





#### 2011 NAWL ANNUAL MEETING — NEW YORK, NEW YORK

Brooksley Born, retired partner of Arnold & Porter, poses with Heather Giordenella, NAWL President, after receiving the NAWL Public Service Award. Ms. Born was head of Arnold & Porter's derivatives practice, chaired its pro bono committee, and served on its policy committee during her more than thirty year career there. From 1996 to 1999, she was chair of the U.S. Commodity Futures Trading Commission and from 2009 until early 2011 served as a Commissioner on the U.S. Financial Crisis Inquiry Commission.

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#### ABOUT WOMEN LAWYERS JOURNAL

#### FDITOR

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Women Lawyers Journal is published for NAWL members as a forum for the exchange of ideas and information. Views expressed in articles are those of the authors and do not necessarily reflect NAWL policies or official positions. Publication of an opinion is not an endorsement by NAWL. We reserve the right to edit all submissions.

#### 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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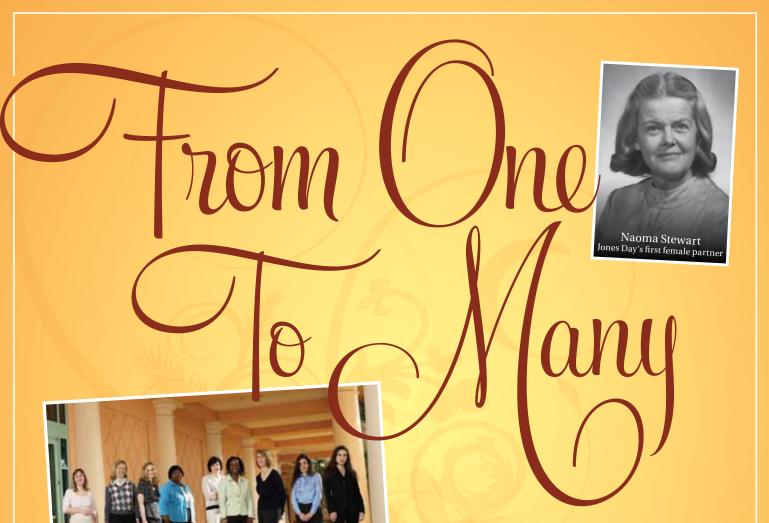
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NAWL Annual Meeting and Awards Luncheon photos taken by Paula Vlodkowski.

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#### NATIONAL ASSOCIATION OF WOMEN LAWYERS



#### About NAWL

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.

By joining NAWL, you join women throughout the United States and overseas to advocate for women in the legal profession and women's rights. We boast a history of more than 100 years of action on behalf of women lawyers. For more information about membership and the work of NAWL, visit www.nawl.org.

#### **BENEFITS OF MEMBERSHIP**

- A voice on national and international issues affecting women through leadership in a national and historical organization
- Networking opportunities with women lawyers across the United States
- Access to programs specifically designed to assist women lawyers in their everyday practice and advancement in the profession
- A subscription to the quarterly Women Lawyers Journal and the ability to be kept up to date on cutting edge national legislation and legal issues affecting women
- The opportunity to demonstrate your commitment and the commitment of your firm or company to support diversity in the legal profession.

#### **CONTACT NAWL**

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#### **EDITOR'S NOTE**



In October, NAWL and the NAWL Foundation published the sixth annual National Survey on Retention and Promotion of Women in Law Firms and it is included in this issue for everyone to read. This year's Survey, as last year's, included information regarding women as rainmakers in their firms as well as the impact that lawyer terminations have had on women lawyers. This year's Survey shows that women represent a decreasing percentage of lawyers in big firms and even more disconcerting, women have a greater chance to occupy positions that have diminished opportunities for participating in firm leadership and advancement. Women continue to be underrepresented in the leadership ranks, equity partner ranks, and as rainmakers and continue to earn less than their male counterparts. In fact, this year, the compensation gap widened — women equity partners earned only 86% of the compensation earned by their male colleagues. The Survey helps makes the business case for advancement of women into law firm leadership. A copy of the Survey is also available for download on the NAWL website — www. nawl.org. I urge you to read the entire Survey and circulate it to your colleagues. The information contained in it can help in implementing changes that will move women forward into law firm leadership.

In this issue, we celebrate NAWL's Annual Meeting and Awards Luncheon and its many well-deserving honorees. Please take a look at the pictures contained in this issue as well as those on our newly re-designed website at www.nawl.org. I highly recommend that you log onto the website and explore all that NAWL has to offer — committees, events, publications, articles of interest. Reach out to any of the committee chairs that you are interested in and get involved. It's a worthwhile experience. You should also read the article in this issue about finding your personal advisory board by Ida Abbott. As the Survey number indicate, women are not advancing in law firms at the rate they should be and a personal advisory board is but one tool you should be utilizing to make your way. We also have a book review of Mika Brzezinski's book entitled, "Knowing Your Value: Women, Money, and Getting What You're Worth," as reviewed by Donna Gerson. Read these articles and then pass them along to a friend or colleague as well.

In addition, we have a competition winner here. For the sixth year, NAWL has sponsored the Selma Moidel Smith Law Student Writing Competition, which was established to encourage and reward original law student writing on issues concerning women and the law. The winning essay is entitled "All Things Being Equal, Women Lose. Investigating the Lack of Diversity Among the Recent Appointments to the Iowa Supreme Court by Abigail A. Rury, a law student at Michigan State University Law School. Congratulations, Abigail, on a job well done!

I hope you enjoy all of the information contained in this issue. There is a lot of food for thought and ways to make some changes going forward so that 2011 will be a successful year for all.

I love hearing from our members and readers about what they like and don't like about the *Women Lawyers Journal*. If you have suggestions or want to write an article, please drop me an email. I hope you enjoy the issue!

Warm wishes,

Deborah S. Froling, Editor Arent Fox LLP Washington, D.C. froling.deborah@arentfox.com

#### PRESIDENT'S LETTER



It was such an honor to assume the office of President of the National Association of Women Lawyers at our Annual Meeting and Awards Luncheon this past July.

Every year, we gather to celebrate NAWL, its accomplishments and those who are committed to the interests of women in and under the law. And in doing so, we are reminded that, in 1899, a group of visionary women in New York City laid the foundation for NAWL. We are fortunate that these pioneers had the foresight to recognize the need for a national bar association for women lawyers. For 112 years, NAWL has thrived and continuously served as the voice of women in the law $^{\text{TM}}$ .

As we forge ahead, NAWL will *reflect on the past, evaluate the present, and strive to create a future* that embraces the advancement of women. We invite our members, supporters, and friends to join us as we look to the past for inspiration and wisdom, assess where we are today and the challenges that remain and find ways to build a future profession that is more diverse.

The history of NAWL is a rich one. From supporting the suffrage movement and ratification of the 19th Amendment, to helping women attain the right to practice law independently, to taking a leadership role in creating opportunities for women to serve in the military, to drafting laws, including the first Uniform Divorce Bill, to supporting nominees to the Supreme Court of the United States, NAWL has been there making a real difference. Since its inception, NAWL has provided a forum for all of these purposes (and many more), and the results of its efforts in bringing everyone together to advance its mission will continue to serve as a powerful source of inspiration as we move forward.

In addition to looking to the past for guidance, we also will evaluate, and be engaged in, the present. If we want to continue to propel women lawyers forward, we must be in a position to gauge where women are today and to evaluate the things we are doing to support their promotion and retention. Based on the most recent Survey report issued by NAWL and the NAWL Foundation, we learned, among other things, that the percentage of women equity partners has essentially remained *unchanged* over the last six years and there has been a slight decrease in women entering law firm practice. These results tell us that we need to continue evaluating why the percentage of women equity partners has not improved, and we must engage in meaningful discussions regarding ways that we can protect the pipeline of women in law firms and cause positive change in the coming years.

