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The Chambers D&I USA Report 2023 – Better Process, Better Outcomes

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Data Analysis

113

Applications

320

Client references provided

84

Private Practice
individuals nominated

49

In-House individuals
nominated

66

Firms nominated

36

In-House Departments
nominated

Chambers Editorial: Introduction



Luke Vincett
D&I Manager

For the 12th year, Chambers collected submissions from organizations across the US highlighting their incredible efforts to advance diversity and inclusion through internal initiatives, local and global community programs, and network building. We also saw the focus and advancement of pro bono work and sustainability efforts develop at an impressive rate, reinforcing firms' commitment to this vital work.

From the multitude of nominations we receive, the Chambers D&I team is tasked with picking out the very best initiatives, analyzing their effectiveness and rewarding a deserving few at our annual awards ceremony. This, our third annual D&I USA Report, takes a deep dive into some of the most innovative and interesting programs submitted through a variety of profiles and case studies. The Report aims to provide readers with inspiration, practical tips and best practice guidance.

The 2023 Report looks at three key trends which wove through the hundreds of submissions we received. We begin with three case studies from firms on the innovative processes they are putting in place to ensure there is a pathway to partnership for diverse and underrepresented attorneys. The initiatives here highlight firms' increasing willingness to adapt long-standing methodologies for greater equity.

Next we look at a topic of huge significance in the US over the past 12 months, focusing on the work firms and individuals are doing to defend women's rights. In this section we see a combination of dedicated pro bono work, collaboration with NGOs and government agencies, and creative adaptation of existing laws to protect the rights of women from a variety of threats.

The final section details how in-house legal teams are continually including DEI considerations in their guidelines for outside counsel and increasingly collaborating with law firms to improve the diversity of the profession. From Under Armour, UBS and AbbVie we see a variety of metrics tracked and levers pulled to ensure their work is staffed by diverse teams.

Each section covers how these successful initiatives were established, the challenges they had to overcome and how they managed to achieve their aims. The combination of case studies and profiles details collaborations from local NGOs to huge multinationals. The common denominator in all the pieces included is absolute commitment to the cause, and a determination to make a difference.

We hope that this briefing will help support you in your D&I and pro bono work and look forward to continually collaborating with the legal profession through our research and events.

Diversity Progression Pathway

Chambers Editorial



Ellie Gerszt
D&I Manager

Recruitment, retention, progression: it's a familiar refrain. When considering how to create diverse, equitable and inclusive organizations, these factors present some of the biggest challenges with the strongest opportunities for growth. From this year's submissions, there continues to be a clear focus on recruitment, with firms frequently taking a deliberate approach to attracting diverse attorneys (for example, through targeted 1L schemes). However, within the progression space the approach taken varies far more, partially because of one simple reason: there is not yet an established approach which guarantees success. Firm culture, the specific challenges faced by the specific diverse group and many other factors play into this challenge, which has entered the mainstream over the last few years.

To delve deeper into this challenge, we've compiled three case studies of firms taking very different approaches. Firstly, we look at how to bring a people-centric approach to the performance evaluation process through a piece from Fragomen, Del Rey, Bernsen and Loewy LLP. When multiple data sources began to show the performance evaluation process was negatively affecting firm priorities, the firm took a comprehensive approach to redrafting the process. Their solution: #FeedbackWorks, a thrice yearly performance check-in designed around clear expectations, qualitative performance indicators and value add to the employee experience. Designed in collaboration with their DEI Director, comprehensive guidelines were also provided to Partners and managers on relevant skills, such as inclusive language and behaviors.

There is also an intentionality present in all three approaches. This is particularly critical to Riley Safer Holmes and Cancila’s approach, which requires partners to document how they considered diversity when staffing a legal team. Not only has this resulted in more “authentic apprenticeship experiences” but also delivers value for clients, drawing on both research and their own experience which shows diverse teams produce “significantly better results”. By proactively addressing diversity within work allocation, an area increasingly discussed by the industry over the last few years, the firm reports clear results with almost all matters now staffed with diverse teams.

One key theme which runs through the case studies is the importance of not only quantitative data collection but also qualitative information: the importance of listening to those affected by a challenge. Firms took the time to work with diverse attorneys and gather their views, and in the process gathered insights which shaped the resulting programs. At Weil, Gotshal and Manges this took the form of the Black Partner Advisory Boards and the Black Associate/Counsel Advisory Board, convened in 2021 by Executive Partner Barry Wolf. Weil’s BLAST initiative - a portfolio of programs designed to “invest in the talents and strengths of Black attorneys across the firm” developed by and in consultation with the Advisory Boards - is impressive not only in its ambition but also thoroughness, with clear results already showing.

The plurality of thought here is striking, and deeply necessary. Distinct approaches with clearly measured results will give the industry a wider toolkit of options that take into account firm culture, geography and need. We look forward to reading about the results of these programs, and hopefully a number of new initiatives, during our 2024 Awards process.

FRAGOMEN, DEL REY, BERNSEN & LOEWY, LLP

1. Why was the decision made to update the performance evaluation process? How did you take it from the idea stage to implementation?

Employee engagement, development, and retention are key priorities for our firm. Through reviewing multiple data sources including exit interviews, engagement survey feedback, and new joiner feedback, we found that our prior performance evaluation process was negatively impacting these priorities. The main themes relating to the prior process were:

- Employees were not being provided with feedback frequently enough, or with enough specificity
- Employees were oftentimes unclear about the expectations of their role
- Employees were demotivated by the rating scale of 1-5, with those receiving a '3' rating equating it to a 'C' grade
- There was a lack of developmental focus, with most of the conversation addressing prior work rather than preparing for the future

2. How is the #FeedbackWorks process different to the previous process? What are you trying to achieve through these changes?

