

Pharma & Life Sciences

Flexible Work Could Boost Diversity for In-House Law Departments

By Ruiqi Chen

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- Remote work said to expand talent pool, increase diversity
 - Lawyers working outside office risk missing opportunities
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Celia Catlett might still be the general counsel of Texas Roadhouse, Inc., if flexible work arrangements had been as common in 2019 as they are now.

“My kids were getting older, my husband was traveling a ton, and our family life reached a breaking point,” Catlett said. “As often happens in families, mom is the one who ducks out of the career.”

Had remote or flexible work arrangements had been an acceptable option, Catlett said she probably would have stayed in the legal industry a little longer instead of retiring in August 2019 at the age of 43, months before the Covid-19 pandemic forced a shift for many lawyers to working from home.

Though some general counsel like Eric Grossman of Morgan Stanley have taken a stand against remote work, others in the industry say legal departments that adopt flexible or remote work will be better positioned to grow diversity, a priority that’s become even more important to the corporations in which they sit over the last 18 months.

“My personal view is that remote working, applied thoughtfully, can have quite a beneficial impact on inclusion and diversity,” said Bjarne Tellmann, general counsel of GSK Consumer Healthcare and former legal chief of Pearson Education. “If you allow people to work from anywhere, you attract a number of constituents that might otherwise be discouraged from joining more conventionally structured departments.”

Remote work also comes with possible career risks for younger lawyers looking to climb the ladder, said Mary Rosenfeld D’Eramo, vice president of operations at legal recruiting firm Mestel & Co.

“Part of moving forward, whether you’re in-house or at a law firm, is connectivity, mentoring, sponsorship, getting connected to the right people, getting the right work, and learning from your peers,” D’Eramo said. “That is arguably more challenging in a remote environment.”

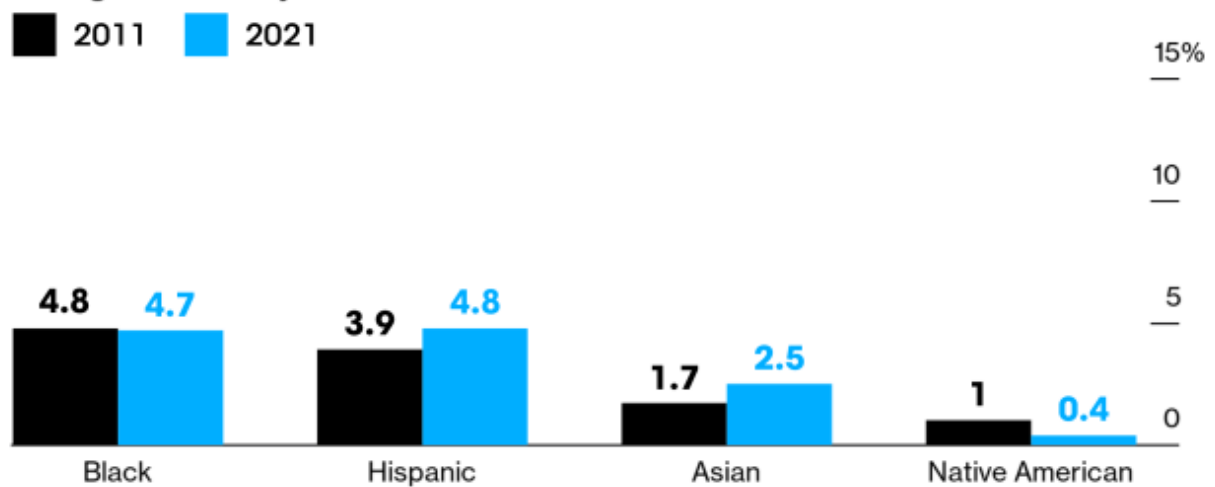
Larger Talent Pools

Though few statistics are available on in-house lawyer diversity specifically, the legal industry has long fallen short when it comes to attracting and retaining women and minorities.

Male attorneys still outnumber women by 63% to 37% in the profession, according to the American Bar Association's most recent National Lawyer Population survey, which looks at data from 44 state bar and licensing organizations. Lawyers of color also continue to be underrepresented across the industry, and Black and Native American lawyers have even lost representation over the past decade, according to the ABA.

Diversity in Law

Representation of Black, Hispanic, Asian, and Native American lawyers has changed minimally over the last decade.