To address the issues highlight in the Survey, we hosted a series of three Summits designed to bring together thought leaders for the purpose of sharing their experiences and ideas about practices that have or have not worked. Based on the information and ideas gathered through the Summits, we will issue a report regarding solutions that will help advance women in law firms and corporate legal departments.

During the upcoming year, we also will engage our members and supporters through other programs, including several Networking Nights of Giving, our Mid-Year Meeting in Los Angeles, a variety of webinars and regional programs, a Supreme Court Program, and our very first International Conference in London next Spring.

With respect to the future, NAWL will continue its goal of advancing women as part of a more diverse and inclusive profession. This is something for which we should strive not only as an organization, but as members of the legal community and the world at large. To that end, we look forward to collaborating with our members, sponsors, supporters, and friends, and know that, through our collective efforts, we can and will accomplish great things.

Warmest Regards,

**Heather C. Giordanella** Drinker Biddle & Reath LLP NAWL President, 2011-2012

#### **EVENT HIGHLIGHTS**

# NAWL Annual Meeting and Awards Luncheon

July 21, 2011, New York, New York

At NAWL's Annual Meeting and Awards Luncheon in New York, New York, Jamie Gorelick, Partner at Wilmer Cutler Pickering Hale and Dorr LLP was awarded the Arabella Babb Mansfield Award by NAWL President, Dorian Denburg. The award was given as part of NAWL's Annual Meeting and Awards Luncheon at the Waldorf=Astoria on July 21, 2011. Other award winners included Brooksley Born, Retired Partner, Arnold & Porter LLP, the recipient of the NAWL Public Service Award; NAWL's President's Award winner, Prudential Financial, Inc.'s Legal Department,



NAWL Past President Lisa Gilford, Alston + Bird LLP, with Amy Traub. Epstein Becker & Green P.C., at the luncheon.



Attendees at the Networking Night of Giving wrap journals for Young Women's Leadership Network, an organization that enables low-income students achieve their highest educational potential and to break the cycle of poverty.



Network and Irsa Khaled, a student from the program, address networking portion of the program. attendees at the Networking Night of Giving.



Anne Adler, Executive Director, Young Women's Leadership Attendees at the Networking Night of Giving participate in the

Photos on this page by maryannerussell.com

#### **EVENT HIGHLIGHTS**

# NAWL Annual Meeting and Awards Luncheon

July 21, 2011, New York, New York

and Michele Coleman Mayes, Senior Vice President and General Counsel of Allstate Insurance Company, the recipient of the M. Ashley Dickerson Award. A new award presented at the Annual Meeting this year was the NAWL Lead by Example Award which was presented to each of the Honorable Harold Baer, U.S. District Court, Southern District of New York, and Marc Firestone, Executive Vice President, Corporate & Legal Affairs and General Counsel, Kraft Foods, Inc.



A group of attorneys from AT&T pose with Immediate Past President Dorian Denburg.



M. Ashlev Dickerson Award winner, Michele Coleman Mayes. Senior Vice President and General Counsel of Allstate Insurance Company, with NAWL Treasurer-Elect, Marsha Anastasia.



Past NAWL President and current NAWL Foundation Board member Holly English with Selma Moidel Smith and Robin Rome.



Winners of the NAWL Outstanding Member Awards, from left to right: Jane McBride, Lisa Strauss standing in for Randi Schnell, Dominica Anderson, Nancy Lottinville, NAWL President-Elect Beth Kaufman, Stephanie Cohen, Anne O'Neill and Laurie Charrington.

# All Things Being Equal, Women Lose.

Investigating the Lack of Diversity Among the Recent Appointments to the Iowa Supreme Court

by Abigail A. Rury



NAWL has established the annual Selma Moidel Smith Law Student Writing Competition to encourage and reward original law student writing on issues concerning women and the law. This is the fifth year of the competition and we were gratified to receive many superb entries. The winning essay is by Abigail A. Rury, a Ph.D. student at the University of Iowa in Education Policy and Leadership Studies. She received her J.D. from Michigan State University Law School and her B.A. from Smith College.

Selma Moidel Smith, in whose honor the Competition is named, has been an active member of NAWL since 1944. Smith is the author of NAWL's Centennial History (1999), and recently received NAWL's Lifetime of Service Award. She is a past Western Region Director, State Delegate from California, and chair of numerous NAWL committees. Selma served two terms as president of the Women Lawyers Association of Los Angeles, and was recently named their first and only Honorary Life Member. She was also president of the Los Angeles Business Women's Council. In the ABA Senior Lawyers Division, Selma was appointed the chair of the Editorial Board of Experience magazine (the first woman to hold that position) and was elected to the governing Council for four years, also serving as chair of several committees and as NAWL's Liaison to the Division. Selma is a member of the Board of Directors of the California Supreme Court Historical Society and is Publications Chair and Editor-in-Chief of the Society's annual journal, California Legal History. She was president, and also a Charter Member, of the National Board of the Medical College of Pennsylvania, which recently honored her at the Board's 50th anniversary.

Selma's career as a general civil practitioner and litigator are recognized in the first and subsequent editions of Who's Who in American Law and Who's Who of American Women, and also in Who's Who in America, among others. Her articles on the history of women lawyers have been published in the Women Lawyers Journal and Experience magazine, and have been posted online by the Stanford Women's Legal History Biography Project (together with her own biography). Her original research includes the discovery of the first two women members of the ABA (Mary Grossman and Mary Lathrop), both of whom were vice presidents of NAWL.

Selma is also a composer. Many of her 100 piano and instrumental works have been performed by orchestras and at the National Museum of Women in the Arts. She is listed in the *International Encyclopedia of Women Composers*.

In addition to the winner of the competition published on the following pages, Kate Baxter-Kauf, a law student at University of Minnesota Law School, received an Honorable Mention for her essay entitled "Breastfeeding in Custody Proceedings: A Modern-Day Manifestation of Liberal and Republican Family Traditions." Laurin Winsor, a law student at Capital University Law School, received an Honorable Mention for her essay entitled "Emergency Contraception: Violating the Liberty Interest." Congratulations to Kate and Laurin!

#### WINNER—SELMA MOIDEL SMITH LAW STUDENT WRITING COMPETITION

#### Introduction

In November 2010, Iowa voters ousted three sitting state Supreme Court justices in reaction to the Court's unanimous Varnum v. Brien ruling, which struck down the state's prohibition against same-sex marriage as unconstitutional. To fill the gap left by the justices' vacancy, the Iowa Judicial Nominating Commission received sixty applications, and forwarded the names of nine nominees to the newly elected Governor Terry Branstad.<sup>2</sup> Of the nine nominees, only one was a woman, only one was a minority, only one had a non-traditional legal career—"and then there [were] eight other candidates." Perhaps not surprisingly, the three individuals selected to fill the Supreme Court vacancies were all white men,<sup>4</sup> resulting in an incredibly non-diverse court of last resort for Iowans, whose make-up does not reflect the state's population.

Historically, Iowa has traditionally been a leader in women and minorities' rights. Iowa was the first state in the country to admit women and minorities to practice law in 1869, after Arabella A. Mansfield successfully passed the bar exam despite a state law that required applicants to be white males over the age of twenty-one.<sup>5</sup> The same year, the University of Iowa was one of the first law schools to accept women.6 Carrie Chapman Catt, an Iowan native, was one of the leaders of the women's suffrage movement at the turn of the twentieth century.<sup>7</sup> Catt, a graduate of Iowa State University, succeeded Susan B. Anthony as president of the National American Woman Suffrage Association, and went on to found the National League of Women Voters in 1920.8 Gertrude Durden Rush was the first and only practicing African-American woman lawyer in Iowa for decades and was also the only woman who helped establish the National Bar Association, the oldest organization of African-American lawyers and judges in the country, which was founded in Des Moines, Iowa, in 1925.9

Despite Iowa's history as a progressive state, it wasn't until 1986 that a woman served as an Iowa Supreme Court justice—when Linda K. Neumann was appointed to the bench (she served until 2003). Marsha Ternus was appointed Iowa's second female justice in 1993 and first woman chief justice in 2006. Day, no woman sits on the Iowa Supreme Court or the U.S. Bankruptcy Court. Although no state has achieved parity on any of its courts, Iowa's courts' gender (im) balance pales in comparison to its sister states. Across the country, women make up 26% of state court judges. At the federal level, women make up 22% of all judges. Only two women (or 11%) serve as federal judges in Iowa. Iowa is tied for fortieth in the nation based on the number

of women currently in federal judgeships.<sup>17</sup> Only fortynine out of 203 (or 24%) women serve as judges at the state level, which places Iowa tied for twenty-ninth in the country based upon its number of women in state judgeships.<sup>18</sup> Iowa has fallen behind.