#feedbackworks is a streamlined, modern approach to performance and development, which focuses on the outcomes the firm strives for - employee engagement, development, and retention.

#feedbackworks consists of three short performance and development check-ins over the course of the year, and completely eliminates the numerical ratings:

- The first check-in focuses on expectations in the role; to enable this we created a 'Job Expectations Library' which clearly and concisely documents the expectations for every role at the firm. Importantly, in order to drive a learning and feedback culture, every role at the firm now has an expectation that the individual will take part in a learning activity, and apply that learning to their role.



- The second and third check-ins focus on performance and development against the expectations in the role, including the firm's core competencies.
- Employees are no longer given numerical performance ratings, and instead are given a qualitative performance indicator together with in depth written and verbal developmental feedback.
- The three qualitative indicators ('Your performance is extraordinary,' 'Your performance is great; you embody the Fragomen spirit and are an asset to the firm,' and 'We appreciate your efforts, and will support you to improve your performance') were deliberately crafted to be encouraging; our aim is to normalize giving and receiving feedback, both positive and constructive.
- The entire focus has shifted away from the performance rating and onto the value-adding part of the process, the feedback itself.
- In order to ensure we are supporting and lifting up our diverse employees (both attorneys and staff), our DEI Director is actively engaged in this process. We have introduced a demographic calibration process, whereby HR teams work closely with our DEI Director to review the performance indicators and written feedback given. Our DEI Director will make suggestions on developmental areas for our diverse employees, including providing coaching opportunities that will enhance growth and provide potential advancement.
- In order to make sure our Partners, managers, and employees fully understand and are able to effectively use the new process, our Talent Development team provided interactive live training, as well as a detailed toolkit.

- Our DEI Director developed comprehensive guidelines for the toolkit to provide our Partners and managers with resources to model inclusive language and behaviors, while also emphasizing the importance of leading with empathy to foster a sense of value and belonging within their teams. Additionally, we encourage our leadership to have honest and respectful conversations regarding their employees' specific accommodation requests, particularly related to accessibility needs.

3. How have both junior and senior staff reacted to the changes?

#feedbackworks has been embraced! Our employees at all levels have welcomed what is clearly a shift in our philosophy. The feedback has been very strong; from Partners, managers, and employees. Partners and managers are delighted with the streamlined process, which enables them to spend more time on the discussions themselves. Employees are motivated to see the shift in process and happy to have the opportunity to focus on their own development, as well as to be clear about the expectations in their role. Further, diverse employees may not

receive ongoing feedback similar to their straight, White counterparts, which is why we place a high value on providing continuous feedback as a means to support their professional growth, ensure equitable opportunities, and foster an inclusive and empowering work environment.

4. What achievements are you most proud of within the initiative?

#feedbackworks is a truly innovative approach to performance management in a law firm setting; we revolutionized our philosophy and were able to develop and implement a completely new program successfully within a very short time period, in every one of our countries around the world. Removing numerical ratings was a big step and sets us apart from many firms with whom we compete. We are proud of our people-focused approach, where the focus truly is on recognizing and developing each /person as an individual.

Case Study 2

Weil

WEIL, GOTSHAL & MANGES LLP

When and how was BLAST created?

Black Lawyers Achieving Success Together (BLAST) is a portfolio of programs that Weil launched in 2021 to invest in the talents and strengths of Black attorneys across the Firm. It focuses on mentorship and networking, recruitment and retention, business development and client outreach.

How does BLAST differ from previous support for Black talent at the firm?

With BLAST, Weil has launched a variety of programs to provide intentional, comprehensive support to our Black attorneys. In January 2021, Executive Partner Barry Wolf convened the Black Partner Advisory Board and the Black Associate/Counsel Advisory Board to advise him on vital matters, including ways to progress diversity goals and achieve greater engagement from senior leadership.

The associate/counsel board developed Jumpstart, a mentoring effort that matched Black first year or lateral

associates with Black partner and senior associate mentors to help them transition to the Firm. Incoming Black associates are convened prior to New Associate Orientation for a Jumpstart Pre-Orientation, including mini-panels and break out discussions on how to make a positive first impression and how to select practice groups.

An 18-month program was developed for Black partners, counsel and senior associates to strengthen their business development acumen. The curriculum features talks with Management Committee sponsors, the creation of business plans reviewed by Executive Partner Barry Wolf and BLAST Group Coaching delineated by position to ensure impactful programming.

The Next Level program for Black mid-level associates and counsel in the US and London is comprised of external career development workshops, leadership access and profile-raising sessions.

What is Weil trying to achieve through these programs?

Our goal is simple yet powerful: for all Black attorneys and staff to feel invested in and have a great professional experience at Weil. By investment, we mean equitable mentoring, sponsorship, training and opportunities. Ultimately, we want to increase the retention, partner promotions, and leadership team prospects for Black and other attorneys of color.

What are some of the initial outcomes?

Nearly two years after BLAST was launched, the percentage of associates of color at Weil has increased from 25% to 32%. Some 62% of US partner promotions since 2020 have been diverse (women, LGBTQ+, and/or people of color) while 22% of US partner promotions have been BIPOC partners. At the same time, 48% of our new US leaders are diverse, of whom 14% identify as BIPOC. Weil also completed a variety of non-quantitative accomplishments, including launching law school based BLAST recruiting teams and implementing the Firm's new Diversity in the Day to Day training campaign.

