



Former Mississippi Supreme Court Justice Kay Cobb Delivers the Keynote Address at the Mid-Year Meeting.

**On-Ramping: How to
Return to Practice**

**Developing Your Business:
Five Cardinal Rules**

**Network Where
You Want to Be**

**The Hon. Janet Bond
Arterton Looks Back
on Women in the Law**

**Justice Betty Roberts's
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Founded in 1899, NAWL is a professional association of attorneys, judges and law students serving the educational, legal and practical interests of the organized bar and women worldwide. Both women and men are welcome to join. Women Lawyers Journal®, National Association of Women Lawyers, NAWL, and the NAWL seal are registered trademarks. ©2003 National Association of Women Lawyers. All rights reserved.

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ARTICLES Book reviews or articles about current legal issues of general interest to women lawyers are accepted and may be edited based on the judgment of the editor. Editorial decisions are based upon potential interest to readers, timelines, goals, and objectives of the association and the quality of the writing. No material can be returned unless accompanied by a self-addressed, stamped envelope.

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Judge Janet Bond Arterton is a United States District Judge for the District of Connecticut. She was nominated by President Bill Clinton, confirmed, and entered duty in 1995. She has been the recipient of a number of awards including the Connecticut Women's Education and Legal Fund's Maria Miller Stewart Recognition Award, and she received an honorary degree of Doctor of Laws from Northeastern University School of Law. Judge Arterton regularly travels internationally to speak on judicial independence, court administration and case management, trial practice and procedures, and court-annexed ADR. She has developed judicial observation or training programs for judges in Latin America, Asia and Eastern Europe. She is a graduate of Mount Holyoke College and Northeastern University School of Law. She is married to F. Christopher Arterton, Dean of the Graduate School of Political Management at George Washington University. The Artertons have two daughters, one of whom is a tax attorney and the other who is in law school.

Kirsten Scheurer Branigan is the owner of the Law Office of Kirsten Scheurer Branigan, P.C., a 100% woman-owned employment law firm, which handles employment law and litigation matters on behalf of both employees and employers, and conducts independent workplace investigations. Ms. Branigan just commenced a two year term as President of the New Jersey Women Lawyers Association, was appointed to the New Jersey State Bar Association's Diversity Committee, and recently received a Professional Lawyer of the Year Award (2006), which was bestowed by the New Jersey Commission on Professionalism and the New Jersey Women Lawyers Association.



Sharla Frost is a founding partner of Powers & Frost, LLP, a 45-lawyer firm with offices in Houston, TX, and both Rockville and Towson, MD. She serves as national coordinating counsel for Pfizer Inc. in connection with their asbestos litigation. Active in NAWL, she serves on the subcommittee for the evaluation of Supreme Court Nominees. Ms. Frost received a B.A. in 1984 from Southeastern Oklahoma State University and her J.D. in 1987 from Baylor Law School. She can be reached at sfrost@powersfrost.com.

Deborah Epstein Henry is the Founder and President of Flex-Time Lawyers LLC, a national networking and consulting firm advising lawyers and legal employers on work/life balance and the retention and promotion of women attorneys. She has participated in over 150 programs on work/life and women's issues through national forums and the Flex-Time Lawyers LLC chapter meetings she runs in New York and Philadelphia. Flex-Time Lawyers LLC is working with Working Mother magazine and will release in August 2007 a list of the 2007 Best Law Firms for Women. For more information, please visit www.flextimelawyers.com.



Elizabeth Kaveny is a founding partner of Propes & Kaveny LLC, a women-owned litigation firm in Chicago, Illinois. While Propes & Kaveny handles a diverse range of matters including commercial litigation and criminal defense, Ms. Kaveny focuses her practice on plaintiff's personal injury and medical malpractice. She has been recognized as one of the top "40 Under Forty" in Chicago and recently, one of the Top 50 Women Lawyers in Illinois. She is an undergraduate of Lehigh University and a cum laude graduate of Case Western Reserve University School of Law. She serves on numerous boards and councils including those for the Women's Bar Association of Illinois and the Mercy Home for Boys & Girls. She is married, has two young children and is an avid golfer.

Selma Moidel Smith is a past Regional Director of NAWL, author of NAWL's Centennial History, recipient of NAWL's Lifetime of Service Award, and honoree of NAWL's new Selma Moidel Smith Law Student Writing Competition. She is a past president of the Women Lawyers Association of Los Angeles, where she was named the first and only Honorary Life Member. In the ABA Senior Lawyers Division, she has served as the (first woman) chair of the Editorial Board of Experience magazine and as a Council member. She was president of the National Board of the Medical College of Pennsylvania (formerly Woman's Medical College) in Philadelphia. She is listed in Who's Who in American Law, Who's Who of American Women, and Who's Who in America, among others. She is also a composer and is listed in the International Encyclopedia of Women Composers.



Editor's Note

In March of this year I was privileged to attend a conference at Yale Law School, “Legally Female: What does it mean to be Ms. JD,” which was put on by the organizers of the “Ms. JD” blog, created by female law students from around the country. It was a fascinating window on the upcoming generation of women lawyers, including their concerns, their excitement, their questions and their views. One of the standout pleasures of the day for me was to introduce Judge Janet Bond Arterton as the keynote speaker. Judge Arterton, a Federal District Judge in the District of Connecticut, went on to deliver a thoughtful, sweeping reflection that used her own life—from her youth as a tomboy who lost the class presidency because she was a girl, all the way to her current prominent position as a jurist—as a way to chronicle the ups and downs of the law as it has affected women in general and female attorneys especially. It was a tour de force, and we are lucky to have her remarks reprinted here; they are much more than the usual “in my life” review.

On another topic, you may be hearing more and more about the topic of “on ramping,” which is the current term for people who take some time out and then want to get back in the working world. NAWL presented its first on-ramping conference in April, which was a great success, thanks to the hard work of the Program Committee. In this issue, we have an article about on-ramping from Deborah Epstein Henry, whom many of you may be familiar with as a result of her influential organization, Flextime Lawyers. Read her article to get a sense about this burgeoning area of interest and importance.

Other articles are equally informative and make for absorbing reading. Longtime NAWL member Selma Moidel Smith offers a close-up portrait of Justice Betty Roberts, the first woman to serve on the Oregon Supreme Court. Elizabeth Kaveny urges all of us to “network where we want to be”—rather than forcing yourself to do marketing that you hate, do the things you love and the business getting is sure to work out better. Sharla Frost, who has graced our pages before with sensible advice, advises on the “five cardinal rules” of developing a small firm or solo practice. Read Sharla’s thoughts and get a leg up on the competition. Finally, Kirsten Branigan, who heads the New Jersey Women Lawyers’ Association, gives an up-close-and-personal view of her personal journey—using the metaphor of “riding a carousel”—in practice.

On a final note, this edition of the NAWL Journal features two “bowing out” messages. Cathy Fleming is winding up a terrific year as President, and I am finishing a fascinating two years as Editor of the Journal—to move on and assume the Presidency of NAWL in its 108th year of existence. If I have a term that is half as successful as was Cathy’s, it will be a stunning achievement. Cathy has done an enormous amount for this organization; I’ve learned a lot from her; and I hope to carry on in her fine tradition.

I have enjoyed editing this Journal more than I can describe. In one of my past lives I was a legal journalist for various publications, and that “day job” was enjoyable and exciting. To recreate that duty—even for a short period and, this time, on top of my day job—was a pleasure. What is reassuring is that the new editor, Deborah Froling, a partner with Arent Fox in Washington, D.C., is going to bring superb new talents to the Journal, so the Journal readers will benefit from her many gifts and talents. Have a wonderful summer!

Warm wishes,

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President's Message

“One generation plants the trees; another gets the shade.” Chinese proverb

Time flies by so quickly. It seems like only last week that I was a young girl sailing on Cape Cod, only yesterday that I passed the bar and only a minute ago that I assumed the office of President of the National Association of Women Lawyers at the Waldorf in New York City.

The swiftness with which time passes is apparent when one realizes that I am coming to an end of my service as President in NAWL's 107th year. For an extraordinary year, I have been privileged to be the guardian of an organization whose members have been planting trees for more than a century. The trees planted years ago have grown larger and larger and given more and more shade.

I am pleased to report on the trees that NAWL planted in 2006 to 2007.

In the last year, the National Association of Women Lawyers has added new dimensions to NAWL's service to the profession. We have designed, developed and launched a mentoring program for student lawyers. We have just held our inaugural “Ready to On Ramp” program designed for women reentering professional life after time away. We have provided training and networking opportunities for mid-career practitioners. For women in the role of general counsel and those who aspire to it, we conducted our second General Counsel Institute in New York; the third will be held this September. For the profession as a whole, we conducted, completed and published the first NAWL survey, a research tool identifying and benchmarking the role of women in law firms today. For women and society as a whole, we have spoken out loudly and clearly on domestic and international issues. We have supported the repeal of the “global gag rule,” which restricts reproductive rights, and we have urged Congress to countermand legislatively the United States Supreme Court decision in *Carhart* implicating reproductive rights. We have spoken publicly about and privately with law firms and corporations to help them do what they say they will do: make diversity a reality.

We have urged law firms to review and revamp compensation systems to reward those who make diversity a reality and to punish those who do not. NAWL's call for linking compensation to diversity started one year ago at the Waldorf. It is still in its infancy. We issued that call, not because we thought it could be accomplished in a year, not because it would be embraced by all, but because it was right. Our NAWL challenge issued last July—to double the number of women in partnerships and chief legal officer positions within 10 years—is well underway. More trees, more shade.

