. Often trademark and/or copyright infringement is covered as an advertising injury. Patent litigation used to be covered, but is now typically specifically excluded.

Be very careful letting anyone paint a mural or the like in or on corporate facilities.

Section Two

Managing a Legal Team Different Legal Team Structures, Team Building in the Time of Remote Work, and Workplace Professional Development

Jennifer H. Richter

Division Lead Human Resources and Contested Matters
Ascension Legal
Indianapolis, Indiana

Kellie M. Barr

Indiana University Health
Indianapolis, Indiana

Section Two

Managing a Legal Team Different Legal Team Structures, Team Building in the Time of Remote Work, and Workplace Professional Development.....

**Jennifer H. Richter
Kellie M. Barr**

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Session 2: Managing a Legal Team – different legal team structures, team building in the time of remote work, and workplace professional development (1.5 hours)

Facilitators: Jennifer H. Richter (Ascension) & Kellie M. Barr (Indiana University Health)

Legal Team Structures

- Three main types:
 - Functional (central legal team divided up by functional area)
 - Client Focused (attorneys embedded into different parts of the business based on line of business or geography)
 - Hybrid (combination of functional and client focused)

- Factors to Consider
 - Size of Organization: Number of Employees and Geographic Scope
 - Different Business Units that need to be supported
 - Scope and specialization of legal subject matter that needs to be supported
 - Titling of positions
 - Technology to support the model

- IU Health Legal Structure
 - Approximately 28 attorneys
 - Structured around Regional Clients in some areas and Subject Matter in others
 - Legal Executive Team comprised of 5 attorneys
 - Rapid growth of corporate legal team in past 5 years

- Ascension Legal Structure
 - Approximately 70 attorneys
 - Structured around Regional Clients and Subject Matter Areas
 - Legal Executive Team comprised of 10 members
 - Evolution from an organization heavily dependent on outside legal counsel to now managing the majority of work including large transactions in-house
 - Developed a value tracking tool to be able to provide metrics to the business of savings with in-house team

Team Building in the Time of Remote Work

- Reevaluate historical go-to assumptions
 - Is it necessary to be in the office to perform the work?

- Is your team getting the work done timely and can the business reach them?
 - Are you a micro-manager or an effective enabler?
 - Is remote work more conducive to employee satisfaction?
- Holding effective virtual meetings
 - Using video technology
 - Keep them short and to the point
 - Use the time to collaborate as well and bounce ideas off each other
- Establishing an Effective Hybrid Work Environment:
 - Team picks in office day(s) and sticks with them
 - Weekly in person team meeting
 - Possible office sharing
 - Consider business partner needs too
- Checking in on your team
 - Take time to know what is going on in their lives which may impact their work
 - Focus on making sure team members do not feel isolated
 - Have regular one-on-one virtual check-ins

- Find opportunities to laugh and have fun

Workplace Professional Development

- Development for In-House Teams
 - Motivation and opportunities when there may not be other legal leadership positions
 - Outlining competencies and expectations.
 - Substantive Legal Knowledge
 - Business Acumen
 - Emotional Intelligence
 - Work Prioritization
 - Client Orientation
 - Initiative
 - Building Capabilities
 - Change Leadership
 - Strategic Orientation
 - Influence and Collaboration

- Goal setting centers around the competencies
- Providing feedback and not avoiding the crucial conversations
- Help Avoid the Great Resignation
 - Extend remote work options equitably
 - Manager training and hybrid workspaces
 - Emphasize employee well-being
 - Empower lateral moves and career development opportunities
 - Confirm pay is market competitive and internally equitable

Resource Acknowledgments:

- “Structuring Your Legal Department” -
<https://legal.thomsonreuters.com/en/insights/articles/how-to-structure-a-legal-department->
- “5 Things You Can Do to Avoid the Great Resignation at Your Company”
<https://www.linkedin.com/business/talent/blog/talent-engagement/things-to-avoid-great-resignation-at-your-company>
- Podcasts focused on creating the best workplaces:
 - “Hello Monday” with Jessi Hempl
 - “Work Life” with Adam Grant
- Online series focused on the future of work:
 - “Reshuffle” with Tamron Hall



LEGAL

ARTICLE

Structuring your legal department

By Sterling Miller

Feedback

One question general counsel think about a lot is whether “... my legal department is structured properly to meet the needs of the business?” The question typically arises when the general counsel starts in her position; when there is a structural change at the company (like an acquisition); there are complaints about service; there is a major crisis or failure where the department did not perform as expected.