What are Weil's partner report and leader scorecards and how do they advance D&I?

Weil employs three accountability mechanisms to measure progress and foster partner engagement in diversity efforts: Partner Report Cards, Upward Reviews and Leader Diversity Scorecards. Partner Report Cards, which must be filled out by all Weil partners each year as part of their review and compensation process, have long asked partners to detail their DEI efforts. Upward Reviews are surveys that associates complete evaluating the partners, counsel and senior associates with whom they work. Through Leader Diversity Scorecards, Management Committee members and other Firm leaders receive a report each year that reflects their performance on a range of diversity metrics.

How does this system differ from the previous process?

In 2021, Weil began asking each partner to list their specific efforts to recruit, retain, develop and advance Black attorneys in their Partner Report Cards. Two new questions were added to the Upward Reviews to address belonging, inclusion and allyship. In 2020, the

Firm added a new element to Leader Scorecards addressing Black attorney representation across teams.

How is the Firm tracking initial outcomes of the new process?

Through these measurement mechanisms, it is clear that attorneys and staff have intentionally invested in Weil's Diversity, Equity and Inclusion (DE&I) efforts. In 2022, US attorneys logged 37,572 Firm Citizenship Hours – which place time spent on DE&I, Feedback,

Mentoring and Recruiting activities on equal footing with billable and pro bono time – an increase of 62% over the prior year. Black attorney representation across teams and leadership continues to increase: since 2020, 62% of U.S. partner promotions were BIPOC and the number of BIPOC leaders increased by 43%. Between 2020 and 2022, the percentage of U.S. Black Directors quadrupled.



Case Study 3



RILEY SAFER HOLMES & CANCELILA LLP

1. Why was the decision made to introduce the policy requiring partners to document how they considered diversity in staffing legal teams? How did you take it from the idea stage to implementation?

We are a very diverse and inclusive firm; diversity, equity, inclusion, and belonging are part of our founding tenets. We wanted to be intentional about giving equal opportunities for all lawyers to learn and grow from authentic apprenticeship experiences. We also wanted our clients to receive the best result available — research, and our experience, has proven that diverse teams provide significantly better results. So we created a policy that all partners must consider diversity in assigning teams, including considering all variants of diversity — age, race, gender, ethnicity, ability, and thought. To implement the policy, we added to our matter intake form the explicit question of whether diversity was considered in assigning teams. We are also intentional with our formal mentoring process in creating

diverse relationships that allow for two-way mentoring.

2. How is the policy different to the previous process? What are you trying to achieve through these changes?

The process is different only in that it is now explicit from the opening of every new matter at the firm; we have always been driven by providing diverse teams for our client matters. We are trying to provide the best advice and counsel to our clients by providing diversity of thought and experience to each matter.

3. What have some of the initial outcomes been?

Almost every team for every matter is diverse, for at least two reasons. First, because our firm recruits with diversity in mind, each practice team includes attorneys from a variety of backgrounds and experiences across age, gender, race, ethnicity, thought, or ability. This leads to teams that are organically and authentically diverse. Second, because the policy on building diverse teams is

now explicit, we can ensure all team leaders are making intentional choices in staffing the teams.

4. How have both junior and senior staff reacted to the changes?

One hundred percent support. All members of the firm support our overall strategic goal of delivering the creative solutions for our clients that come from diverse teams, and they have been receptive to this explicit policy. We had a head start because of the principles on which we started the firm, and our firm members have seen that the results and experiences from our commitment have demonstrably enriched and bettered their professional and personal lives.

5. How does this reflect the wider firm culture?

The wider firm culture embraces our diversity and considers it an asset that sets us apart from other national law firms and is another way we establish our excellence. We have shown that diversity in a non-minority-owned firm can be achieved successfully. Our culture of acceptance, inclusion, and belonging allows our lawyers and staff to present their authentic selves daily at work. This contributes to a better and more satisfying work experience, and the higher morale that yields excellent work product.



Defending Women's Rights

Chambers Editorial



Ellie Gerszt
D&I Manager

Each year, this report looks at the themes and trends we have seen in DEI, Pro Bono and Sustainability work across America. The first report looked at the industrywide shift towards an increased focus on advancing race and ethnicity work, which we are delighted to see continues to be a theme across award submissions. However, when analyzing the 2023 nominations a new theme emerged: firms stepping forward to protect the rights of women.

Unsurprisingly, a significant portion of this work came in the protection and defense of abortion rights particularly following the *Dobbs vs Jackson Women’s Health Organization* Supreme Court decision in June 2022. Submissions detailed efforts around the country from a number of well-known firms to fight the tidal wave of anti-abortion legislation sweeping much of the nation. Whether this work involved an industrywide initiative, such as the New York Attorney General’s Reproductive Health Task Force or challenging state by state laws, the legal profession’s place in defending crucial reproductive rights is clear.

The need for legal support for this right has been clear since long before the right to an abortion was originally conferred in 1973. We have included a profile of WilmerHale’s advocacy in this area, which has spanned decades and advocates a multidisciplinary approach with multiple centers of expertise utilized. Somewhat tragically, the case study also notes new areas of advice becoming necessary, such as the importance of white collar crime advice for medical providers who simply wish to treat patients appropriately without fear of prosecution.