The past year as President has been a career highlight for me. I have traveled throughout the United States and met hundreds of smart, committed lawyers. Many new friendships have been forged from the simple shared commitment to “make it better.” The NAWL board of directors is an extraordinary group of talented and energetic women. This diverse group of fourteen has served very well the legal profession and women with the sole agenda of helping other, and future, women lawyers. I enjoyed their company and our joint labors. I am proud to know these women. I have been honored by their support.

While this is my last note as President, it is not my last word. This year, more than ever, I have appreciated the shade provided for me by those who planted trees before I arrived. In the coming years, I will continue to plant trees – and look forward to the day when there is enough shade for all.

Cathy Fleming
NAWL President, 2006-2007
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Mid-Year

MIAMI, FLORIDA

NAWL hosted a sell-out crowd in Miami at the 2007 Mid-Year Meeting, which was an event filled with both education and inspiration. The day began with a “Half-Day MBA” sponsored by BDO Seidman, LLP, and featuring speakers Ian Shapiro, Alfredo Cepero and Stephanie Giammarco. The discussion ranged from the basics of a financial statement and the critical elements that prospective candidates need to know about serving on public or

non-profit boards to the kinds of strategic decisions that must be made when considering whether to bring expert assistance into an internal investigation. The Mid-Year Meeting’s CLE segment also included a panel discussion about privilege and ethics, with a particular focus on recent developments in corporate law. Louise Brais of Holland & Knight, Karen Douglas of Corning Inc., Carolyn Nussbaum of Nixon Peabody LLP and



NAWL President-Elect Holly English, NAWL Vice President and award honoree Lisa Horowitz, and NAWL President Cathy Fleming



NAWL offered scholarships to area law students, allowing them to attend the CLE and the Mid-Year Luncheon free of charge



NAWL Corresponding Secretary and Mid-Year Program Chair Dorian Denburg with keynote speaker, Former Mississippi Supreme Court Justice Kay Cobb.



The Mid-Year Luncheon in Miami was sold out weeks in advance, with people coming from around the country to hear Presiding Justice Cobb deliver the keynote address.

Meeting

• FEBRUARY 8, 2007

Carolyn Traister Schiff of McDermott Will & Emery LLP all provided excellent insights into this important area of law.

The morning program was followed by a luxurious lunch on the 20th floor of the Bank of America Tower. Keynote speaker Kay Cobb, Former Mississippi Supreme Court Justice, inspired the entire room to share the benefits of their experience with

others in her speech entitled, “Mentoring: If Not You, Who? If Not Now, When?” In her remarks from the podium, NAWL President Cathy Fleming also recognized NAWL Vice President Lisa Horowitz for her outstanding work as the Chair of the national Program Committee. •



NAWL Vice President Lisa Horowitz, NAWL Board Member Deborah Froling, NAWL President-Elect Holly English, and NAWL Treasurer Margaret Foster



NAWL Board Member Lisa Gilford with John Mitchell and Karen Kahn of KMA Advisors.

Ready to On-Ramp?

On Thursday, May 3, 2007, NAWL launched a new program aimed at lawyers preparing to re-enter the workforce. Cosponsored by The Women's Bar Association of the District of Columbia, Lawyers at Home Forum, and held at the offices of WilmerHale, Ready to On-Ramp? provided participants with tangible, useful advice as they considered how and when to return to practice. Panel discussions focused on issues relating to the decision to return to work, current market trends, practical job search strategies and ways to make the transition back to the workplace easier on those at home. •



Program Chair Linda Bray Chanow converses with speaker Jane Sullivan Roberts.



Participants responded very favorably to *Ready to On-Ramp?* and plans are underway to bring the program to other cities.

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- Mireya Pena Guzman, LL.M. IHR 2003

A Colombian lawyer and Doctor of Law from the University of Paris (Sarbonne), who has served as Human Rights Officer with the United Nations Mission in Ethiopia and Eritrea (UNMEE) in Addis Ababa.

"The LL.M. Program in Intercultural Human Rights has been a great addition to my career. I now understand how international law and the different mechanisms to protect human rights can be used domestically. I also know better how to exercise political pressure to change policy. It has helped me refine my arguments in asylum cases, especially those focusing on gender persecution. Its intercultural dimension was a great segue into my current practice of providing culturally sensitive advocacy for victims of domestic violence, sexual assault, and modern-day human slavery,"

- Ana Vallejo, LL.M. IHR 2002 & J.S.D. Candidate

Getting Back: The Path for Lawyers to Return to Practice

Deborah Epstein Henry • Flex-Time Lawyers LLC

According to the Center for Work-Life Policy, 42 percent of women lawyers take time off from practice, apart from maternity leave, and they stay out of the workforce for an average of three years.¹ This means that nearly half of women lawyers have a non-traditional career trajectory. In response to these figures and the alarming attrition rate (78 percent of associates leave their firms by the fifth year of practice)², legal employers have begun to focus more on their alumni pool to recruit back talent³ and specifically develop re-entry initiatives. There are efforts underway and strategies for bar associations, law schools and legal employers to respond to the re-entry demands but this article will focus on what re-entry lawyers can do to get back.⁴

Re-entry lawyers need to assess their experience, interests and skills and try to match them with the market demands. They also need to determine how important lifestyle concerns of flexibility, predictability, reduced hours and being off call will be in choosing an employer. But to really be successful in a job search, re-entry lawyers need to anticipate and resolve prospective employers' challenges to hiring them.

Employers often find re-entry lawyers' resumes to be mysterious and toss them aside because they cannot make sense of them.

Employers' first challenge is to actually find talented candidates to re-engage. Thus, re-entry lawyers need to research and seek out the employers who are hiring re-entry candidates or receptive to doing so. This requires candidates to network with former employers, within the bar association and within their professional and personal networks. The biggest networking luxury for re-entry lawyers is the ability to tell everyone they are looking for a job without jeopardizing a relationship with an existing employer. This requires re-entry lawyers, though, to overcome their confidence and fear of exposure and failure concerns. The exercise of talking to others about potential opportunities, going on informational interviews and applying (and getting rejected) from jobs, eliminates possibilities, narrows options and fine tunes the best positions for re-entry lawyers.

Second, employers often find re-entry lawyers' resumes to be mysterious and toss them aside because they cannot make sense of them. Re-entry lawyers need to remove the unexplained gaps, account for their time away from paid work, prioritize in their resumes the most relevant job experience to the job they are seeking and list their volunteer experience and transferable skills.

Third, law firms are particularly hierarchical and they often dismiss a candidate because they cannot assess where the candidate could fit into the lockstep. Thus, the onus is on the re-entry candidate to articulate where she would fit into the culture. This means that

candidates' cover letters should convey at what level they think they should return, their pay and schedule expectations, and the department they hope to join.

Fourth, employers may feel obliged to hire an occasional re-entry candidate to appear family-friendly or as a favor or accommodation. In turn, re-entry candidates need to submit a proposal, conveying to prospective employers why it is in their business interest to hire them. For those candidates seeking flexibility, they need to demonstrate not only their economic value but also how they will get the work done flexibly and how clients and colleagues will not be negatively impacted. They also need to recognize that they may have to start their job with less flexibility than they desire.

And, last, employers worry they are taking a risk on re-entry candidates because their skills may be rusty or they will not fit in with the corporate culture. Re-entry candidates can overcome this by offering to intern for a limited term so that both parties can assess each other on a trial basis. The internship allows the employer to ensure the candidate is the right fit, but also is a great way for the re-entry candidate to re-gain confidence, demonstrate talent, obtain experience, build her resume and develop potential references, all while ensuring the new venue is the right one to restart a career. •

¹ Sylvia Ann Hewlett, Carolyn Buck Luce, Peggy Shiller and Sandra Southwell, Center for Work-Life Policy, "The Hidden Brain Drain: Off-Ramps and On-Ramps in Women's Careers," (Cambridge Mass., Harvard Business Review), 2005 at 81 and 98, Exhibit L1.

² Paula A. Patton and Cynthia L. Spanhel, "Toward Effective Management of Associate Mobility. A Status Report on Attrition," (Overland Park, Kan., The NALP Foundation) 2005 at 21, Table 6.

³ Leigh Jones, "A Promising Talent Pool: Alumni," National Law Journal, Oct. 16, 2006.

⁴ For a further discussion of re-entry in the legal profession and what employers, bar associations, law schools and lawyers are and should be doing, see Deborah Epstein Henry, "Comeback Lawyers: A Look at Why Re-Entry is a Hot Work/Life Balance Topic," Diversity & the Bar (Jan./Feb. 2007) at <http://www.flextimelawyers.com/art.asp>. •

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The Carousel Awaits: A Mother's Day Tribute

Kirsten Scheurer Branigan • Law Office of Kirsten Scheurer Branigan, P.C.

To be or not to be is not the question for many women lawyers. For women in the law (who are also mothers), the question goes more like this—to be or not to be a good mom...or to be or not to be a good advocate. Can we really be good at both? Some say no. I say a resounding “yes”...well, at least on most days.

My journey for work/life balance has not been unique. I know many other women lawyers who face the same daily struggles, stressors, triumphs and disappointments. I also have found that, in those challenges, many of us unite, lean upon one another and move forward. Now, I have begun to view it all as a beautiful carousel ride—much like the one that my children crave on summer vacation. While my husband and I crave the peaceful quiet of Jamestown, Rhode Island, my 2 ½ year-old daughter and 4-year-old son spend their time deciding which horse they will select to ride at the Carousel at Newport Beach. I wistfully watch them and think, I hope this year brings a slow and steady ride for us all. But I know the year will bring ups and downs, as so goes life.

I did not get off the carousel. I simply decided to leave big firm life.