Regardless of “why,” there are several things to consider when thinking about the right structure for your legal department.

Type of structure

There are three types of structures:

1. Functional (central legal team divided-up by functional area)

2. Client Focused (attorneys embedded into different parts of the business based on line of business or geography)
3. Hybrid (a combination of the first two)

There are pros and cons to each, ranging from efficiency, consistency of advice, and cost, to the strength of client relationships, visibility into problems, and divided loyalties among the lawyers. Career development opportunities can vary as well depending on the structure.

How do you decide?

Which structure makes the most sense for your department is always in flux; there is no “one time and forever” decision. Smart general counsel review structure yearly and in consultation with senior management.

Factors to consider include:

- Nature of the business
- Size of the department
- Location of the attorneys
- Budget
- Skills of the existing team, e.g., generalists vs. specialists
- The team’s reaction to change and the impact of the structure on job satisfaction

- Service needs of the business
- What the CEO wants

Sometimes the decision is clear, but not always. A hybrid model, despite its complexities and costs, may be the answer when the answer isn't clear.

Must do's

No matter which structure you operate under, there are a few "must do's" to ensure cohesion and mitigate any negatives that might arise.



These include:

- Regular communication to the department through regularly scheduled meetings, intranet site or portal announcements, department newsletter, project collaboration, recognition of birthdays and major events;
- Career development opportunities, such as allowing team members to develop areas of responsibility, get exposure to senior management, move into different sections or geographies (even if only short-term assignments), train the business, help with department administrative tasks, and focus on promoting from within;
- Use of technology, e.g., webcast and video conferencing, "Slack," common matter, budget, and document management systems, templates database, dashboards, document assembly, and more.

Getting the structure of the legal department is critical to the success of the team and the quality of the services provided to the business.

Related content

Measuring what matters: efficient legal department structure

What metrics might a general counsel utilize to talk about internal corporate counsel performance? Is there data to celebrate the contributions of the internal attorneys and staff?

Feedback

Structuring an effective global law department

When general counsel's responsibilities start to reach outside of one country, there is a whole new set of issues that need to be addressed. Inside we take a look at the most common issues in structuring an effective global law department from reporting to communication and culture.

How can **Practical Law Connect** help your department?

Check out Practical Law Connect from Thomson Reuters, the legal know-how solution built by and for in-house counsel

Employee retention

5 Things You Can Do to Avoid the 'Great Resignation' at Your Company



Samantha McLaren

Content Strategist by Day, Horror Critic by Night

July 19, 2021



In the United States, **4 million people** quit their jobs in April 2021 — the biggest spike on record. And this mass exodus isn't unique to the United States. In a survey of more than 31,000 global workers, **Microsoft** found that **41% are considering leaving their current employer this year.**

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reevaluate their priorities. For others, the way their employer responded to the pandemic left them ready to move on to something new.

Even for companies that have been there for their people throughout this challenging period, the next few months will be critical. Rushing to reestablish the status quo may leave some employees feeling like no lessons were learned. And with the cost of replacing a single employee ranging from **one-half to two times their annual salary**, winning over those on the fence could save you time, money, and institutional knowledge and well-being.

Whether the “Great Resignation” has already hit your company or not, here are five steps you can take to minimize turnover and get your company ready for a post-pandemic employment landscape.

