



# Diversity in 2021: A Snapshot of What Legal Industry Clients Are Saying

*Nat Slavin*



Nat Slavin is an ALM Intelligence Fellow and partner and founder of Wicker Park Group. He can be reached at [nat@wickerparkgroup.com](mailto:nat@wickerparkgroup.com)

Current news headlines, changing corporate legal department policies and industry chatter all make it clear that the topic of diversity in the legal industry has reached new levels interest and importance in 2021.

In January, Coca-Cola General Counsel Bradley Gayton published revised outside counsel diversity guidelines for the company that, among other policies, require outside counsel to staff at least 30% of new matters with diverse attorneys—and at least half of that going to Black attorneys. The news made ripples across the industry and underscores a potential shift among the purchasers of legal services, or at least some of them, to requiring more concrete action from law firms around diversity than in the past.

Additionally, more than 100 law firms have signed on to seek certification in the latest version four of the “Mansfield Rule” which requires law firms to consider 30 percent women, lawyers of color, LGBTQ+ lawyers and lawyers with disabilities for leadership roles, partnership consideration, senior laterals and in formal pitches.

In the past six months, Wicker Park Group has conducted both large-scale electronic feedback surveys and direct one-on-one client feedback interviews for a number of firms representing a wide array of firm size, geographic reach and specialized expertise. Most firms want us to ask questions around the importance of diversity to clients, their expectations around diversity for outside counsel and how that is changing in 2021 and beyond. And the topic often comes up unprompted in interviews.

While not a comprehensive assessment, reviewing hundreds of comments together offers valuable insight into what your clients are saying and thinking right now, even if they have not directly brought the topic to light with their outside counsel.





## Most Clients are Pushing for More Diversity (Even if They Didn't Previously)...

Our client feedback in recent months validates the growing push for greater diversity from outside counsel legal service providers. One client says, “It’s important to see firms making efforts to diversify the professional workforce and put diverse attorneys on our matters, and not just behind the scenes but to have a prominent role and to help develop their skills.” Other related comments include:

- “Our organization has made a commitment to reviewing our consultants, vendors and business partners to ensure diversity, equity and inclusion is a practice and priority.”
- “Our team encourages the firms with which it has a relationship to hire diverse professionals (e.g., minority and female) and to assign them to handle our matters. We further encourage firms to associate with minority-owned and/or operated firms, as well as minority-owned and/or operated organizations that provide legal support services. Our team will seek out and engage firms that have demonstrated a commitment to diversity and a firm’s commitment to diversity will be a factor in continued representation.”

- “We need more diverse teams working on matters. We have had the same people working on our matters for years—which some of that is for historical knowledge and is warranted, but we don’t see a lot of diverse associates working on our matters and we need to address that.”

Some clients are even making clear in their feedback that while diversity assessments may not have been a part of their counsel selection previously, that has changed. One typical comment: “DEI has become an increasing focus, and we are in the process of developing standards that will apply to our engagement of outside counsel. Although DEI is currently a consideration, the new standards will likely establish a more formalized and stringent process for evaluating firms. We expect these standards to be implemented later this year.”

Similarly, another client shares, “This will be a strong focus of ours moving forward. We have established a team of folks who are developing our future expectations in this area and a meaningful approach to ensuring that the outside law firms that we do business with reflect the society we serve.”



## ...But Not all Clients Prioritize Diversity as a Selection Criteria

While a majority of clients have indicated that diversity is important to their outside counsel selection and retention, a number of clients acknowledge the importance of the topic but either do not consider it a factor or are less focused on it than other clients. And some even say that it is important topic but one that law firms should focus on regardless of the direct ask from a client: “I trust you to handle this. I never think about it because I know you will do the right thing.” Some examples of the laissez-faire approach to diversity include:

- “Diversity does not impact our hiring decision of selecting a law firm. Previous relationship and trust and respect for the relationship with the senior lawyer is our main factor in who we select.”
- “Important, but secondary to work quality, schedule and meeting the budget needs of the project.”
- “I am more concerned with talent versus hiring practices.”

- “Historically, engagement of attorneys has focused on subject matter and industry expertise, anticipation of needs, bandwidth, cost structure and ability to identify and effectively navigate pertinent issues in order to close transactions. That does not diminish the importance of DEI, but it typically has not been a primary decision factor.”