Horses Up

I became a lawyer due to unadulterated idealism. I had an epiphany in a women's history class. As I learned about how women were legally oppressed in so many ways, I knew that there was no other choice for me. What could be more empowering than learning the law of where you live...? So, off to law school I went. While in law school, I worked for a municipality in New Jersey and interned for a federal Magistrate Judge; both were very positive experiences. I then got a summer associate position at a large New Jersey firm and so began my path to becoming an employment lawyer. For my 10+ years at the firm, I was well trained on how to practice law, how to manage staff, the critical aspects of the business of law. I was also active in firm life.

I got married at the age of 31 and had my son Maguire soon after turning 33. At the time, I had been at the firm for eight years. I had some pre-term labor that landed me on bed rest for a period of time at about my seventh month of pregnancy. I was totally unprepared to leave work, as I had planned on finishing up as much as I could so that I had a “clean plate” before going on maternity leave. So much for plans...I soon began to realize that a life where things went “as planned” was over as I knew it. (However, in looking back, I do not think I realized this at the time just yet.) I took a 4½ month maternity leave and then returned to work on a full-time basis with the tremendous help of extended family, including my mother-in-law who watched our son.

Horses Down

After returning from my first maternity leave, I began to get back into the swing of things, including preparing for and second-chairing a trial. I soon became pregnant with my second child. About half way through the trial, and at about 11 weeks into my pregnancy, I found myself in excruciating pain. I was told it there was a “growth” on my right ovary. Soon thereafter, I was sent to a gynecological oncologist. This was in part due to the size of the “growth,” in part due to the look of it and in part due to my mother's sister dying from ovarian cancer at the age of 34. I was 34 at the time. I was told that the mass was large and needed to come out, but I had to wait for 5 weeks as to have the surgery before 16 weeks into the pregnancy would increase the chance of miscarriage. I was told I had to wait (which no typical lawyer likes to do anyway). So I waited—all the while thinking that I would come out of the surgery and be told I had cancer and that I could not have my baby and/or several variations related thereto. This was problem number one. Problem number two with waiting was that, while I was waiting, the mass could burst or twist, either of which could have made me septic and would have been very bad news for me and the baby.

On May 13, 2004, I went under the knife. The surgeon let me listen to my baby's heartbeat before I went under the anesthesia. Thankfully, I awoke to news that the mass was “benign” and to hear once again my baby's heartbeat (who made it through the surgery with flying colors). Despite the fact that I was down one ovary, I forged on. I was convinced, however, that the Demerol pump that I was on for two days would cause 11 toes, so I went off the meds as I soon as I could bear the pain. I returned to work full-time 2½ weeks later to write a major post-trial brief, which led to a month of 300 billable hours. On October 29, 2004, at the age of 34½, I gave birth to my daughter Madeline Catherine, who was 9.75 pounds and luckily did not have 11 toes. Rather, she was simply perfect, despite the Demerol...I returned to work after 3½ months, again on a full-time basis. This time, we relied on not just my mother-in-law, but now my mother as well for child-care.

Getting off the carousel?

Upon my return, I threw myself into a full court press of business development and work, but soon came to the realization that something had to give—I had this nagging feeling that I could not be the mother I wanted to be and meet my firm's requirements (at least for a while anyway). I felt that if I continued my life would spiral out of control and could feel it already happening. For a while, I felt simply paralyzed. I was going through the motions of my life, but knew something felt very wrong. I thought the answer was getting off the carousel and leaving the law all together, as

I truly did not see any other way at the time. The firm was all that I knew; I had been there for my entire legal career.

Just before I jumped off, something made me stop. It was that little voice inside, my gut—whatever you want to call it. I stopped and took one giant step back and got back to basics: why did I do this all in the first place? The women's history class came flooding back, and thankfully, along with it, a newfound enthusiasm and excitement that I had truly lost sight of with the grind of the profession. I became like an excited child who now saw possibility instead of disappointment and futility. I say, but for the grace of God, I found my way, as I really do believe I was meant to be an advocate and think that I serve my clients well.

These days, we are all having fun practicing law. and I truly believe that this is due to the flexibility that we all have.

I did not get off. I simply decided to leave big firm life.

Slow and Steady

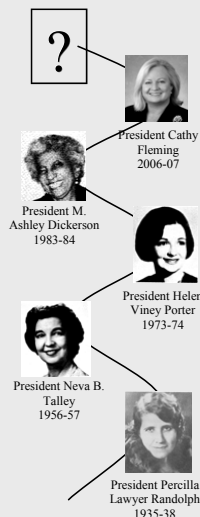
I left the firm and became a flex-time partner at a small firm (working three days per week). While I was not at this firm for long, it was a critical transition period for me. In the meantime, I networked my way into a part-time government job, which was a wonderful learning experience. At the time, I had two part-time jobs, but started to have that feeling once again that something had to give. Now, instead of feeling paralyzed, I gave up the firm job and took a leap of faith and started my own law practice as a 100% woman-owned law firm. Throughout all of these decisions, my husband, a teacher with quiet confidence, is there every day and enables my sometimes overbooked and chaotic schedule to continue. We are true partners (he has nights and I have mornings with kid duty), although he does do more work in the house, and cooks for our children, and for that I am ever grateful. We are now working slow and steady

as a team to advance his teaching career and to have a thriving law practice for me. We are relocating my law practice to the town we live in as this, too, will help in our attempts at balance.

In the first six to eight months, the firm has grown quickly and steadily. In less than one year from opening the doors, we now have a staff of two part-time paralegals working mostly remotely, a firm manager who comes in one day a week, and otherwise works remotely, an administrative assistant, and a law student. We have also steadily added attorneys. In addition to myself, we now have five part-time attorneys who are all women attorneys with children seeking balance and flexibility. I am so fortunate to have all of them as they are well-trained and highly skilled. I offer them interesting and satisfying work, an understanding that family comes first (however, they all have the work ethic which ensures that the clients' needs get met even if it means staying up very late), flexibility and fun. These days, we are all having fun practicing law and I truly believe that this is in large degree due to the flexibility that we all have.

Also, our attorneys and staff alike (except our lone male law student) all share a common experience—we are all mothers. With our common motherhood bond, there comes camaraderie, as we all know the carousel well. We all know that the ups and downs are well worth what the carousel ride provides—the colors, the lights, the music and mostly the smiles of our children and those joyful giggles that linger and stay with us through it all, through another stressful day and another sleepless night. No matter what the price, there is no question that the ride is worth it and yes, yes—a resounding yes, women attorneys can achieve balance. It only takes a great support network, tenacity, (creativity and enthusiasm help quite a bit) and, of course, that enduring work ethic that got us all to this point in the first instance. So for those who got off, stayed on, or are thinking about either...the Carousel Awaits—so get on and enjoy the ride. •

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Developing Your Business: Five Cardinal Rules

Sharla Frost • Powers & Frost, LLP

Opening the business occupies so much time that it is easy to forget that you have to focus on maintaining a steady flow of work so that you can keep the business open in the long term. How do you go that? What is your plan for marketing your firm and obtaining the work that will keep you busy six months or a year from now? There are five cardinal principles to compiling a business development plan:

1. Develop a marketable expertise: why are you different from everyone else?

Every marketing plan starts with expertise. You have to have something to sell before you try to get someone to buy it. Know what you are selling. Is it expertise? Efficiency? Is it cost? Or connections? Rarely does any one lawyer have the only expertise available in a given topic; consequently, the lawyer has to sell the potential client on the unique aspects of her practice, firm or experience that make it logical for the company to hire her. Handing out business cards and having pleasant conversations may get you in the door for the interview, but it will not get you hired. Many corporations view lawyers as fungible. You have to understand what makes your service different from everyone else's and you have to articulate why the company considering you would benefit from having that service at their disposal.

2. Make time for marketing.

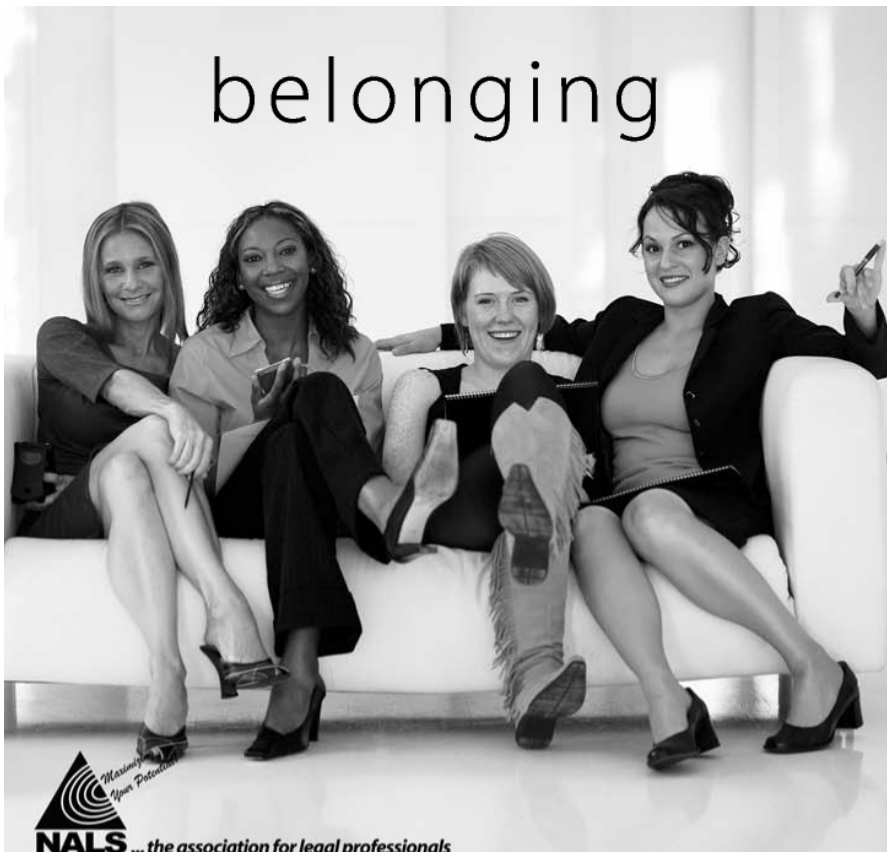
You have to devote time to the process if you are going to be

successful at developing business. There is a reason that the process has generically been referred to as "rainmaking." Much like the wandering weather man in a western movie, the successful business rainmaker must throw a great deal of silver nitrate into the clouds before any raindrops start to fall. Whether the rainfall comes as a happy coincidence or as a result of calculated timing, the process and outcome are the same: hard work plus time plus persistence.

