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ALSPs' Role In Legal Industry Diversity Efforts

Expanding staffing choices opens avenues for change.

By [Paragon Legal](#)

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It's common knowledge that the legal industry has long had a diversity and inclusion problem, and law departments are still struggling to improve diversity in their outside counsel.

But legal departments can go a long way toward addressing these struggles in their hiring decisions.

The days when law departments had only two choices — keeping work in-house or sending it outside to a law firm — are over.

Today, law departments have the additional option of turning to alternative legal service providers (ALSPs), particularly interim counsel providers.

ALSPs' Role

The legal industry's diversity problem recently [took center stage](#) when Coca-Cola General Counsel Bradley Gayton [criticized “highly unproductive” industry efforts](#) to achieve diversity, and said that good intentions were no longer enough.

Coke's law firms [must now staff](#) at least 30% of new matters with diverse attorneys or risk a reduction in legal fees or complete removal from the roster.

This is only the latest in a string of initiatives designed to spur in-house legal departments to advance change by committing to making decisions when retaining outside legal services that help increase diversity and inclusion.

For nearly four years, [Diversity Lab's Mansfield Rule](#) has been working to close the industry's gender gap, with [117 participant firms](#) signing onto [Mansfield Rule 4.0](#). Similar rules now exist for [midsize firms](#) and [legal departments](#). Numerous other diversity initiatives exist across the corporate legal industry.

Law department initiatives directed toward outside counsel are only one piece of the puzzle, however.

That's because law firms are exerting less unilateral control over the landscape when it comes to providing legal services. As of the end of 2019, ALSPs had a \$13.9 billion legal sector [market share](#), up \$3.2 billion from the preceding two-year period, according to Thomson Reuters' [2021 Alternative Legal Service Providers report](#). The report also shows that 71% of corporations now use ALSPs.

This means that ALSPs are poised to play a significant role in diversity and inclusion efforts in the legal industry. More and more legal departments today are [tracking how their ALSPs perform](#) in terms of hiring, mentoring, and promoting diverse talent. Legal departments can be, and indeed should be, putting as much attention on diversity when hiring ALSPs as they have been in law firm hiring.

In fact, legal departments arguably have [more power than ever](#) to impact diversity in the profession through their hiring decisions. Having options beyond the traditional in-house/law firm dichotomy opens the door to selecting legal service providers who prioritize diversity.

Legal tech is also playing a significant role in helping law departments boost their diversity efforts.

From [technology platforms](#) designed to assist organizations in achieving greater diversity, inclusion, and equity in their ranks to [AI tools](#) that help users define and measure bias to build more diverse teams, innovation is starting to make real strides on the diversity front.

A consortium of ALSPs, legal departments, and law firms has even [launched a data analytics dashboard](#) to help organizations monitor non-financial intelligence, including diversity metrics.

Empowering GCs

If more diversity and inclusion is the goal, law departments need to expand their view beyond law firms and look for legal service providers on all fronts who share their commitment to addressing these issues.

By now, most know the benefits ALSPs can offer in the cost-savings and efficiency departments, but their importance doesn't end there.

ALSPs can make a significant difference when you're looking to diversify your legal representation.

In 2020, for example, [Paragon Legal](#) placed over 100 attorneys on client engagements. More than 60% of these lawyers are women, and more than 40% are from racial minority

groups.

At Paragon Legal, we are very proud of our diversity, but we also know there's more work to do.

By expanding the staffing choice beyond hiring a law firm or keeping things in-house, law departments are not only empowered to make better business decisions, they also have new avenues for making real change in industry diversity.

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June 22, 2021

MIND YOUR BUSINESS

Demographics as destiny: Making the case for law firm diversity and inclusion

By Colleen Cochran

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It turns out that one of the most effective and least expensive routes to improving the bottom line is to increase the level of diversity in a firm.

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To maintain an edge over competition, law firms often encourage attorneys to work long hours and they invest heavily in technologies, outside consultants, and branding and marketing efforts.

It turns out that one of the most effective and least expensive routes to improving the bottom line is to increase the level of diversity within the workforce—that is, to ensure women and people of

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“Banking on Diversity: Diversity and Inclusion as Profit Drivers—The Business Case for Diversity,” a 2014 article published by the American Bar Association, noted study after study that indicated diversity and inclusion are catalysts for both law firm and corporate profitability.

One of the studies it listed, published over a decade ago, concluded that within Am Law 200 firms, those in the top quarter of diversity rankings generated \$100,000 of additional profit per partner over same-size firms in the vicinity with equivalent hours and leverage.

A 2020 study shows that this profit differential has grown. Dr. Evan Parker, founder of Parker Analytics, developed a statistical model that revealed the gap between low- and high-diversity firms is nearly \$180,000 per partner per year.