Efforts to support the rights and freedoms of women were not limited to the reproductive healthcare sphere. Firms also shared their incredible work to support survivors of domestic violence, sexual assault, human trafficking and stalking, all issues which statistically are more likely to affect women throughout their lifetime. The legal challenges faced by this group are numerous and wide reaching, with navigating the complexities of the legal system frequently becoming an additional stressor and challenge.

However, some firms are meeting this challenge head on through programs aimed at assisting survivors with particular challenges faced. Mintz has been doing leading work in this area for more than 30 years, with their Domestic Violence Project having originated with first-year associates leading an effort to provide representation to individual survivors in protective order hearings. The program has since become the firm's signature pro bono project, and takes a wraparound approach to not only supporting individual survivors but also working with nonprofits and helping to establish national advocacy groups in this area. Our profile of Andrew DeVoogd, a member of Mintz's Boston practice, movingly discusses the challenges ingrained within this work while also describing it as "among the most meaningful work I have done as an attorney".

We were also impressed by the ingenuity shown in this section's other case study, which demonstrated significant creativity in tackling a challenge faced by survivors: how to buy a house without public exposure of ownership. Davis Wright Tremaine was recruited to and subsequently took the lead on a Task Force to address this issue in Washington State, finding an innovative solution by utilizing revocable living trusts.

Unfortunately the rights of many minorities are under attack across America, and the tide of legal challenges that come with that can at times seem unceasing. However, firms across the legal profession are clearly rising to meet the challenge with vigor and resilience. We hope you find these pieces both interesting and inspirational, and that the legal profession continues to rise to the challenge of defending and advancing women's rights.

Case Study 1

WILMER HALE

For decades, WilmerHale has been deeply invested in improving access to reproductive health care across the United States, particularly for vulnerable and underserved populations. Prior to Dobbs, WilmerHale lawyers had long partnered with health care providers and reproductive rights organizations to challenge restrictions on abortion and other reproductive health care around the country, notching significant victories at the federal and state level. From the moment the Supreme Court granted review in Dobbs, we knew that we had to prepare for a world in which *Roe v. Wade* might be overturned.

We started brainstorming with reproductive rights lawyers and medical experts with whom we have partnered for years about what kinds of legal advice might be needed in this very different legal landscape. We then gathered experts from a variety of departments within our firm – including constitutional law experts, criminal defense practitioners, health care and privacy law experts, employee benefits lawyers,

and employment law experts, among others – to develop a set of key questions that we expected would come in from clients. This working group developed resource materials that allowed us to be prepared to provide timely feedback and counseling to clients as soon as the Dobbs decision was announced. We also set up a group to closely monitor and track the status of abortion laws in all fifty states, which were changing on an almost daily basis in the wake of Dobbs.

One of the challenges of the post-Dobbs world is that many of the questions we are getting from clients are ones of first impression. Federal constitutional protection for abortion under *Roe* was the law of the land for nearly 50 years. We now have to analyze state restrictions and bans on abortion and the implications for health care providers and patients under a very different legal regime, often without the benefit of controlling legal precedents. We also know that almost every question now requires an interdisciplinary analysis, which is why we try to draw on lawyers



from many departments within the firm to provide multi-faceted advice.

In the months since Dobbs, WilmerHale teams have represented abortion providers in challenges to abortion restrictions in Montana, Ohio, Texas, and Idaho, obtaining significant victories in the Montana Supreme Court and in the trial court in Ohio. WilmerHale also represented Michigan Governor Gretchen Whitmer in affirmative litigation to establish a right to abortion under the state constitution. The firm has also represented the American College of Obstetricians and Gynecologists, the American Medical Association and other medical groups in amicus briefs that highlight the serious health risks posed by abortion bans.

We have been getting numerous questions about the implications of draconian criminal penalties in many

state abortion restrictions and the risks that health care providers face if they run afoul of these laws in attempting to provide care to their patients. My primary practice area is white collar criminal defense and so I have been able to draw on that expertise and experience in providing advice to clients who want to be able to treat their patients without fear of prosecution. I'm also proud of the fact that our firm was one of the founding firms that established the Abortion Defense Network, which is a collaborative effort by nonprofit organizations and private law firms to connect clients who need legal advice related to reproductive health care with lawyers.

DAVIS WRIGHT TREMAINE

The Washington State Address Confidentiality Program (ACP), which is administered by the Secretary of State, protects people who are attempting to escape from domestic violence, sexual assault, trafficking, or stalking. The ACP helps preserve the confidentiality of a person's address by allowing the person to use a substitute mailing address designated by the Secretary of State (Secretary) for purposes of government records. Unfortunately, the public records associated with homeownership, such as recorded deeds and deeds of trust, and certain online property tax records, closely associate property owners with the address of their property. ACP cannot use substitute mailing addresses to protect its participants who wish to own their homes.

In 2019, the Washington State Legislature enacted ESHB 1643, which charged the Secretary of State and the State Office of Civil Aid (OCLA) to develop resources and provide free legal aid to help ACP participants who want to acquire homes to do so without public exposure of

their ownership. The Secretary and the OCLA formed a Task Force of real estate industry professionals to tackle this problem and recruited Davis Wright Tremain to the Task Force. Not only did DWT take the lead, but DWT partner Jim Greenfield was also the primary architect of the first-of-its-kind solution that would end up being adopted and instituted.

Specifically, Jim and six other DWT attorneys devoted significant time and effort to this initiative. First, they evaluated how other states had tackled this problem. Many states have address confidentiality programs similar to Washington's. In many states, the legislature had enacted special legislation allowing county auditors and recorders, who administer the county systems of recorded property documents, to maintain these property documents associated with their address confidentiality participants in confidence. These systems are cumbersome and impose additional obligations on local county officials who are responsible for redacting or otherwise

keeping participants' home addresses confidential.