1. Extend remote work options equitably

For many employees, the past 16 months provided proof that they don't need to be in the office to be productive. And while some, missing the chance to socialize in person, are certainly **eager to return to the physical workplace**, others have no intention of going back — at least, not permanently. One survey found that **39% of people would consider quitting** if their employer wasn't flexible about remote work. Among millennials and Gen Z, that figure sits even higher at 49%.

To get ahead of this, some companies are assuring employees that they won't have to come back to the office if they don't want to. As early as May 2020, **Twitter** and **Square** announced that employees would have the **option to work from home forever**. Since then, many others have followed suit, going 100% remote or moving to a hybrid workforce model.

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Even if you're still finalizing your post-pandemic workforce plans, the time to give employees some assurances is now — before it's too late. If your leaders are still on the fence about remote work, ask them if they're willing to risk losing top performers, because that may well be the price of making the office mandatory.

There's also the question of who will be allowed to work remotely and who won't. For employees whose jobs can be performed from anywhere, extending remote work options to some and not others could leave a sour taste in people's mouths. Aim to make your policy as extensive and equitable as possible, and provide clear guidelines around eligibility so that no one feels unfairly left out.

Of course, certain jobs simply can't be performed from afar. To retain workers in these roles, some companies are currently searching for new amenities that they can offer to create a sense of balance. For example, **Kiersten Robinson**, the chief people and employee experiences officer at **Ford**, says her company is considering options like **allowing plant employees to preorder meals** to take home to their families so that they won't have to go to the store after a shift.

2. Support your distributed workforce with targeted manager training and seamless hybrid workspaces

Even for companies that do extend remote work options permanently, transitioning to a hybrid workforce is not like flipping a switch. While much of the technological infrastructure required may have already been put in place during the pandemic, wider cultural shifts are essential to support this new way

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THE FIRST STEP IN COMBATING THIS MAY BE TRAINING MANAGERS TO LEAD HYBRID TEAMS effectively. Even if they mastered remote management during the pandemic, that doesn't necessarily mean they know how to combine remote and in-person approaches in a way that makes everyone feel connected and supported. The last thing you want is for remote workers to feel like their manager favors people they see every day in the office, or for in-person employees to believe their remote manager doesn't understand their needs.

Companies may also need to reevaluate their physical workspaces and consider ways they can be adapted to create a more seamless hybrid environment. **Google**, for instance, has **meeting rooms equipped with large screens** to accommodate remote workers as well as colleagues in other offices.

3. Emphasize employee well-being

At the height of the pandemic, a lot of emphasis was placed on employee well-being, with experts fearing that the stress and anxiety created by the health crisis — compounded by isolation — would hasten burnout. But despite vaccines being rolled out and cities gradually reopening, the risk of employees becoming burned out and quitting may be even higher now than it was this time last year.

Consultancy firm **Robert Half** recently found that 44% of employees are more burned out today than they were a year ago. Half (49%) blame this on a heavier workload, while one in four say they forfeited taking paid time off (PTO) in 2020.

To curb burnout-fueled resignations at your company, it's not enough to give employees time off and expect them to take it when they need it. For one thing, travel options remain limited, so people may feel they don't have an excuse to use time typically earmarked for vacations. Others may feel that their work

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any stigma around it and show that they care about employee well-being.

But as **Okta** found, initiatives like these are only effective if they're matched by thoughtful efforts to manage the team's workload and prevent people from becoming too overloaded to take much-needed breaks. When Okta's CEO **Todd McKinnon** realized employees were working round the clock during the pandemic, he decided to give them Fridays off. But since their workload hadn't changed, people just wound up working Saturdays instead. As Todd **later reflected in the *Harvard Business Review***, "If you really want to take the pressure off the team, you have to adjust the workload."

4. Empower lateral moves and career development

World-changing events are enough to make anyone reevaluate what they want from life. For some, this prompted the decision to finally pursue their dream job or get out of a career path that isn't quite right for them.