Marketing is a slow, tedious process. Some marketing efforts take years to implement. Groundwork must be laid; relationships must be built. Research data indicate that most successful marketing efforts focus on existing relationships and on successful outcomes. In other words, your satisfied client is your best marketing program. For a young lawyer, that can be very frustrating, but the marketing process takes time and requires a consistent, methodical approach. Your focus should not be on what your practice looks like now, but on what it is going to look like in six months or six years. Determine what you would like to accomplish and develop a game plan for doing so. Schedule time for marketing in the same way that you schedule other activities: put it on the calendar, make appointments, set time aside.

3. Study the fine art of sales.

Sales is sales. Study the fundamentals of marketing just as systematically as you study the fundamentals of your substantive



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area. Any trip to the local bookstore yields the thousand latest and greatest books on marketing concepts and techniques. Buy the latest bestseller on the topic. Ask a trusted client or business friend to tell you which of the current bestsellers contain the most useful and topical approach. Tom Peters, for example, has developed a new and different marketing paradigm at intervals of approximately a decade.

If you are developing a marketing plan for 2004, you should apply the business concepts currently in vogue. Otherwise, you may miss a client opportunity because of poor presentation rather than for lack of appropriate experience. Fortune 500 businesses closely watch business and marketing trends; they expect the people who market to them to do the same. You need to be on the same playing field with your potential clients if you have any hope of playing the game with them in the long run. (You can consider this the obligatory sports analogy for purposes of marketing. Another myth is that all marketing requires in-depth knowledge of sports and sports analogies. While it may be useful with some clients, one need not know all the details of the in-field fly rule to talk to prospects.)

Handing out business cards and having pleasant conversations may get you in the door for the interview, but it will not get you hired.

Research the marketing process for a potential client as thoroughly as you research the potential client itself. With widespread internet access availability, you should know all the public information about any potential client with whom you are going to be visiting. Business executives expect you to be educated about their company and their business. However, in addition to knowing the information on their SEC disclosure, you should make sure that you know the preferred format for presentations for any company to which you will make a presentation. One of the larger insurance companies in the country requires all its internal staff presentations be made in PowerPoint. If you are going to make a marketing presentation to any executives at that company, you probably should not count on mimeograph handouts as the method of providing information to them.

Some companies require potential counsel to complete a comprehensive application packet. The marketing materials should reflect the quality of your legal work product. Make sure packets are thoroughly and professionally presented. While it sounds axiomatic, prepare your marketing materials with the same eye to detail that you use in a brief or other legal document: use the appropriate lexicon, give it visual appeal and make sure you proofread every word.

4. Let your personality guide you.

Be introspective. If you are with a big firm, see if your human resources department offers personality testing. Many such tests exist and can be a helpful starting point for identifying your key personality traits. Identify your personal strong points and develop a marketing approach that maximizes your strengths.

The Women's Rainmakers Roundtable (see www.clientfocus.com) program begins with each participant completing a comprehensive personality assessment. The personality profile permits participants to realistically evaluate marketing activities that are consistent with their strengths and eliminate those that are not.

You need to be on the same playing field with your potential clients if you have any hope of playing the game with them in the long run.

If you are an extrovert, use that to your advantage. If you are an introvert, do the same. If you are a transactional lawyer who gets hives at the thought of speaking to a crowd, why sign up to give speeches at ABA seminars? On the other hand, if you are a ham who loves the prospect of a captive audience and can't remember what the Blue Book was for, why devote countless painful hours to writing a scholarly article for a law journal?

Our profession recognizes areas of expertise, but we seem to believe that every lawyer should have an identical approach to the expert topic of developing business. If you practice in an area geared to individual clients, why force yourself to attend corporate counsel meetings with corporations for whom you offer no service? You wouldn't dream of accepting a case assignment totally out of your area of legal expertise; why take on a marketing assignment that is totally out of your area of personal expertise? Successful marketing requires the same type of structured analytical approach that each of us is accustomed to using in our legal practices. Those skills just look different to us when applied in a business development context.

Lawyers in general, both male and female, harbor the misconception that they must be outstanding in every aspect of marketing in order to be effective. However, if you analyze the profiles of successful legal rainmakers, you generally find that the individual in question has a particular ability that translates into finding specific types of clients.

5. Maximize your marketing.

Your friends and your existing clients constitute your best sources of business. In the haste to becoming a marketing maven, "don't forget who brung you," as we say here in Texas. Marketing research indicates that most lawyers and law firms receive the greatest amount of their work from existing client contacts, whether those are current clients or personnel from previous clients who have relocated. Devote the sort of attention to maintaining business relationships that you devote to keeping up with social friends. Or, if you do not devote time to social friends, make an effort to improve your social network while also focusing on the development of your business network.

The goal is not to meet every human on the face of the planet. The goal is to develop quality relationships that carry over through significant periods of time. People who don't hear from you are not likely to remember that you have the exact expertise they need. Put another way: out of sight, out of mind.

Developing ongoing human relationships makes your life more
(cont. on page 25)

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Network Where You Want to Be

Elizabeth Kaveny • Propes & Kaveny LLC

There's a family-owned Italian restaurant in our neighborhood where my husband and I used to go every Friday night when we first married. We would sit at the bar with the other "regulars," talk about our workweeks, share stories and enjoy a glass of wine while we waited for a table. When the parent of a friend from the restaurant died suddenly from an undiagnosed medical condition, she knew I was a plaintiff's personal injury attorney and contacted me with questions about medical negligence. When the bartender had a little run-in with the law, he contacted me for a referral to a criminal defense attorney. When another patron was involved in a motor collision that left him seriously injured, his family contacted me for legal representation. I wasn't at this restaurant to "network." Mind you, I wasn't "marketing" myself while I was there—I just really liked the food.

Effective networking is not about targeting the "right" people and trying to figure out how to wine them, dine them and woo their business. That approach is timely, costly and often a long shot. Rather, I find the most effective networking is done in regular day-to-day activities, while doing the things we like most. More importantly, it is easy to find time to network when you approach the process as an extension of your daily routine.

Although this may seem obvious, chances are that many people you see on a regular basis have no idea what you do.

1. Identify "extracurricular activities" you enjoy.

If you have never exercised a day in your life, don't join the latest and greatest gym because you heard some "top women" work out there. If you hate the ballet, don't join a ballet company board in hopes of making some good business contacts. Rather, take a good look at your life and think about what you enjoy doing in your free time. Whether it's playing tennis or working with a charitable organization, focus your networking efforts around these activities. For example, instead of playing tennis with your sister every week, sign up for a tennis clinic or participate in a tennis league. If you identify activities that you enjoy, chances are you will make time for them. What's more, participating in activities that make you happy, allows your true self to shine through.

2. Think of your "must do" activities in a new light.

Even if you have no time for yourself and your out-of-office time is filled with activities such as chauffeuring your children from one event to another, slow down. Instead of dropping your children off at a friend's house or a sports practice, stick around, to chat with the other parents, sitters or coaches. Even if you can only spend a few minutes, you have transformed the activity from simply an item to check off on your to-do list into

a networking opportunity.

3. Introduce yourself.

The first necessary step in networking is to introduce yourself and make sure that others know what you do for a living. Therefore, if you stick to yourself during your extracurricular or must-do activities, you are missing out on a wonderful opportunity to network. Although this may seem obvious, chances are that many people you see on a regular basis have no idea what you do. If not, why not? There is no reason why you shouldn't be incorporating what you do for a living into your conversations. Think of ways to make that happen (short of tattooing "lawyer" on your forehead, which I rarely recommend).

4. Learn about those around you.

It is likely that someone you see in your class or at meetings or even on your block may be of great interest to you. They may work for an existing corporate client. They may be thinking of starting a business, but don't know the legal steps necessary. But if you don't ask, you won't know. Become interested in the lives of the people you are surrounded by. It is the best way to start a relationship with another person – be it a potential business contact, future co-worker or friend. So ask questions – and remember to listen!

5. Stay the course.

Women who are trying to network themselves often fail in the follow-up. In part, this is due to our perception of the "right" way to network. For example, if we follow the above steps and happen to meet the CEO of a start-up company at our tennis clinic, we automatically think, aha, we need to turn this person into a "networking contact." All of the sudden, we leave the tennis court where we are comfortable and try to schedule a business lunch or dinner (for which we have no time and where we no longer have anything in common with Ms. CEO). Wrong. Instead, take advantage of what you already have – a common interest in tennis. Reconnect the following week with Ms. CEO with follow-up questions, thoughts about your previous conversation, or just a good old Gatorade at the refreshment stand. "Network" by encouraging Ms. CEO to sign up for the next clinic session or make plans to meet up for a match. Whatever it is, stay the course by keeping your networking within your extracurricular activity.

