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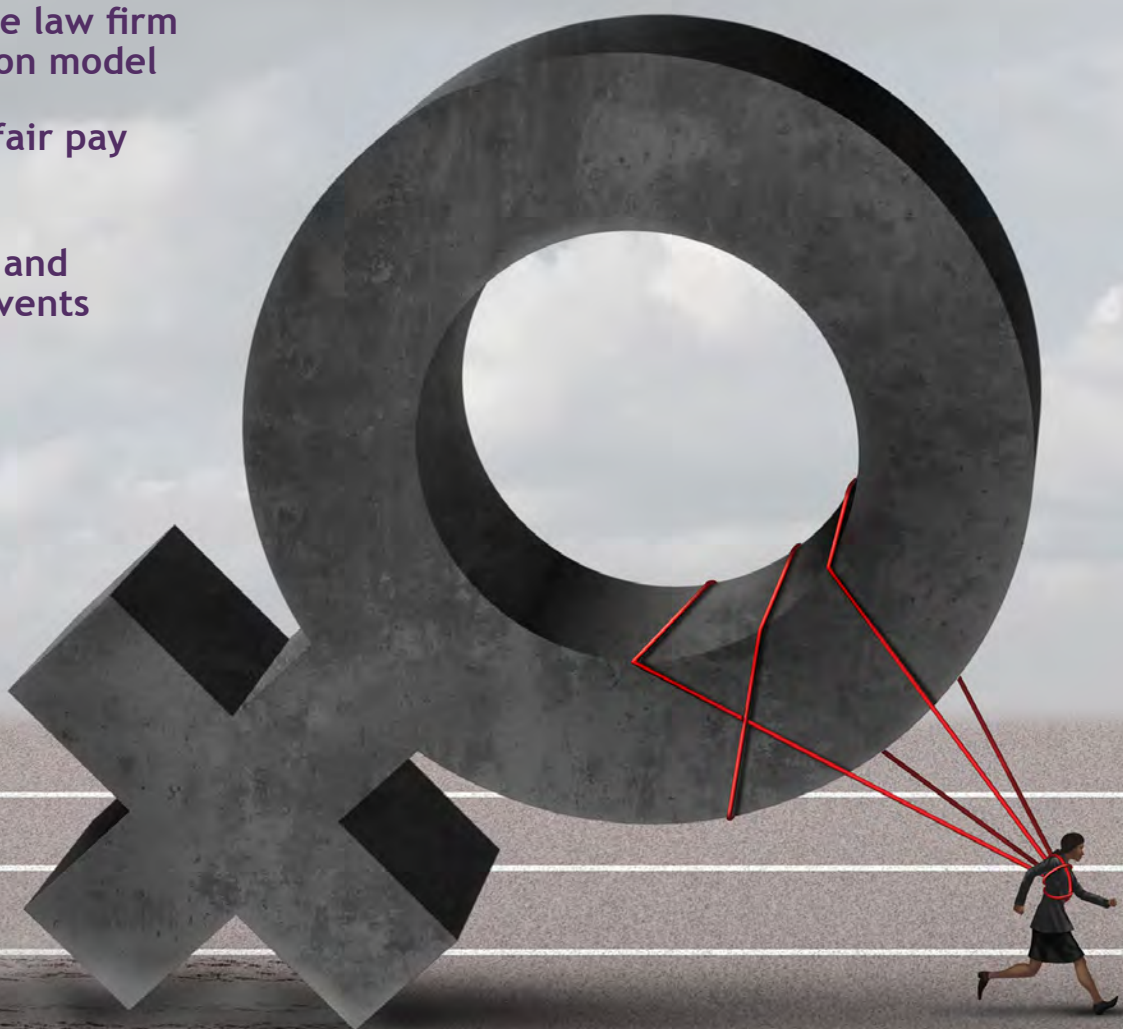
The 2017 NAWL Survey on Retention and Promotion of Women in Law Firms

Changing the law firm
compensation model

Legislating fair pay

AND

NAWL news and
upcoming events



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The mission of the National Association of Women Lawyers is to provide leadership, a collective voice, and essential resources to advance women in the legal profession and advocate for the equality of women under the law. Since 1899, NAWL has been empowering women in the legal profession, cultivating a diverse membership dedicated to equality, mutual support, and collective success.

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The Survey We Dream About

Will law firms ever ask us what we want and need to be successful?

By Elizabeth A. Levy

The idea of firms surveying minority lawyers on what we want and need to succeed seems utterly rational and sensible.

RECENTLY I WAS INVITED TO COMPLETE A SURVEY from a reputable company on behalf of several AmLaw200 firms. The survey was directed to a statistically significant portion of the firms' current and former associates, partners and prospective hires identifying as underrepresented demographics (e.g., women, the disabled, African Americans, Middle Easterners, Latinos/as, Asians). It was designed to

elicit what we, these underrepresented individuals, wanted in and from our employers, our careers, colleagues, partners, work environments and cultures. What kinds of opportunities and experiences were we seeking? What types of colleagues did we want to work with and learn from? What kinds of skills development opportunities did we hope to pursue? How did we expect to

be compensated and what metrics should be used? In short, what mattered to us?

Huh. I stared at it. No kidding? Someone wants to know what we want?

Surely, I thought, a law firm wouldn't go to the trouble and expense of commissioning a survey whose responses it would then ignore. Was it a joke? Should I bother to respond?

Why not, I thought. There seemed to be no downside.

So I dove into it. Yes, I want to work within a meritocracy that also offered development and learning experiences and opportunities.

Yes, I agree that implicit bias exists and needs to be recognized so that it can be eliminated from the evaluation and promotion

process. Compensation formulas could and should equitably account for various metrics that did not all readily translate into money for equity partners. Do I think that a partner who has a full life outside of the office (family, friends, community) can "carry his/her weight" in relation to other partners who may not be similarly situated? The firm I'd join must commit to making this not only possible but the usual result. And so forth. The survey was quite lengthy and asked all the important questions.

We know what we want and need to succeed and thrive in our careers. I put it all down in the survey responses and comment boxes. When I was finished, I identified myself for follow up and clicked on the submit button.

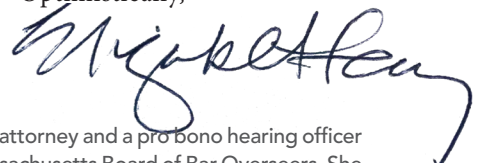
I was optimistic and felt good. It had been worth every minute spent thinking and articulating what would attract and retain individuals like us, as if it really mattered to those asking the questions.

And then I woke up.

Oh geez. Had I only dreamt it? The idea of firms surveying minority lawyers on what we want and need to succeed seems utterly rational and sensible. How could it have been only a dream?

Dreams can inspire and energize us. I invite you to review NAWL's report in this issue on its survey of law firms on the retention and promotion of women. We've been asking law firms for quite a while what they do to provide women lawyers the opportunities and experiences they want and need to be successful. Maybe someday soon law firms will be asking us these questions. ■

Optimistically,



Elizabeth A. Levy is an intellectual property attorney and a pro bono hearing officer for attorney discipline matters with the Massachusetts Board of Bar Overseers. She is a NAWL board member and liaison to NAWL's Practice Area Affinity Groups.