Source: The American Bar Association

Bloomberg Law

Organizations that allow some level of remote work open themselves up to a larger talent pool that could include more diverse candidates, said Maureen Harms, associate general counsel and managing counsel of St. Paul, Minn.-based The 3M Company.

"There is a lot of great talent that may not be located in the Midwest and may not have the opportunity for various reasons to relocate," Harms said. "We think that we may be able to attract talent who would love to work at a company like ours but wouldn't have been able to take a position if it required them to move to Minnesota."

Parents and Caretakers

Pandemic disruptions have underscored both racial and gender inequities in caretaking responsibilities, including among working lawyers.

Some 14% of women—compared to 5% of men—said they took on more childcare during the pandemic, according to the American Bar Association's Practice Forward survey, which queried members on Covid-19 impacts.

The ABA said 60% of women reported feeling overwhelmed with all they had to do, compared to only 38% of men.

A future with flexible work could keep more women in the industry, especially after they start families.

"The women who are most successful and have the most ability to climb the corporate ladder are the ones who are in environments often with female bosses where there's low face-time requirement, and they aren't held accountable for every minute of their day, their accountability rests in their work product, their leadership dynamic, the things that actually should matter," Catlett said.

Kraken, a cryptocurrency exchange owned by Payward, Inc., and Tumblr.com and WordPress parent company Automattic Inc. are fully remote. The companies' chief legal officers—Marco Santori and Paul Sieminski— respectively said women comprise more than half of their legal teams.

"Most of our lawyers are women, most of our lawyer supervisors are women," Santori said. "We haven't conducted any hard hitting research on this, but it's also not a stretch of the imagination to think that women who tend to be the primary caregivers at home would value the kind of flexibility that remote work can provide."

Minority Lawyer Attrition

Minorities who work as in-house lawyers may also benefit from remote and flexible work.

The ABA survey showed that 63% of women and 62% of lawyers of color struggled to keep their home lives separate from work during the pandemic, as opposed to 49% of White lawyers.

Lawyers of color are also twice as likely to leave U.S. law firms compared to White lawyers, according to a separate ABA study. Although 11% of White lawyers left law firms in 2019, around 20% of Black, Hispanic, Pacific Islander, and Asian lawyers headed for the exit.

Flexible work could mitigate some of the attrition by shielding minority lawyers from certain implicit biases at work in the office, according to Sara Eng, the vice president of legal partnerships at legal software and gig-work company InCloudCounsel.

Work distribution in legal departments and law firms often relies on interpersonal relationships. Because those in legal leadership roles are more likely to be White and male, "those very personal, subjective relationships that form in terms of how work is allocated tend to strongly favor non-diverse groups," Eng said.

This can lead to significant discrepancies in the career advancement of young lawyers, according to Eng.

“Women, and a lot of times lawyers of color, are forced to prove themselves over and over again in a way that maybe their White, male colleagues are not asked to do,” Eng said. “That just doesn’t give you a lot of room to have a life. You’re forced into this lifestyle that’s just not conducive to balance.”

Hybrid Challenges

Legal departments that adopt a flexible work model, or a partially remote system, will likely face some challenges.

“Obviously you lose a little bit of the social cohesion and camaraderie of everyone being in the office in the same location,” Tellmann said. As general counsel of Pearson, he said he allowed employees to work remotely but asked people to come to the office on agreed-upon days so that they could see coworkers and friends.

D’Eramo of Mestel & Co. and Michele DeStefano, a professor at the University of Miami School of Law and program chair of Harvard Law School’s Executive Education Program, said a hybrid model could also help young lawyers with sponsorships and career advancement.

“I would be very leery to recommend a fully-remote position for juniors that have never been there before. I think that’s setting them up for failure. But a blended situation—I highly recommend it,” DeStefano said.

Hybrid models can lead to problems of equality, said Automattic general counsel Sieminski.

“You have to work doubly hard to make sure that the remote people are not second-class citizens,” Sieminski said, “like making sure that people that are not in the office have the same opportunities and access to information and ability to coordinate with their colleagues.”

Flex work could be worth the challenges, according to legal department leaders. A young professional that Catlett mentors recently described the difficulty she had finding after-school care for her kids due to staffing issues. Catlett said her mentee asked her boss for some work flexibility to deal with the situation.

“He told her to ‘figure it out,’” Catlett said. “Allowing flexibility and letting that be the norm as opposed to the exception would be so successful and so attractive to so many women.”

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