Iowans should demand diversity on their Supreme Court. A bench that reflects the diverse Iowa population fights perceptions of unfairness and injustice. <sup>19</sup> A woman on the bench is important symbolically; it signals to all Iowans—attorneys and non-attorneys alike—that the government and judicial branch are open and responsive to their needs. <sup>20</sup> A more diverse Supreme Court will inspire confidence in its judiciary <sup>21</sup> and ensures its legitimacy and success. <sup>22</sup> In the wake of the retention vote and the appointment of three new Supreme Court justices, improving the public's perception of Iowa's judiciary is critical to ensuring its independence. <sup>23</sup>

Additionally, the underrepresentation of women on Iowa's highest court sends a powerful message about women's advancement in society.<sup>24</sup> The presence of women on the bench indicates to young Iowa women that they, too, can become a Supreme Court justice or achieve positions of leadership within her chosen field. For women in the legal profession, a woman at the top increases a woman's sense of belonging in her chosen profession, and may give her extra ammunition to persevere despite the biases and barriers she may encounter.<sup>25</sup> Women in the judiciary also fight stereotypes by expanding people's notions of who can hold positions of power.<sup>26</sup>

A diverse bench is vital to ensure equality among the members of the judiciary and for those who appear before it. Equal access ensures a sense of fairness and integrity in Iowa's judicial system. Lynn Hecht Schafran summed up the importance of diversity on the judiciary this way:

Having women judges of all colors matters for the same reason that having male judges of all colors matters. A diverse bench promotes trust and confidence in the courts from a diverse public; it teaches people to broaden their views about who can rightfully hold positions of authority; it provides role models who demonstrate what people can aspire to; and it enriches the justice system by bringing the full array of individual life experiences to the substance and procedure of the law.<sup>27</sup>

This paper analyzes the applications and interviews of the sixty applicants to the Iowa Supreme Court. This examination was conducted to provide guidance to Iowa's women attorneys so that they can increase their For women in the legal profession, a woman at the top increases a woman's sense of belonging in her chosen profession, and may give her extra ammunition to persevere despite the biases and barriers she may encounter.

numbers on the bench. Part I of this paper reviews how a lawyer becomes a Supreme Court justice in Iowa by discussing the appointment system, the Iowa Judicial Nominating Committee's role in selecting nominees, the governor's role, and Iowans' participation in the system. Part II details the process and procedures that were used to evaluate the candidates in early 2011. Part III analyzes the applications and the Commission's interviews and reveals implicit biases and gender stereotypes on the part of both the applicants and the Commission. Finally, Part IV offers solutions to improve the current system to ensure better representation on the Court.

# I. How a Lawyer Becomes an Iowa Supreme Court Justice

In an effort to remove politics from its judiciary, in 1962, Iowa voters amended the state constitution to replace judicial elections with the "Missouri Plan." The Missouri Plan, sometimes referred to as the merit selection plan, is both an appointment and an election system that attempts to balance judicial independence with political accountability. The merit selection plan is based upon the state of Missouri's Nonpartisan Selection of Judges Court Plan, and has been adopted in some form by sixteen states. <sup>31</sup>

When there is a judicial vacancy, the Iowa Judicial Nominating Commission<sup>32</sup> has sixty days to advertise the vacancy, accept applications, and interview the applicants.<sup>33</sup> For each appellate-level judicial vacancy, the Commission forwards three names to the governor.<sup>34</sup> The governor has thirty days to appoint an individual from the list provided to her. 35 Supreme Court judges initially serve a one-year term, after which her name is placed on the ballot at the general election every eight years.<sup>36</sup> During a retention election, a judge runs unopposed; instead the ballot asks whether the judge should retain her seat.<sup>37</sup> A majority vote determines whether to retain the sitting judge.<sup>38</sup> In the forty-eight years since the merit-retention system was put in place, not a single district court judge, appellate judge, or Supreme Court justice was voted out by the electorate; in fact, most judges receive more than 70% support.<sup>39</sup>

Each candidate was required to submit three documents: an Applicant Summary Resume, a Personal Data Questionnaire, and a writing sample.<sup>40</sup> The application materials did not require the applicant to state his or her gender, ethnicity, religion or political party affiliation. Sixty candidates submitted applications to the Commission, all of which were made available to the public on the Iowa Iudicial Branch's website.<sup>41</sup> For the first time

ever, the interviews were streamed live on the Internet. 42 Each interview lasted approximately twenty minutes; the applicant gave an opening statement, which was limited to ten minutes, followed by a question and answer period. 43 At the conclusion of all the interviews, the Commission deliberated and forwarded nine names to the governor, from which he selected three. 44

#### II. The Study

This paper was motivated by two interrelated questions. Why were so few women nominees selected? And second, was there a discernable reason why the number of women nominees was not proportionate to the number of women applicants?

To explore these questions, I engaged in an empirical analysis of the applicants' written applications and interviews. The sample was easy to identify; and it was definite: the sixty applicants written submissions and interviews, which were made public by the Iowa Judicial Branch. <sup>45</sup> The challenge was how to translate the data to observe trends and draw conclusions. The written applications were roughly fifteen pages in length (not including the writing sample), comprising a total of about 900 pages and about twenty hours of interviews.

I created a spreadsheet of the basic identifiable factors as well as the traditional markers of success in the legal profession. The data fields that I collected initially included: gender, age, years practicing as an attorney, current employment, whether the applicant worked and/or lived in a rural or urban area, if the applicant graduated from law school with honors, law review or journal membership, state of law school, and finally, I summarized the applicants' responses to questions why she was seeking the position, and how her appointment would enhance the Court. While reading and coding the applications, a few additional categories appeared as especially relevant, and I included the following supplementary categories: whether the applicant participated in any current pro bono activities, the religion of the applicant, and the gender breakdown of the applicants' recommenders. During the interview, I noted whether the applicant read his statement from prepared text, referred to notes, or had no notes at all; if the applicants' familial-status was revealed; and the general tenor of the question and answer session.46 The goal of the spreadsheet was to summarize the data so that it was manageable, and to make both descriptive and causal inferences from the data.47

#### WINNER—SELMA MOIDEL SMITH LAW STUDENT WRITING COMPETITION

#### III. Who's Who

Ostensibly, the goal of the Nominating Commission was to select the most intellectually and legally distinguishable candidates for the vacancy.<sup>48</sup> But what makes one candidate superior to another? Neither the state constitution nor its statutes set out qualifications besides residency, bar admission, and age. A press release from the Iowa Judicial Branch asserted that the Nominating Commission reviewed "each applicant's background, education, professional skills, and experience" and made a decision on the basis of the applicant's qualifications.<sup>49</sup>

The difference between the male and female applicants was *de minimis*.<sup>50</sup> Of the twelve women who applied, the average age was fifty-one years, they have been practicing for twenty-five years, and 67% live in urban areas.<sup>51</sup> The average age of the forty-eight male applicants was fifty-two years, they have been practicing for twenty-six years, and 70% live in urban areas.<sup>52</sup> Only two minority women<sup>53</sup> and only one minority man<sup>54</sup> applied. All the applicants bear standard law school markers of success in roughly equal numbers.<sup>55</sup> In fact, the women slightly outperformed the men in one area: law review/journal participation where 42% of the women and only 31% of the men participated on law review and/or a journal while in law school.