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A Time to Remember and Re-center

The same qualities and strengths that have allowed us to arrive at this place can be part of what gets us to the next place.

By Angela Beranek Brandt

ALMOST EVERY YEAR I find myself leaving Minnesota to go back “home” to South Dakota. In the years where I am too busy and my schedule does not allow that trip, things feel unbalanced. This year I was fortunate enough to spend several days on our family farm. It was relaxing and rejuvenating. As I get older and further into my career and adult life, I have an increasing contrast between where I came from and where I am. The vast, quiet space of the open prairie is, on every sensory level, in stark contrast with my usual everyday life. It is in the prairie setting that I am able to connect with my roots and once again find my center. For me, this periodic exercise is necessary; whatever

I am doing in my life and in my career, it is all based on the foundation of the place from where I came.

Where each of us came from has importance to where we are going. When it feels we are not being true to ourselves, even when we are meeting the expectations of others, there will be tension. I have found that while

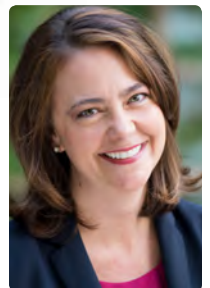
success requires hard work, it cannot be forced. Our greatest successes come from bettering our true selves, not from conforming to the expectations of others. As women lawyers, this can be particularly challenging. The role models we see and the people in the leadership roles we desire to hold are frequently not our gender. And for women of color, there is the added layer that those roles are frequently held by someone of a different race or ethnicity. This makes it even more critical that we hold steadfast to who we

are. We may be trying to achieve the goals and norms likely set by those with a different experience, but we get to define how we get there. The very same qualities and strengths that have allowed us to arrive at this place can be part of what gets us to the next place.

Wherever you are on your journey, NAWL will meet you there. NAWL brings us together under the common mission of advancing women. NAWL is a place where you can find inspiration for yourself and mentor and inspire others. The organization strives to provide programming and support for women at every stage of their careers. And it is with the support of NAWL that you can find ways to set your own path to success. NAWL strives to reset expectations of what leaders look like. For more than 100 years, NAWL has broken down barriers and given strength to women to be themselves inside environments not originally designed for our presence.

It is a great time to reflect on where we have been – as individuals and as an organization – and decide where we are going next. NAWL would like to meet you on your personal journey and help you move forward. This year, I hope you are able to find time to remember from where you came, center it into your life and practice, and together with NAWL, ready yourselves for great things to come. ■

Take care,



Angela Beranek Brandt is a partner with Larson • King, LLP in St. Paul, Minn. She is an accomplished first-chair trial lawyer and has earned favorable results for clients in front of juries, arbitrators and judges. She practices in the areas of commercial litigation, employment law, and products liability. In addition to her work with NAWL, Brandt is past president of the Ramsey County Bar Association. She has been elected to membership in the Federation of Defense and Corporate Counsel and American Board of Trial Advocates. She has been recognized as a “Super Lawyer” by Minnesota Law & Politics and is AV Rated by Martindale-Hubbell. Her work with women is balanced out at home where she has three sons—an 11-year-old and 8-year-old twins.

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2017

ANNUAL SURVEY REPORT

NAWL
THE PROMOTION
AND RETENTION
OF **WOMEN** IN
LAW FIRMS



Number of women equity partners in law firms maintains a slow and steady pace.

By: Destiny Peery, JD/PhD

The National Association of Women Lawyers (“NAWL”) issued the One-Third by 2020 Challenge in March 2016¹, renewing the call for the legal field to increase its representation of women to one-third of General Counsels of Fortune

1000 companies, of new law firm equity partners, of law firm lateral hires, and law school deans. The One-Third by 2020 Challenge also calls for an increase of at least one-third for diverse women attorneys, including LGBTQ and women of

color, in every segment of the legal profession.

For over a decade, approximately 50 percent of law students nationwide have been women², law firms have recruited women entry-level

¹ Full details of the One-Third by 2020 Challenge are available at <http://www.nawl.org/p/cm/ld/fid=593>.

² For all law schools, women made up a simple majority (51 percent) of all law students for the first time in 2016, as reported by the Law School Transparency, a non-profit organization aimed at making entry to the legal profession more transparent, affordable, and fair, report available at www.lstradio.com/women/documents/MerrittandMcEnteeResearchSummary_Nov-2016.pdf. In the last 20 years, the percentage of women earning law school degrees has hovered between 45 and 50 percent according to statistics from the US Department of Education, available at www.theatlantic.com/sexes/archive/2012/12/more-women-are-doctors-and-lawyers-than-ever-but-progress-is-stalling/266115.

associates in proportion to their representation among law school graduates, and yet these women are not reflected in the numbers of equity partners in those same law firms. In response, NAWL issued its first NAWL Challenge in 2006, which included a goal to increase women equity partners in law firms to at least 30 percent. The One-Third by 2020 Challenge was issued on the ten-year anniversary of that original NAWL Challenge, demonstrating NAWL's continued commitment to increasing the representation of women and the diversity of the legal profession.

Each year, the goal of the NAWL Survey has been to provide objective statistics regarding the position and advancement of women lawyers in law firms in particular, and the NAWL Survey remains the only national survey that collects this industry benchmarking data in such detail. The 2017 NAWL Survey marks 10 years of tracking data on the career progression and compensation of women among the top 200 U.S. law firms.

This year's survey demonstrates a continuation of a pattern observed over the last 10+ years, that numbers of women in equity partner positions in law firms have increased slowly, if at all, even while there has been some improvement in other areas, such as representation on governance committees.

To allow for comparisons across the last 10 and 5 years, we offer numbers from the 2007 and 2012 NAWL Surveys at various points throughout this report. AmLaw 200 law firms still fall short of the 30 percent goal set by the NAWL Challenge issued 10 years ago, as well as the One-Third by 2020 Challenge issued by NAWL in 2016.

Survey Methodology in Brief

The 2017 NAWL Survey was sent to the top 200 U.S. law firms³ in February 2017, and responding law firms had until April 30, 2017 to submit their responses. This year, 90 of 200 law firms completed all or significant portions of the survey⁴, an overall response rate of 45 percent.⁵ As discussed in more detail in the results below, firms completed questions regarding the demographics of attorneys at various levels, especially women, as well as the structure of the partnership track, compensation and

hours, and Women's Initiatives and their programming designed to support women in law firms.

The responding firms represent the full spectrum of the AmLaw 200 rankings, with one-third to one-half of the firms in each quartile of the 200 responding. The quartile showing the lowest response rate was Quartile 1 (AmLaw rank 1 – 50), with about 36 percent of those firms responding to the survey compared to up to 50 percent of those ranked in Quartile 2 (AmLaw 51 – 100) and Quartile 3 (AmLaw 101 – 150). Overall, there were few significant differences between firms of different quartiles, but some nuances are discussed in the results below.

Women in the Law Firm

Of primary interest, given the focus of the Survey and the NAWL Challenges, are the numbers for women equity partners and other leadership positions in law firms. Compared to 5 and 10 years ago, this year's Survey shows a small increase in the percentage of women equity partners (19 percent in the 2017 survey compared to 15 – 16 percent in the 2012 and 2007 Surveys). While this increase is welcomed, law firms continue to fall short of the original NAWL Challenge goal of 30 percent set more than 10 years ago, and long-term sustained progress will be required to achieve the Challenge goal.