Instead, the DWT team began to focus on adapting a tool often used by wealthy property owners, a revocable living trust, so it could be used by the Washington ACP participants. With a revocable living trust, the ACP participant's home can be owned in the name of a trust. All the recorded documents and all the property tax records can name the trust, not the ACP participant personally. It took the Task Force a couple of years of regular

meetings to develop and beta-test a plain-English trust document, together with a set of FAQs, so that an ACP participant can download and complete a revocable living trust instrument and use the trust to complete their real estate transaction. We have now successfully done so.

Davis Wright Tremaine took the lead in legal analysis, document drafting, and structuring the solution by leveraging laws that are traditionally leveraged by wealthy property owners to make this



program a reality. We recruited attorneys from various backgrounds including real estate, estate planning, and tax. We provided access to our legal expertise and to the sophisticated trust instrument to individuals who needed this help but generally cannot afford access to such resources. We devoted an incredible amount of time and resources to this impact-driven initiative.

DWT approached this problem with fresh eyes and developed an innovative, practical, and scalable solution supported by the residential real estate industry and related government agencies. We worked closely and successfully with a broad range of government, real estate, finance, and other professionals, and led the charge to bring a novel solution to life. Most importantly, we helped countless ACP participants who may have feared purchasing a home, to now utilize the tools we developed to buy a home safely.

DWT always brings innovation and inclusivity to its pro bono work. In addition to commendable but more conventional pro bono matters (including representing indigent clients and litigating public interest cases), DWT actively deploys its transaction attorneys to leverage their skills and experience to help in-need clients and underrepresented

communities. This ACP real estate matter fit that bill perfectly. It utilized a broad range of partners and associates from diverse transactional disciplines, and resulted in an important, innovative, downloadable instrument to help address a critical social need. This reflects how intentional DWT is about providing meaningful opportunities for attorneys from all backgrounds to give of their time and talent, and reflects the inclusivity of our pro bono work.



Individual Profile



ANDREW DEVOOGD, MINTZ

Why was the decision made to create the Mintz Domestic Violence Program? How did you take it from the idea stage to creating an action plan and implementing it?

The firm's Domestic Violence Project ("DVP") was established in 1990 by two first year associates who wanted to provide representation to individual survivors in their protective order hearings. The program soon expanded and dozens of attorneys across the firm got involved. The firm's then-managing partner later initiated a strategic plan to find a pro bono focus area that attorneys and staff would gravitate to, and where we could make an impact over time. The DVP became the firm's signature pro bono project. The firm has since assisted thousands of survivors, worked with dozens of nonprofits that assist survivors (such as DV shelters), helped to establish national advocacy groups in this area, advocated in the state and national appellate courts, and worked on successful legislative initiatives at the state and national level. The DVP has

also expanded to include other survivors of gender violence, such as survivors of sexual assault, stalking, and human trafficking.

In what capacity do you support this work? Why do you feel it is important?

I have represented a number of clients in obtaining and extending protective orders, seeking to help ensure their protection from gender violence, including at the appellate level in obtaining relief from the denial of a protective order. Another flavor of my work in this space has been for Boston's largest provider of DV awareness efforts, and of shelter and supportive services to survivors. Civil subpoenas are sometimes issued to the organization in attempts by abusers to pry open survivors' mental health records—in yet another attempt to continue the cycle of abuse and control. Resisting these subpoenas furthers Mintz's overall objective of supporting survivors.

For the individual, the outcome can be immediate and life-changing to obtain enforceable safety mechanisms. It can

also be a powerful thing, of itself, for a survivor to have a lawyer stand up in a formal court setting and advocate for them. Also, preparing to tell—and telling—one’s story of trauma and abuse in an evidentiary hearing can be an important voice-finding step in regaining and reaffirming agency. More broadly, Mintz has developed wide attorney and staff investment in the program, and has parlayed this focus into advances at the legislative level, such as spearheading legislation in Massachusetts that streamlines the process for sex trafficking victims to vacate related convictions.

Can you tell us about some of the key cases you have worked on in this regard? What has your work centered around and what have the outcomes been?

My first case of this kind stands out, representing a woman with four young children. Her estranged husband had a years’ long pattern of escalating abuse, including death threats, brandishing knives and physical violence. I went to court with her to seek a fourth extension of a protective order. While the prior extensions were each a year, and kept my client and children safe, the husband’s lawyer had used each earlier hearing to aggressively cross-examine my client, re-traumatizing her to the point that

she wanted to forgo the hearing and lose protection.

During preparation, though, she agreed to attempt a permanent extension—rarely granted and difficult to obtain, but we decided it was worth a try. Initially, the judge was skeptical and emphasized that we were asking for extraordinary relief, but with compelling testimony buttressed by argument, he signed a permanent order of protection. My client was poised in court, but in the hall emotion poured out. It was gratifying as a lawyer to get the relief we requested but, as a person, witnessing the immediate and potent emotional impact of the outcome was profound.

What achievements are you most proud of from this work?

The process of this kind of work is deeply meaningful. Each client I have worked with is dealing with some combination of incredibly difficult circumstances, with all the stress, fear, trauma, and uncertainty that DV creates. Yet they have each shown extraordinary grace and courage during preparation and in court. Standing alongside these clients as they tell their stories, while also lending my voice on their behalf, is among the most meaningful work I have done as an attorney.