In fact, all businesses and industries benefit from diversity. In a 2020 study from McKinsey & Company titled “Diversity wins: How inclusion matters,” the consulting firm found that the more diverse a company is, the more likely it is to outperform less-diverse peers on profitability.

McKinsey, which has been following the diversity trajectories of hundreds of companies throughout the world since 2014, found that companies in the top quartile for gender diversity on their executive teams were 25% more likely to have above-average profitability than companies in the fourth quartile. Companies that fell in the top quartile for ethnic and cultural diversity in their executive teams showed even greater gains. They outperformed fourth-quartile companies by 36%.

Yet law firm diversity figures remain low

Despite the studies that show diversity drives profitability, most law firms have not been taking great strides to become more inclusive.

When the National Association of Women Lawyers surveyed the top 200 grossing firms in 2009, it showed that women made up about 16% of these firms’ equity partners. Ten years later, that figure

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When it comes to retaining the women and minorities they do hire, firms face an even greater challenge. The attrition rate among women, and particularly women of color, is high. Some of the reasons women give for leaving a firm include unfair compensation systems, feelings of being sideliners in the firm, denial of access to significant assignments and pathways for advancement, lack of mentors, and stress of trying to maintain work life and home life.

Not only does law firm attrition constitute a tremendous loss of talent, but it is also exorbitantly costly. A 2014 white paper from JD Match & The Right Profile estimated that the costs of attrition for just the 400 largest firms was roughly \$9.1 billion per year. The study estimated the average cost to replace a single associate at a conservative \$400,000.

“We don’t want our women lawyers to have to choose between childbearing [and] family and career. We try to accommodate their needs and also provide them with opportunity so they can have a long and productive career with us,” says Dion Cominos, managing partner of Gordon Rees Scully Mansukhani.

He points out nearly half of his firm’s offices are led by female and/or minority partners while noting that Gordon Rees has earned a 100% rating on the Corporate Equality Index for LGBTQ equality from 2016 to the present and a No. 25 ranking on the Women in Law Scorecard by the National Law Journal, among other honors.

One of the ways the firm provides opportunities for women is through its Women’s Initiative. This group provides business education and mentoring services as well as marketing opportunities between women lawyers and potential clients. The firm has also established five affinity groups to support African Americans, LGBTQ, Hispanic/Latino, Asian American and South Asian law firm members. Like the Women’s Initiative, their purpose is to provide networking and mentoring opportunities.

“Intentions are not enough,” says Cominos. “If we don’t put forth the effort, we are going to have the

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Law firms soon may have no choice but to become more inclusive. One reason is because the businesses they partner with are beginning to demand it. For instance, in 2017, Facebook began requiring that its outside counsel's teams consist of at least 33% women and ethnic minorities.

That same year, general counsel at Hewlett-Packard informed its outside law firms that it will withhold up to 10% of invoiced fees should those firms fail to meet its diversity standards. Back in 2008, Microsoft introduced an incentive-based program to reward its strategic partner law firms for fostering diversity. By May 2019, the percentage of hours worked on Microsoft matters by diverse lawyers from outside partner firms who participated in the incentive program increased from 33.6% to 58.7%.

Another reason diversity is becoming necessity has to do with demographics. According to the Brookings Institute, as of 2020, approximately 60% of people identified as white alone, not Hispanic-white. Beginning in 2045, according to the U.S. Census, the population of non-Hispanic white people is expected to decline to the point that they no longer make up the majority of the U.S. population.

The majority sector of the American population will be composed of people of Hispanic ethnicity, followed by Blacks, Asians and multiracial people. By 2060, one in three Americans will be a race other than white, and the population of people who are two or more races will be the fastest-growing racial or ethnic group over the next several decades.

Overall, the legal system benefits when it is representative of all the people it serves. When law firms open themselves up to people who possess a range of different perspectives, they become more creative, innovative and appealing to clients. Diversity is smart and ethical business practice, and the firms that choose to make it a priority will discover it is also very profitable.

Colleen Cochran, JD, is editor at IMS Consulting & Expert Services, a legal services provider to the nation's Am Law 200 firms and Fortune 500 corporate legal departments.

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August 10, 2021
7:49 PM EDT
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Diversity Legal Industry

'Exclusionary and classist': Why the legal profession is getting whiter

6 minute read

By Hassan Kanu



Graduates from The George Washington University Law School take photos in their graduation regalia outside the United States Supreme Court Building in Washington, D.C. REUTERS/Andrew Kelly

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Aug 10 - A recent American Bar Association study found that the legal profession in America has remained overwhelmingly white and male over the last decade and that racial diversity among lawyers has actually regressed in some respects.

The percentage of Black and Native American attorneys has receded slightly since 2011. Black lawyers went from 4.8% of the profession to 4.7% in 2021, and Native Americans from 1% to less than half a percent. Those numbers are much lower than the 13% of Americans who are Black, and the 1.3% who are Native Americans.