For other positions in the law firm, women are 30 percent of non-equity partners, 46 percent of associates, 42 percent of non-partner track attorneys (including staff attorneys, counsel attorneys, and the like), and 39 percent of "other" attorneys (which includes any attorneys not captured by the above categories). In other words, women are more likely to be represented in those positions that are either non-partner track and/or lower status than the ownership position of equity partner.

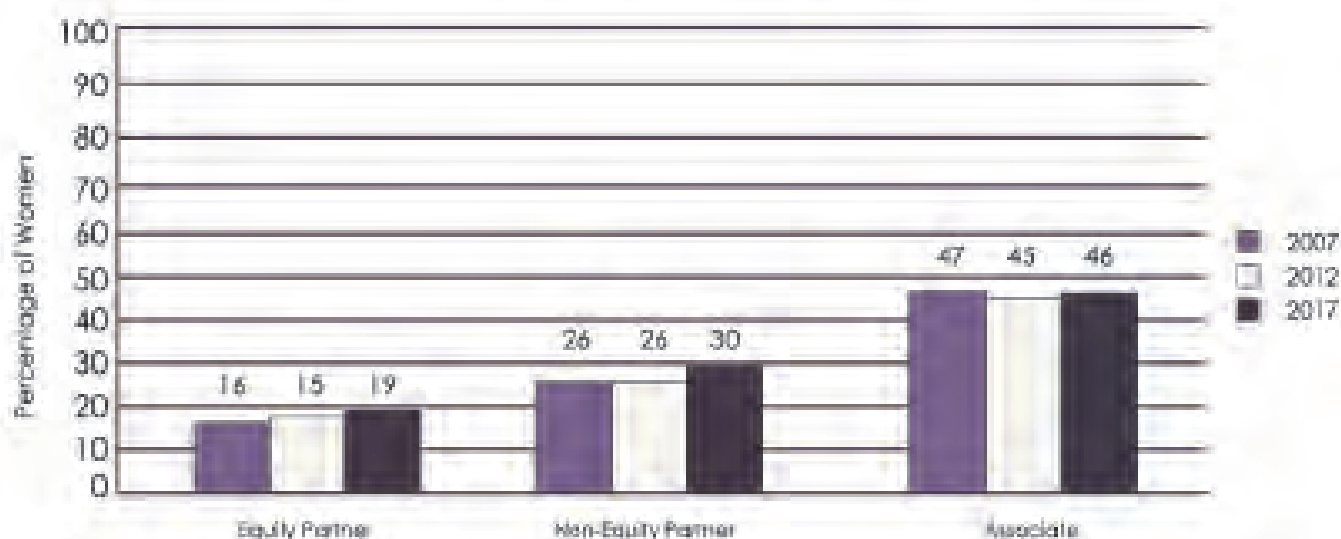
Pathways to Partnership: Firms were asked to report how many new equity partners they promoted in the previous 2 years (2015 and 2016). On average, 15 individuals were promoted to equity partner during that period. Of those 15 new equity partners, about five (33 percent) were women.

³ As reported in the 2016 AmLaw 200 Rankings.

⁴ As noted in more detail in the compensation sub-section, fewer law firms completed questions about compensation and hours, with many declining to provide the data, often noting that it's either considered confidential or is not collected in a way that matches the reporting format requested on the survey. As in most survey administrations, very few questions receive 100 percent response rates for various reasons.

⁵ This represents an increase in response compared to the 2015 Survey (37 percent), but falls short of the peak response rates from the earlier years of the NAWL Survey. Firms that declined to participate cited reasons such as too many surveys, the length of this particular survey, and the sensitive nature of some of the data requested as reasons for not participating. NAWL is working to address some of these concerns in order to continue increasing firm participation.

Women in Law Firms (10 Year Data)



“Of those 15 new equity partners, about five (33 percent) were women.”

This suggests early success in the strong push from some firms to promote more gender equity in newer classes of equity partners, in line with the One-Third by 2020 Challenge. In addition, five (33 percent) were homegrown (i.e., started their careers at the firm), and two (13 percent) had been at the firm for three years or less. For homegrown partners, about 40 percent were women (2 of 5), and for

recent laterals who were promoted to partner, 50 percent were women (1 of 2), on average.

Another important component of career advancement in the law firm is the credit allocation and succession structures that affect how attorneys build their books of business. A majority of firms (60 percent) report that they allow credit generation for bringing in and holding the client, the matter itself, and management of the matter. An additional 18 percent of firms award credit for the client and the matter. Of the responding firms that have credit allocation structures, 94 percent reported that they encouraged credit sharing, and they did so by taking credit

sharing into account for both bonus allocations and promotion reviews. As for succession procedures, there was no standardized approach across firms for how succession is handled. Most firms reported that some combination of the client, the current relationship partner(s), and the practice group leaders(s) determine how the succession will be assigned, and many firms acknowledged that how exactly the process plays out is dependent on the specifics of the particular case/client. While this affords firms flexibility to keep their clients happy, research suggests that less standardized processes are ripe for the influence of biases that may lead certain groups or individuals to be favored or disfavored in the

process, such as women and minorities.⁶

Finally, most firms reported allowing partner-track attorneys who work part-time schedules to be promoted to partner, although it was more likely for firms to allow this for non-equity partnership (95 percent) promotion than equity partnership (89 percent) promotion. Essentially all firms with non-partner track attorneys reported allowing non-partner track attorneys, such as counsel attorneys, to transition to the partner track (99 percent).

Firm Structure & Size Effects on Representation of Women: One variable that may affect the representation of women among equity partners is the partnership model of the firm. We found that women are slightly more likely to be equity partner in firms with a one-tier partnership model compared to a two-tier model (21 percent vs. 19 percent, respectively), and this result has appeared in past reports.⁷ It is important to note that 82 percent of our sample report that they are two-tier firms, and law firms have been increasingly moving from one-tier partnership models to multi-tier partnership models for the last 20 years.⁸ One effect of this paradigm shift is that the goalposts for reaching the highest status (and highest compensated) equity partner role have been moved, making it harder than ever to achieve equity partner, especially for women and other diverse groups who have been historically underrepresented. Thus, while the numbers of women in non-equity partner and non-partner track attorney roles have reached or surpassed the 2006 NAWL Challenge goal of 30 percent, the percentage of women equity partners has remained relatively flat over the last 10 years.

Another variable that may affect the representation of women is the size of the firm.⁹ Firms in the top quartiles (i.e., larger firms) have slightly higher percentages of women equity partners (e.g., 19.3 percent women equity partners in Quartile 1 firms vs. 17.4 percent women

equity partners in Quartile 4 firms). Overall, larger firms in Quartile 1 tend to have better diversity numbers across the board compared to smaller firms in the AmLaw 200.

Diversity among Equity Partners: The One-Third by 2020 Challenge explicitly identified goals related to the representation of diverse women, including women of color, LGBTQ, and people with disabilities. This specific challenge is to increase the numbers of these diverse women by 33 percent from 2016 numbers by 2020.