EDI Guidelines for Outside Counsel

Chambers Editorial



Luke Vincett
D&I Manager

In the years we have been collecting diversity and inclusion submissions from in-house legal teams it has been notable to see the development of how these teams interact and collaborate with law firms on their EDI matters. While in-house teams have employed a variety of methods to increase the diversity of the outside counsel working on their matters, in recent years the most successful of these initiatives have been programs designed to track key metrics, often with rewards for good performance or penalties for poor performance.

What we see now is a tipping point reached, with these programs a core component of how successful companies decide which law firms they will work with. Our three case studies on this topic, from Under Armour, UBS and AbbVie, detail the methodology these organizations employ to make these decisions and achieve their aims of advancing diversity.

A recurring theme in these case studies is in-house legal teams making an intentional decision to do something different and set, in the words of Under Armour's Claire Desmond, "client-driven calls to action." Both Under Armour and AbbVie wrote explicitly to their law firm partners to express their determination to make diversity progress and outline their intentions. Similarly, UBS launched the 'Minority, Women and LGBT-owned Law Firm Panel' as part of their new D&I Request for Proposal. In each case it was important that the rationale and methodology was clearly communicated, and guidance provided on how firms should fulfill their obligations.

A vital component of each of these initiatives is the tracking of key metrics. AbbVie established a baseline and expected progress with the majority of their law firm partners, with their legal operations team launching an extensive data collection effort, and tracked progress each year. Similarly, Under Armour set new SMART goals each year to track progress, measuring the firms against benchmarks such as census and ABA data, and the scores across their roster of outside counsel. They also asked for evidence of further commitment through policies and programs designed to advance equity. UBS took a different approach, choosing to expand their roster of diverse-owned firms working on their matters through a competitive RFP process. Despite the different approaches, each organization valued data collection to ensure progress is being made and data-driven decisions were made.

While there certainly is a competitive element to these initiatives, and failure to meet requirements could result in the loss of work, it is clear that in-house legal teams see EDI guidelines for outside counsel as an opportunity for greater collaboration and network building - a move that will benefit everyone, rather than a disciplining measure. UBS relied on the support of certifying bodies, such as NAMWOLF and NGLCC, and valued a willingness to support their diversity initiatives.

Similarly, AbbVie were happy to report anecdotal evidence of underrepresented attorneys receiving additional credit and being promoted as a partial result of their endeavors. Under Armour emphasized that they aren't passively collecting data but actively engaging their law firm partners, and were proud to have impacted lives on an individual level through mentoring and internship opportunities.

There is a general understanding amongst people engaged in EDI work that, while progress does give you a competitive advantage through attracting and retaining top talent, and all the additional benefits that come with that, the work as a whole is for a greater good that goes beyond competition. In short, everyone benefits from greater diversity, inclusion and equity. The EDI guidelines for outside counsel that the in-house legal teams in this Report, and many others who submitted, have created and implemented exemplify this approach. Organizations and individuals are collaborating to solve a problem, sharing common goals and methodology to create change. While this work is challenging, the benefits reach far beyond EDI metrics, building understanding, improving relationships and progressing together.

Individual Profile



CLAIRE DESMOND, UNDER ARMOUR

1. Why was the decision made to promote greater DEI within your law firm partners? How did you take it from the idea stage to creating an action plan and implementing it?

Stand for Equality has long been one of Under Armour's core values. In recent years, UA has examined more closely how we operationalize this core value into every facet of our business. It is important to UA to partner with entities whose values align with ours. We started with a desire to simply have an impact in advancing DEI. Yet, being a small legal department, we acknowledged that we needed a focused vision to maximize our impact, and thus, we aligned on a plan to leverage our strong relationships with our U.S.-based law firm partners.

Our former General Counsel, John Stanton, selected four UA attorneys to brainstorm how we can take this overarching company value and customize it to drive DEI in our legal profession, which led to the launch of our Diversity, Equity & Inclusion Program for Partner Law Firms ("DEI Program"). We understood

that client-driven calls to action can be an effective and at times necessary tool to driving change and improving diverse and equitable outcomes in our law firm partners. With that premise in mind, I outlined a plan for UA's Legal Department drawing from my prior Big Law experiences serving on Hiring Committees and Steering Committees for affinity groups.

With input from this newly formed Legal DEI Committee, I drafted a mission, vision, and goals statement that we consult regularly to stay focused and maximize impact and efficiency. To help achieve our goals, we designed a timebound implementation plan with multiple phases. To start, we wrote to our U.S. law firms and described this new initiative and requested that they participate in our program. We then created a survey that assessed DEI within our law firm partners using both quantitative and qualitative measures. Upon analyzing the data, I designed a scoring framework with a nuanced algorithm that we used to compare firms of various sizes. Our DEI



Committee used these scorecards to engage in open dialogue with multiple firms to better understand their pain points and successes. We listened, learned, and pushed these firms to improve using timebound, actionable plans.

Our process aids us in deciding which law firms will represent our company based in significant part on the DEI performance of the firms. We have started, and will continue, to look for opportunities with firms that positively distinguish themselves in these areas, while re-evaluating our existing relationships with firms whose performance lacks evidence of meaningful interest in diversity, equity, and inclusion.

2. What are the key metrics that you track? How do you measure and define success?

We analyzed quantitative metrics, including race/ethnicity, gender, sexual orientation, veteran, and differently-abled status both firmwide and in leadership roles. One unique thing about our approach is that we did not rely solely on statistical representation; instead, we also dug beneath the surface to find evidence of commitment through policies, programs and other efforts the firms engaged in to advance DEI both within and outside of their walls.

