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DIVERSITY SCORECARD 2017

## THE DIVERSITY SCORECARD

By Meghan Tribe

### METHODOLOGY

THE DIVERSITY SCORECARD RECORDS THE AVERAGE number of full-time-equivalent minority attorneys—Asian-American, African-American, Latino or Hispanic, Native American and self-described multiracial attorneys—at Am Law 200 and National Law Journal 250 law firms in the calendar year 2016. Lawyer counts are average full-time-equivalent (FTE) figures. Partner statistics include both equity and nonequity partners. Nonpartner figures include associates as well as special counsel, of counsel and other staff attorneys. The survey does not include contract attorneys. The heading “Other Minority” includes Native Americans and attorneys who said they were multiracial. Lawyers of Middle Eastern heritage are counted as nonminority attorneys for the purposes of this survey.

Prior to 2009, Diversity Scorecard rankings were based only on the minority percentage of all U.S. attorneys. Starting in 2009, we revised our rankings to stress the importance of hiring and promoting minority attorneys to partnership positions. Each firm’s diversity score is calculated by adding the minority percentage of all U.S. attorneys at the firms surveyed to the minority percentage of all U.S. partners at those firms.

A total of 42 Am Law 200 and NLJ 250 firms declined to provide us with numbers. The Am Law 200 firms that did not submit their diversity numbers were: Arnall Golden Gregory, Boies Schiller Flexner, Chadbourne & Parke, Dinsmore &

Shohl, Fox Rothschild, Jeffer Mangels Butler & Mitchell, K&L Gates, Littler Mendelson, and Williams Mullen.

—Daniel Masopust

### THE TOP 45-RANKED FIRMS

2016 DIVERSITY RANK	2015 DIVERSITY RANK	FIRM NAME	DIVERSITY SCORE*	% OF MINORITY ATTORNEYS	% OF MINORITY PARTNERS	TOTAL U.S. ATTORNEYS
35	35	O'Melveny	31.70	22.1%	9.6%	571
36	29	Weil	31.50	22.1%	9.4%	695
37	87	Rutan & Tucker	31.40	21.4%	10.0%	143
38	53	Thompson Coe	31.20	18.3%	12.9%	186
39	46	Cadwalader	31.10	21.6%	9.5%	347
40	32	Gunster	30.90	15.4%	15.5%	180
40	N/R	Hanson Bridgett	30.90	15.8%	15.1%	158
42	25	Willkie	30.20	21.7%	8.5%	475
43	38	Arnold & Porter	30.10	18.4%	11.7%	607
43	33	Gibson Dunn	30.10	19.9%	10.2%	1,059
45	110	Greenspoon Marder	29.90	19.1%	10.8%	197

**“** **EVEN AS SOME GENERAL COUNSEL OF** major U.S. corporations take a harder line with Big Law on diversity, the results of our Diversity Scorecard show that the proportion of minorities in large law firms continues to stagnate.

Minority lawyers working in Am Law 200 firms and NLJ 250 firms stood at just 15.6 percent in 2016, up from 15.0 percent in 2015. The percentage of minority partners among the firms also saw only incremental growth, up only 0.4 percentage points to reach 8.6 percent last year.

Trying to boost those percentages, especially in the partner ranks, general counsel at Facebook Inc., Hewlett-Packard and Metropolitan Life Insurance Co. have all announced in recent months initiatives that will require more diversity among their outside counsel—or put those firms at risk of losing fees.

Other diversity mandates have been pushed by corporate GCs for almost two decades, but improvement has been slow. In 2000 the Diversity Scorecard found that large U.S. law firms were 9.7 percent minority; almost 20 years later, that proportion has increased by just 6 percentage points. By contrast, the proportion of minorities in the United States increased about 13 percentage points from 2000 to 2015, according to data from the U.S. Census.

The small gains registered in this year's Diversity Scorecard were not evenly distributed among different minority groups. Asian-American lawyers remain the best-represented minority group in large law firms, comprising 6.9 percent of Big Law lawyers, up from 6.7 percent in 2015. The proportion of Asian-American nonpartners increased by 0.2 percentage points to 9.9 percent. Asian-American partners also saw growth, up to 3.3 percent of all Big Law partners from 3.0 percent the year prior.

The total number of Hispanic attorneys increased by 0.2 percent to 3.7 percent. There were similar gains among partner and nonpartner ranks, to 2.6 percent and 4.5 percent, respectively.

However, there was no change in the total percentage of African-American attorneys across all levels. In 2016, as was the case in 2015, African-Americans comprised only 3.0 percent of Big Law attorneys: 3.9 percent of nonpartners and 1.9 percent of partners.