While you won't be able to retain every employee who decides to radically alter their trajectory, you can take steps to help people make meaningful lateral moves. If employees don't know how to find new roles at your company or fear their manager won't be supportive, they'll almost certainly look elsewhere.

At **Schneider Electric**, employees can apply for part-time projects via the company's **internal mobility platform** to help them transition into new roles on different teams. **Uber** has a **similar platform**, and managers work closely with employees to help develop a plan to get them where they want to go.

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directions.

For these measures to be effective, **managers can't be possessive of talent**. So, start by talking to them about why lateral moves matter and making it clear this is in the business's best interest. "None of us get to 'own' an employee," says **Chuck Edward**, corporate vice president of HR at Microsoft. "If someone's hiring an employee from your team, that's two managers collaborating for the win of the company."

5. Make a big push for pay equity and transparency

During the Black Lives Matter protests last year, many companies made commitments to improve their diversity, equity, and inclusion (DEI) efforts. A powerful place to start is with **pay equity** because if companies don't appear to have made any significant progress in this area, some employees may grow disillusioned and quit.

This is especially important right now because women and people of color were **disproportionately affected** by the economic impacts of the pandemic, which may only serve to exacerbate existing wage gaps, making it even harder for these groups to catch up with their peers.

The first step toward pay equity is **figuring out if there are any gaps** at your company and then taking action to start bridging them. But even if all employees are being paid equitably, if they have no way of confirming this, some may grow to suspect they're underpaid and start looking for opportunities elsewhere.

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Final thoughts: Be proactive, but take time to listen

There are many reasons why employees may be considering leaving their jobs. While some may be outside of your control, getting proactive about the things you *can* control can help you get ahead of the Great Resignation and avoid losing your best people.

If some employees do ultimately decide to move on, **be sure to ask them what your company could have done** to better support them. Maybe you couldn't have prevented them from leaving — but you might be able to stop the next person.

To receive blog posts like this one straight in your inbox, [subscribe to the blog newsletter](#).

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 Here are the top five takeaways from LinkedIn's recent webinar "Flexible work: How to adapt your

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Section Three

Diversity, Equity and Inclusion What Does it All Mean for the In- House Counsel?

Tim J. Brown
Indy Chamber
Indianapolis, Indiana

Adam J. Richter
Vice President, General Counsel
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Indianapolis, Indiana

Section Three

Diversity, Equity and Inclusion

What Does it All Mean for the In-House Counsel?..... Tim J. Brown
Adam J. Richter

Adam J. Richter

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Tim J. Brown

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Understanding Diversity, Equity and Inclusion

A Historical and Legislative Timeline

1. Abolition and Jim Crow
 - a. The 13th Amendment to the Constitution provides: "Neither slavery nor involuntary servitude, *except as a punishment for crime whereof the party shall have been duly convicted*, shall exist within the United States, or any place subject to their jurisdiction."
 - b. Lead to Jim Crow laws and "convict leasing"
 - i. Slavery was an integral part of the South's economic system, and the end of the Civil War freed 4M people who were formerly labor property
 - ii. Jim Crow Laws
 1. strict local and state laws that detailed when, where and how formerly enslaved people could work, and for how much compensation. The codes appeared throughout the South as a legal way to put Black citizens into indentured servitude, to take voting rights away, to control where they lived and how they traveled and to seize children for labor purposes.
 2. African Americans convicted of crimes in masse in order to resupply the economy.
 - iii. African American migration to northern and western cities, causing a rise in deed restrictions.
 - c. Media's Influence
 - i. Black men in particular were regularly portrayed as criminals.
 - ii. Birth of a Nation (1915)- gave rise to the Klan, with significant pollical influence in the 1920s.
2. Nixon and the Post Civil Rights Era
 - a. Civil Rights and Fair Housing Acts are passed in 1968.
 - b. Nixon runs for President in 1968, implanting a "southern strategy" to bring whites into the GOP by preying of fear of crime.