“White women represent 88 percent of women equity partners and nearly 17 percent of equity partners overall. In the aggregate, women of color (including Black, Asian, Latina women) represent only 12 percent of women equity partners and about 2 percent of all equity partners.”

⁶ See e.g., Melissa Hart’s “Subjective Decision making and Unconscious Discrimination,” 56 ALA. L. REV. 741 (2005).

⁷ For example, the 2007 NAWL Survey found a similar difference between one- and two-tier firms, with one-tier firms reporting 17 percent women equity partners compared to the 15 percent reported by two-tier firms.

⁸ The trend has been for firms to move from one-tier to two-tier or other multi-level partnership models. 47 percent of responding firms reported that there had been a change in their firm’s partnership model at some point, with the overwhelming majority moving from a one-tier to a two-tier model. Of the firms that indicated when this change occurred, the bulk reported a shift in partnership model in the early to mid-1990s. There was another small bump in transitions to two-tier models during or shortly after the Great Recession of 2008.

⁹ Research on other groups and the representation of diverse groups, such as juries (see e.g., Diamond, Peery, Dolan, & Dolan, 6 J. EMPIRICAL LEGAL STUDIES 425(2009)), has shown that larger groups are more likely to be diverse. In other words, the more available spots for equity partners or on committees, such as governance or compensation committees, the more likely diverse individuals will end up in some of those spots.

Percentage of Equity Partners





White women represent 88 percent of women equity partners and nearly 17 percent of equity partners overall. In the aggregate, women of color (including Black, Asian, Latina women) represent only 12 percent of women equity partners and about 2 percent of all equity partners. When men are included, people of color account for only 6 percent of equity partners¹⁰ (Black equity partners are

1.6 percent of equity partners, Asian equity partners account for 2.5 percent, and Latino equity partners account for nearly 2 percent).¹¹ In other positions in the law firm, women of color (Black, Asian, and Latina women) are about 10 percent of law firm associates, 3 percent of non-equity partners, and 7 percent of non-partner track attorneys.

For LGBTQ individuals and women with disabilities, the largest hurdle appears to be the collection of data on these identities. Multiple firms reported that they didn't collect data on these identities at the time of the survey, and some firms reported no numbers in these categories. For those firms reporting numbers¹², LGBTQ individuals were 2 percent of all equity partners and persons

¹⁰ People of color (here, including Black, Asian, and Latino individuals), make up an average of 19 percent of associates. That percentage is higher at higher-ranked firms, so Quartile 1 firms (AmLaw 1 – 50) report 23 percent associates of color, whereas the remaining quartiles report 17-19 percent associates of color. Note that we collected data on additional racial/ethnic groups, such as Native Americans, but their numbers were so small as to not affect the people of color aggregate described above.

¹¹ There were some noticeable differences between the AmLaw Quartiles for representations of various diverse groups among equity partners. Women were 17 – 19 percent of all equity partners across the AmLaw 200. Blacks were about 1.5 percent of equity partners across the AmLaw 200. Persons with disabilities were about half a percent of equity partners across the AmLaw 200. There was a noticeable difference especially in the percentages of Asian equity partners at AmLaw 50 firms (Quartile 1). These firms reported higher percentages of Asian equity partners (5 percent compared to 1 – 2 percent in the other quartiles). These firms also reported slightly higher percentages of Latino equity partners (3 percent compared to 1 – 2 percent in other quartiles) and slightly higher percentages of LGBTQ individuals as equity partners (3 percent compared to 2 percent).

¹² Firms that reported “0” in these categories could have been indicating they had no people in these categories to report or that they didn't have numbers to report for lack of collecting data. If firms entered a number (including “0”) rather than indicating they don't collect the data or leaving it blank, they were included in the calculation.

2017 NAWL Survey at a Glance

- The likelihood that women will become equity partners remains largely unchanged in the last 10 years (16% in 2007 to 19% in 2017).
- Despite being hired in nearly equal numbers as men at the associate level, women are the minority of both equity (19%) and non-equity partners (30%).
- The gender pay gap persists across all levels of attorneys, with men out-earning women from associates to equity partners. Women earn 90 – 94% of what men in the same position earn.
- Among equity partners, women work just as many hours as men, but their client billings are 92% of those of men.
- Men continue to dominate the top earner spots. 97% of firms report their top earner is a man, and nearly 70% of firms have 1 or no women in their top 10 earners.
- Women make up 25% of firm governance roles, such as serving on the highest governance committee, the compensation committee, or as a managing or practice group partner/leader, nearly doubling in the last decade.
- Firms with established to mature women's initiatives had a higher percentage (18-19%) of women equity partners compared to firms with newer initiatives.
- The median woman equity partner earns 94% of what a median man equity partner makes in firms with more established women's initiatives, compared to 82% in the handful of firms reporting relatively new initiatives.
- People of color make up about 6% of equity partners, and women of color are only 2% of equity partners. Openly LGBTQ people represent only 2% of equity partners, and persons with disabilities represent less than 1%.

“Women are slightly more likely to be equity partners in firms with a one-tier partnership model compared to a two-tier model.”

with disabilities were less 0.4 percent of all equity partners. LGBTQ individuals are 3 percent of associates, 2 percent of non-equity partners, and 2 percent of non-partner track attorneys. Persons with disabilities are less than 1 percent of all associates, non-equity partners, and non-partner track attorneys.

Firm Governance Committees: Women have also consistently been underrepresented amongst the leadership positions in the law firm, such as participation on the governance committee(s) that oversee the operations of the firm and sometimes set compensation. While the particular name and function of the highest level governance committee varies across firms, the responding firms reported an average membership for those Governance Committees of 12 people, and on average 3 of those 12 (25 percent) are women (compared to 20 percent in 2012 and 15 percent in 2007). Thus, in the last 10 years, the participation of women on these committees has increased substantially, with the 2017 numbers nearly double those from 2007. This increase in representation for women has not resulted in representation by other diverse groups. The average Governance Committee of 12 people has only one person of color and fewer than one LGBTQ person or person with a disability.

Compensation Committees: For 45 percent of responding firms, the highest Governance Committee sets compensation for equity partners. The other 55 percent of firms reported having dedicated compensation committees, and the average Compensation Committee looks similar to the high-level governance committees.¹³ The average membership of the Compensation Committee is also 12 people, and the average number of women is also 3 of those 12 (25 percent).¹⁴ The numbers for women are the best of any underrepresented group, with only 1 of 12 (8 percent) likely to be a person of color, and fewer than one, on average, is likely to be

openly LGBTQ or a person with a disability.

In addition to serving on governance committees, managing partners at the firm, office, and practice group levels provide additional leadership opportunities. The average firm has two firm-wide managing partners, and fewer than one woman, person of color, LGBTQ, or person with a disability among them. Only 18 percent of firms report having a woman among their firm-wide managing partners. In addition, only 6 percent of firms have a person of color, 3 percent of firms have an LGBTQ individual, and 1 percent of firms have a person with a disability serving in this role.