The data is sobering, though not entirely surprising.

I asked three lawyers who focus on legal education, diversity and inclusion, and employment how they explain the stagnant numbers.



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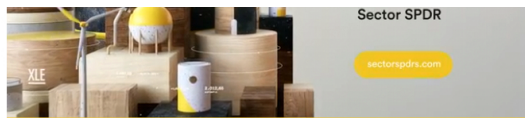
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Kendra Abercrombie is diversity manager for the Illinois Supreme Court Commission on Professionalism and previously headed diversity recruitment efforts at Indiana University Maurer School of Law. **Aaron Taylor** is executive director for AccessLex' Center for Legal Education Excellence, and was formerly director of the Law School Survey of Student Engagement. Both Taylor and Abercrombie are Black. **Rebecca Tsosie** is a professor of Yaqui descent at the University of Arizona James E. Rogers College of Law and a faculty member for its Indigenous Peoples' Law and Policy Program.

Each agreed there are issues in the "pipeline" to becoming an attorney and within legal practice itself. They stressed that law school and firm culture are often plain unwelcoming to people of color. They also emphasized that the decline is underlaid by socio-economic racial inequities preceding law school, including in K-12 education.

Here are some of their answers, edited for length and clarity.

REUTERS: What's your main takeaway regarding the falling numbers of Black and Native American lawyers?

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Abercrombie: When I worked in law school admissions, I consistently found a disconnect between what white students knew about the process and what students of color knew. I think many Black applicants lacked awareness of or access to resources that help with LSAT prep or the choice of a school. Helping to fill this access-to-information gap is a first step in addressing these challenges.

Taylor: What we see today is a reflection of how the past continues to perpetuate itself and manifests in a very familiar way. Formal legal education was founded on exclusionary and classist premises. Those goals have waned somewhat, but the core of the educational and professional process is still typified by a narrow range of considerations, faulty pedagogy and the centering of white cultural norms.

Schools profess a desire to increase diversity while adhering to policies devised to exclude Black people.

The intense ranking systems, lack of continual assessments and overemphasizing of standardized test scores are very problematic.

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Much of this issue is also about unequal access to high quality education, to resources, to information. Admission tests can be gamed if you prepare in a particular way, for example, but the most high-value kinds of test prep are very expensive. Or consider mentorship: You're less likely to know a lawyer if you're from a group that was systematically excluded from legal education.

Tsosie: The education pipeline is a big problem. Frankly, most Native and Black students are from underfunded school districts that can't really graduate students or they graduate students who aren't college-ready. Many bridge programs intended to help underserved communities get into higher education have also been politicized, and ended or curtailed.

I also think a lot of Black and Native people experience racial microaggressions and even overt discrimination, so it's difficult to make your way through top firms and schools. There is a harmful stereotyping, particularly for Native students. Their numbers are minuscule. You may have one, or none, in a classroom or workplace. I don't think it's intentional, but that sort of stereotyping attitude comes out.

REUTERS: Law schools and firms say they spend a lot of time and money to

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address this exact problem. Why are they making some progress for women, for example, but not Black or Native folks?

Taylor: There's a peculiar thing about race in this country, particularly anti-Black racism. Something makes it much stickier than gender has been.

Abercrombie: Focusing solely on race scares people sometimes. It's seen as a taboo topic, while gender can be easier to approach. I believe this accounts for some of the progress we've seen for women.

Law firms and schools are constantly rolling out initiatives to address diversity, but they should first focus on historical systems rooted in exclusionism. They should be creating strategic plans to recognize and dismantle those systems, tied to metrics and measurable goals.

Reuters: What's your most important recommendation to address this issue?

Tsosis: The whole idea is: Can we recreate an institution, one with a culture that embraces diversity? And how would you do it? What I'm intrigued about is how you indigenize a university. How you educate across intersections to acknowledge that the school might be sitting on tribal territory, and the land was the repository of tribal people and knowledge, but it's now only a repository for certain kinds of knowledge. I see all these incoming law students who have no idea that tribal territory isn't part of the state, that there's a separate legal system, and that's unacceptable. We need to be educating across that intersection.

Abercrombie: Firm leaders must advocate for inclusion beyond just numbers. Diverse partners shouldn't just have a seat at the table. Allow them access to the same 5-course meal as everyone else.

Law firms have historically created systems to limit their recruitment options. I've seen firms state explicitly that they only recruit from the top 10% of specific schools. If you're only selecting from four of the 199 accredited schools, and with additional contingencies, it's going to be challenging to recruit diverse talent.

I often hear that the profession's diversity challenges are a pipeline issue, but we can't simply blame the pipeline. The legal profession must recognize systems that limit the pool, which have been in place for decades, and actively dismantle them.

Update: This story has been changed to include the full name of the Illinois Supreme Court commission for which Kendra Abercrombie is diversity manager.

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