The one thing that all working women can use is more time. Networking where you want to be allows you to combine what you would like to do with your time with what you should be doing with your time (namely, marketing). We are queens of multi-tasking and with this networking strategy, maybe, just maybe, we can have it all. •

A Federal Judge Looks Back – And Into The Future of Women in the Law

The Honorable Janet Bond Arterton

Editor's Note: The organizers of the "Ms. JD" blog (an online community of female law students from a variety of law schools) launched their organization at a conference at Yale Law School on March 31, 2007, entitled "Legally Female: What Does It Mean to Be Ms. JD?" See www.ms-jd.org. The keynote speaker was the Honorable Janet Bond Arterton, United States District Judge, District of Connecticut. Her remarks follow.

I've been asked to talk to you today about how I got here. I'm somewhat hesitant because I don't know that my life is any particular indicator, but I have seen a lot. Justice Sandra Day O'Connor once said, "Although women still have a long way to go in penetrating the American judicial system, let's not forget how far we have already come." Most of that progress is such recent history that I can use my own experiences, not to make myself feel old, but to show you what yesterday looked like to this female federal district judge and how that impacted how I got here to have the honor of talking with you today. It is also to show how fast progress can take place with collective and concerted effort, but how it does not take place by the mere passage of time alone.

I have to confess that as a little girl, probably until I became an obnoxious adolescent, I hated being female. I poured my little heart into my sports, and otherwise was happiest in a tree building a fort, clad in my flannel-lined jeans and with my hair cut as short as I could persuade the hairdresser. On reflection, I'm sure that I had picked up on how limited the possibilities were for females then and so my response was to try to do everything the boys did. In case there was any doubt in my mind that girls had fewer opportunities, that doubt was dispelled in eighth grade when I was elected vice president of the student council and found out that the boy who won for president was moving away. I assumed therefore I would become president, so all summer my dad made me learn Robert's Rules of Order in order to preside with precision. The first day of school, I excitedly presented myself—all 4 feet 10 inches - to the student council faculty advisor Mrs. Ballard. "I'm ready to be president," I said. She reflexively responded, "Oh no, it wouldn't do to have a girl be president," and appointed the runner-up boy.

I think the worst part of this experience was that no one came to my defense: no teacher, no student, not even my parents. Where was everyone? Not a murmur. Guess what the subject was for my law school application essay on "formative experiences." It was also the subject of one of my daughter's college essays. (Both my girls are still incensed.) But back then there was no such thing as solidarity or any women's rights movement—just the silent Fifties. At that time there was one woman on a federal court of appeals and one woman on a federal district court.

Thus, in high school, I didn't run for student council, I dropped out of sports, and even though I was yearbook editor, an honors

student, etc., I thought I had reached my crowning glory by being elected best-looking girl in my senior year. I went to an all-women's college, Mount Holyoke, because then the boys went to Harvard, Yale, and Princeton, and we "cool" girls went to Wellesley, Smith, Mount Holyoke, or Radcliffe. The closest we got to feminism was the theme that we were "uncommon women" and that our education there was the product of strong, independent-minded women who had to start their own colleges if they wanted higher education.

Entering the World

When I graduated from college, being a lawyer was just about as far from my mind as sheep shearing. But, "the times, they were a changin'": the civil rights movement was unleashing forces of monumental social change, the Vietnam War would soon claim the lives of some of my classmates' new husbands, and the first black woman was named to the federal district court. I went to Washington to be a very self-important but lowly congressional press secretary. Then Dr. King was assassinated and Washington, D.C., seethed with burning, looting, and curfews. When I saw the machine gun nests guarding the U.S. Capitol from our fellow citizens, my Big Awakening happened—something was desperately wrong in our country and I could either be part of the solution or part of the problem. Far from home, in another form of injustice beyond racism, there was a war that ate up beautiful young men, napalmed young children, and deeply polarized the country. The National Guard shot and killed protesting students at Kent State, the FBI kept files on activists, the U.S. military invaded Cambodia and lied about it, and I found myself in a Boston hospital having just had my first beautiful daughter, hearing that we were bombing Hanoi, with its hospitals full of young mothers with their beautiful new babies.

In those years, the women's movement was radicalized. Everywhere you looked there were barricades to be scaled. In 1972, the Supreme Court in *Reed v. Reed*, 404 U.S. 71 (1971), struck down the Idaho law giving automatic preference to men in court appointments of estate administrators - under the Equal Protection Clause, no less. The premise of fundamental gender differences fell two years later in *Frontiero v. Richardson*, 411 U.S. 677 (1973), striking down a federal statute differentiating between a man's claiming his wife as a dependent and a woman's claiming her husband as one, and rejecting what Justice Brennan called "an attitude of 'romantic paternalism' which, in practical effect, put women, not on a pedestal, but in a cage." Justice

Brennan in *Frontiero* illustrated this paternalism by reference to the 1873 Supreme Court decision in *Bradwell v. State*, 16 Wall. 130, 141 (1873):

Man is, or should be, women's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. . . The harmony, not to say identity, of interest and views which belong, or should belong, to the family institution is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband. . . The paramount destiny and mission of woman are to fulfil the noble and benignant offices of wife and mother.

Yes, this "attitude" was changing, but there was still much more to be done. In 1975, in stark contrast to what the Supreme Court had espoused almost exactly a century earlier, the Court now observed: "No longer is the female destined solely for the home and the rearing of the family, and only the male for the marketplace and world of ideas." *Stanton v. Stanton*, 421 U.S. 7, 14-15 (1975). And the litany continued, echoing the deep change forced by the movement that would not accept what had been *comme il faut* any more: a state could not permit beer sales to women at 18 and men at 21, *Craig v. Boren*, 429 U.S. 190 (1976); both widows and widowers were entitled to federal survivors' benefits, *Califano v. Goldfarb*, 430 U.S. 199 (1977); both men and women could be required to pay alimony, *Orr v. Orr*, 440 U.S. 268 (1978); and federal benefits must be made available to families with dependent children when either the mom or dad was unemployed, *Califano v. Westcott*, 443 U.S. 76 (1979).

But what touched us all the most was the Equal Rights Amendment ("ERA") which finally passed Congress in 1972, having been introduced in every session since 1923. It was such a simple proposition: "Equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex." And of nearly as much significance to me, Gloria Steinem founded *Ms. magazine* in 1971, which was probably the last magazine I read cover to cover the minute it arrived. The cover of Vol. I, No. 1 declared, "Wonder Woman for President!"

It was a dizzying time: there were clubs and restaurants to be integrated, women to run for political office, demands for daycare and equal pay to be made. So much work and so much energy. I became more deeply involved in politics through the Massachusetts Women's Political Caucus, which I eventually co-chaired and which espoused the view that supporting women in politics was the ultimate principle, even if there was not agreement about a candidate's politics. The question whether to support Louise Day Hicks, the South Boston segregationist elected to the Boston School Board, pushed our mission to its outer limit, representing the complex struggle of race and other kinds of "difference" within the women's movement, which is another topic unto itself. Our Caucus was intent on women moving into power and having our say. I learned the joy of solidarity, and I finally learned to love being a woman – my hair was now very

long and my skirts very short! I also learned that the world was not changing nearly as fast as I was.

The Law as Agent of Change

My "relevant" work was as an urban planner and included developing industry-based day care, low-income housing, and joining a team formed by a state commissioner of youth services to close juvenile jails and replace them with community-based alternative programs. This is where I was brought into direct contact with lawyers and courts. I began to see how the law could be an agent of social change or an impediment to it. I was very influenced by an article called "The Rights of Children" written by a young attorney at the Children's Defense Fund named Hillary Rodham, and I spent much energy trying to convince juvenile court judges that our program proposals were a better alternative to just locking kids up. Some judges were wonderfully attentive while others were almost brutish in dismissing the interests of the children. Most importantly, I learned about a whole range of kids who were not middle class, who had few options, who acted out, who did not quite follow the program script, and for whom justice was not a part of their world. Coming to know them gave me insight into the meaning of "if you want peace you must have justice." In time, our ability to change the government from within ran its course, which is really to say that a few of our kids in the system made unfavorable headlines just one too many times and we lost our political cover.

The next steps of juvenile justice reform would necessarily involve litigation, which would pit juvenile rights against public security interests and stereotypes. At the prospect of turning 'my' project over to the lawyers, I realized the possibility for affecting social policy through the courts. As a logical way to continue work in the public interest, I applied to law school...at age 30, with an 18-month old, a mortgage, and a husband whose dissertation was still not quite done. Thankfully, the day I enrolled, he turned it in.

It was 1974, and for the first time, women were going to law school in significant numbers. This was important because it meant that by the 1990s there was a decent-sized cohort of women lawyers who had been practicing for 15-plus years available for federal judicial selections, that is, there was no longer the excuse that there were not any qualified women to appoint to the federal bench. There certainly was a need: in 1977, the year I graduated from law school, there were only eight female federal judges in the country.

Small Firm Practice

Law school opened up a lot – so much so that I could only talk to my fellow 1Ls. Maybe that's why my husband took a teaching job at Yale the next year and was gone several days a week. Of necessity, my version of Head Start was often taking my little daughter to class. This gave her such a legal leg-up that she went on to Law Review at UVA, and I suppose it should be no surprise that she is now a practicing attorney herself. After law school, and after I clerked in federal district court in New Jersey, I moved

to New Haven where my husband was still teaching, on a “whither thou goest, I will go” basis.

In choosing where I would start practicing law – and I surely felt that it would be “practice” – I made a momentous choice between one of the largest firms with all of the credentialing and a very small, new firm composed of five male legal aid lawyers at half the salary, where I would be the first associate and only female. It was a very wise choice. I tried my first case within a month, six months’ pregnant with my second daughter, and had the exciting opportunity over the years to help shape the practice into a respected labor and employment law firm, while forming fine collegial relationships and deep friendships that continue today. A mark of my lasting respect for my remaining original partner and the firm’s fine traditions is that I strongly encouraged my last law clerk to join the firm. Going to the smaller firm was wise because it gave me a law practice experience free of nettlesome stereotyping, mommy-tracking, and glass ceilings, letting me plunge right in.