“The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people,” former Nixon domestic policy chief John Ehrlichman [told Harper’s writer Dan Baum](#).

“You understand what I’m saying? We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin. And then criminalizing both heavily, we could disrupt

those communities,” Ehrlichman said. “We could arrest their leaders. raid their homes, break up their meetings, and vilify them night after night on the evening news. Did we know we were lying about the drugs? Of course we did.”

- c. Nixon coins the terms "War on Crime" and "War on Drugs". Lots of rhetoric about 'all out war'.
 - d. Between 1970 and 1980, the US domestic prisoner population increases from 357,292 to 513,900.
3. Reagan/Bush and Harsher Sentencing
- a. Nixon started a rhetorical war concerning drugs; Reagan amped it up. Way more money for law enforcement; harsher sentencing.
 - b. Example: Crack Sentencing vs. Cocaine
 - i. Distribution of 5 grams of crack carries a minimum 5-year federal prison sentence, while distribution of 500 grams of powder cocaine carries the same 5-year mandatory minimum sentence.
 - ii. Viewed by African Americans as a war on their community.
 - c. Prisoner population
 - i. 1985: Increases to 759,100'
 - ii. 1990: Increases to 1,179,200
 - d. Media portrayals
 - i. "Super Predators"
 - ii. Willie Horton
4. Clinton – a Democrat, But...
- a. 1992 Presidential Election
 - i. Clinton and Gore run as "tough on crime" (in part because they had to).
 - ii. Gingrich: on crime, a "squishy liberal" will lose to a "tough conservative" every time.
 - b. 1994 Crime Bill
 - i. Three strikes law
 - ii. Mandatory sentences – taking away judicial discretion.
 - iii. Truth in Sentencing- means no parole
 - iv. 60 new capital offenses
 - v. More prisons
 - vi. Militarization of the police (SWAT teams)
 - c. Prison population skyrockets to 2,015,300 by the year 2000, then growth slows.

Other concepts:

1. Prison Industrial Complex
 - d. Concept – Corrections Corporation of America and others that profit from private prisons have lobbied millions for policies that increase the prison population (3 strikes, etc.)
 - e. Vendor examples:
 - i. Aramark – food service;
 - ii. Healthcare;
 - iii. Prison labor;
 - iv. Phone calls (rates over \$1 per minute)
 - f. SB 1070: CCA pushed the legislation in AZ that allowed police stops for "reasonable suspicion that a person is an undocumented immigrant".
 - i. CCA had a \$120M annual contract to detain immigrants for deportation.
 - g. American Bail Association
 - i. Pushing more probation and parole
 - ii. Ankle bracelets, wrist bracelets, etc.
 - iii. Seen by some as oppressive; or just another form of prison
2. Mass Incarceration – a term used to describe the escalation in the number of crimes on the books and the acceleration of the prison population between 1970 and the early 2000's May be on the wane.
3. Ban the Box- legislation that requires employers to eliminate the question of a job application that asks about an applicant's criminal history.
4. Critical Race Theory – an all inclusive term.

Understanding Diversity, Equity and Inclusion

- B. Measuring The Invisible – Inclusiveness
Handout to be provided at the Seminar.

Can Business lead to undue the effects of the Past?

Creation of Business Equity for Indy

Indy Chamber members meet to discuss issues of violence in the city

Creation of a public safety taskforce (Summer 2019)

Quarterly meeting-public safety stakeholders

March 2020 COVID causes meeting to transition to virtual

May meeting on Policing

Local Police action shooting – Dreshaun Reed

Murder of George Floyd

National and Local demonstrations

Decision of Chamber to specifically call out race in its campaign to affect inclusive growth

Listening sessions w/ Chamber Board Members, Black community leaders and Black elected officials

Central Indiana Corporate Partnership (CICP) & Indy Chamber agree to partner and create Business Equity for Indy (October 2020)

Creating a framework for a Central Indiana Response

Acknowledging the Indy Region has wide disparities among race, gender, and income that leave far too many people without access to economic sustainability.