Most firms (93 percent) also report having office-level managing partners. On average, firms have 12 of these office-level managing partners, and on average 3 are women (25 percent), one is a person of color (8 percent), and fewer than one are LGBTQ or a person with a disability. Finally, 80 percent of firms report having practice group partners/leaders. Firms have an average of 25 practice group partners/leaders, and of those 25, 6 (24 percent) are women, 2 (8 percent) are people of color, and fewer than 1 are LGBTQ or a person with a disability.

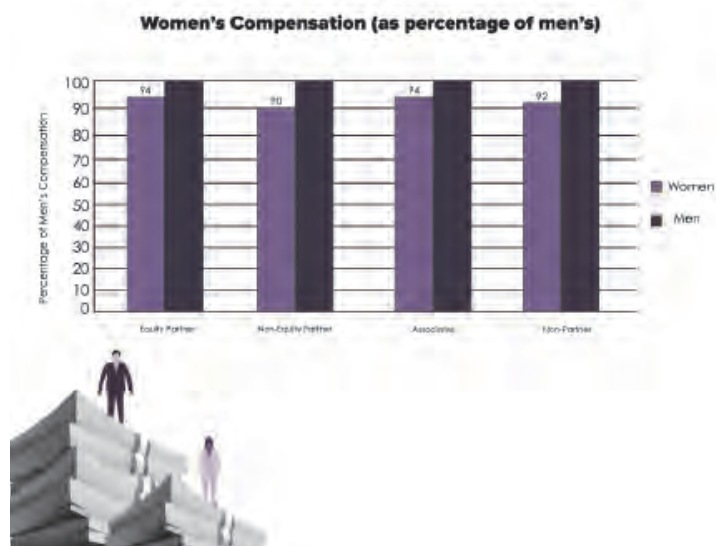
Across the governance positions in the law firm, in terms of committees and managing positions, the results are quite consistent, with women representing about 25 percent of all of these positions. In addition, with relatively little variation, this remains true across the AmLaw 200 spectrum.

Compensation and Hours: Overall, the patterns established by 10 years of NAWL studies persist, even in the face of modest gains for women in terms of compensation. It remains true that the gender gap in compensation that continues to persist across all levels and types of attorneys is not explained by hours worked,

¹³ The size of Governance and Compensation Committees do differ across the AmLaw 200 given the differences in firm size. Quartile 1 and 2 firms (AmLaw 100) average 14 to 15 members on the Governance Committees compared to 8 to 12 members for Quartile 3 and 4 firms. The AmLaw 100 averages 12 to 14 members on dedicated Compensation Committees compared to 8 to 10 members for firms in the AmLaw 101 – 200. Regardless of AmLaw rank or committee size, all responding firms showed 20 – 25 percent women on both their Governance Committees and Compensation Committees.

¹⁴ This year's data does not show a relationship between the number of women on the committee that sets compensation and compensation for women and men equity partners, but previous NAWL surveys and other research have shown this relationship, supporting the theory that more women on these committees would help decrease the gender pay gap.

as men and women work similar numbers of hours.



Compensation¹⁵

97 percent of responding firms reported that their most highly compensated partner is a man. Further, of the top 10 earners in the firm, most firms (69 percent) reported that no more than one of those 10 rainmakers was a woman. The maximum number of women in the top 10 earners reported was 5 of 10, which was reported by only one firm. In 2007, 90 percent of firms reported on the NAWL Survey that their top earner was male.

Across all types and levels of attorneys, men made more per year than women, and this pattern existed without significant variance across the AmLaw 200 for all attorney types and levels. Across lawyer types, this year's data show women attorneys making 90 percent to 94 percent of what male attorneys in the same positions are making. It's important to note that there may be increasing equity at the median compensation level, for individuals at the middle of the compensation distribution, but this pattern co-exists with a persistent pattern that women are not represented among the most highly compensated attorneys at law firms. It is possible that the pay gap is closing in the middle, but widening at the extremes. Unfortunately, the present data set doesn't allow for further investigation of this point.

Among equity partners, the median man makes, on

average, about \$46,000 more a year than the median woman (\$688,878 vs. \$642,583, respectively). This pattern persists across the AmLaw200, and on average, the median woman equity partner makes 94 percent of what the median man equity partner makes. The 2012 NAWL Survey found that women equity partners were making 90 percent of what men equity partners were making. Ten years ago, the 2007 NAWL Survey reported that women equity partners were making 86 percent of men equity partners.

When we look at median client billings for equity partners, the median men equity partners also bill more than the median women equity partners (\$1,328,478 vs. \$1,219,967, respectively). On average, the median woman equity partner bills 92 percent of what the median man equity partner bills. This suggests that disparities in compensation, at least among equity partners, may align with differences in client billings between men and women. On the other hand, this raises questions as to how client billings are generated and how credit is assigned for client billings.

For non-equity partners, the median man makes, on average, about \$25,700 more a year than the median woman (\$298,380 vs. \$272,680, respectively). This pattern persists across the AmLaw 200, and on average, the median women non-equity partners make 90 percent of what the median men non-equity partners make. The 2007 NAWL Survey reported the same disparity, with the median women non-equity partners making 90 percent of the median men equity partners.

For associates, the median man makes, on average, about \$10,000 more a year than the median woman (\$171,400 vs. \$161,439, respectively). This pattern persists across the AmLaw 200, and on average, the median women associates make 94 percent of what the median men associates make.

For non-partner track attorneys, including staff attorneys and counsel attorneys, the median man makes, on average, \$14,450 more a year than the median woman (\$178,123 vs. \$163,670, respectively). This pattern persists across the AmLaw 200, and on average, the median women non-partner track attorneys make 92 percent of what the median men non-partner track attorneys make.

¹⁵ As in the past and mentioned previously, the response rate for the compensation and billing questions is lower than that for the other sections of the survey. For the compensation questions, we had an n = 41, representing 20 percent of the AmLaw 200 and 45 percent of the responding firms. As with the overall response rate, those firms in Quartile 1 (AmLaw rank 1 – 50) were the least likely to respond, with only 16 percent of the responding firms from that Quartile providing the data compared to up to 64 percent of the responding firms in Quartile 3 (AmLaw rank 101 – 150) providing the data.

Hours¹⁶

It has often been suggested that one reason for gender pay gaps in law firms is that women work fewer hours than men. But the results here, as in past NAWL surveys, show that overall there are no significant differences between the median hours completed by male and female attorneys of different levels and roles. For example, for median women and men equity partners, there was essentially no difference in median billable hours on average (1515 vs. 1532 hours, respectively).¹⁷ For total hours, billable and non-billable hours combined, there was also no significant difference between the median women and men equity partners (2116 vs. 2088 hours, respectively) in hours recorded. The biggest, although still small, differences appeared amongst associates, with the median men associates recording more billable and total hours than the median women associates (2059 total hours for men associates vs. 1997 total hours for women associates and 1773 billable hours for men associates vs. 1684 billable hours for women associates). Women equity partners and associates completed more non-billable hours, which includes administrative service and other service to the firm hours, diversity and inclusion hours, trainings, etc., as well as some or all pro bono hours, a pattern that has also been shown in past surveys.¹⁸



Women's Initiatives

While the general trends of gender gaps and underrepresentation persist and the gains have been modest at best, Women's Initiatives have emerged as well-accepted, well-utilized efforts for improving the experiences and trajectories of women in law firms.

