

Women in the Legal Profession: The Quest to Overcome Barriers to Advancement Continues

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WHEN U.S. SUPREME COURT JUSTICE Sandra Day O'Connor graduated third in her class from Stanford Law School in 1952, she had difficulty finding employment—unless she wanted to work as a legal secretary—because many law firms simply would not hire a woman as an attorney.

Undoubtedly, women in the practice of law have come a long way since the 1950s when they comprised

only about two percent of law school graduates. For perspective on the incredible influx of women into the legal profession, consider that in 1960, only 200 women earned law degrees nationwide; in 1997, that figure exceeded 17,500.

By 2003, women were graduating from the nation's top law schools in roughly equal or even greater numbers than men—including Berkeley (63 percent), Columbia (51 percent), and Harvard (47 percent)—and, on average, comprise roughly 50 percent to 55 percent of today's law school graduates.

Women lawyers have made substantial inroads in public sector jobs. In 1993, Janet Reno became the first

woman to serve as U.S. Attorney General and Mary Jo White became the first female U.S. Attorney for the Southern District of New York. The following year, Deborah T. Poritz became the first woman to serve as New Jersey's Attorney General, and in 1996, became the first female Chief Justice of the New Jersey Supreme Court.

Earlier this year, Zulima Farber became the second woman (and first Hispanic) to serve as New Jersey's Attorney General. In the state's judiciary, three of the seven Supreme Court Justices are women—Chief Justice Poritz, Justice Virginia A. Long and Justice Jaynee LaVecchia—and there are more female assignment judges in New Jersey than ever before.

Despite these strides in the public sector, however, women still only represent about one quarter of the state's judiciary. Of the 449 judges on the bench in New Jersey, 112 (24.9 percent) are women, reflecting only a 9.8 percent increase since 1994. Nevertheless, women's overall advancement within the judiciary has outpaced their progress in the private sector.

Although the number of women practicing in larger firms nationwide has nearly tripled in 30 years, in the last decade, the number of women partners at the major law firms has increased by only four percent—incrementally inching upward from 13 percent in 1995 to about 17 percent in 2005. The statistics on women partners in New Jersey are comparable.

Women have not ascended to partnership in many of the state's large and mid-sized private firms at a rate commensurate with the number of women who have entered the profession since the 1990s. Although female associates comprise roughly 50 percent of New Jersey law firms' overall associate populations, the percentages drastically decline at the partnership level. Amazingly, there are many large to mid-size firms in New Jersey that still have no female partners, and several others have only one or very few, with average rates hovering between 10 percent and 17 percent.

Obstacles. It is evident that women attorneys, particularly those in larger law firms, are all too often hitting the glass ceiling and, increasingly, the “maternal wall”—employment discrimination faced by mothers. Despite the number of women in the pipeline, men are nearly twice as likely to become law firm partners. One contributing factor is that attorneys who take time off or who work reduced schedules—typically women attorneys with family responsibilities—are less likely to be promoted to partnership.

Additionally, women are less likely to be mentored or to be well-positioned to hone their leadership and business development skills—skills that partners are expected to possess. Even when they become partners, however, women still lag behind men in compensation. Male law firm partners' mean annual earnings were 32 percent higher than women's earnings. One study found that “the

continued on page 24



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continued from page 22

gender gap in earnings has remained relatively constant; 15 years after graduation, women...earn approximately 60 percent of [their male cohort's] earnings.”

Lack of advancement opportunities, lower compensation, lack of mentors, and difficulty balancing a rewarding legal career with a personal life are just some of the factors that often combine to drive women from their firms or from the legal profession altogether. Unfortunately, many attorneys seem resigned to the “fact” that retaining and advancing women in the profession is an unsolvable dilemma constrained by biology and societal pressures, and opine that offering part-time arrangements does little to solve the issue. Given the

costly nature of losing talented attorneys, focusing on real-world retention strategies and solutions is in everyone's best interest.

A key solution for retention and advancement. Many attorneys—male and female, parents and non-parents—need or desire viable alternative work arrangements to achieve greater career satisfaction and work/life balance. Recent studies indicate that the desire for work/life balance is one of the leading causes of law firm attrition for all associates. Nearly 45 percent of women law school graduates cited “work/life balance” as the number one reason for choosing their current employer, and 34 percent of male law school graduates ranked it among their top three reasons.

In fact, Gen-Y men are viewed as more likely to insist upon work/life balance.

Accordingly, the desire for more balanced lives within the profession is not, and should not, be viewed as a woman's (or a “mommy's”) issue, which only perpetuates gender stereotypes about men and women.

Drawing upon successful real-world models, the Project for Attorney Retention (PAR) supports the development and effective implementation of non-stigmatized flexible work options for attorneys—“balanced hours” programs—as the cornerstone to retaining and advancing talented attorneys. Unlike traditional part-time programs, which may even exacerbate attrition rates, balanced hours programs are designed to meet the law firm's business needs while maintaining the attorney's ability to develop professionally without stigma. They require actively managing workloads in proportion to reduced hours—with an emphasis on client service—and creating a work environment in which *all* attorneys and the firm can prosper and succeed.

When attrition rates decline, a firm's profitability increases. Increased retention of trained and talented attorneys saves firms money by decreasing the high costs associated with unwanted attrition or “regretted losses.” Conservatively estimated, it costs a firm at least \$200,000 to replace a second-year associate, and other estimates range from \$280,000 to \$500,000 to replace a

second- or third-year associate.

Although the cumulative objective costs of attrition—including lost revenue streams and administrative costs of replacement—can be staggering, the unquantifiable strain on client relationships should not be overlooked. Perceiving that high lawyer turnover affects the overall quality of legal services delivered to them, clients increasingly scrutinize law firms' attrition rates and quality of life issues and seek outside counsel that demonstrably value greater diversity (including women).

In fact, general counsels of over 100 major corporations have pledged to use a law firm's demonstrated commitment to diversity as a significant criterion in hiring and also to end relationships with firms that consistently fail to demonstrate “meaningful interest in being diverse.”

In addition to addressing work/life balance issues and promoting “balanced hours attorneys” to partnership, legal employers must continue developing and implementing programs that foster leadership and business development skills. A decade ago, only a few such programs existed; today, however, many firms boast about their women's initiatives, mentoring programs, and other similar programs. Nevertheless, several of New Jersey's large and mid-size firms have yet to adopt any such program.

As demonstrated by the recent revitalization of the New Jersey Women Lawyers Association (NJWLA), women attorneys throughout the state are mobilizing around these issues. NJWLA's recently-updated mission statement includes focusing on and increasing the retention and advancement of women within the legal profession, and its leadership is prepared to address the many challenges women lawyers face by offering mentoring, business development and networking opportunities, as well as leadership and educational programs.

Women have made remarkable strides in the law, but still have a long way to go, particularly in law firms. To attract and retain the best attorneys in an increasingly competitive market, employers must provide the work environment and flexibility that attorneys—women and men—are increasingly expecting and demanding. While women's initiatives, mentoring programs, business development training, and the like, are important and necessary to retain and advance women in the law, the bedrock solution is to develop and implement viable alternative work arrangements.

Unless non-stigmatized balanced hours programs are part of a larger employer initiative, many women attorneys will simply continue to leave law firms (and the profession) despite the benefits to be gained from the other programs. ■

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