Session 404 | Using the NFL to Tackle Law’s Diversity Problem? How the Mansfield Rule Levels the Playing Field.

Law firms have spent decades trying to close the gender and diversity gap. We’ve seen progress though diversity events, affinity groups, mentorship, and more. Yet one critical metric lags behind—diversity in law firm leadership. Now, we have a measurable way to tackle this problem: The Mansfield Rule. The Mansfield Rule was inspired by the NFL’s revolutionary “Rooney Rule” under which each football team must consider at least one minority when filling head coach or general manager vacancies. This was one of the winning ideas from the 2016 Women in Law Hackathon hosted by the Diversity Lab in collaboration with Bloomberg Law and Stanford Law School. To become “Mansfield-Certified,” law firms must demonstrate that at least 30 percent of the candidate pool for 70 percent or more of their open leadership and governance positions includes women, LGBTQ+, minority lawyers and lawyers with disabilities. Nearly 50 law firms piloted the first year of the Mansfield Rule in 2017; now there are more than 65 law firms participating in Mansfield Rule version 2.0. There is also a legal department version in the works, launching in July 2019. Come hear from thought leaders from BigLaw and in-house departments who participated in the inaugural Mansfield Rule as well as the creator of the Mansfield Rule to discuss best practices, wins, and how it can continue to shape and advance diversity in the legal industry.

Moderator:
Jennifer Lee, Orrick, Herrington & Sutcliffe LLP

Speakers:
Cathy Lui, Orrick, Herrington & Sutcliffe LLP
Natalia Marulanda, Diversity Lab
Marie Ma, Gap, Inc.
Malaika Lindo, Eversheds Sutherland (US) LLP
This program will also seek Elimination of Bias specialty credit. Our panel will be focused on discussing the lack of diversity in the legal profession, and how to help move the industry move the needle with retaining and promoting diverse attorneys through the implementation of the Mansfield Rule. To become “Mansfield-Certified,” law firms must demonstrate that at least 30 percent of the candidate pool for 70 percent or more of their open leadership and governance positions includes women, LGBTQ+, minority lawyers and lawyers with disabilities. The Mansfield Rule is a data-driven approach with accountability and transparency built into the foundation. From the in-house perspective, the Rule provides a measurable way to ensure outside counsel are retaining and promoting diverse lawyers. And for outside counsel, law firms are incentivized to become Mansfield certified so that they may attend annual Client Forums to build relationships with in-house counsel partners who support the Mansfield Rule. Our panel will discuss the difficulties with promoting and advancing diverse leadership, and how the Mansfield Rule can help with that goal. The Mansfield Rule is unique in that it is focused on diversifying leadership and the pipeline to leadership. For example, it focuses on tracking the hiring at leadership roles at the firm or company, senior associate hiring, partner hiring, and partner promotions. By being intentional and mindful about ensuring there is diversity for the candidates of the position, the firm or company can also track and monitor the progress of advancing diversity at these levels. The data from the Mansfield Rule will allow our audience to better understand what could work for their respective workplaces and why the Mansfield Rule is so important to our industry.
USING THE NFL TO TACKLE LAW’S DIVERSITY PROBLEM? HOW THE MANSFIELD RULE LEVELS THE PLAYING FIELD

NAPABA CONVENTION | NOVEMBER 9, 2019

Cathy Lui: Partner at Orrick, Herrington & Sutcliffe LLP
Natalia Marulanda: Mansfield Rule & Knowledge Sharing Specialist at Diversity Lab
Marie Ma: Associate General Counsel at Gap Inc.
Malaika Lindo: Director of Diversity and Inclusion at Eversheds Sutherland
Moderated by Jennifer Lee: Senior Associate at Orrick, Herrington & Sutcliffe LLP
Overview

• Panelist Introductions
• Evolution of the Mansfield Rule
• Pilot Program Outcomes
• Client Forums
• Best Practices & Challenges
• What’s Next?
Evolution of the Mansfield Rule

“It has been helpful to have an external lever to drive change; the Mansfield Rule has helped us move forward at a different velocity. The underlying intent of the Rule actually works, in that it forces people onto the radar screen who would never have been considered before or who would have been only perfunctorily considered.”