NAWL last published a comprehensive survey of Women's Initiatives in law firms in 2012, and this year's survey addressed these initiatives in more detail than previous NAWL Surveys in order to follow-up on what has happened in the five years since the 2012 NAWL Women's Initiative Survey.

Essentially all responding firms (99 percent) reported having a Women's Initiative, and this number represents firms all across the AmLaw 200 rankings. Over the

last decade especially, law firms have increasingly committed to establishing these initiatives and corresponding programming. In NAWL's 2007 Survey Report, 93 percent of firms reported having some form of a Women's Initiative, and many of those are likely identified in this year's survey as established to mature programs. Specifically, 95 percent of firms report that their Women's Initiatives are established to mature, and 31 percent reported that although their initiative is established, they're still actively growing. In addition, reflecting the increase of the last few years, 4.5 percent of firms reported relatively new Women's Initiative efforts, including some that have been started up in recent months.

Mission & Objectives: Most (91 percent) firms reported

¹⁶ The response rate for the billing questions was higher than that for the compensation questions, up to n = 54, although still less than the overall response rate for the survey. As with the compensation data, the firms that were the least likely to provide information were those in Quartile 1 (AmLaw rank 1 – 50), with 62 percent of firms from this quartile who completed the survey providing hours data compared to, for example, the 84 percent response rate for the hours questions for responding firms from Quartile 3 (AmLaw rank 101 – 150).

¹⁷ Equity partners at Quartile 1 firms bill more hours than those in the other quartiles, with Quartile 1 equity partners averaging about 1650 billable hours and equity partners in the other quartiles averaging 1501 billable hours. Across the quartiles, there appears to be no significant difference in hours billed between men and women equity partners. For total hours, Quartile 1 equity partners again record more hours compared to those from the other quartiles (average 2302 total hours vs. 2053 total hours). For total hours, there appear to be some small differences between men and women equity partners at the higher ranked firms, with women equity partners recording more total hours than men (in Quartile 1, women recorded 2352 total hours to men's 2253 total hours).

¹⁸ Social science research supports the notion that women are more likely to engage in this type of service to the organization, see also, Sheryl Sandberg and Adam Grants, "Madam C.E.O., Get Me a Coffee," available at www.nytimes.com/2015/02/08/opinion/sunday/sheryl-sandberg-and-adam-grant-on-women-doing-office-housework.html.

that they had mission statements specifically for their Women's Initiatives, up from 75 percent in the 2012 NAWL WI Survey Report. Further, 87 percent reported that their Women's Initiative is part of the strategic plan of the firm, up from 47 percent in 2012. In addition to Women's Initiatives being incorporated into the strategic vision of the law firm, essentially all firms also reported that they had specific objectives for their Initiatives. Finally, 100 percent of firms reported that their Women's Initiative is part of the firm's diversity plan, up from 85 percent in 2012.

Budget & Resources: In terms of resources, 87.5 percent of firms reported that they had specific budgets for their Women's Initiatives, and a few firms indicated that their Women's Initiative budgets fall under the umbrella of their broader diversity budgets. For those firms that have dedicated budgets, the average Women's Initiative Budget was \$154,799, compared to the average \$119,000 reported in 2012. Firms in Quartile 1 (AmLaw 1 – 50) reported significantly larger budgets, averaging \$396,320 compared to \$194,409 for Quartile 2 (AmLaw 51 – 100) firms and an average of \$59,159 for firms the AmLaw 101 – 200 (Quartiles 3 and 4).

“Women are more likely to be represented in those positions that are either non-partner track and/or lower status than the ownership position of equity partner.”

Organizational Infrastructure & Support: Firms take different approaches to the structural integration of their Women's Initiatives, but 79.5 percent report having a hybrid structure that involves both firm-level budget and strategy, as well as specific activities (and sometimes budget and strategy) determined at a more local level. Specifically, most firms (72 percent) report that Women's Initiative leaders are in place at the firm level, with 33 percent reporting a firm-level Chair, another 33 percent reporting firm-level Co-Chairs, and another 6 percent reporting a firm-level planning committee. Some firms reported multi-layered levels of leadership from the firm-level down to the office level, but it was clear that most firms see the head of the initiatives at the firm-level.

Diversity initiatives are more successful when they are inclusive of as many people as possible, including

majority and underrepresented individuals and groups.¹⁹ For that reason, we were interested in the participation of men in various aspects of the Women's Initiatives. While most firms left the leadership of their initiatives to women, 45 percent of firms report that they have men who participate in the leadership roles of the Initiatives (e.g., serving on the planning committee). Most firms report having support from men in the law firm for both the Women's Initiative and their female colleagues in the firm: 98 percent of firms report that there are men in the firm who advocate for the Women's Initiative specifically, and on a more interpersonal level, 99 percent of firms report that there are men who advocate on behalf of women in the firm, including by serving as mentors and sponsors.

In addition to firms providing firm-level support and resources, many firms report that there is also active monitoring of the career trajectories of women in the firm. For example, many firms report monitoring promotion rates and succession plans by gender taking into account the performance of women compared to men in these processes. Some firms even report monitoring work assignments by gender.

Participation: There is widespread participation in the Women's Initiative programming across the different levels and positions in the firm. Women partners and

partner-track associates are the most active participants, with 91 percent of firms reporting that at least half of their women partners participate in Women's Initiative events and programs and 87 percent of firms reporting that at least half of their women associates participate. Access to Women's Initiatives is not limited to partner-track attorneys in most firms, and 72 percent of women non-partner track attorneys (e.g., staff attorneys, counsel attorneys) also participate in the programming. These initiatives also include men in the firm, and 85 percent of firms report that at least some men participate in the Women's Initiative events and programming.

Trainings Offered: Most firms (56 percent) report that their Women's Initiatives are “very active,” with 97 percent of firms reporting they sponsor programming at least quarterly and 52 percent of firms holding programs monthly.

¹⁹ See e.g., Christine Riordan's "Diversity is Useless Without Inclusivity," available at www.hbr.org/2014/06/diversity-is-useless-without-inclusivity.

Inside of the Women's Initiatives, most firms report offering programming and events focused on business development training, soft skills training, and development in topic areas like negotiation, navigating the law firm world, and management and leadership training. In addition, most law firms offer networking opportunities with other women, as well as with others in the firm and clients. Formal mentorship and sponsorship programs are also common. Many firms report that the men who are active with the Women's Initiatives at their firms are also participants in these same programs.

Firms also engage in training outside of Women's Initiatives that often serve similar purposes as those provided through either Women's or Diversity Initiatives. For example, 79 percent of firms report offering implicit bias training, 37 percent offer microaggression or micro-inequity training, 87.4 percent offer diversity and inclusion training, 97.7 percent offer business development training, and 87.4 percent offer management and leadership training.

Women and Family Friendly Policies: In addition to active Women's Initiatives aimed at training and skill development, we also asked firms about policies that are understood to benefit and support families, and women in particular, such as flexible and part-time work schedules and help transitioning back into work after a family leave. Most firms reported offering both flexible and part-time work schedules, as well as on-ramping for those attorneys returning from family leaves. As reported above, most firms reported allowing partner-track attorneys who work part-time schedules to be promoted to partner, although it was more likely for firms to allow this for non-equity partnership promotion than equity partner promotion. In other words, most firms report allowing for flexible or part-time work schedules that don't prevent the possibility of future promotion.