I predicted that any discussion of family would be limited to the women applicants, initiated by either the Commission or the applicant herself. Surprisingly, both the men and women discussed their families in both the written application and the interview. Thomas D. Waterman discussed the trials and tribulations of teaching his teenage triplet daughters how to drive. Lorraine J. May stated unapologetically in her written application, "My husband Tom and I have three remarkable daughters whose lives have contributed immeasurably to our own and to the awareness we have about the world in which we live." Justice Wiggins asked nearly every applicant during his or her interview to introduce the guests sitting in the gallery, which nearly always included the applicant's family.

The sixty applicants were nearly indistinguishable. The men and women were the same age, have been practicing the same number of years, and had the same success academically while in law school. Despite these numbers, only one woman was selected as a nominee to the Supreme Court.

#### IV. Losing the Race for Talent<sup>58</sup>

Despite the significant gains Iowa women attorneys have achieved, the judiciary remains elusive. The lack

of gender diversity on the bench cannot be attributed to a lack of qualified women because the data revealed equally qualified men and women attorneys. The lack of gender diversity is imputed to the absence of access and opportunity for women.<sup>59</sup> The barriers women face in the legal profession manifest themselves as unconscious stereotypes (implicit or subtle bias), inadequate access to support networks, inflexible workplace structures, and sexual harassment.<sup>60</sup>

#### A. The Language Barrier

The similarity between the male and female applicants begs the question—what's the difference? The difference lies in nuanced ways. The language used by the women in their applications reveals one of the subtle distinctions between the men and women. The women's applications lack the confidence of the men. For example, in response to the question, "Why are you seeking this position?" two women described themselves as "ordinary" or "average;" not a single male applicant described himself in such a way. One woman who describes herself as "average" is anything but. 61 She is a shareholder in a firm of 45 attorneys.<sup>62</sup> She paid her own tuition and living expenses while an undergraduate and law school student. Moreover, she received a liver organ transplant in 2006 from her cousin, before which, she surely suffered serious health issues.<sup>63</sup> Another woman also claims to be "an ordinary person," and she, likewise, is not ordinary.<sup>64</sup> A self-described "soccer mom, church member, volunteer, and small business owner," this applicant also graduated law school with honors, served in a senior editor position for a journal while in law school, gave birth to her son during her third year of law school, is fluent in Japanese, and is now the mother of four boys—three of whom are teenagers. 65 Yet another female candidate described herself as average during her interview, and she, too, is anything but average. 66 She served as a law clerk for Iowa Supreme Court Justice Louis Lavorato for five years following graduation from law school, received an award for outstanding service to her law school, had her student note published by the Drake Law Review, and has a Masters in Public Administration.<sup>67</sup> There is nothing ordinary about her or any of these women.

The sixty applicants were nearly indistinguishable. The men and women were the same age, have been practicing the same number of years, and had the same success academically while in law school. Despite these numbers, only one woman was selected as a nominee to the Supreme Court.

The lack of women references in the applications suggests that women are not serving as mentors, advisors or champions for male or females in the legal profession. Lack of female leaders robs the legal profession of examples of successful attorneys.

skills, integrity and passion for justice to be an outstanding Justice on the Iowa Supreme Court." Finally, another male applicant states, "my breadth of legal experience, judicial temperament and demeanor, and overall people skills are what I believe the public want and expect in an appellate judge." Their language is forceful and uses the correct buzzwords for the position.

These examples suggest that both the applicants and the commissioners have fallen victim to one of the double binds and stereotypes that women encounter. Kathleen Hall Jamieson refers to this as the femininity/ competence double bind.<sup>71</sup> This bind illustrates Americans' propensity to dichotomize the masculine and feminine, and to favor the masculine over the feminine.<sup>72</sup> The double bind further explains why the women did not assert themselves in their applications and interviews because men and women approach relationships differently.73 Women tend to value likability and interpersonal connections, and men value power and influence.<sup>74</sup> When a man boasts about an accomplishment, it is accepted. However, a woman believes that speaking about her accomplishments is arrogant and offensive.<sup>75</sup> Instead, a woman believes that her accomplishments should speak for themselves, and when they are not, she thinks her contributions are discounted and not valued.<sup>76</sup> The double bind helps to explain why four women described themselves as ordinary -- the women felt compelled to minimize their accomplishments. One female applicant's parting words undermine her otherwise strong application, and illustrate the double bind. "If I can leave you with one thought, it is this: I am an average Iowan, who happens to be a lawyer who wants to be a judge."77 She did not "happen" to become a lawyer by chance; she worked hard for three years to earn her degree and has earned the right to be Iowa's next Supreme Court justice.

#### B. Lack of Women Leaders

Yet another trend that appeared in the written applications was the lack of women whom the applicants identified as references. Every applicant but one submitted more men's names than women's names in response to the question. Worse yet, 44% of the male applicants did not list a single woman as a reference. Moreover, 50% of the male nominees to the Supreme Court did not identify a single woman as a reference. This is especially disconcerting for Iowa women who wish to reach leadership positions. If all Iowa attorneys' colleagues and mentors are men, where are the women?

It is a common misconception that as more women graduate from law school, many of the issues that women face in the legal profession will resolve themselves naturally. Although the pipeline is filled with qualified women, greater numbers of women entering the legal profession are not sufficient to eliminate the barriers that women face. In fact, based upon the current rates of women entering the legal profession, it will take years for women to become 50% of the partners in law firms, let alone become half of Iowa's Supreme Court justices. The gender disadvantages that women [leaders] face—the cultural, familial, and organizational obstacles—manifest themselves primarily in the process of gaining access to an elite position, that is, the path to top leadership, rather than in performing the leadership position."

Despite a reduction in overt discrimination, thanks in large part to anti-discrimination laws, women continue to face barriers in positions of leadership, as evidenced by the current make-up of the Iowa Supreme Court. State The lack of women references in the applications suggests that women are not serving as mentors, advisors or champions for male or females in the legal profession. Lack of female leaders robs the legal profession of examples of successful attorneys. Workplace structures and the perennial work/life balance are often the cause of women's lack of participation in both formal and informal support networks, since women shoulder most of the household and childcare duties, and as a result, lack the time to dedicate to developing those relationships. States

A poll conducted by The White House Project in 2009 indicates that Americans are comfortable with women in leadership positions, yet zero women now serve on Iowa's Supreme Court.86 Although men may be in favor of equal opportunity for women, frequently in practice, men prefer to work with those who look like them, and who share similar backgrounds and values.87 Women are also often the cause of women's failure to advance in the legal profession. The Queen Bee syndrome persists -- the idea that a female in a position of authority refuses to help subordinates because she did not have the same advantages when she was in their position.88 Women also frequently feel that they lack the authority to mentor younger colleagues.<sup>89</sup> The result of these behaviors is a lack of female attorneys in positions to be listed as a reference on an application to the Iowa Supreme Court.

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#### C. The Nominating Commission's Failures.

The Nominating Commission's most significant failure was its questioning of the 'minority' applicants. The commissioners were aware of a lack of justices from rural Iowa communities, as well as the lack of women on its judiciary. To address these issues, the commissioners asked a number of the applicants to discuss whether the applicant considered the absence of rural justices on the bench an issue, and if so, how the Commission should address it. The commissioners also asked a number of applicants whether gender should be considered when the Commission made its decision.

The problem is not that the question was asked; it is to whom the questioned was asked that creates the problem. The Commission only asked these questions of the women and individuals from rural communities. The questions placed the applicants in one of two positions, deny the importance of the particular matter, or admit its importance, but qualify the answer so as not to offend the Commission. For example, one commissioner asked, "As the Iowa Supreme Court is currently constituted, there are no women . . . Tell me what our Commission here today and the rest this week should do as far as making that a consideration. Should we, should we not, if we do, why, if we don't why not?"90 The applicant must bear a heavy burden when answering the question; she must not only address how the entire Commission should conduct itself when selecting the nominees, she must also answer the question with an eye towards her own application to the Supreme Court. The applicants tiptoed into the controversial issue in their responses, "gender is only one of the many factors you should take into consideration. There is also a sense of fairness that comes about from having a balanced Supreme Court. I don't know that there's any magic formula. I also don't believe that gender is the only issue of balance that should be considered. I do believe that balance is important, especially right now as we try to regain the public's trust in the judiciary."91

The questions were unfair. The white men were not asked if gender diversity on the Court matters, though it might have benefitted the Commission and provided new information and insight. Similarly, the attorneys from Iowa's most populous cities were not asked whether geographic diversity on the Supreme Court was important. This insensitivity reinforces stereotypes in the minds of the commissioners and provides them with a justification to choose whom they wish.