The region has also struggled to resolve the issues and impacts of racial inequality across a variety of dimensions including education, health, jobs, and entrepreneurship.

The existing policy landscape produces uneven outcomes for Black residents and other people of color

Businesses quickly realized resources available to businesses looking to improve racial disparities are few and far between.

BEIC's goal is to assist businesses who want to make a positive impact in the area of Diversity, Equity and Inclusion.

BEI aims to advance opportunity and reduce disparate outcomes for Black residents and other people of color.

- BEI seeks to develop a successful business-led collective solution
- Require action to change and sustain business practices, implement accountability mechanisms, and advocate for policies that support these practices and goals.
- Create a campaign that intentionally engages the Indy region's political and civic leaders in the creation of a shared set of definitions, values, data and, ultimately, facts to promote a vision for racial equity and inclusion that is consistent throughout the region.

Business Equity for Indy (BEI) was formed to cocreate and collaborate with businesses to change behaviors and address structural racism. After convening a diverse group of stakeholders, a consensus emerged to focus business' efforts across five specific dimensions:

1. Learning and Talent (CICP)*
2. People and Promotion (CICP)
3. Impediments to Health*
4. Public Policy*
5. Procurement and Participation*

Chamber Strategy built around 3 focus areas:

- Lead the convening efforts for Public Policy, Impediments to Health, and Procurement & Participation
- Develop charters and implementation plans from convened task forces including data and best practices to inform future projects
- Maximize BEI's impact as a learning journey

Each of the focus areas will include measures of quality

Strategic Alignment

Economic Development-

- Intentional attention to diversity, equity and inclusion into the existing discussions on inclusive growth.
- Reducing barriers for black people within the workforce
- Promotion of the concept that businesses who operate inclusively are more innovative, creative, and are more successful
- Strengthening the business ecosystem to operate more inclusively creates more equitable opportunity for black communities and other communities of color to start a business, scale up, and reach a company of large size

Advocacy

- Connecting advocates with those with "lived experiences"
- Best practices researched and validated by BEIC can develop into legislative priorities that are ultimately advanced before the Indiana General Assembly.
- Membership
- BEI work can better to inform Central Indiana as a region on best practices and aid those businesses in utilization

Membership

- CEOs know employees need to be driven, therefore creating a learning journey provides an opportunity for greater engagement and informs members of best practices.

Internal Measures to create a more aware staff:

1. Annual Training on Diversity Equity and Inclusion by Child Advocates
2. Establishing an internal committee to lead Race, Equity and Inclusion discussions

1. Race, Equity and Inclusion (Virtual Retreat)

Day 1 (4 hours with 2 X15 min breaks)

1. Foundation
 - a. Break (15 min)
2. Socialization
 - a. Break (15 min)
3. Disempowerment Analysis
4. Why People are poor

End w/Homework library site video, short journal reflections, research assignment
email will be sent after class to instruct staff

WATCH: Race: The Power of an Illusion, Episode One: The Difference Between Us
Free with a library card: <https://indypl.kanopy.com/product/race>
\$2.99 Rental <https://vimeo.com/ondemand/race/>

JOURNAL: In the field of Education and/or Not-for-profits

- When have you felt disempowered in your life?
- When have you been a part of systems and institutions that may have had a disempowering impact on poor communities and communities of color?

RESEARCH: (only the one date that you have been assigned to)

Group 1. 1790 – Naturalization Act

Group 2. 1830 – Indian Removal Act

Group 3. 1848 – Treaty of Guadalupe Hidalgo

Group 4. 1864 – 13th Amendment

Group 5. 1944 – G I Bill

Day 2 (3 hrs)

5. Definition of Racism
 - a. Break (15 min)
 6. The Great Divide
 - a. Break (15 min)
 7. Human Solidarity/Gate Keeping
 8. Prompt for personal action
- ii. Provide periodic tips for interrupting racism