**FOR THE FOURTH CONSECUTIVE YEAR, WHITE & CASE TOPS** the Diversity Scorecard rankings. (Each firm earned a score that is based on its percentage of minority lawyers plus its percentage of minority partners.) Of White & Case's 656 lawyers in the United



States in 2016, 33.4 percent were minority lawyers, including 20.6 percent of U.S. partners. These percentages are down slightly from 2015, when the firm reported that 34.1 percent of its attorneys and 22.3 percent of its partners in the U.S. belonged to a minority group.

“We’ve had a kind of institutional ethos of diversity for many years,” says Raoul Cantero, global executive partner for diversity at White & Case, citing the firm’s global identity.

In addition, White & Case has had several clients, which the firm declined to name, that have required

or encouraged the firm to staff its matters with diverse attorneys, Cantero says: “For many years, we’ve understood that our clients come from diverse backgrounds, diverse cultures, diverse thoughts and obviously diverse countries and we’ve recruited in order to serve those types of clients.”

Fragomen, Del Rey, Bernsen & Loewy, a New York-based firm that specializes in immigration, held the No. 2 spot for the third year in a row. Minority attorneys represented 29.4 percent of the firm’s 312 U.S. attorneys, an increase of 0.1 percent from last year. Wilson Sonsini Goodrich & Rosati again ranked third in diversity, followed by Fenwick & West, which rose from fifth place to fourth and displaced Los Angeles-based Wood Smith Henning & Berman, which dropped from the top five to No. 18. Curtis, Mallet-Prevost, Colt & Mosle rounded out the top firms, jumping from 10th last year to fifth this year.

Farther down the rankings, a few firms made big gains on the diversity front last year. Greenspoon Marder made the biggest leap this year, jumping to No. 45 in the rankings from No. 110, thanks in part to increases in its Hispanic and Asian-American head counts. Proskauer Rose added close to 40 minority partners and associates, which helped the New York-based firm jump up the rankings to No. 65 from No. 128 the year prior. Baltimore-based Miles & Stockbridge also leapt up the rankings from No. 145 to No. 104, thanks to increases in its Asian-American and Hispanic head counts.

There were also some steep falls. Kelley Drye & Warren had the largest decline, dropping 43 places from No. 42 to No. 85. The firm’s percentage of minority attorneys fell from 18.5 percent in 2015 to 17.1 percent last year, due in part to decreases in the number of Hispanic and Asian nonpartners at the firm. “At Kelley Drye, diversity and inclusion are core values [and] our dedication

“to these values extends to all levels from recruitment to staffing client matters,” says Kelley Drye managing partner Lew Rose in an emailed statement. “Numbers change every year, but our commitment to diversity has never been stronger.”

Due to decreases among its Asian-American nonpartner ranks as well as its African-American and Hispanic partner ranks, Reed Smith also had one of the biggest drops in the rankings, falling from No. 79 to No. 119. In 2016, the percentage of minority lawyers at the firm dipped to 13.1 percent from 14.8 percent the year prior. The firm’s minority partner percentage dropped from 9.8 percent to 9.2 percent.

“I’m taking a whole new look on everything we do in terms of diversity and inclusion,” says John Iino, the recently-appointed global chair of diversity and inclusion at Reed Smith. “My mission is to transform our culture to a culture of inclusion where we support nurture, celebrate and reward diversity,” Iino says, which will include measuring diversity metrics across each practice group at the firm that are specifically tied to management bonuses.

**“THE LEGAL PROFESSION SHOULD BE, IN MY VIEW, AT THE** forefront of understanding that you should fundamentally reflect the entire population,” says Kim Rivera, chief legal officer and general counsel of HP. “It’s hard to create a system that is experienced, fair, just and equal by all when it overwhelmingly underrepresents major portions of the people that it affects.”

Rivera and HP made waves in February when the company announced a new diversity mandate, requiring that its outside firms have at least one diverse relationship partner on its matters or have one woman or “racially/ethnically diverse attorney” performing at least 10 percent of the billable hours. If a firm after a year fails to meet HP’s staffing requirements, the technology company will withhold 10 percent of its fees.

“My department [has] been focusing on diversity and inclusion and wanted to talk about what we could do that was innovative, different and bold that would help address what we view as a very stubborn problem that the legal profession and particularly Big Law has been unable to solve despite the focus and attention of lots of people for decades,” Rivera says of the initiative.