# V. Women Deserve a Fair Chance; Restoring Confidence in Iowa's Judiciary

This paper proposes three solutions to tackle the lack of diversity on the Iowa judiciary: education, commitment to increase diversity, and encouraging women to build professional relationships. The paper will discuss each in turn.

#### A. Education

During a classroom exercise, a self-selected, socially aware group of law students could not identify all the gender biases present in an animated scenario in a workplace setting. 92 To illustrate the prevalence of stereotypes, consider this situation: "a patient is brought into the emergency room, and the surgeon says, 'I cannot operate on this patient: he is my son.' The surgeon is not the patient's father. Why can't the surgeon operate? The answer is that the surgeon is the patient's mother." 93

This riddle carries with it the hidden biases attributed to the medical field, and operates on the assumption that surgeons are male—unfortunately, biases of this sort permeate almost every occupation, including the legal profession.94 The Judicial Nominating Commission must become literate in hidden biases. As my empirical analysis reveals, the nature of the interviews unfairly targeted the minority within the context of the question. What the commissioners believe is an objective, facially neutral evaluation process, is not. Research confirms that any amount of gender bias, even the smallest amount, leads to considerable professional disadvantages.95 The Commission is charged with objectively evaluating the applicants, and without proper training, its assessment is flawed, leaving women attorneys unrepresented on the Court.

Stereotypes inform what makes a good lawyer and what is expected of a lawyer—in terms of attitude, commitment and competency.96 To counteract traditional gender stereotypes, the Nominating Commission needs effective education in bias sensitivity.97 The Commission must ensure that it is using only job-relevant criteria in its interviews and evaluations. The evaluations must use valid, unbiased justifications. A helpful and practical training must include a discussion of the potential for bias, as well as practical tips for avoiding a biased review of an individual's application. Training will establish a shield against bias, which will ensure that the list of nominees is comprised of truly the most qualified applicants for the Supreme Court. 98 As long as commissioners unconsciously rely on gender stereotypes, disparities will continue to exist.

The Commission must ensure that it is using only jobrelevant criteria in its interviews and evaluations. The evaluations must use valid, unbiased justifications.

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The lack of diversity on the bench sends a detrimental message to the people of lowa and lowa must address this issue.

# B. Commitment to Increasing Diversity on the Bench

Iowa must translate its long history and commitment to diversity into practice.<sup>99</sup> It must hold its leadership accountable for its current lack of diversity.<sup>100</sup> A law firm would set concrete goals and track its progress in retaining and promoting women, and the Court should too. In fact, Iowa already requires its appointive boards, commissions, committees, and councils to be gender balanced.<sup>101</sup> It would be a natural extension to apply a similar requirement to the Supreme Court. If not mandated parity, perhaps the state constitution or its laws could require that the Court "reflect, as much as possible, a gender balance."

Iowa does not have a specific provision in either its constitution or laws that instructs the Nominating Commission to consider diversity when evaluating judicial applicants but it should adopt such a requirement. Missouri, from whom Iowa borrowed its system of appointing judges, has a specific provision in its Supreme Court Rules, which instructs that "[t]he Commission shall actively seek out and encourage qualified individuals, including women and minorities, to apply for judicial office." The Rules further require that "the Commission shall further take into consideration the desirability of the bench reflecting the racial and gender composition of the community." 103

Iowa should adopt a constitutional or statutory provision instructing that the Commission work to ensure a judicial bench that represents the diversity of its citizens. <sup>104</sup> Rhode Island provides another source of model language: "[t]he governor and the nominating authorities [] shall exercise reasonable efforts to encourage racial, ethnic, and gender diversity . . . ." <sup>105</sup> Furthermore, the Nominating Commission should have a manual or clear set of guidelines that identify the parameters of how and when diversity should be evaluated. <sup>106</sup> A commitment to diversity on the Supreme Court is one of the most important factors in ensuring that more women serve as Iowa Supreme Court justices. Professional Relationships

Women need to increase their visibility and professional relationships are a fundamental component of a successful career.<sup>107</sup> Multiple opportunities exist to create professional relationships "that will propel women to the top and to the inner sanctum of organizations."<sup>108</sup> The legal profession must encourage women in leader-

ship positions to share their success and career development strategies with other women in the pipeline (and directly challenge the Queen Bee syndrome). Women should join women's networks, such as the Iowa Organization of Women Attorneys (IOWA), whose mission is to encourage women's participation in the legal profession. Groups, like IOWA, host workshops, social events, and speakers, which allow women to develop relationships and practice career development skills, and expand opportunities for women attorneys.

Women also need to create personal advisory boards, a group of individuals from all backgrounds and outside of the attorney's current place of employment.112 These individuals contribute by providing a unique perspective, and increase a woman's visibility by introducing her to different ideas and people. 113 Women also need a champion, a person that does more than provide advice.<sup>114</sup> A champion will use his or her access to power players and actively promote the woman. 115 It is also important to note that men can be women's allies, serve on her advisory board and/or be her champion. Men benefit from professional relationships with women because men learn from women's unique experiences and perspectives, which is likely to improve the overall work environment. 116 Professional relationships provide career growth and support, as well as personal emotional encouragement. These relationships are essential to women's satisfaction and advancement in the legal profession.

#### Conclusion

Nearly half of law school graduates entering the legal profession are women, and the pipeline is filled with talent, yet women are entirely absent from Iowa's Supreme Court. On average, the women were numerically identical to the men yet only one woman's name was forwarded to the Governor as a nominee. Unfortunately, applications of equal merit received differing treatment based on gender. The lack of diversity on the bench sends a detrimental message to the people of Iowa and Iowa must address this issue. A bench that is representative of Iowa's population is critical to ensure confidence in the judiciary and confirms that the judiciary promotes equal justice for all. 117 The public's perception of a fair and impartial system of justice is critical to its service to the increasingly diverse Iowa citizens.