When I started, there seemed to be about 15 female active trial lawyers in New Haven at the time, half of us were pregnant, and we had lunch once a month, a meeting of the “New Haven Women Attorneys.” Just push together two tables and there was the New Haven women’s bar. Together we were elated by Justice O’Connor’s confirmation in 1981 and crushed by the failure of the ERA in 1982. Private practice was challenging and constant work, and trial practice meant having to juggle everything. But I had two partners without whom it would not have worked out so well – one on the home front and one on the office front. Chose your partners well; it’s so important.

Getting to the Bench

It never crossed my mind that I would pursue a third career, much less in the federal judiciary. Although I practiced in federal court, perhaps I’d never thought it possible because we had had quite a run of Republican presidents, and, one is not deemed qualified for consideration without 15 years of practice or equivalent experience. However, in the summer of 1992, three factors converged: Bill Clinton was lighting up the democratic landscape, Muslim Bosnians were being slaughtered in Europe, and I took a three-month sabbatical from my firm with my family in France. In France, and with time to pore over the news, I read of atrocities the dimensions of which we were not hearing about in the U.S., and I was struck by the absence of any courts to stop these human rights violations. I went to Amnesty International in London to learn about its strategy in the absence of courts; the answer was public suasion and public pressure.

I came home determined to protect and enhance the institution of the judiciary, not just to use our courts on an individual case-by-case basis. I still try to do this, not just in our country, but also abroad by traveling to countries with less established judiciaries to work with judges and lawyers on the importance of the independence of judges and the rule of law. After Clinton was elected, and Justice Ginsburg was appointed, I wrote

to both Connecticut senators asking to be considered in their recommendations of judicial nominees to the President. At that time, the District of Connecticut had only Judge Ellen Bree Burns, who had taken the federal bench 16 years previously. It was time for another woman, so being female was a plus. The senatorial interview, the Justice Department vetting process, the Presidential nomination, and the Senate hearing and confirmation process before a Republican Senate were all very heady stuff, but in the end, I got the most pixie dust. In 1995, I became the 100th female district court judge in the country’s history.

When I was confirmed, 17% of the Article III judgeships were filled by women. Almost 29% of President Clinton’s Article III judicial appointments were women (107); 21.8 % of President George W. Bush’s have been women (58). As of this writing, there are 207 active female Article III judges, out of 815 active judges. Of these, there are 643 District Court judges, of which 25% (162) are female; of 165 Circuit Court judges, 26.6% (44) are female, and there is of course our lonely heroine at the top – one female Supreme Court Justice (of nine). Our district court has 8 active judgeships, of which three are women: my colleagues, Janet Hall and the newly confirmed Vanessa Bryant, and myself. By comparison, 29% of the Connecticut state judiciary is female.

In my view, there is simply no reason in this day and age, with 48.8% of law students being female and 30.2% of the bar female, and an ample sized cohort of very experienced women practitioners, why these numbers are not pushing 50%. I believe that without focused political pressure, we will never be at 50%, because “studied indifference” (Judge Gladys Kessler’s term) is the problem and the mere passage of time is not the solution. Success is each woman’s story, to be sure, but success that is not tokenism is measured in numbers.

Women as Judges

What do we know about gender and judging? The Meyers-Briggs Type Indicator test (www.myersbriggs.org) measures personality types. One of the test’s four indices scales thinking versus feeling, and the vast majority of both female and male judges are scaled as “thinkers.” Despite the fact that 70% of women judges scale as “thinkers,” they are not immunized from common manifestations of stereotyped gender expectations. For example, where court assignments are made (as in state courts), women judges may find themselves in “feeling” assignments such as juvenile court or family court. In fact, in the early part of the twentieth century there were actually separate Women’s Courts in some major cities to which only women judges were assigned, mostly to handle female defendants charged with prostitution. Gender stereotyping is also seen when women judges, perceived as tough-minded thinkers, issue rulings labeled “cold” and “unfeeling,” while the same ruling by a male judge would be accepted without comment.

Stereotyping also permeates the expectations and conduct of attorneys towards judges. In my first three or four years on the bench, male attorneys appearing before me, looking right at me,



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would call me “Sir.” Just last week my staff was telling me that most attorneys who have not yet appeared before me presume my maleness when they call chambers, inquiring after “his” practices and preferences. I have also noticed that male attorneys often perceive my “orders” on extensions of time or other motions as negotiable or suggestive, rather than final. My guess is that this is not the case in their interactions with male judges; an “order” really is an order there.

Diversity on the bench is important not only to eradicate the “sir” presumption, but, more seriously, for the interests of justice. Infusing the judicial process with other sets of life experiences and perspectives can only enrich the product of our system, and as the bench becomes less male and less white, the judiciary’s perceived fairness to a broader spectrum of participants will improve. I hasten to say, however, that I am not claiming some “nuanced point of view” for women judges – judges are sworn to uphold the law, whether they agree with it or not, and to apply it fairly to all. To ascribe less to female judges is insulting. That said, we know that having women on the bench increases sensitivity to gender bias within the system. We can think, and we can feel. In the mid- to late-’90s, the Second Circuit Task Force on Gender, Racial and Ethnic Fairness in the Court found that 17% of the female judges in the Circuit reported seeing female attorneys ignored, interrupted or not listened to, while only 2% of the male judges reported the same. In the same study, 47% of female lawyers reported either being mistaken for non-lawyers or observing other women lawyers being so mistaken. So why do women judges have better “eyesight”? We were there once, mistaken for paralegals or secretaries; or maybe it’s that we’re viewed as more approachable and therefore get told more. It’s the judges who have the authority, and responsibility, to insist on courtroom decorum and compliance with orders, and doing so with sensitivity to what is in front of you becomes the model of what equal treatment means and what mutual professional respect requires.

During the 1980s, along with the Supreme Court rulings striking down statutory applications of stereotypes and myths and forcing individualized assessments, the issue of the existence, nature, and extent of systemic gender bias in the courts themselves was also forced to be examined. In 1980, the National Association of Women Judges began promoting inclusion of the topic of gender bias in state judicial education programs. In conjunction with the National Organization for Women (“NOW”) Legal Defense and Education Fund, the National Judicial Education Project was established to combat the prevalent denial that gender bias existed at all. The Chief Justice of the New Jersey Supreme Court responded by establishing the first Task Force on Women in the Courts which presented its findings in 1983 that, lo and behold, “bias against women [existed] in the state courts,” and the National Gender Bias Task Force movement was born. In time, 42 states and eight federal circuits had them. Their reports in various ways have documented that in the courts themselves, gender bias against women litigants, lawyers, and court employees is a pervasive problem, often denying women equal justice, equal treatment, and equal opportunity. In this way, gender bias in the

courts was transformed into a problem of the judiciary, not just a problem for women.

Lack of Urgency?

So where are we now? Notwithstanding the wonderful energy here today, I sense a lack of urgency, perhaps because of so much apparent progress. Yet in 2003, women attorneys were earning only 76% of the salary of their male counterparts. Women are still being confronted with impossibly difficult choices, now complicated by seemingly advanced opportunities for career, but with little advancement in solutions for how to balance such opportunities with family responsibilities, which women tend to shoulder disproportionately. And as salt in the wounds, women’s efforts to find a sane balance get met with mommy tracks or glass ceilings. For instance, a national study of the legal field in 2005 revealed shocking statistics: almost 60% of attorneys in New York City reported they may leave their current employers within the next two years, and even 35% of non-metropolitan-area lawyers reported planned departures. This disconnect is reflected among both male and female practicing lawyers, but potential departure rates for women lawyers were higher than for male lawyers in almost all categories, and were most marked in public interest jobs, smaller firms, and businesses.

Why are women attorneys more peripatetic? Has it become too daunting to juggle all our demands? Is the work environment simply too discouraging? This home/office stalemate saddens me: among women lawyers aged 27–32, only 9% had two or more children, compared to 42% of the same-aged women in the general U.S. population (2000 Census). In the same age group, 76% of women lawyers had no children at all, compared to only 36% of the general female population. And while there is no one women’s rights movement or consensus on what a woman lawyer’s professional career should look like compared to her personal family role, what is upsetting about these figures is that the choices between career and family, between having no children or having them later (when frankly it’s harder and riskier), are rotten ones that men mostly do not have to make. And that’s a pretty unacceptable state of affairs.

Using traditional legal methods, like impact litigation, to address this dilemma is tricky: in the past the objective was to equalize treatment where the reasons for unequal treatment were irrational, but the reality is that women – whether for physiological or psychological reasons – have greater familial responsibilities. Women have the babies and experience the physical consequences of reproduction, and women tend to be the ones who care emotionally and financially for aging parents and other relatives. Thus, as Justice Stewart held in *Geduldig v. Aiello*, 417 U.S. 484 (1974), although it is technically true that “pregnant women and nonpregnant persons” are not gender-based classes since both men and women can be “nonpregnant,” the reality is that treating men and women literally equally – e.g., everyone has to bill 2500 hours – results in unequal treatment because of our reproductive, psycho-social, and socio-economic differences.

(cont. on page 25)

Judge Betty Roberts's Illustrious Career

Selma Moidel Smith

Betty Roberts, the first woman to serve on the Oregon Supreme Court, is a mother of four who entered night law school at the age of 39, on the same day a daughter entered Stanford University.

Forty-four years later, on August 6, 2006, Roberts was recognized for her outstanding accomplishments when she received a Margaret Brent Women Lawyers of Achievement Award from the ABA Commission on Women at the Annual Meeting in Honolulu, Hawaii.