Impacts & Outcomes: Nearly all firms (91 percent) reported that they attempt to measure the outcomes of their Women's Initiatives, and they look at factors like the business development of women in the firm, the relationship development for women with clients, others in the firms, mentors, etc., as well as the representation of women in leadership positions. For those firms who reported having established to mature Women's Initiatives, there also seem to be some potential impacts on representation of women as equity partner, as well as compensation. The few firms with newer initiatives had

lower percentages of women equity partners (12 percent compared to the 18-19 percent for firms with established to mature initiatives). In addition, the pay gap between women and men equity partners was smaller in firms with more established to mature initiatives than those with newer initiatives (the median woman equity partner is earning 94 percent of what the median male equity partner makes in firms with more established initiatives compared to 82 percent in the handful of firm reporting relatively new initiatives).

Continued Challenges for Women & Law Firms

As the full Survey Report shows, despite the near universal adoption of Women's Initiatives aimed at improving the position of women in the law firm, women's progress toward equity partnership in the law firm has changed relatively little over the last 10 years, even while seeing gains in some other areas such as firm governance committees and newer classes of equity partners. In addition, given the pressure many women and men alike feel to record their hours in order to advance in the law firm, the additional time required to participate in optional programming like the Women's Initiative are considered to be an additional burden on their time by some younger women attorneys, a challenge that often has to be navigated by underrepresented groups in many settings inside and outside the law firm. There is some suggestion from the findings that over the long run, as Women's Initiatives mature, programming like this may have an incremental impact on outcomes like the representation of women in higher status positions in the firm like equity partner and increasing pay equity, at least at the median.

Given the slow, if not stalled, progress of women in leadership roles in law firms, we asked firms what they thought interfered with the promotion of women. Many firms reported that the difficulties for promoting women were rooted in the difficulties faced in just retaining women at the law firm more broadly. Most firms reported that the work schedule required for law firm work (67 percent) and competition from outside the firm (75 percent) were the 2 major factors affecting whether they could keep women at the firm and on the partnership track. In addition, others acknowledged that given the business development that's required to advance in the law firm, for those women that stay on the partner-track, they face additional hurdles in light of the difficulty of building an adequate book of business, as well as navigating the credit allocation structures.

These hurdles may be heightened due to the non-standardized, case-by-case nature of succession planning and some credit allocation structures at many firms that likely favor the groups historically represented in those ranks, namely White men. And as challenging as the picture may continue to look for women in law firms, for other diverse groups such as people of color, LGBTQ, and people with disabilities, it's a steeper uphill battle still.

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2017

ANNUAL SURVEY REPORT

NAWL
THE PROMOTION
AND RETENTION
OF WOMEN IN
LAW FIRMS



Championing diversity for the greater good.

McDermott applauds the National Association of Women Lawyers (NAWL), and we thank you for all you do on behalf of women in the legal profession. McDermott is continually recognized as one of the best places to work for women, and we are privileged to work with NAWL.

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LAW FIRM COMPENSATION: A MODEL OF COLLABORATION

Some firms are addressing the compensation question by creating multiple categories of origination credit to account for the various types of contributions a lawyer can bring to the table.

By Jena M. Valdetero

Clients are more likely to have multiple business units that are each responsible for independently retaining outside counsel.

FORTY-FOUR PERCENT. That's how much more male partners in Big Law firms earn than their female counterparts according to one 2016 study. The 2017 National Association of Women Lawyers Survey on Promotion and Retention of Women in Law Firms showed women make only 90 to 94 percent of what men make across all levels (see article, page 10). The No.1 factor that accounts for the gap? Who is bringing in business or, rather, who is getting the credit.

Law firms can be slow to embrace change. It should come as no surprise then that Big Law's emphasis on origination credit – which typically is allocated to only one or two lawyers – is still the primary way most firms measure productivity and contribution. The problem is that this compensation model accounts largely for the wide gap in pay between male and female partners.

This model often rewards the loudest voice in the room – the person most likely to demand credit and to get it. Research has shown that, at least with respect to compensation, women actually do ask for raises as frequently as men do. We are just 25 percent less likely to actually get them. It logically follows that the same bias occurs when women ask for origination credit.

The origination credit model also does not recognize how business is increasingly being won. The days where all legal work for a client was distributed through one general counsel who has unfettered discretion to hire his law school roommate are disappearing. In the past, the work was truly brought in by one person, who received credit for that client. The case for compensating the partner on an “eat what you kill” basis made more sense in that scenario.

Today, however, clients are more likely to have multiple business units that are each responsible for independently retaining outside counsel. A company may already be a client, but chances are that another attorney in the firm has her own relationship with a different in-house contact. Even if she brings in new business, she may have to share credit with the

relationship partner who had no role in bringing in the new work.

Post-recession, clients are also focusing more on value and expertise and less on long-standing relationships. This is good news for women, who tend to shine in situations where the potential client has specifically asked them to pitch business and showcase their experience and where collaboration is necessary to achieve the end goal.

Some firms, however, continue to struggle with how to award credit under these circumstances because often the lines are not clear. In the post-recession example above, a compelling argument can be made for giving a portion of credit to the original relationship partner for the new work. An equally compelling argument can be made for crediting the lawyer who independently sold business to her contact.

Or consider the client who was brought in years ago because of a relationship that no longer exists, but stayed because the work was primarily being done by a different lawyer who provides excellent client service. What is fair attorney compensation? These types of questions can lead to uncomfortable discussions that can potentially reinforce outdated thinking. And that often disproportionately impacts women attorneys in a negative way, both in terms of compensation and equity partnership.

What is the solution? How do you incentivize lawyers to cross-sell business to an existing client or

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Clients are focusing more on value and expertise and less on long-standing relationships

work together on a client pitch when the financial benefit is uncertain at best, and nonexistent at worst?

Some firms are addressing this issue by creating multiple categories of origination credit to account for the various types of contributions a lawyer can bring to the table when pitching client work. For example, a lawyer can be credited for having the original relationship with a client, but a lawyer can also be credited with bringing in work for an existing client through her independent relationship.

Under this model, a firm can create a rule that an attorney may not take more than one category of credit unless the attorney can make the case that the work was truly brought in and performed by only one lawyer. This helps eliminate an unfair credit situation where a lawyer assigns himself credit across multiple categories when it should be distributed among a team of lawyers. Oversight and accountability are key here, but firms are increasingly looking to automate the process for ensuring credit is accurately allocated. For example, an automatic email can be generated within, say, 30 days of opening a new matter that reminds even the most well-meaning attorneys to


either assign credit to others or explain the basis for the overlapping designations.

The credit designations also should be reviewed at a managerial level by either the office managing partner or practice group leader to determine whether credit is being appropriately allocated. If there is a concern, management should address the issue with the relationship attorney directly to discuss that attorney's reasoning behind the credit designations. Making this conversation a management issue will help minimize the pressure on the individual lawyer to self-advocate. It won't be up to a more junior partner to feel like she has to "take on" the credit issue against her more senior counterpart. It will be up to management, where any power differential should be minimized.