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- 1 Varnum v. Brien, 763 N.W.2d 862 (Iowa 2009). "Our responsibility, however, is to protect constitutional rights of indiv*Iduals* from legislative enactments that have denied those rights, even when the rights have not yet been broadly accepted, were at one time unimagined, or challenge a deeply ingrained practice or law viewed to be impervious to the passage of time."
- 2 Initially, sixty-one persons applied for the court. However, three of the original applicants (Richard Anderson, Ted Breckenfelder, and James Moriarty) withdrew their applications and two others (Lorraine May and Gayle Vogel) applied. State Commission Releases Information Submitted by Applicants for Supreme Court Vacancies, Iowa Judicial Branch (Jan. 19, 2011), http://www.iowacourts.gov/news\_service/news\_releases/NewsItem448/index.asp (last visited Apr. 12, 2011).
- 3 Nwuachi-Willig: Finalist for Iowa Supreme Court, Feminist Law Professors (Jan. 29, 2011), http://www.feministlawprofessors.com/2011/01/onwuachi-willig-finalist-iowa-supreme-court/.
- 4 Rod Boshart, Branstad Picks Three New Supreme Court Justices, Cedar RapIds Gazette, Feb. 23, 2011, http://thegazette.com/2011/02/23/branstad-picks-three-new-supreme-court-justices/
- 5 Sally Pederson, At Women Judges Regional Conference—Lt. Governor Pederson Lauds Women's Progress, Iowa Law. June 2004, at 14, 14.
- 6 Virgina G. Drachman, Women Lawyers and the Origins of Professional Identity in America: The Letters of the Equity Club, 1887 to 1890 4 (1993).
- Pederson, supra note 5 at 14. Celebrating the Contributions of Iowa Women, Senator Tom Harkin (Mar. 10, 2006), http://harkin.senate.gov/press/column.cfm?i=252636.
- Pederson, supra note 5 at 14. See also Celebrating the Contributions of Iowa Women, supra note 7.
- Pederson, *supra* note 5 at 14; *The NBA Perspective*, National Bar Association, http://www.nationalbar.org/perspective.html (last visited Apr. 15, 2011).
- 10 Linda K. Neuman—College of Law—The University of Iowa, Univ. of Iowa Coll. of Law, http://www.law.uiowa.edu/faculty/linda-neuman. php (last visited Apr. 15, 2011).
- 11 Marsha K. Ternus, Iowa Supreme Court Chief Justice, Iowa Pub. Television, http://www.iptv.org/iowajournal/story.cfm/66 (last visited Apr. 15, 2011). Marsha Ternus served as Iowa's second female justice from 1993, until the voters chose not retain her in 2010. Id.
- 12 Id.
- 13 Ctr. for Women in Government & Civil Soc'y, Univ. of Albany, State Univ. of N.Y., Women in Federal and State-level Judgeships 2 (2010) [hereinafter Women in Federal and State-level Judgeships].
- 2010 Representation of United States State Court Women Judges, Nat'l Assoc. of Women Judges, http://www.nawj.org/us\_state\_court\_statistics\_2010.asp (last visited Apr. 26, 2011). "The breakdown for women within that level is as follows: State Final Appellate Jurisdiction Courts, 29 percent; State Intermediate Appellate Jurisdiction Courts, 30 percent; State General Jurisdiction Courts, 23 percent; State Limited and Special Jurisdiction Courts, 29 percent." The White House Project, The White House Project Report: Benchmarking Women's Leadership (2009), available at http://www.thewhitehouseproject.org/documents/Report.pdf [hereinafter The White House Project Report].
- Women in Federal and State-level Judgeships, *supra* note 13, at 2.
- 16 *Id.* at 3.
- 17 Id. at 8.
- 18 *Id.* at 3, 10.
- 19 Hill, *supra* note 20, at 185.
- 20 Rosalind Dixon, Female Justices, Feminism and the Politics of Judicial Appointment: A Re-Examination 34 (The Univ. of Chicago Law Sch. Pub. Law & Legal Theory Working Paper No. 283, 2009), available at http://ssrn.com/abstract=1520784. See also Anita F. Hill, What Difference Will Women Judges Make? in Women & Leadership 185 (Barbara Kellerman & Deborah L. Rhode, eds., 2007).
- 21 Danielle Sollars, Note, Gender Balance in the Judiciary: Why Does it Matter?, 36 Wm. Mitchell L. Rev. 1721, 1733 (2010).
- 22 Ciara Torres-Spelliscy, Monique Chase & Emma Greenman, Brennan Center for Justice, Improving Judicial Diversity 42 (2010) [hereinafter Brennan Center for Justice].
- 23 Sollars, *supra* note 21, at 1733-34.
- 24 Paula Monopoli, *Gender and Justice: Parity and the United States Supreme Court* 50 (Univ. of Md. Sch. of Law Legal Studies Research Paper No. 2007-40, 2009), *available at* http://ssrn.com/abstract=1028101.
- 25 Monopoli, *supra* note 24, at 50; Dixon, *supra* note 20, at 34.
- 26 Lynn Hecht Schafran, Not from Central Casting: The Amazing Rise of Women in the American Judiciary, 36 U. Tol. L. Rev. 953, 964 (2005).
- 27 Schafran, supra note 26, at 964.
- 28 Nathan Tucker, Dems Dominate Judges Selection Process, Cedar RapIds Gazette, Sept. 12, 2010, http://thegazette.com/2010/09/12/dems-dominate-judges-selection-process/. A joint resolution has been introduced that proposes to eliminate the state judicial nominating commission and to allow the governor, with the confirmation of the senate, to appoint Supreme Court justices. H.R.J. Res. 12, 84th General Assembly (Iowa 2011).
- 29 Judicial Selection, Iowa Judicial Branch, http://www.iowacourts.gov/Public\_Information/About\_Judges/Selection/ (last visited Apr. 16, 2011).
- 30 Larry Aspin & William K. Hall, Thirty Years of Judicial Retention Elections: An Update, 37 Soc. Sci. J. 1, 2 (2000).
- Brennan Center for Justice, *supra* note 22, at 6.

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- 32 Iowa Const. art. V, § 16 (West, Westlaw through Nov. 2, 2010, General Election). "There shall be a state judicial nominating commission. Such commission shall make nominations to fill vacancies in the supreme court." *Id.* The Iowa Judicial Nominating Commission is comprised of fifteen members who are lawyers and non-lawyers. Mark CurrIden, *Judging the Judges: Landmark Iowa Elections Send Tremor Through the Judicial Retention System*, ABA Journal, Jan. 2011, *available at* http://www.abajournal.com/magazine/article/landmark\_iowa\_elections\_send\_tremor\_through\_judicial\_retention\_system/. Members of the bar elect seven commissioners, and seven commissioners are appointed by the governor and confirmed by the senate. *Id.* The most senior Supreme Court justice serves as the chair. The commission are composed of four women and two men, only one minority serves on the Commission. *State Judicial Nominating Commission*, Iowa Judicial Branch, http://www.iowacourts.gov/State\_Judicial\_Nominating\_Commission/ (last visited Apr. 16, 2011). The Commission's attorney members are composed of three women and four men; the appointed members included four women and three men. *Id.* Justice DavId Wiggins serves as the chair of the Commission. *Id.*
- 33 Iowa Code Ann. § 46.1 et seq. (West 2011).
- 34 Id.
- 35 Id. at § 46.15(b).
- 36 Id. at § 46.16.
- 37 Brennan Center for Justice, *supra* note 22, at 6.
- 38 Id.
- 39 Mark CurrIden, supra note 32.
- 40 Applicant Information, Iowa Judicial Branch, http://www.iowacourts.gov/State\_Judicial\_Nominating\_Commission/Application\_ Information/ (last visited Apr. 26, 2011). The eligibility requirements to be an Iowa Supreme Court justice are minimal. An applicant must be both a res*Id*ent of the state and be admitted to practice in the state of Iowa. Judicial Selection, *supra* note 29. Additionally, the applicant must be able to serve a full eight-year term before reaching the age of seventy-two. *Id*.
- 41 Id.
- 42 The vIdeos were streamed live by television stations KCCI and WHO. KCCI archived the applicant interview vIdeos. 60 Supreme Court Interviews Completed... View VIdeos, KCCI TV (Jan. 27, 2011, 6:18 PM), http://www.kcci.com/r/26595088/detail.html.
- 43 Id.
- 44 Governor Branstad appointed Edward Mansfield, Thomas Waterman, and Bruce Zager as the newest Iowa Supreme Court justices.
- 45 Many of the written applications are no longer available on the Internet.
- 46 I noted whether the Commission's interview was generally positive, negative, or neutral.
- 47 Lee Epstein & Gary King, *The Rules of Inference*, 69 U. Chi. L. Rev. 1, 20 (2002). Descriptive inferences are made by "using facts we know to learn about facts we do not observe." *Id.* at 29. Causal inferences indicate "whether a particular 'event'--the presence or absence of which we refer to as the key causal variable . . . caused a particular 'outcome'. . ." *Id.* at 35.
- 48 Lee Epstein, Jack Knight & Olga Shvetsova, 10 Wm. & Mary Bill Rts. J. 7 (2001).
- 49 Judicial Nominating Commission Begins Process for Selecting Nominees for Supreme Court, Iowa Judicial Branch (Dec. 13, 2010), http://www.iowacourts.gov/news\_service/news\_releases/NewsItem443/index.asp.
- 50 The chart below summarizes some of the data culled from the applications.

