

WRITTEN MATERIALS

Economic Incentives for Advancing Law-Firm Diversity (CLE Course)

1. Course Overview

This program examines how **money, metrics, and market forces** can accelerate gender and racial diversity in the legal profession. Guests **Keith Harrison** (Partner & Management-Committee member, *Crowell & Moring*) and **Aviva Will** (Co-Chief Operating Officer, *Burford Capital*) join host **Joel Cohen** to explore compensation redesign, client pressure, and litigation-finance initiatives that reward inclusive teams.

Learning objectives

1. Identify economic barriers created by legacy “origination credit” systems.
 2. Compare performance-based, collaboration-weighted compensation models that broaden credit.
 3. Advise corporate clients on diversity clauses, data tracking, and fee incentives.
 4. Evaluate third-party funding (e.g., Burford’s *Equity Project*) as a lever for diverse leadership on high-value matters.
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2. Why Economic Incentives Matter

- 52 % of general counsel surveyed **did not know** how their outside firms allocate origination or relationship credit—yet that credit often drives partner pay.
- 80 % of companies **lack a formal diversity policy** for outside counsel, leaving good intentions un-operationalized.
- At many firms, credit for long-standing institutional clients still “passes down” from one (historically white male) partner to another, even when women or minority lawyers perform the daily work.
- Diverse teams correlate with stronger decision-making and client satisfaction, prompting courts and Fortune 500 legal departments to demand visible diversity at counsel table.

3. Compensation Structures—From Origination to Contribution

Model	How Credit Is Allocated	Diversity Impact	Illustrative Practices
Traditional Origination	First lawyer to “bring in” client keeps a fixed, often perpetual share of revenue.	Entrenches historical demographics; discourages cross-selling and team hand-offs.	“Coca-Cola is mine forever” mindset
Collaboration-Weighted	Annual review allocates revenue among <i>all</i> partners who generate, expand, or service matters.	Rewards pitch-team diversity, cross-practice referrals, and development of junior lawyers.	Crowell & Moring abolishes the term <i>origination</i> and grades partners on holistic “contribution”
Data-Driven Bonus Pools	Firm tracks who presents at pitches, argues motions, or manages budgets; bonuses tied to inclusive staffing metrics.	Creates real-time incentives to staff women & minority lawyers in visible roles.	Sponsorship programs, mandatory pitch-roster reporting, motion-splitting orders by federal judges

B. Litigation-Finance & Investment

Burford Capital's “Equity Project”

- Allocated **\$150 million** to cases led by women or racially diverse lawyers; Burford absorbs downside risk and shares upside, plus donates a slice of its profit to diversity charities
 - Lowers internal-committee barriers for partners seeking contingency matters.
 - Positions lawyers to build portable books and qualify for equity partnership.
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4. Regulatory & Ethical Landscape

Source

Relevance

ABA Model Rule 8.4(g) – prohibits harassment/discrimination in practice; some states have adopted variants.

Mansfield Rule (Diversity Lab) – certification requires 30 % diverse candidate pools for leadership roles; now covers over 200 firms.

SFFA v. Harvard (2023) – Supreme Court curtailed race-conscious admissions; firms anticipate *pipeline* shrinkage and may intensify law-school outreach & HBCU recruiting Economic incentives tra....

5. Ideas to Consider for Counsel

1. **Map Revenue Streams** – identify legacy origination arrangements; pilot contribution-based sharing.
2. **Tie Dollars to Behavior** – embed inclusive-team metrics in partner comp and client fee agreements.
3. **Leverage Third-Party Capital** – assess litigation-funding options (e.g., Equity Project) to empower new rainmakers.
4. **Adopt a “Rooney / Mansfield / Coral” Hybrid** – set transparent interview-slate thresholds; publish progress annually.
5. **Strengthen Pipeline** – formal HBCU, affinity-group, and first-generation-student recruiting; sponsor bar exam scholarships.
6. **Monitor Case Law** – track evolving affirmative-action rulings and state ethics opinions on diversity.

Prepared July 2025 for TalksOnLaw CLE participants. This outline is for educational purposes only and does not constitute legal advice.