Roberts' political career began in 1964 when she was elected as a state representative in the Oregon legislature. Four years later, she was elected the sole woman in the state Senate. In 1974 she narrowly lost the Democratic gubernatorial primary, but her strong showing prompted the winner, Bob Straub, to appoint her in 1977 to the Oregon Court of Appeals, where she became the first woman judge. In 1982 she became the first woman to serve as an associate justice on the state Supreme Court with her appointment by Governor Victor Atiyeh.

After being told she couldn't enter a doctoral program, "I swore a little, but my thoughts turned to the night law school in Portland that I'd heard about."

Her life is remarkable for her persistence. She had completed only one year of college at Texas Wesleyan College at Fort Worth in 1941-42 before taking time out to raise a family of two sons and two daughters. She returned to her studies and earned her bachelor's degree in education in 1958 at Portland State University. She continued her studies at the University of Oregon, receiving her master's degree in political science.

"It was mid-August 1962, and I was sitting in the office of the chairman of the political science department at the University of Oregon," she recalls. "I'd come to talk about work on a doctoral program in political science." Despite her near-perfect grades, she was told that, at age 39, she was too old to pursue a doctoral degree. She recounts that they had never had a woman professor or woman doctoral candidate in political science. "There were no gender or age discrimination laws and no appeal process from his decision." Driving home, she says, "I swore a little, but my thoughts turned to the night law school in Portland that I'd heard about." Her prior degrees and grades gained Roberts immediate acceptance at Northwestern School of Law (later part of Lewis & Clark College), where she earned her J.D. in 1966.

Revolving Careers

Her life is also remarkable for her ability to excel in more than

one career role at a time. She continued her first occupation as a high school social studies teacher while earning her master's degree and while attending night law classes, as well as during her tenure in the Oregon House of Representatives. As a practicing lawyer from 1967 to 1977, until her appointment to the bench, she served as a college instructor in political science and business law.

Roberts devoted herself to the cause of education through public service and politics in addition to teaching. She served on the boards of her collegiate alumni associations, the board of a school for troubled youths, as an elected board member of her local school district, and as a member of the Governor's Metropolitan Area Commission on Higher Education. In 1975, she received the Education Citizen of the Year Award from the Oregon Education Association. In later years, she was honored for service and achievement by Portland State University, Oregon State University and the University of Oregon. The culmination of her teaching career came in the years after her Supreme Court service when she served as a visiting professor at Oregon State University, holding the Dubach Endowed Chair in Political Science from 1988 to 1991.

Advancing the role of women in the law has been a chief concern for Roberts. She was a founding board member of Oregon Women Lawyers and served as president of the Oregon Women Lawyers' Foundation. In 1992, she was honored as the first recipient of the Oregon Women Lawyers' Justice Betty Roberts Award. This annual award "recognizes an individual who has made an outstanding contribution to promoting women in the legal profession and in the community," and is given to honor a person "who has influenced women to pursue legal careers, opened doors for women attorneys, or advanced opportunities for women within the profession."

"Younger women want to know our stories. Not just the successes and accomplishments, but the tough parts, too."

Roberts has also worked to advance the role of women in politics. She was a founding board member of the Women's Investment Network-PAC, an organization formed to help elect women to the Oregon legislature. For her work on behalf of women in politics, she has been honored by both the Oregon Women's Political Caucus and the Portland Area Women's Political Caucus.

On her retirement from the Supreme Court in 1986, Roberts served as a pro tem settlement conference judge by appointment of the chief justice. Her services were soon

requested by lawyers who asked her to serve as a private mediator, and this led to a new career in alternative dispute resolution. In 1990, she attended a training course in judicial arbitration provided by Judicial Arbitration and Mediation Services (JAMS) and later entered into a contract with U.S. Arbitration and Mediation Services of Oregon in Portland. Her cases have included such areas of law as medical malpractice, contracts, employment harassment, homeowners' insurance policies, and gender and age discrimination.

Roberts particularly recommends mediation as a rewarding second career for senior lawyers. Although she has served as both a single arbitrator and as a third arbitrator, she has chosen most recently to serve as a mediator. She says her experience has shown that when the parties participate in the resolution of the dispute, they are far more likely to reach a successful settlement. Her efforts have resulted in a 90 percent settlement rate for her cases.

Time to Reflect

Roberts is currently writing a memoir of her life and career, under the present working title, "With Grit and by Grace." The book is expected to be published in 2008 by the Oregon State University Press.

The ABA Commission on Women in the Profession presents Margaret Brent Women Lawyers of Achievement Awards to women lawyers and judges on the basis of their accomplishments and their role in opening doors for other women lawyers. Past recipients have included Associate Justices Sandra Day O'Connor and Ruth Bader Ginsburg.

In accepting the Commission's award, Roberts concluded her remarks: "Younger women want to know our stories. Not just the successes and accomplishments, but the tough parts, too. We need to tell them about the rejections, defeats, and losses as well as the rewards, the wins, and the achievements. For it is the first that makes us strong, and determined enough to try again and succeed.

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Developing the Business (cont. from page 16)

pleasant both at work and in your personal life.

If you are in a firm, do not overlook the value of cross-marketing within your firm. Clients often do not know what other services a firm can offer; the same is also true of other lawyers within the firm. You may have a vague idea of the practice area of the lawyer down the hall; he or she probably has the same limited understanding of your practice and background. A firm can maximize marketing dollars by identifying needs among existing clients and offering firm lawyers who can provide the expertise

necessary to meet that need. Given the increased mobility of lawyers, not everyone you work with may know about your prior experience. Spend time with the lawyers in your firm, particularly if you are new to the group. Make sure that all the people with whom you practice know your abilities and experiences. Conversely, make sure that you are familiar with the practice areas and talents of your colleagues. The next time an existing client needs legal assistance in an area outside your expertise, canvas your practice group to see if there is someone among you who can handle the problem. One-stop shopping is convenient for all us. On the other hand, if your firm cannot provide the necessary expertise, assist the client in finding a lawyer who is competent to handle the problem. You will have made a friend on both sides of the transaction.

Keep track of the people to whom you have made referrals. If you find you are not getting reciprocal referrals, send the next referral to someone else. If another lawyer refers you a case, be sure to say thanks.

Conclusion:

Nothing about business development is fast or easy. It is, however, essential. If you are going to keep your business moving forward, you have to have work and clients. Focus on business development in the same way that you focus on client representation. The time and attention will be worth the work. •

Federal Judge (cont. from page 23)

We are, for the most part, no longer in the realm of egregiously discriminatory laws, which provided the catalyst for the 1970s second-wave feminism. But what the statistics I just cited suggest is that women are not mobilizing extra-legally or institutionally in order to force change; instead, they are accepting the dictated expectations of our workplaces and assuming a "take-it-or-leave-it" approach to their careers. I want to encourage you not to be passive, not to be complacent about your career, your family, or the work-life balance you desire. If you are dissatisfied with what your employer offers you, demand more. If you feel you are being discriminated against or putting up with insidious comments or conduct, be vocal and organize with others who can support you. Institutional mobilization, or "change from within," can be a powerful tool, and as law students and lawyers, you have the resources and privilege to produce this change.

In closing, I thank you for letting me trace how far we've come, using my experience as a case study. The ambiguity of your conference title "Legally Female" has increased throughout the discussions today, and this is good. But one thing is not ambiguous: women lawyers have been and will continue to be, collectively, a huge political force capable of effecting deep change, and in the process finding the meaning and purpose we all search for in our individual lives. Recognizing our differences but embracing what is shared is being "Legally Female," and as Margaret Mead told us: "Nothing is more powerful than the human mind." •

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- Tanya S. Chutkan, J.D. University of Pennsylvania School of Law, resident in the Firm's Washington, D.C. Office, and specializing in litigation and white collar criminal defense;
- Helen H. Maher, J.D. Pace University School of Law, resident in the Firm's Armonk, New York office, and specializing in complex antitrust, securities and derivative shareholder litigation;
- Sigrid S. McCawley, J.D. University of Florida College of Law, resident in the Firm's Ft. Lauderdale, Florida office, and specializing in complex commercial litigation; and
- Alanna C. Rutherford, J.D. Columbia University School of Law, resident in the Firm's New York City office, and specializing in antitrust and complex civil litigation and investigations.

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NAWL News

Recent NAWL Meetings

From Backpack to Briefcase

March 30, 2007

Minneapolis, Minnesota

NAWL partnered with the Minnesota Women Lawyers to bring NAWL's popular career development program to Minneapolis, helping recent and prospective law school graduates transition from the demands of law school to active practice.

Taking Charge of Your Career

April 25, 2007

Minneapolis, Minnesota

NAWL's mid-career program, Taking Charge of Your Career, received a slightly different twist when NAWL paired with the Minnesota Women Lawyers to pass on important professional development skills for mid-level and junior lawyers in the Minneapolis area.

Ready to On-Ramp?

May 3, 2007

Washington, D.C.

This spring, NAWL inaugurated a new program designed specifically to help lawyers develop their own personal strategy for re-entering the legal workplace. This program provided an opportunity to hear from a diverse group of attorneys and professionals from law firms, government, not-for-profit organizations, legal coaching, recruiting and counseling firms and business associations about what to expect during the re-entry process and how to overcome any hurdles that may arise.

Her Place at the Table

May 17, 2007

Memphis, Tennessee

NAWL presented the third iteration of its immensely popular new program, *Her Place at the Table: Negotiating Conditions for Career Success for Women Lawyers, Accountants & Business Executives*, which is offered in partnership with Negotiating Women, Inc. The event again allowed participants from several different professional groups to interact and network.

In addition to NAWL's own programs, NAWL also continued to co-sponsor exciting new programs over the past few months. For example, on March 14, 2007, NAWL co-sponsored Argyle Executive Forum's 2007 CLO Leadership Forum at the Harmonie Club in New York City, where NAWL President Cathy Fleming was one of the keynote panelists.