	High Age	Low Age	High Years Practicing	Low Years Practicing
All Applicants	62	34	34 38 3	
Women Applicants	59	37	35	13
Men Applicants	62	34	38	3
Nominees	60	37	36	14
Justices	58	51	30 27	

- 51 8/12 female applicants live in urban areas.
- 52 34/48 male applicants live in urban areas.
- 53 Inga Bumbary-Langston and Angela Onwuachi-Willig were the women of color who applied to the Court. Onwuachi-Willig was selected by the Commission to be a nominee.
- 54 ConGarry D. Williams was the only male minority to apply for the Court.

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55 The chart below illustrates the similarity between the male and female applicants' law school success.

	Graduated with Honors	Law Review/Journal Membership
All Applicants	40%	33%
Women Applicants	42%	42%
Men Applicants	40%	31%
Nominees	56%	44%
Justices	67%	33%

- 56 Supreme Court Interviews: Waterman, KCCI TV (Feb. 23, 2011, 3:13 PM), http://www.kcci.com/vIdeo/26625061/detail.html.
- 57 Lorraine J. May, Personal Data Questionnaire, 15 (Jan. 14, 2011) (on file with author).
- Women's Bar Ass'n of the D.C. Initiative on Advancement and Retention of Women, Creating Pathways to Success, Advancing and Retaining Women in Today's Law Firms 17 (2006), available at http://wba.timberlakepublishing.com/files/Advocacy%20&%20 Endorsements%20Files/Initiative%20Reports/Creating\_Pathways\_to\_Success-May\_2006.pdf
- 59 Women in Federal and State-level Judgeships, *supra* note 13, at 2.
- ABA Comm'n on Women in the Profession, The Unfinished Agenda, Women and the Legal Profession 5 (2001) [hereinafter The Unfinished Agenda].
- 61 Iris Post, Personal Data Questionnaire, Iowa Judicial Branch, 8 (Jan.14, 2011), http://www.iowacourts.gov/wfdata/frame11223-2093/File150.pdf.
- 62 Id.
- 63 Id.
- 64 Rebecca Saffin Parrish-Sams, Personal Data Questionnaire, 15 (Jan. 14, 2011) (on file with author).
- 65 Id.
- 56 Supreme Court Interviews: Vaudt, KCCI TV (Jan. 25, 2011, 5:43 PM) http://www.kcci.com/vIdeo/26612081/detail.html.
- 67 Id.
- 68 Michael R. Mullins, Personal Data Questionnaire, Iowa Judicial Branch, 12 (Dec. 30, 2010) http://www.iowacourts.gov/wfdata/frame11223-2093/File85.pdf.
- 69 Jerry Foxhoven, Personal Data Questionnaire, 15 (Dec. 17, 2010) (on file with author).
- 70 Bruce Zager, Personal Data Questionnaire, 23 (Jan., 2011) (on file with author).
- 71 Kathleen Hall Jamieson, Beyond the Double Bind: Women and Leadership 120 (1995).
- 72 Id. at 121.
- 73 Karen L. Proudford, Isn't She Delightful? Creating Relationships that Get Women to the Top (and Keep Them There) in Women & Leadership, supra note 20 at 438.
- 74 Id.
- 75 Id.
- 76 Id.
- 77 Supreme Court Interviews: Vaudt, supra note 66.
- 78 Question 25 asks: "List not more than five names and addresses of those persons who are in a position to comment upon your qualifications for judicial position and of whom inquiry may be made by members of the Commission without embarrassment to you."
- 79 21/48 applicants d*Id* not *Id*entify a single woman as a reference in response to question number twenty-three. Additionally, 33% of the women listed one woman, and 50% of the women listed two women references.
- 80 See Deborah L. Rhode, Gender and the Profession: The No-Problem Problem, 30 Hofstra L. Rev. 1001 (2002). See also Women's B. Ass'n of the D.C. Initiative on Advancement & Retention of Women, Creating Pathways to Success: Advancing and Retaining Women in Today's Law Firms 6 (2006) [hereinafter Creating Pathways I].
- 81 Cheryl M. Herden, Women in Legal Education: A Feminist Analysis of Law School, 63 Rev. Jur. U. P. R. 551, 569 (1994).
- 82 Creating Pathways I, *supra* note 80, at 6.
- 83 Cindy A. Schipani, Terry M. Dworkin, Angel Kwolek-Folland, & Virginia G. Maurer, *Pathways for Women to Obtain Positions of Organizational Leadership: The Significance of Mentoring and Networking*, 16 Duke J. Gender L. & Pol'y 89, 95 (2009).

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- 84 Karin Klenke, Women and Leadership: A Contextual Perspective 187 (1996).
- 85 E.g. The Unfinished Agenda supra note 60, at 6; Deborah L. Rhode, Myths of Meritocracy, 65 Fordham L. Rev. 585, 590 (1996).
- 86 The White House Project Report, *supra* note 14, at 5.
- 87 The Unfinished Agenda *supra* note 60, at 16.
- 88 Klenke, supra note 84, at 186.
- 89 Id. See also Rhode, supra note 60, at 590.
- 90 Supreme Court Interviews: Parrish-Sams, KCCI TV (Jan. 24, 2011, 9:06 PM) http://www.kcci.com/vIdeo/26600158/detail.html.
- 91 Ia
- 92 Web-Based Teaching and Training, Gender Bias Learning Project, http://www.genderbiaslearning.com/webbasedteachingtraining.html (last visited Apr. 18, 2011).
- 93 ABA Comm'n on Women in the Profession, Fair Measure: Toward Effective Attorney Evaluations 15 (2008) (hereinafter Fair Measure].
- 94 Id.
- 95 *Id.* at 13.
- 96 Fair Measure, *supra* note 93, at 15.
- 97 Professor Onwauchi-Willig's interview prov*Id*es an example of the need for bias sensitivity. The commissioners were unable to pronounce her name, one commissioner sa*Id* she was not going to attempt to say her name, and another named her Professor Angela, so that he wouldn't have to pronounce her last name.
- 98 Brennan Center for Justice, *supra* note 21, at 36.
- 99 The Unfinished Agenda, supra note 60, at 33; Fair Measure, supra note 93, at 33.
- 100 Ic
- 101 Iowa Code Ann. § 69.16A (West 2011). § 69.16A mandates that the same boards shall, "to the extent practicable," include "for minority representation." A minority is defined as "African American, Latino, Asian or Pacific Islander, American Indian, or Alaskan Native American." Iowa Code Ann. § 15.102 (West 2011).
- 102 Brennan Center Report, supra note 22, at 17.
- 103 Id.
- 104 Paula Monopoli, *Gender and Justice: Parity and the United States Supreme Court* 50 (Univ. of Md. Sch. of Law Legal Studies Research Paper No. 2007-40, 2009), *available at* http://ssrn.com/abstract=1028101.
- 105 R.I. Gen. Laws Ann.  $\S$  8-16.1-2 (West 2010). This language refers to the diversity of the nominating commission, but is equally relevant language for the applicants to the Court.
- 106 Id. at 38
- 107 I. J. Hetty van Emmerik, The More You Can Get the Better: Mentoring Constellations and Intrinsic Career Success, 9 Career Dev. Int'l 578 (2004)
- 108 Karen L. Proudford, Isn't She Delightful? Creating Relationships that Get Women to the Top (and Keep Them There) in Women & Leadership, supra note 20 at 449.
- 109 http://www.marketwire.com/press-release/companies-need-be-more-proactive-about-women-leadership-development-pay-special-attention-1504313.htm
- 110 About Us, The Iowa Organization of Women Attorneys, http://www.iowawomenattorneys.org/about.html (last visited Apr. 26, 2011).
- 111 The Unfinished Agenda, *supra* note 60, at 35.
- 112 Your ABA, A Woman's GuIde to Using Ambition to Power Success, Am. Bar Assoc., http://www.americanbar.org/publications/youraba/201103article04.html (last visited Apr. 26, 2011).
- 113 *Id*.
- 114 *Id*.
- 115 *Id*.
- 116 Schipani, Dworkin, Kwolek-Folland & Maurer, supra note 83, at 46.
- 117 Brennan Center for Justice, *supra* note 22, at 9.