Participating AmLaw 100 Law Firm Partner

Inspired by the NFL’s “Rooney Rule,” the Mansfield Rule measures whether law firms have affirmatively considered women lawyers, attorneys of color, and LGBTQ+ attorneys — at least 30% of the candidate pool — for equity partner promotions, lateral positions, and significant leadership and governance roles. The Mansfield Rule is named for Arabella Mansfield, the first woman lawyer admitted to the practice of law in the United States.
## Evolution of the Mansfield Rule

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<td><strong>Mansfield Rule Pilot</strong>&lt;br&gt;More than 40 law firms piloted the inaugural Mansfield Rule. Of those, 41 achieved Certification, and 27 achieved Certification “Plus” status.</td>
<td><strong>Mansfield Rule “2.0”</strong>&lt;br&gt;65 firms participated in Mansfield Rule 2.0, when the Rule was expanded to include LGBTQ+ lawyers in addition to women and minorities.</td>
<td><strong>Mansfield Rule “3.0”</strong>&lt;br&gt;102 firms are registered to participate in Mansfield Rule 3.0, which launched in July 2019. A legal department edition of the Mansfield Rule also launched in July 2019.</td>
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The Mansfield Rule was originally proposed at the 2016 Women in Law Hackathon, hosted by Stanford Law School and sponsored by Bloomberg Law. The Rule has been featured in numerous publications.
Mansfield Rule – Why Is It Different?

- Unique focus: diversifying leadership and pipeline to leadership
- Tracking/measurement baked into the Mansfield Rule
- Continual iteration to ensure it is inclusive/effective, with feedback from participating firms
- Creates community among firms to share knowledge and move the needle faster/further instead of working in insolation
- Focuses on systems, not people – creates institutionalized bias disrupters
- Shifts focus, changes behaviors which have impact on outcomes
Pilot Programs

- Certified law firms that considered applicant pools of at least 30% women and attorneys of color for leadership and governance roles, equity partner promotions, and senior lateral positions
  - 1.0 ran from July 2017-July 2018; 2.0 ran from July 2018 – July 2019; 3.0 currently underway through July 2020
  - 44 certified law firms for 1.0; 64 firms certified for 2.0
  - 60+ law departments agreed to join the first Mansfield Rule Client Forum in 2018 and 2019
Mansfield 1.0 Pilot Outcomes

Law Firm Progress: Outcomes of the Mansfield Rule Pilot

- **40%**: Increased diversity in leadership roles
- **33%**: Increased diversity in senior associate hiring
- **35%**: Increased diversity in partner hiring
- **38%**: Increased diversity in partner promotions
Mansfield 2.0 Pilot Program Mid-Point Outcomes

Progress on Tracking and Documentation Goals
For new firms who joined 2.0 this year, prior to implementation of the Rule only:

- **12%**
  Of firms were formally tracking diversity candidate considerations for leadership/governance roles.

- **25%**
  Of firms were formally tracking diversity candidate considerations for lateral partner hiring.

- **33%**
  Of firms were formally tracking diversity candidate considerations for senior associate recruiting.
Mansfield 2.0 Pilot Program Mid-Point Outcomes

Progress on Goal of Diversifying Leadership
Of the firms that took action in the below categories and tracked this data before the implementation of Mansfield Rule 2.0 in July 2018:

- 94% Found that their candidate pool for pitch teams was more diverse.
- 79% Said their lateral partner candidate pools were more diverse.
- 76% Said their leadership/governance candidate pools were more diverse.
- 76% Said their equity partner candidate pools were more diverse.
- 65% Said their senior associate candidate pools were more diverse.
Progress on Expanding Mindsets & Adding Structure to Succession Planning

As a result of participation in 2.0, firms have significantly increased their formal discussions regarding broadening their pools of candidates for:

- Leadership/governance committees: 92%
- Senior lateral hiring: 84%
- Equity partner promotions: 76%
- Pitch meetings: 65%
Mansfield 2.0 Final Pilot Outcomes

Law Firm Progress: Outcomes of Mansfield Rule 2.0

- **65%** Promoted a higher percentage of diverse lawyers into equity partnership.
- **57%** Elected or appointed a higher percentage of diverse lawyers into Office Head positions.
- **92%** Reported a higher percentage of diverse attorneys participating in formal pitches.
- **53%** Reported a higher percentage of diverse attorneys elected or appointed to the Management/Executive Committee.
- **78%** Hired a higher percentage of diverse lateral senior associates.
Pilot Programs – Orrick