Finally, the credit designations need to be regularly reviewed as a client relationship matures to make sure that those designations still hold true. Has the responsibility for bringing in new work shifted to someone else? If the senior partner is retiring, is the work fairly being passed on to a lawyer who has an established relationship with the client, or is it being given to the senior partner's protégé who has not served this client?

Finally, firms should be willing to recognize the various credit designations as bearing somewhat similar weight when it comes to making compensation decisions. That may be tricky because some lawyers naturally will resist change, particularly when they may be the beneficiaries of the status quo and firms can legitimately justify tying compensation to business development. But diversity benefits everyone, and firms may have trouble attracting and retaining diverse talent if they are not willing to acknowledge that the playing field is not always level and equal contribution does not always mean equal rewards. Firms that are committed to supporting women in business have figured that out and in the long run will thrive. ■

The credit designations need to be regularly reviewed as a client relationship matures to make sure that those designations still hold true.



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Sixty years later and equality has not been achieved

The gender pay gap is alive and well, especially within the legal industry.

By Mason Cole



Mason Cole is the founder partner of Cole Sadkin, LLC. He focuses his practice on intellectual property. He is a frequent speaker on the topic of intellectual property and serves as president of YPB within the Small Business Advocacy Council.

THE EQUAL PAY ACT enacted in 1963 took aim at the severe inequality of pay in the United States. At that time, women earned 62 percent of a man's yearly earnings. Fast forward 50 years, and the gap has been reduced to women earning roughly 80 percent of what men earn over a year for the same job. Unfortunately, the gender pay gap is alive and well, especially within the legal industry.

FEDERAL ATTEMPTS TO REDUCE THE GAP

Americans began the crusade against the gender pay divide in 1963. The federal Equal Pay Act mandates that men and women in the same workplace earn equal pay for equal work. This is determined by several factors: skill, effort, responsibility, working conditions and establishment. While progress has been made, this lone act falls short of its objective.

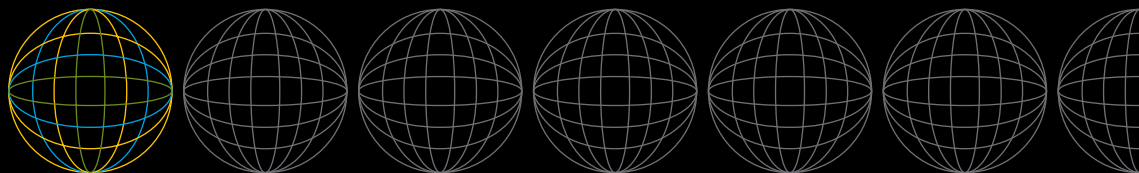
In 2009, the Obama Administration placed the issue in its sights and passed the Lilly Ledbetter Fair Pay Act. This act extended the rights to file for pay discrimination lawsuits to 180 days after each individual paycheck, rather than from the original pay decision. Despite the

federal government's attempts to eliminate the pay gap, it still sits at an average of 78 percent.

AMPLIFIED IN THE LEGAL INDUSTRY

The gender-based wage gap has shrunk since efforts to combat it began in the 1960s. However, there is still a lot of ground to cover. The divide is more apparent in some professions over others, but it is often quite severe in the legal industry. A survey conducted by Major, Lindsey & Africa (bit.ly/wlj_nyt_pay) found that female partners at law firms earn a meager 44 percent of their male counterparts. Additionally, the median pay for women in the legal industry sits at 51 percent of what men earn, according to 2014 census data (bit.ly/wlj_census) and the 2017 National Association of Women Lawyers Survey on Promotion and Retention of Women in Law Firms shows that women attorneys make 90 to 94 percent of what men attorneys at the same level make (see article, page 10).

A deeper dive into the analytics behind the pay disparity reveals a few clues as to why the gap is larger



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Pay differences fluctuate with job titles

in the legal industry. Data shows that depending on the job title, pay difference fluctuates. According to Sky Analytics, women make up 75 percent of paralegals and 22 percent of partners. The gender-based pay gap for paralegals sits at 94 percent, whereas among partners it is at 44 percent. The difference in roles contributes to the divide. However, the issue plagues the legal industry in other forms, such as job and salary growth. When women ask for promotions it is perceived much

When women ask for promotions it is perceived much differently than when a man asks.

differently than when a man asks. This means that women who stay at a law firm do not always see their pay increase, despite men seeing theirs rise. This is a significant contributor to the pay divide, and is likely not limited to the legal industry.

SOLUTIONS BEYOND THE FEDERAL GOVERNMENT

Currently, the issue appears to be stagnant in Congress. If we want to reach a solution to this issue, it will need to be taken into the hands of individuals, local governments and businesses. California is a leading example, as their fair pay act is among the most aggressive state-level pay equality laws currently enacted. Under their state law, employees may compare their earnings to employees of another company as long as the work performed is substantially similar. Furthermore, California limits the excuses a company can use to justify a difference in pay.

The gender-based wage gap exists in all industries, and closing the divide has been the topic of many discussions. Perhaps the next step towards progress lies in the decisions of individual firms, corporations and state governments to actively seek pay equality. Regardless, the conversation surrounding the topic should not slow down, nor be dismissed, as that will only be counterproductive to progress. ■



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Scenes from GCI 13

From keynotes and workshops to plenaries and networking, NAWI's Thirteenth General Counsel Institute ("GCI 13") had something to offer everyone.

Photos: Marty Morris/MPM Photography LLC



Attendees from Bank of America pose for a photo between sessions at NAWI's Thirteenth General Counsel Institute.



Thursday, the luncheon Keynote speaker was Sabine Chalmers, General Counsel, BT Group.





Friday Luncheon Keynote Speaker, Paula Boggs, former executive vice president, general counsel, and secretary, Law and Corporate Affairs, at Starbucks Corporation.



(From left to right) General Counsel panelists Ramona E. Romero, General Counsel, Princeton University; Julie Hobbs, Managing Director and General Counsel of Morgan Stanley's Private Bank; Chris Lewis, Principal, General Counsel, Edward Jones; Eve Konstan, Executive Vice President and General Counsel, HBO.



Panelist Katherine Blair, Partner, Manatt, Phelps & Phillips, LLP laughs during GCI 13 session entitled "Beware the Unwary: Ethical Issues in Navigating A Bet-The-Company Deal".



(From left to right) Cari A. Wint, Senior Counsel, Bristol-Myers Squibb Company; Nicole Levin Mesard, Partner, Debevoise & Plimpton LLP; Mary Beth Hogan, Partner & co-chair of Litigation, Debevoise & Plimpton LLP; Helen V. Cantwell, Partner, Debevoise & Plimpton LLP discuss the courage to say yes across generations during the opening session of NAWT's Thirteenth General Counsel Institute.

NAWL welcomes new members

Membership in the National Association of Women Lawyers has many advantages, among them, opportunities for continuing legal education, a subscription to the Women Lawyers Journal, leadership development and professional networking with other members. Please welcome these new members who joined to take advantage of these and the many other member benefits provided by NAWL.

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