

As Clients Get Tougher on Diversity, Some Firms See a Selling Point

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When it comes to diversity, more companies want their law firms to show, not just tell.

The number of corporate legal departments demanding detailed data on the diversity of their outside legal teams is taking off, according to Tom Bender, co-president and co-managing director of 1,300-lawyer Littler Mendelson.

In 2016, seven clients asked for the labor and employment firm's overall demographic data and for specific diversity information about the lawyers assigned to work on their matters, Bender said.

This year, those requests have skyrocketed.

So far in 2017, Bender said 24 clients—more than three times the number last year—have asked to see diversity data for the firm or for specific attorney teams, or both.

"No one has told us, 'We picked you because the relationship partner is a woman.' But they have told us, 'We respect and value the premium you put on diversity,'" Bender said.

It helps that the firm can afford to brag a bit more than others.

Littler scores high on rankings of law firms based on their diversity demographics. Most recently, on The American Lawyer's list of law firms ranked based on their percentage of women equity partners, Littler earned third place, with 29.20 percent of its equity partners women. Littler also appeared on Working Mother magazine's roster of "the best law firms for women" this month because of the way it hires, retains and treats women lawyers. In 2016, the firm won the Minority Corporate Counsel Association's (MCCA) national Thomas L. Sager Award for demonstrating sustained commitment to improving the hiring, retention and promotion of diverse attorneys.

Other firms are also fielding more requests from clients about diversity-related data. At Haynes and Boone, for example, clients including AT&T and Bank of America have asked for demographic data about the firm's overall diversity, according to Kit Addleman, a partner who serves on the firm's diversity committee and co-chairs its Women's Leadership Academy for the development of senior associate women.

The Dallas-based, 575-lawyer firm has landed lower on diversity-related rankings than Littler. In The American Lawyer's survey of the percentage of women equity partners, the firm reported 14.4 percent—about 6 percent below the 20 percent that Working Mother estimates as average among its "best" firms. Haynes and Boone did not appear on the Working Mother list.

But Addleman said rating Haynes and Boone against Littler when it comes to gender diversity is "not a fair comparison," since the firms have a very different practice mix.

For one thing, Haynes and Boone has a smaller labor and employment group, and more lawyers who do intellectual property work. In general, IP and patent litigation practices "are notoriously not female-oriented," Addleman said. And while the firm is committed to recruiting women lawyers, she said, "the industry as a whole is having trouble getting girls into STEM [science technology engineering and math] careers."

Addleman also cited Haynes and Boone's large energy law practice, saying women lawyers, as a rule, are less well-represented in energy work. In Haynes and Boone's labor and employment practice, in contrast, six of the Dallas-based firm's nine partners are women, she said.

Kent Zimmermann, a law firm consultant at The Zeughauser Group, noted that labor and employment firms may have structural reasons to show greater diversity.

"They can have a leg up if they have a diverse team. If that team is representing a company accused of gender bias, often it makes a better impression to have a diverse team," Zimmermann said.

Geography makes a difference too. It's easier for firms to recruit diverse lawyers if they have large offices in major money centers like New York, he said. In a city like Dallas—Haynes and Boone's hometown—it may not be as easy, Zimmermann said.

In the past year, Haynes and Boone has invested more resources into developing women, ethnically diverse and LGBT lawyers' careers. It has scheduled events this year to connect women representatives of corporate clients with women partners, Addleman said.

The increased focus on diversity raises a chicken-and-egg question: Do law firms become diverse because clients demand it, or do clients make such demands only as law firms emphasize the legal significance of diversifying?

And with one of the country's largest labor and employment practices, does Littler feel any obligation to encourage greater diversity on the part of its clients?

Bender answered as a lawyer might.

"We run our business a certain way. We advise our clients how to run their business under the law," he said.

Zimmermann said in-house legal departments tend to outpace their outside counsel in terms diversity, driven by corporate mandates, consumer and shareholder pressure, and—he stressed—evidence that "diverse teams get better results."

From there, it's an obvious step to push their outside firms on the issue as well. "They want their law firms to look like them," he said.