• Became “Mansfield-Plus” certified for both 1.0 and 2.0 programs, indicating that it successfully reached at least 30% women, LGBTQ+ and/or of color representation in a notable number of their current leadership roles and committees.
  – “Plus” certified firms are eligible to participate in day 2 of Client forums to pitch to influential legal department leaders
• Mansfield 2.0: Reported that the firm considered more women, LGBTQ+ and/or attorneys of color for leadership positions than the previous year
## Orrick Mansfield Rule Successes

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<th>U.S. Demographics</th>
<th>2018 Diverse* Percentage</th>
<th>2019 Diverse* Percentage</th>
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<tr>
<td>Board/Management Committee</td>
<td>35%</td>
<td>44%</td>
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<tr>
<td>Nominating Committee</td>
<td>35%</td>
<td>44%</td>
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<tr>
<td>Office Leaders</td>
<td>36%</td>
<td>38%</td>
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<tr>
<td>Partner Promotions</td>
<td>50%</td>
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*Includes women, of color and LGBTQ+
“My pitch partner and I had the opportunity to pitch an in-house employment lawyer that seemed very interested in some of our offerings. We made the ask at the end of our meeting, got her card, and followed up by email a couple of times... No word on that, but she did one better, sending a billable assignment, a specific follow-up to something discussed in our pitch. It also originated a new client to our firm, for which my pitch partner and I will now share credit.”

2018 Client Forum Woman Partner Attendee

“My attendance at the Client Forum has led to a number of really great discussions with colleagues and clients. Additionally, I learned from one of my firm’s clients at the forum that her company has a perception of how different firms compare on an important metric. I took that intel back to firm leadership and we have been digging into our own data to determine whether our client’s perception is correct and, if so, whether there is anything we want to do to further educate that client and/or to change any of our own internal practices based on the intel I was able to gather.”

2018 Client Forum Diverse Partner Attendee
Best Practices

• Get leadership involved early
• Track/measure: progress not perfection
• Set up a working group
• Broad communication internally and externally about involvement with the Mansfield Rule and goals
• Make Mansfield Rule an agenda item for meetings, lawyer retreats, etc. (promote consistent, regular check-ins)
Challenges

• Building on the client forums
  – Moving from connections to actionable business
  – Matching firms and law departments’ needs
• Getting buy-in from others
• Adapting to different law firms
• Identification, collaboration, and information sharing when processes are less formal (partner recruiting, pitches)
What’s Next?

• Mansfield Rule 3.0
• Mansfield Rule: Legal Department Edition
• Move the Needle Fund
Jennifer Lee is a lawyer in Orrick’s San Francisco office who focuses on complex commercial litigation and securities litigation. Jennifer is a member of the firm’s Complex Litigation and Dispute Resolution group.

Jennifer’s primary practice is defending investment banks, corporations and individuals in various federal and state litigations alleging fraud or breach of contract related to mortgage-backed securities, as well as SEC enforcement actions alleging securities fraud violations of the Securities Act of 1933 and the Securities and Exchange Act of 1934.

Prior to joining Orrick, Jennifer held a year-long public interest fellowship position in the Law Reform Unit at The Legal Aid Society of New York. She represented individual clients in Article 78 housing proceedings and helped bring class action lawsuits against the New York City Housing Authority.

Representative Engagements

Jennifer’s current and prior engagements include:

- Representing a bank in multiple New York state court actions by monoline insurers seeking to deny coverage under financial guarantees covering residential mortgage-backed securitizations.
- Representing a bank in multiple New York state court actions initiated by certificate holders in mortgage-backed securities claiming breaches of representations and warranties related to mortgage loans.
- Represented former General Counsel of two Silicon Valley publicly traded companies in a California SEC enforcement action alleging backdating of stock options.
Malaika Lindo
Director of Diversity and Inclusion
Washington, D.C.

Malaika Lindo is the Director of Diversity and Inclusion for Eversheds Sutherland (US) LLP. She oversees the development, implementation and championing of inclusion initiatives in support of the US diversity mission and strategic plans.