After analyzing the data, we scored the firms using a formula/algorithm

that compared the firm's data to a few different benchmarks – aspirational U.S. population Census data, nationwide ABA and NALP data, and the median scores across our own U.S. firm roster. This allowed us to fairly compare firms of different sizes.

To our UA team, it is not just about the numbers; it is about uncovering the firm's culture and effort. In a sense, we view our information gathering as akin to athletic scouting reports. The pure statistical diversity representation data only tells a piece of the story; you must dive deeper to understand the genuine commitment and effort a firm is exhibiting to most accurately diagnose the problem and create possible solutions.

At the beginning of each year, we create SMART goals for this DEI Program so that we can continue to see yearly progress. Our measures of success will evolve as our program evolves. However, after ten years of running this initiative, we would like to see the majority of our outside counsel expenditures in the U.S. going to firms that have evidenced a strong commitment to advancing DEI, who have grappled with the problems facing their particular firm, and have started to see the fruits of their labor.

3. Can you tell us about some of the initial outcomes? Did anything surprise you?

In under two years of UA's DEI Program, multiple law firm partners have already made a number of improvements, including:

- Creating Diversity Committees;
- Improving Parental Leave Policies for LGBTQ+ individuals;
- Hiring DE&I Officers;
- Creating policies wherein attorneys would receive billable credit for doing DE&I work;
- Committing to or expanding involvement with the Leadership Council on Legal Diversity (LCLD);
- Obtaining Mansfield Certification;
- Modifying their strategy to increase the pipeline of qualified candidates (e.g., STEM backgrounds);
- Incorporating DEI considerations into succession planning; and
- Partnering with UA to provide internships to diverse college and law students.

The trends for statistical diversity were not surprising (i.e., disparities in representation of historically

underrepresented groups increased in leadership ranks). However, I was surprised when some of the smaller boutique law firms with poor statistical diversity ended up demonstrating impressive out of the box thinking. We were able to help law firms troubleshoot some of the challenges they were facing by sharing relevant successful efforts other firms reported. For example, a couple of our smaller firms are working to broaden the diversity pipeline into the legal profession by using personal and local connections to partner with undergraduate institutions and expose

diverse students to a range of legal professions they may not have considered before. This is particularly beneficial and crucial for practice areas like Intellectual Property, where the barriers to entry can require additional hurdles (e.g., patent bar exam; STEM education).

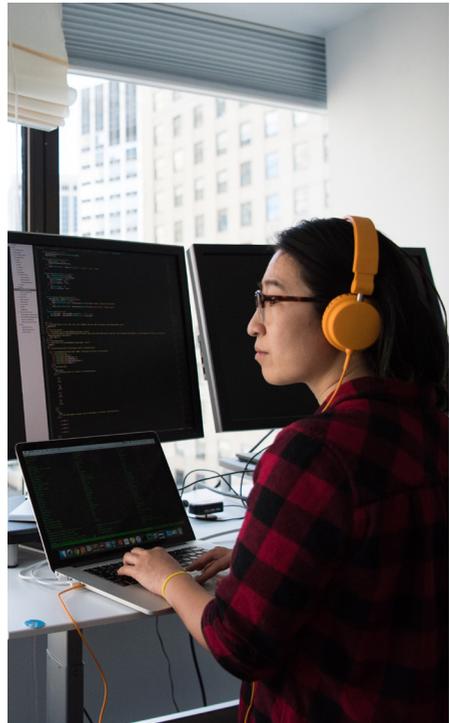
At the end of the day, our partner law firms who are finding success with DEI are not coming by it accidentally; rather, it is the result of intentionality and hard work. They are not complacent with having good intentions, but have rolled up their sleeves and erred on the side of action and reflection.



What achievements are you most proud of from this work?

I am proud that UA was not a passive collector of information; we actively engaged with several of our closest law firm partners. We asked tough questions and challenged them to develop timebound actionable plans to address their weaknesses, and we supported them by sharing relevant insights we gained from the data and information we had been collecting. I am also grateful to our former General Counsel who actively participated in every single meeting engagement with the law firms that we have met with so far (across practice areas), which brought gravitas to our mission, and likely contributed to the seriousness with which these firms treated our message.

Overall, I am most proud of how—in a short period of time—we have impacted lives on an individual level through mentoring and internship opportunities, while also facilitating tangible progress and improvement across our law firm partners that hold considerable economic power. And I am energized and excited because we are using the momentum we've generated to build on this work.



Case Study 1



UBS AG

In the summer of 2022, UBS launched the 'Minority-, Women- and LGBT-owned Law Firm Panel' in the US. Seven law firms were selected to cover over 20 states and areas from Los Angeles all the way to Washington DC, each excellent firms in their own right and specializing in various fields of expertise.

At UBS, we want to bring everyone into the conversation and continue building a culture centered around inclusion and belonging – and that includes making sure that the law firms that provide us with legal services have a wide range of experience and represent everyone. That was the focus of UBS Legal's Diversity & Inclusion Request for Proposal (RFP).

Getting everyone a seat at the table

To advance our goals, we looked at how we could increase the representation of minority external partners. What would that look like? Perhaps more contracts with women-owned law firms; sharing knowledge between minority-owned firms and majority-owned firms; additional external support on some

of our diversity initiatives, and so much more. The benefits of including everyone at the table are substantial.

