New research probes senior in-house lawyers on the diversity gap in commercial litigation and arbitration

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NEW YORK, November 7, 2023 -- Burford Capital, the leading global finance and asset management firm focused on law, today releases new independent research that focuses on the diversity gap in commercial litigation and arbitration and the role that in-house lawyers are playing to improve the situation. The research is based on interviews with GCs, heads of litigation and other senior lawyers responsible for litigation at companies in the US, Europe, Asia and Australia.

Key findings from the research include:

Companies value diversity and expect it of their law firms but do not consistently apply these expectations when it comes to the leadership of their commercial disputes

- Just 23% of those surveyed say they have directly asked a law firm to put a female or racially diverse lawyer on a litigation or arbitration matter.
    - Fewer than half of senior in-house lawyers (44%) say they apply formal requirements for gender or racial diversity to the teams that represent them in commercial litigation and arbitration.
- Lack of networks is perceived as a barrier by in-house lawyers in their appointment of diverse litigation and arbitration counsel
    - “People seek lawyers with a reputation in high-stakes litigation, which makes it more difficult for those who have not had the opportunity in the past to break in,” said the GC of a chemical corporation.
    - More than three quarters of senior in-house lawyers (76%) say they would benefit from referrals of female and racially diverse litigation and arbitration lawyers from trusted sources
- Senior in-house lawyers say that the barrier of lack of knowledge and networks could be addressed if trusted sources such as law firms, peer groups and other partners were to introduce

litigators from diverse backgrounds to them.

- "[Recommendations] would be a helpful resource to ensure that we are not missing anyone as we rely solely on our panel counsel," according to the senior managing counsel of a manufacturing company.

Aviva Will, Co-Chief Operating Officer of Burford Capital said: "As the purchasers of legal services, legal departments can—and should—have a significant impact on promoting diverse leadership of commercial disputes, which remains persistently lacking. At Burford, we are proud to support in-house lawyers and law firms in promoting diverse representation through The Equity Project. As of September 30, 2023, Burford has committed more than $137 million through The Equity Project to fund commercial litigation and arbitration led by female and racially diverse lawyers."

The What's driving the commercial dispute leadership diversity gap survey can be downloaded on Burford's website. The 66 one-one-interviews were conducted by phone between March and May 2023 by Ari Kaplan Advisors.

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