Upcoming Program News

Appellate Advocacy in Illinois: Best Practices

July 19, 2007

Chicago, Illinois

NAWL, along with the Women's Bar Association of Illinois and other bar groups, is sponsoring a CLE program on appellate advocacy in Illinois. Featured speakers include Illinois Supreme Court Justices Rita Garman and Anne Burke; Gary Feinerman, Solicitor General of Illinois; and private practice appellate specialists. Speakers will share their views on how to write compelling briefs and petitions for review; the best ways to prepare for and engage in oral argument; factors that impact whether the Supreme Court takes a case for review; how appellate courts reach decisions; and best practices for women advocates. The program will cover proceedings in various Illinois courts of appeal as well as the Supreme Court.

NAWL General Meeting and Annual Luncheon

August 2, 2007

Waldorf-Astoria Hotel, New York, New York

Following the success of last year's spectacular Annual Luncheon at the Waldorf-Astoria Hotel in New York, where over 1000 people came to celebrate NAWL's achievements and honor NAWL award recipients, NAWL has decided to offer not one, but two Annual Events in 2007! The first Annual Event will be another gala luncheon at the Waldorf-Astoria in New York City on Thursday, August 2. NAWL will also offer a continuing legal education program earlier in this day. Save the date and watch for more details! Registration will begin soon.

NAWL Cocktail Reception at the ABA Annual Meeting

August 10, 2007

Rincon Center, San Francisco, California

NAWL will be hosting a cocktail reception in San Francisco, California, on Friday, August 10, at the Rincon Center, in connection with the ABA Annual Meeting. The reception will be catered by the fabulous Bay Area restaurant, Yank Sing, and will give you the opportunity to catch up with your favorite women lawyers. Registration will be available shortly on the NAWL website.

Third Annual General Counsel Institute

September 27-28, 2007

Sofitel Hotel, New York, New York

This autumn sees the return of NAWL's immensely popular General Counsel Institute. While attendance at this program is limited to inside counsel, private practitioners can give great client care by suggesting (or even sponsoring) registration of their corporate clients.

Taking Charge of Your Career

November 2, 2007

Phoenix, Arizona

NAWL joins with the Arizona Women Lawyers Association to bring NAWL's mid-career professional development program to Arizona for the first time. Watch your e-mails for more

information as to the time and place.

*From Theory to Action: Advancing Women
Leaders in Law Firms*
November 5, 2007
Washington, D.C.

This November, NAWL holds its first national leadership summit in Washington, D.C., inviting prominent industry leaders to engage in interactive small group discussions and work with existing research to identify those actions by law firm management which are most likely to enhance advancement and leadership roles for women lawyers in private practice. Summit participants will include managing partners and senior partners of law firms, general counsels, and nationally recognized experts on professional careers for women. The conclusions of the working groups will be published by NAWL after the summit conference has concluded.

NAWL will also co-sponsor exciting new programs later this year. For example, on November 7-11, 2007, NAWL co-sponsors the National Association of Women Judges (NAWJ) Annual Conference in Philadelphia this year.

NAWL Thanks 2007 Program Sponsors

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Membership

Ellen C. Brotman, of counsel to the Government Investigations Practice Group at Montgomery, McCracken,

Walker & Rhoads, participated in a panel on Collateral Consequences of a Criminal Conviction at a recent Joint Annual Meeting of the Pennsylvania Association of Criminal Defense Lawyers and the Public Defender Association of Pennsylvania.

Paulette Brown, a partner in Edwards Angell Palmer & Dodge, has been designated for membership on the American Bar Association's Board of Governors for a three-year term beginning in August.

Stephanie Bruce, an Edwards Angell Palmer & Dodge associate, received the Denis McGuire Award in March at the annual meeting of the Volunteer Lawyers Project. This award is given annually to honor extraordinary commitment to equal access to justice and to representation of the indigent.

Elizabeth A. Campbell was named the Chief Diversity Officer at Andrews Kurth LLP. She is a partner at the firm and will devote her efforts to overseeing the firm's diversity strategy. Ms. Campbell's hiring is a key component in building an inclusive culture that embraces and leverages a diverse workforce and raises diversity awareness for the firm and its clients.

Lindsay Carlson has just joined the business litigation practice group of Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP as an associate.

Hon. Joan Churchill, retired immigration judge, is currently the President/District Director of District 4, National Association of Women Judges [DC/MD/VA]. In connection with District 4's outreach to students, Judge Churchill recently presided at mock trial finals for 1Ls and high school students.

Mary Pat Cormier, a partner at Edwards Angell Palmer & Dodge, recently gave the keynote address to the Atlantic Canadian Women's Exporter Initiative to New England. The address was on "Long Distance Marketing: How to Build Relationship that Last from a Remote Undisclosed Location".

Noelle M. Shanahan Cutts, a student and rising 3L at Case Western Reserve University in Cleveland, had her Note selected for publication. "Enemies through the Gates: Russian Violations of International Law in the Georgia/Abkhazia Conflict," 39 Case W. Res. J. Int' L. (2007-08).

Deborah H. Devan was named a 2007 Super Lawyer in Maryland by Law & Politics. She was also included in the Top 50 Super Lawyers and the Top 25 Women Super Lawyers. The selection is the result of a rigorous process that evaluates quality legal work in objective terms based on peer evaluation, internal research, and balloting.

Marcia Eason of Miller & Martin PLLC will become the president of the Tennessee Bar Association, the largest professional association in the state, in June.

Cathy Fleming, NAWL's president, has joined Nixon Peabody LLP as a partner in its New York City office. She

is nationally known for her practice in complex civil and corporate integrity matters.

Elaine Johnson, a partner at Edwards Angell Palmer & Dodge, was selected as a Top Dealmaker of the Year for structuring and winning approval of a \$1.8 billion bond issue to finance the restoration of the Everglades a decade ahead of schedule. The project is intended to preserve and protect water resources and restore the Everglades' ecosystem.

Stephanie Jones of the business litigation practice group at Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP's was named partner earlier this year.

Ruth Kahn, a partner in the Los Angeles office of Steptoe & Johnson LLP, was named one of the Top Women Litigators in California for the second year in a row. The Los Angeles Daily Journal selected Kahn as part of an elite group of only 75 women selected from over 15,000 practicing women lawyers in California.

Lorraine K. Koc, Vice President & General Counsel of Deb Shops, Inc. and Immediate Past President of NAWL, facilitated the national Mid-Cap Peer Exchange in Washington, D.C., hosted by Corporate Board Member in March. Corporate Board Member is a leading information resource for senior officers and publicly traded corporations, large private companies, and Global 1000 firms.

Miki McGovern, an administrative law judge with the Iowa Division of Workers' Compensation, was recently elected to be the 2007 president of the Dallas County Bar Association in Iowa.

Amy Mitchell was made an equity partner at Daw & Ray, L.L.P. Her practice consists of civil litigation, commercial creditor litigation and arbitration, and insurance defense.

Raye Mitchell of The Mitchell Law Group, PC is launching a new multicultural entertainment and marketing company called Visioning Realities, Inc. It will provide multicultural brand integration, entertainment production and marketing services. Its website is www.vrientertainment.com.

Betsy Munnell, a partner at Edwards Angell Palmer & Dodge, was recently elected a trustee of the Massachusetts Bar Foundation, of which she is also a Louis D. Brandeis Fellow. Through its grant-making and charitable activities, the Foundation works to improve the administration of justice and increase access to the legal system.

Edith G. Osman, a Shareholder at Carlton Fields, was honored as a 2007 Women of Impact XIX by the Women's History Coalition of Dade County in March. The award recognizes women who have made significant contributions to their community, professions, and on issues that address women's needs.

Darshann Padilla has just joined the land use practice group of Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP as an associate.

Angela T. Puentes-Leon, an associate at Carlton Fields,

was appointed to the position of Secretary of the Dade County Defense Bar Association.

Sharon Rubalcava and **Jocelyn Thompson**, both partners in the environmental practice group at of Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP, have been named Southern California Super Lawyers.

Stephanie Scharf, a former NAWL president, joined Schoeman Updike & Kaufman LLP, opening its Chicago office. The expanded firm is known in Chicago as Schoeman Updike Kaufman & Scharf.

Diane Stanfield has just joined the real estate and transactional practice area of Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP as Of Counsel. She brings extensive experience in handling bankruptcy, insolvency and creditor rights matters.

Emily Yu of Edwards Angell Palmer & Dodge co-chaired the Asian American Lawyers Association of Massachusetts annual banquet. She is an active board member of the association. Partner **Rebecca Lee** presented the Founders Award to Caroline Chang, a community leader and former regional head of HHS's Office of Civil Rights.

Cooper & Walinski LLP

Cooper & Walinski received two awards for its pro bono service in 2006. Toledo Bar Association recognized Janet Hales for outstanding service for her work in fundraising, and Cooper & Walinski was recognized for its work in domestic violence cases in the Lucas County Family Court.

Edwards Angell Palmer & Dodge LLP

In May, the firm's women attorneys gathered in Boston for the group's second annual retreat. Close to 140 women were in attendance from the firm's nine offices. At the event, Hon. Fernande R.V. Duffly was honored. She is the first Asian American justice to sit on the Massachusetts Court of Appeals.

NAWL Recognizes Law School Members

Lewis & Clark Law School
Saint Louis University School of Law
Seattle University School of Law
Stetson University College of Law
Suffolk University Law School
The John Marshall Law School
University of Denver College of Law
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University of Louisville School of Law
University of Minnesota Law School
University of Missouri – Columbia School of Law
University of Washington Law School
Valparaiso University School of Law
Villanova University School of Law
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