We therefore set up a competitive process targeting top diverse-owned firms, which include market leaders in the public finance, M&A, employment, corporate work, litigation and individual defense areas. Each of these firms covers complex matters throughout the United States.

Members of our UBS Diversity, Equity & Inclusion (DEI) community, colleagues from our Outside Counsel Management team, colleagues from different legal practice areas in the US, and our external procurement partner made up a cross-functional team. This working group ran the process to select the firms we invited through the RFP with the support of certifying bodies such as the National Association of Minority and Women-Owned Law Firms (NAMWOLF) and the National LGBT Chamber of Commerce (NGLCC).

The willingness and desire from both UBS and from the legal community to further this initiative were fantastic; a true testament to what we were trying to achieve. Many firms were interested and considered for participation; we ultimately invited 14 certified law firms to apply for our panel.

Our criteria

To select our final panel, the working group scored each firm on a variety of criteria, including:

- Expertise – in their practice area or region, or in their knowledge of UBS’s businesses
- Commitment to diversity – measured by their current certification or membership in a relevant governing body, ability to staff projects with diverse attorneys, willingness to support UBS on promoting diversity initiatives, and more
- Competitive pricing – including innovative approaches in pricing and competitive rates

Alongside submitting information for the above and other categories, firms were also asked to elaborate on their pro bono and community engagements, and on their own diversity and inclusion policies.

Where we are now and where we’re going

Our ‘Minority-, Women- and LGBT-owned Law Firm Panel’ is now fully integrated into how UBS partners with its law firms in the US. Firms keep their panel membership by submitting evidence of their certification from NAMWOLF or NGLCC on an annual basis.

To our knowledge, our panel is the first of its kind in the financial industry and an important contributor to UBS’s DE&I progress. As we’ve just established this panel, we hope and expect to see steady progress in increasing engagements coming their way. We are proud to support and provide engagements to minority-, women- and LGBT-owned firms, and we hope to see powerful results in the partnerships among these firms and the global law firms our in-house counsels engage with in the future. We look forward to evaluating its success in the coming years and hope that our experience can guide our peer firms to follow our example.

ABBVIE

AbbVie recognized that diverse individuals' representation in the U.S. population is not commensurate with their representation in the legal profession. According to the American Bar Association:

Women are slightly over half of the population but are only 35% of attorneys.

Only 5% of active lawyers in the U.S. are African American, 5% are Hispanic and 3% are Asian -- numbers that materially fail to reflect the nation's changing demographics.

AbbVie recognized that representation of diverse perspectives in their matters was important to their success. In addition, the data showed that there was a significant drop-off in gender & ethnic representation at the partner level in the industry.

In mid-2018, AbbVie's leadership sent a letter to AbbVie's top law firms, which accounted for approximately 75% of legal spend, expressing the importance

of diversity and inclusion for staffing AbbVie matters and calling for their collaboration in establishing goals to ensure accountability and measurable impact for the program.

The Legal Operations team began its work with an extensive data collection effort, reaching out to AbbVie's 27 top-spend firms to gather diversity data on each of their attorneys working on AbbVie matters.

Based on those conversations and the findings of our data collection effort, we developed goals tailored to each firm.

Billable hours in 2019, the first full year after our program launch, improved relative to baseline: female partner hours increased by 18 percent, minority partner hours were up by 46 percent, and underrepresented lawyer hours were up by 12 percent.

Thanks to our holistic and data-driven approach, specific and measurable goals and the commitment of AbbVie attorneys involved in hiring outside counsel,



many of our outside law firm partners exceeded aspirations in just a few short years.

We also have anecdotal evidence of female and minority partners receiving credit and being promoted to partner at their firm because of our program.

While the results of our Diversity in Law program are promising, we recognize that that this is a journey, with our outside partners and across the wider legal industry to foster diverse representation – and of equal importance, equitable and inclusive cultures – across ranks.

Chambers Editorial: Closing Remarks



Kush Cheema
North America Research Director

James Haggerty
Head of USA Research



Diversity, equity and inclusion remains a fundamental area of focus for both law firms and in-house counsel in the USA. Throughout our research for the USA guide, we have observed that law firms are looking more closely than ever at diversity and inclusion, in all its forms, both within their own workforce and within their external providers.

In recent years the focus of law firms' diversity and inclusion initiatives has expanded, with a more concerted effort now made to ensure equity across all diversity markers. It is notable that the case studies in this report show that organizations are now creating ever more effective processes to ensure there is a pathway to the top of the profession for underrepresented attorneys.

There is also increasingly clear evidence that in-house teams are paying increasing attention to the D&I credentials of their outside counsel. In our research, clients regularly highlight that they factor diversity considerations as a core part of their selection of outside counsel, including when making panel appointments. In-house counsel will often single-out the presence of a diverse team, which provides a meaningful contribution to their files, as something they value highly in the teams they work with.

While this expanded focus is welcome and indeed essential, there remain significant challenges to be overcome both within the legal industry and in wider society. At Chambers, we aim to play our part in this work by ensuring we reflect the full diversity of the profession and ensure our research is inclusive.

We are actively seeking to increase the proportion of women interviewees we speak to year-on-year and encourage law firms to put forward a diverse range of clients and referees for interviews wherever possible. We also conduct regular training sessions with Research Analysts to train the team to look for potential bias in the feedback they gather.

Our most recent data indicates that, since 2019, there has been a 58.01% increase in ranked women lawyers in the US. While we are delighted to report this significant increase, we know there remains much work to be done. We look forward to collaborating with US law firms and attorneys in this endeavor.



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