HP’s new mandate differs from earlier efforts like Microsoft Corp.’s program of bonuses for hitting diversity benchmarks. “[This] was meant to focus on creating an incentive for diverse individuals in law firms, [and] in particular big law firms, to make sure that a chunk of our book of business is being funneled to them to give them the opportunity to do our work and to develop their careers,” Rivera says.

In April, Facebook and MetLife followed suit, adopting similar plans to help firms develop their minority talent. Facebook’s

policy, which requires that women and ethnic minorities account for at least 33 percent of teams working on its matters, also mandates that firms create clear and measurable leadership opportunities for women and minorities.

Under MetLife’s new policy, each law firm must present the company with its plan to develop and retain diverse talent by June 2018, MetLife’s general counsel Ricardo Anzaldúa says. If the plan is deemed unacceptable by the insurance company, the firms will have until December 2018 to revise its plans—or risk being cut by the company. “If you believe, like we believe, that you cannot have the best, highest performing teams unless you have diversity, then you want the teams that are fielding your work to be diverse,” Rivera says.

Orrick, Herrington & Sutcliffe global chair and CEO Mitch Zuklie says he welcomes the pressure from corporate clients to staff matters with diverse teams, in that it reinforces the need to solve the diversity conundrum in Big Law. “While we’ve made great progress, I think progress everywhere, including at our firm, is slower than it needs to be and I think these types of measures at least force a dialogue,” Zuklie says.

On this year’s Diversity Scorecard, Orrick jumped from No. 13 to No. 8, with minority attorneys accounting for 24.6 percent of the firm’s U.S. attorneys and 14.3 percent of its partnership ranks. For years, Orrick has been accommodating diversity requests from clients like Microsoft and Intel Corp., which has shifted the way the firm approached diversity, Zuklie says. “I don’t think we staff a matter today without thinking about the diversity of the team—and we’re not alone in that,” Zuklie says.

Leslie Spencer, co-chair of Ropes & Gray’s diversity committee, says mandates like these require firms be more thoughtful in their assignments, give diverse attorneys the experience needed to better serve clients and provide a better path to partnership. “Getting folks on high-profile matters, putting them in front of clients—that type of exposure goes a long way,” Spencer says.

**BUT ARE DIVERSITY MANDATES LIKE THOSE INTRODUCED BY** HP, Facebook and others really the solution to Big Law’s diversity problem?

A partner and head of diversity and inclusion at an Am Law 100 firm who requested anonymity for the story says no. Rather, the partner says, diversity mandates like these point the finger at Big Law for a systemic problem that starts well before minority law students even begin their careers. “The tone [of the mandates] is that they think we’re being discriminatory,” the partner says. Rather than clients making Big Law the “bad guy,” clients should work to promote a partnership and dialogue that could effectuate change in diversity in Big Law, the partner says.

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Robert Grey, senior counsel at Hunton & Williams and president of the Leadership Council on Legal Diversity, an organization founded to promote the diversity dialogue between clients and firms, wholeheartedly disagrees. “Clients always stimulate activity, whether it’s a customer for a corporation or a client for a law firm, [you’re] always motivated by people who spend money with you,” Grey says. And when the public demands that a corporation become more diverse or reflective of the population it serves, the company diversifies, Grey says.

“Big Law has remained constant in terms of the way it has operated in the past because it’s not a retail kind of operation and so nobody is asking it to do anything,” Grey says. “We get comfortable working with the people we know, people that look like us, people that went to the same law schools [and] it becomes almost like inertia [because] homogeneous societies are easier to deal with than diverse societies.”

As customer demands for diversity change the demographic makeup of their clients, firms may feel even more pressure to diversify their ranks. “Macy’s customers are an extremely diverse group [and] the more we internally look like our customers, the

better we can serve our customers,” says Elisa Garcia, general counsel of Macy’s Inc. “When 65 percent [of my internal team] are women and 25 percent minority, my external team has to reflect that as well.”

Macy’s has specific diversity objectives for its outside firms, and like many clients, it mandates that firms identify the ethnicity and race, among other criteria, of the attorneys working on its matters in its e-billing system, Garcia said. Diversity objectives vary for each firm, but a portion of each firm’s bonus is directly affected by the firm’s failure to meet that goal. “I’ve never fired a firm for not having a diverse group on my team, but I have shifted work away from folks,” Garcia says.

Longtime diversity champion Tom Sager, former general counsel at E. I. du Pont de Nemours and Co. and now general counsel at Ballard Spahr, cautions that without teeth and follow-through, Big Law could still be having the same discussions about diversity several years from now.

“You can demand all you want,” Sager says, “but if you don’t have a way of demanding accountability, it’s just a press release.””

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*Email: [mtribe@alm.com](mailto:mtribe@alm.com).*

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