2. Quarterly Race, Equity and Inclusion Breakouts Sessions

October 27th

1. Saint Paul Public Library's Resources on Race: <https://sppl.org/resources-on-race/>
 - a. Scroll down to **Videos**:
 - i. How to Overcome Our Biases? Walk Boldly Toward Them
 - ii. Racism is Real-Systematic Racism Explained
 - iii. How to Tell Someone They Sound Racist
 - iv. Fear or a Brown Planet-Reverse Racism (Aamer Rahman-Comedy)

February 23rd

- b. Scroll down to **Videos**:
<https://sppl.org/resources-on-race/>
 - i. Race-The Power of an Illusion: How the Racial Wealth Gap was Created
 - ii. White Privilege: Racism, White Denial & Cost of Inequality
2. "The American Dream is alive in the Twin Cities, but not for everyone." Here is the link to the video: <https://youtu.be/WdXtlCmbHKY>
3. Bryan Stevenson, TED talk-Racial injustice within the legal system https://www.ted.com/talks/bryan_stevenson_we_need_to_talk_about_an_injustice?utm_campaign=tedspread&utm_medium=referral&utm_source=tedcomshare

Example: (2) 20-minute discussions with time to report out.

- Intro 9am.
- 9:05am-9:25am breakout 1
- 9:25am-9:40 report out
- 9:40am-10:00am breakout 2
- 10:00am-10:15am report out
- 10:15am-10:30 overall feedback/follow-up

August 2021

August 5th 2021

[Historical site tours by Sampson Levingston](#) (We plan to schedule virtual tours prior to Redlining segment) www.through2eyes.com (walk and talk tours)

- https://www.youtube.com/watch?v=fFaay_WtcBM&feature=emb_logo (6 minutes – Ransom Place)
- [Lost Landmarks of Indiana Avenue](#)
- [Indiana Historical Society](#)
- [Street of Dreams: Jazz on Indiana Avenue-The Decline of an Era](#)

August 24th 2021

[History of Redlining in Indianapolis](#)

[New America article on Indianapolis public housing](#)

[2nd New America Article on racism, housing, public, safety, crisis](#)

[History of Real Estate Sales Discrimination in Indianapolis](#)

Section Four

COVID-19 - Current Issues and Road to Recovery

Christina Laun Fugate
Ice Miller LLP
Indianapolis, Indiana

Tami A. Earnhart
Ice Miller LLP
Indianapolis, Indiana

Section Four

**COVID-19 - Current Issues
and Road to Recovery..... Christina Laun Fugate
Tami A. Earnhart**

1. Mandatory and/or Incentivized Vaccinations..... 1

2. Managing Positive COVID Cases in Today’s Workplace 1

3. Exposure Liability 1

4. Supply Chain Issues – Who Bears the Risk?..... 2

5. Current Landscape of Business Travel 2

6. Current Landscape of Business Events 2

7. PPP Loans 2

ICLEF 2021 Advanced Corporate Counsel Retreat
COVID-19—Current Issues and Road to Recovery

1. Mandatory and/or incentivized vaccinations
 - a. What is the current landscape in the workplace?
 - b. Can you mandate customers and visitors to be vaccinated?
 - c. How do you manage your customer mandates?

2. Managing positive COVID cases in today's workplace
 - a. What are the general safety protocols to have in today's workplace?
 - b. What should the quarantine policy be for those that are vaccinated and unvaccinated?
 - c. How do you communicate positive COVID cases?

3. Exposure liability
 - a. How does immunity legislation work?

- b. How can waivers minimize liability?

- 4. Supply chain issues—who bears the risk?
 - a. Raw material issues

 - b. Lumber shortage

 - c. Transportation issues

 - d. Lack of qualified workers

- 5. Current landscape of business travel
 - a. Are you allowing business travel?

 - b. What restrictions are employers putting on business travel?

 - c. What requirements are you placing on employees who need to travel?

- 6. Current landscape of business events

- 7. PPP loans