“ Important, but secondary to work quality, schedule and meeting the budget needs of the project. ”



## Clients Are Looking Inward and Hiring Diverse Professionals

A common theme among our client feedback is the fact that many clients are internally focused on diversity, equity and inclusion but remain in the early stages, which is an opportunity for firms to add value by collaborating in these initial diversity hiring efforts. As one client says, “The company is very committed to diversity and added a senior professional to oversee its D&I efforts in the past year. The organization is having many internal conversations about the topic. We have always had a supplier diversity program, but this is a new focus even for us.” Another client echoes that comment: “D&I is a big initiative at [our company] we are doing a ton of dialogue and communication about it internally and have even developed hiring strategies around it.”

Even clients who have not focused on D&I in the past or have lacked awareness are shifting. “We are in full support of diversity, equity and inclusion, but have just now started our own journey on what this means to us as an organization,” said one typical client. Another comment, “I’m a white male, so the lack of diversity wasn’t something that stuck out to me until other people pointed it out to me. It’s working to a degree that I’m much more aware of the need than I was 15 and even 5 years ago.”

“ D&I is a big initiative... We are doing a ton of dialogue and communication about it internally and have even developed hiring strategies around it. ”

Some of these client companies are not just expecting their outside counsel to demonstrate specific metrics around diversity efforts—they are requiring the same of their own companies. Multiple clients have cited their own internal focus on becoming Mansfield Rule certified and setting specific goals for themselves: “The Law Division is really focused on the Mansfield Rule and our team has set goals for the year.”



## Clients Are Open to Collaboration

Beyond firms' efforts to proactively reach out to clients to help them achieve their DEI goals, a number of clients have also indicated their interest in partnering with law firms to build diversity. As one client says, "In terms of expectations for the firms with whom we work, I would like to see more diverse attorneys working on our matters, but I believe it is a two-way street that requires partnership with in-house counsel. For example, we would be open to assisting with development and marketing opportunities that give diverse attorneys more access to in-house counsel as a way to support their maturation."

**“ ...I would like to see more diverse attorneys working on our matters, but I believe it is a two-way street that requires partnership with in-house counsel... ”**

Another adds, "The challenge of on-ramping lawyers who have taken a step back for a time (especially women) is a major area we could do better and I think clients would be willing to partner in that process as it is a shortcoming in the profession."

If your firm isn't already pursuing opportunities to partner with clients on D&I initiatives, consider these first steps:

- Ask to schedule time with a client contact about the company's diversity initiatives and include members of the firm's executive committee, diversity efforts or others to participate.
- Find out whether your clients have partnered with others on D&I initiatives, what has worked and what could be replicated.
- Share knowledge internally at the firm about what each client is doing on diversity initiatives to build a robust internal storehouse of best practices.



## The Specifics Vary Among Clients

---

While most clients have a similar goal in mind when they talk about building diversity in firms, comments also indicate that different client contacts have different experiences and focus, sometimes even within the same organization. A few examples:

- “The day-to-day treatment of everyone in the workplace and especially women is as important as taking diversity into consideration when you are hiring.”
  - “We expect to hire and retain diverse (meaning more diversity than just women) attorneys.”
  - “Consistent hiring and development of a diverse array of individuals [is important] - based on backgrounds, race, nationality, sexual orientation, and gender.”
  - “Focus on racial and ethnic diversity within the firm and those servicing our matters is important.”
  - “We prefer firms that offer a diverse set of opinions and expertise. The math behind how many of this sex or ethnicity is not part of our calculation. The proof is in the quality of the work.”
  - “When trying a case, I am concerned about having two white male partners as our legal team. Our opposing counsel and parties are all white males as well. Because I am a female lawyer, I value firms that value women and would welcome the opportunity to have women on our teams, even if they have flexible schedules and have children they juggle.”
  - “To me, diversity is more than color. Veteran status is important as is educational background. Etc.”
-



## While Some Firms Receive Praise, There is Significant Need for Improvement

When looking at the client feedback from the past few months, a number of clients have praised their outside counsel for the diversity of the client teams and the firm's D&I actions.

Says one, "I appreciate how intentional the firm has been. I've seen the advancement of diverse attorneys." Another comments that the firm "has shown great commitment to diversity."

Plenty of clients, however, share different experiences. A few examples:

- "While I'm sure they are interested in diversity because everyone is in the law firm world, I haven't seen it in how they staff litigation. They did it for me when I asked but not until I said something."
- "Diversity is important but I can't say I've seen a lot of change. There is definitely more discussion as we close out black history month and enter women's history month. We do see information come out and there are more discussions. That's not so much with our attorneys. I don't see much of that."