Prior to joining Eversheds Sutherland, Malaika began her legal career in private practice representing global financial institutions in a wide range of complex domestic and cross border financing transactions. After six years in private practice, she joined Sidley Austin LLP where she was the East Coast Regional Manager for Attorney Professional Development. In that role, she focused on designing lawyer programs to support career development, collaboration with colleagues, and full attorney engagement within the firm. Prior to Sidley, Malaika assisted in the development of Georgetown University Medical School’s Department of Diversity and Inclusion, with a focus on community engagement, inclusive leadership programming and performance building initiatives.

Malaika’s experience in private practice as an attorney and administrator has provided her with the unique ability to assess and develop internal structures in order to maximize effectiveness of law firm strategic diversity and inclusion efforts. Her creative approach to inclusion strategies encourage cross-department collaboration and attorney engagement. She also develops metrics for measuring the effectiveness of programming initiatives with regards to recruitment, performance and retention.

Malaika received her J.D. cum laude from Jacob D. Fuchsberg Touro Law Center, a M.A. in Political Science from Long Island University, and a B.A. in Economics from the University of Virginia.
Cathy Lui concentrates on trade secrets litigation, representing both plaintiffs and defendants in the tech, financial services, and retail industries. Cathy has a particular focus on obtaining and defending against temporary restraining orders and preliminary injunctions under exigent circumstances in fast-paced trade secret actions.

Cathy has significant experience in actions arising from the Defend Trade Secrets Act (DTSA), which created the first federal civil misappropriation of trade secrets claim in May 2016. Cathy has helped shape DTSA law on behalf of her clients through her involvement in some of the earliest DTSA litigation. Many of her trade secrets cases involve parallel criminal proceedings.

Cathy also engages in complex commercial litigation including employee mobility, breach of contract, and fraud cases. Her matters are often high-profile and industry-changing. She is currently representing Netflix in a novel employee mobility matter related to the use of fixed-term personal agreements with business executives; the matter is closely watched by the Hollywood and tech industries.

Cathy serves as the co-chair of the Asian American Bar Association’s Judiciary Committee. She also serves as the Hiring Partner for Orrick’s San Francisco office. In addition, she is an editor and contributing author of Orrick’s trade secrets blog, Trade Secrets Watch, and regularly speaks and writes about trade secrets litigation.

**Practice Areas**
- Trade Secrets Litigation
- Complex Litigation & Dispute Resolution
- Intellectual Property

**Education**
- J.D., Harvard Law School, 2005
- M.A., Sociology, Stanford University, 2002, with distinction
- B.A., Communication, Stanford University, 2002
Marie Ma is Associate General Counsel at Gap Inc., where she leads the Corporate and Global Equity Administration groups, and provides legal advice on a wide range of corporate, securities, finance, governance, compliance and nonprofit issues, and oversees the Global Equity Administration function.

She currently serves on the Asian American Bar Association of the Greater Bay Area’s (AABA) Board and the AABA Law Foundation Board, and previously served as co-chair of the AABA In-House Committee. Marie also serves on the University of San Francisco School of Law’s Board of Governors, and the Bar Association of San Francisco’s (BASF) Justice and Diversity Center Board of Directors. She leads Gap Inc.’s Legal Diversity Committee and is Chair of BASF’s Mock Trial Committee. Ms. Ma received her B.A. from the University of California, Los Angeles and her J.D. from the University of San Francisco School of Law.
Natalia Marulanda is the Mansfield Rule & Knowledge Sharing Specialist at Diversity Lab. She has more than a decade of experience in the legal profession in a variety of capacities.

She began her career as a family and matrimonial attorney at Segal & Greenberg LLP. After leaving practice, she worked with law firms across the country as a Law Firm Relationship Manager at Bloomberg L.P. She went on to develop diversity and gender inclusion programs at Paul, Weiss, Rifkind, Wharton & Garrison LLP, and after moving back home to Miami, FL, she worked as an Associate Director of Career Development at the University of Miami School of Law, where she counseled law students on career and professional development strategies. Natalia earned her Bachelor of Arts degree in Political Science from Florida International University and her law degree from Benjamin N. Cardozo School of Law. She is passionate about helping to create workplaces that value diversity and inclusion as critical business objectives and foster environments where everyone can thrive.