

# Corporate Clients Lead Charge for Diversity and Inclusion in Law firms

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Corporate clients are leading the way when it comes to facilitating change in the diversity and inclusion arena. Using a variety of tools like open letters, financial incentives, and financial penalties, general counsels are leveraging the "power of the purse" to help ensure that the firms they use for outside legal services step up their commitments to diversity.

Companies care about this issue because they operate in a global environment and have learned that their workforces need to reflect the variety, complexity, texture, cultures, and perspectives of that global environment in order to be most profitable. They have thus taken steps to diversify their own legal departments and corporations as a whole and want to work with outside legal teams that understand and operationalize the benefits of diversity.

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## GC Open Letters

In 2016, 24 general counsels, including the GC's of powerhouses PepsiCo, McDonald's, eBay, CVS, Bristol-Myers Squibb, American Express, and MassMutual, signed [a letter addressed to the chief legal officers of Fortune 1000 companies](#) to encourage support for American Bar Resolution 113 to Help Promote Diversity in the Legal Profession. The letter highlighted the continued lack of diversity in the legal profession and called on legal service providers to "expand and create opportunities at all levels of responsibility for diverse attorneys."

Three years later, still dissatisfied with the law firm diversity situation, GC's mobilized back into action. In 2019, in response to overwhelmingly white and male partnership classes elected by certain law firms, in-house counsel again took pen to paper in an effort to inspire corporate clients to use their buying power to bring about change. Chief legal officers of 170 companies signed an ["open letter" to law firms](#) explaining that the signers will direct business to "firms that manifest results with respect to diversity and inclusion."

An additional 60 companies have since signed onto that letter.

## Early Diversity Efforts

The efforts of GC's to facilitate increased diversity of outside counsel gained momentum long before the 2016 and 2019 open letters. In 2004, Sara Lee GC Rick Palmore issued his "A Call to Action--Diversity in the Legal Profession." [Palmore's Call to Action](#) was signed by over 100 chief legal officers, who "pledge[d] that we will make decisions regarding which law firms represent our companies based in significant part on the diversity performance of the firms." The Call to Action was itself a response to a lack of vigorous law firm response to

an earlier 1999 CLO "Statement of Principle" on diversity.

Another major company to elevate diversity as a priority was Wal-Mart. The company began its D&I program in 2005, when it decided to hold its top 100 outside counsel accountable for meeting diversity objectives. The company held its first Diversity Conference that same year and also requested firms to submit female and minority relationship manager candidates. These efforts resulted in the company terminating its relationship with non-complying firms, switching up its relationship managers to include more women and minority attorneys, and moving about \$60 million dollars in company business to more diverse law firms. Today, Wal-Mart has about 200 women and diverse attorneys serving as relationship partners as well as an outside counsel onboarding program to help ensure success of diverse attorneys.

The current general counsel of Wal-Mart is a woman, and the company's legal department is 43% women, 30% minority, and 18.5% women of color.

### Financial Incentives and Punishments

Corporate clients are coming up with a variety of strategies, including financial carrots and sticks, to encourage diversity in their outside law firms and legal teams.

Microsoft uses a system of financial incentives. The company, which in 2015 shifted its focus from promoting diversity in staffing of company matters to promoting diversity in firm leadership, awards bonuses to law firms that demonstrate a commitment to diversifying from the top down. Under the Microsoft Law Firm Diversity Program, firms within the company's Premier Provider Program can earn bonuses of up to 2% of fees billed based on the firm's increasing diversity in three ways--leading management of the firm, leading the firm's relationship with Microsoft, and leading Microsoft's matters.

Hewlett Packard uses a stick approach in the form of a "diversity holdback." GC Kim Rivera announced the program in 2017, under which the company withholds up to 10% of fees from outside firms that do not meet one of two tests--either having a diverse relationship partner or having at least one female and one racially or ethnically diverse attorney handling at least 10% of HP-matter billable hours.

### Numerical Diversity Targets

Facebook also recently issued a law firm diversity mandate. [The tech giant's law firm diversity program is based on a system of numerical targets and requires that outside law firms ensure that at least 33 percent of the teams staffing its matters are women and minorities.](#) Law firms additionally must create leadership opportunities for diverse attorneys, including leading litigation and other matters for the company.

### Targeting Attrition

MetLife's Talent Stewardship Initiative focuses on the attrition aspect of the diversity gap and is geared towards promoting retention and promotion of diverse attorneys. Recognizing that diverse attorneys enter major firms in large numbers but leave before they can assume prominent roles within them, MetLife's former general counsel, Ricardo Anzaldua, helped craft a diversity directive that requires outside counsel to develop talent development plans for diverse lawyers.

### Diversity Awards

A number of companies encourage diversification of outside legal counsel by giving awards to firms who turn words into action. Some of the firms that give awards are Morgan Stanley, with its Leadership and Excellence in Diversity and Inclusion Award and Asia Outside Counsel Diversity Award; Bank of America Merrill Lynch,

with its Diversity and Inclusion Award; and Coca-Cola, with its Living Values Award.

Facebook gives its Law Firm Diversity Champion Award to the firm that scores highest on meeting the company's diversity mandate.

## Going Straight to the Source

One of the tactics used by Prudential to ensure that it fully utilizes top diverse talent for outside legal needs is to partner up with minority and women-owned law firms through the [NAMWOLF Inclusion Initiative](#). Prudential and other participating companies like 3M, Google, Honda, Shell Oil, Xerox, UPS, and Wells Fargo have directed over \$1 billion in legal services to NAMWOLF firms.

NAMWOLF, which stands for National Association of Minority and Women Owned Law Firms, is a trade organization dedicated to diversity in the legal profession. It was founded in 2001.

## Organizational Support

Like NAMWOLF, many important D&I organizations and think tanks are front-and-center assisting Corporate America in its quest to help diversify law firms. These organizations include the Minority Corporate Counsel Association (MCCA) with [MCCA's Pathways to Diversity Conference](#); Diversity Lab, with [Diversity Lab's Strategies and Tactics For In-House Legal Departments to Improve Outside Counsel Diversity](#); the Leadership Council on Legal Diversity (LCLD), with [LCLD's What's Working Initiatives](#), and the Institute for Inclusion in the Legal Profession (IILP), with [IILP's The Business Case for Diversity Research Project](#).