- "Let's improve this."
- "I have to admit I haven't seen a ton of diversity in my interactions. I would like to see more, particularly in leadership and development roles."
- "I greatly appreciate the women's leadership conference that was held previously. It is an invaluable resource. However, the firm has done a terrible job recruiting and advancing client-facing female attorneys, and it significantly adversely impacts client development."

One of the first steps of an open dialogue with your clients must be about their past experiences and their honest feedback around the state of the firm's diversity.

“ Let's improve this. ”



## Diversity Is Impacting Counsel Selection

It is clear that if it is not already happening, diversity will be impacting the hiring decisions for many companies. One client says, “A firm needs to be diverse, equitable and inclusive to be able to serve clients on the highest level. Without these tenants, the firm will have blinders on and miss important areas of value they could add for clients. Therefore, this is a factor when deciding which law firm to work with.”

“ Going forward, D&I will play a big part in our outside counsel hires. ”

Others echo that with similar comments:

- “It is absolutely important and also a consideration in any hiring decision. Our legal department has put significant emphasis on diversity and inclusion, and that emphasis has a strong impact on our hiring decisions.”
- “It is a part of every decision we make to hire firms, and it plays an important role when we solicit bids across our preferred firms. We expect to have diverse attorneys offered to staff all matters.”
- “Going forward, [D&I] will play a big part in our outside counsel hires.”
- “D, E, & I is a huge concern for our company. We look for opportunities to engage firms with a demonstrated D & I program—not only in appearances but also in doing the actual work.”



## Companies are Using Metrics to Gauge Diversity Among Firms

---

Across our interviews and conversations with clients, we are seeing a shift towards greater accountability around diversity goals and advancements. While sharing your firm's initiatives or interest in diversity may have once been the end of the conversation, client comments make it clear that data, metrics and concrete actions are now imperative. For clients that have this as a goal, it is a great opportunity for a firm to collaborate with them on how to execute diversity plans. And as we often say at Wicker Park Group, "one size fits one." The specific metrics and focus will vary depending on the client, as these quotes demonstrate:

- "We have Employee Resource Groups across all categories—gender, race, ethnicity, sexual orientation, military service, etc. Providing diversity metrics across all categories and at all levels of the firm (equity partner, partner, associate, support staff) are all important."
- "We are interested in promoting diverse staffing at all levels working on the matter. Lead partner and senior associate tracking strikes me as one important metric."
- "The litigation panel firms are scored on providing diverse staff to work on our matters."
- "We also demand that diversity be a factor as the firm considers succession planning for handling our work."
- "The diversity needs to be real and show through on billing records."
- "[We want] all practice groups to include diverse attorneys, not having the firm meet its overall goals by blending the firm as a whole such that some practice groups may not have diversity."
- "I look closely at the number of women partners and number of minority partners in a law firm—not associates. It tells me whether the firm is interested in promoting diversity of thought and thinking outside the box. It also tells me whether the firm is supporting their lawyers so the lawyers can provide me with quality product."
- "[We expect] meaningful progress in the next three years on [hiring metrics, diverse senior attorneys on all projects and more], i.e. progress against published KPIs."



## The Diversity Value Proposition: Clients Are Receiving Superior Work from More Diverse Teams

---

Clients are directly tying the quality of the work product, advice and service to the level of diversity on client teams.

One client explains it by sharing, “I find diversity is directly linked to the quality of service. A lack of diversity correlates with a lack of collaboration and that consistently leads to a lack of flexibility and an inability to adapt to and foresee new developments. Our counsel needs to reflect our clients, our team members and our patients. While we do not specifically retain outside counsel on the basis of diversity represented in the firm, I don’t comprehend how a firm could compete as a provider of legal services without a diverse workforce in the modern world. A lack of diversity is an outlier and a red flag.”

Another simply says, “It has a huge impact.”

While these client comments provide a snapshot of a set group of clients during a set time period, they provide context and offer ideas for how firms and lawyers can proceed. Few things loom larger in how law firms make decisions than the voice of the client. As these quotes make clear, every client will have different expectations, needs and experiences around diversity. The call to action is for your relationship partners to ask the questions that will help them understand each client’s perspective, share what they learn and then act on that feedback. That conversation may very well be the first step on a journey towards greater partnership, stronger service and increasing client loyalty.