#### **NAWL SURVEY**

# Report of the 2011 NAWL Survey on the Retention and Promotion of Women in Law Firms

The NAWL Foundation and the National Association of Women Lawerys

The National Association of Women Lawyers® and The NAWL Foundation® are pleased to report the results of the sixth annual National Survey on the Retention and Promotion of Women in Law Firms ("Survey").3,4 The NAWL Survey is the only national study that annually tracks the professional progress of women in the nation's 200 largest law firms5 by providing a comparative view of the careers and compensation of men and women lawyers at all levels of private practice, as well as analyzing data about the factors that influence career progression. By annually compiling objective data about firms as whole, the Survey aims to provide (a) an empirical picture of how women forge longterm careers into leadership roles, (b) benchmarking statistics for firms to use in measuring their own progress, and (c) over a multi-year period, longitudinal data for causeand effect analyses of the factors that enhance or impede the progress of women in firms.6

This sixth year of the Survey presents a sobering picture of the prospects for women in "Biglaw." Not only do women represent a decreasing percentage of lawyers in big firms, they have a far greater chance of occupying positions — like staff attorneys, counsel, and fixed-income equity partners — with diminished opportunity for advancement or participating in firm leadership. We recognize that the current economy has led to continuing challenges for big firms. Nevertheless, those challenges explain neither the uneven progress made by women lawyers compared to their male counterparts nor the backward slide of gender equity in law firms.

We look to the Survey results in an effort to explain some of the reasons behind the current status of women in firms and in hopes of developing a better understanding of what firms can do in order to positively affect the long-term advancement of their women lawyers.

#### I. Snapshot of the 2011 Survey Results.

- Women's Ranks In Firms Are Thinning. For the first time since the Survey began in 2006, we have noted a slight decline in the percentage of women lawyers who are associates and non-equity partners in the nation's largest firms. This narrowing of the pipeline bodes ill for advancing significant numbers of women into the ranks of law firm leadership in the foreseeable future.
- Women Have a Much Lower Rate than Men in Promotion to Equity Partnership. Women lawyers account for barely 15% of equity partners, those lawyers who hold an ownership interest in their firms and occupy the most prestigious, powerful and lucrative positions. This number is essentially unchanged since 2006, the first year of the Survey. Anecdotally, that level of equity partnership has been fixed at the same level for 20 years.
- Women Lawyers Are More Likely to Occupy Positions that Are Not Partner Track. More than three-quarters of responding firms employ nontraditional "staff" attorneys, which are not partner-track jobs. Women represent 55% of staff attorneys, the highest percentage of women lawyers in any law firm position. Moreover, these staff attorney positions are typically not entry-level. A significant percentage of lawyers holding these positions graduated from law school between ten and twenty years ago.

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system.

- A similar phenomenon occurs at the counsel level. Women lawyers comprise 34% of counsel positions in firms — a lower proportion than would be expected based on the number of women associates starting out in firms. In many firms, lawyers in the counsel position view it as the stepping stone between associate and promotion to partner. In fact, only a minority of firms indicate that most of their counsel are eligible to become partners. Responding senior positions, firms gave a variety of reasons for their disinclination to promote counsel. The most common response was that counsel were "not considered suitable" or "do not have sufficient business" for promotion to partner. When women are in the first instance promoted less often than men to counsel and then, like many men in that position, are also relegated to the counsel position with limited prospects for promotion, the long-term result will be fewer women in the senior levels of firms.
  - Women Are Not Credited as Rainmakers. Our data show that women partners are less likely than men to receive credit for even a relatively modest \$500,000 "book of business." Parallel research shows numerous problems that women experience within firms in obtaining credit for business development, opportunities for team development of new business, credit for new matters from existing clients and other similar measures of who is deemed to be a "rainmaker." Whatever the source of the problem, it is clear that the lack of credit for substantial business hampers women lawyers in maximizing compensation, advancing into firm leadership, or negotiating an advantageous lateral move.
  - · Women Have Low Representation in Law Firm Leadership. Women continue to be markedly underrepresented in the leadership ranks of firms. The majority of large firms have, at most, two women members on their highest governing committee. A substantial number have either no women (11% of firms) or only one woman (35% of firms) on their highest governing committee. Along the same lines, only 5% of firms place women in the role of overall managing partner — a percentage that is the same as in 2006, the first year of the Survey. We suspect that the relatively low percentage of equity partners explains the low representation in law firm leadership and until law firms figure out how to facilitate a greater number of women to equity partners, the leadership ranks will continue to under represent women.

- · Compensation Decisions Disfavor Women. As has been the case ever since the Survey began collecting data, women at every stage of practice earn less than their male counterparts, with the biggest difference at the equity partner level. In 2011, women equity partners are earning 86% of the compensation earned by their male peers. In less senior positions, women do not receive their proportionate share of bonuses, but they fare better in lockstep firms than in firms that have abandoned a lockstep compensation system.
- Two Tier/Mixed Tier Firms Are Less Favorable to Women. The phenomena of two-tier and mixed-tier<sup>7</sup> partnership structures continue to have a negative impact on women lawyers. In terms of both compensation and advancement to equity partnership, women lawyers appear to be most consistently successful in one-tier firms. Two-tier and mixed-tier firms also have involuntarily terminated more lawyers, both women and men, in the current recession, than have one-tier firms. Moreover, women represent an astonishing 80% of "fixed-income equity partners," those lawyers in mixed-tier or other firms who are required to contribute capital but do not share in the overall profits of the firm.

We turn now to more detailed analyses.

#### II. The Pipeline of Women Lawyers May Be Diminishing.

In previous iterations of the Survey, we have been wont to say that "[w]omen start out in about equal numbers to men when they enter law firms as first-year associates." However, the percentage of women entering law schools may have peaked.8 According to the American Bar Association, women comprised only about 47% of the law school population and 45.9% of all law school graduates in 2009-10.9 Commensurate with that decline, for the first time we are seeing a slight fall-off in the percentage of women entering big-firm practice. Women constitute only 47% of the current crop of firstand second-year associates, down from 48% in prior Surveys. It may not be a huge change, but it suggests that the pipeline may be shrinking. And, a decreasing number of entry level women lawyers only further decreases the pool of women left at the end of the pipeline who are available for promotion into higher positions. As we have seen in prior years, women lawyers leave

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big-firm practice at a greater pace than men, beginning quite early in their careers.

Female flight gains momentum at each level of seniority, ultimately shrinking the percentage of women lawyers in the partnership pool. In 2011, women constitute 44% of 7th-year associates, 34% of counsel, 25% of non-equity partners, and barely 15% of equity partners.

Nearly every large firm has expressed a commitment to advancing women in private practice, so why have the numbers not improved over the six years that the Survey has been tracking this data? Although there may be many reasons why women aren't succeeding in proportionate numbers, the Survey has identified a number of factors — including firms' structural choices, the absence of women in firm leadership, and the lack of credit for business development — that have undoubtedly contributed to the current lackluster situation.

#### III. The Changing Structure of Law Firms and its Impact on Women Lawyers.

Law firms are much more complicated than they used to be. At one time, the typical law firm had associates and partners, and perhaps a few counsel. Partners were all owners of the firm and shared in firm profits. Entering lawyers were generally placed into an associate "class" defined by graduation year, and often everyone in the same class received the same compensation. Associates typically advanced to partnership within the course of a decade, based on satisfactory full-time practice. Lateral attorney movement was rare, part-time practice was nonexistent. Attorneys who performed unsatisfactorily would be terminated, but discreetly, since their failure also reflected poorly on the firm.

Today, the typical firm looks much different. It is a two-tier or even three-tier partnership, with "nonequity" as well as levels of "equity" partners. A significant number of the firm's lawyers began their practice at some other firm. Below the partnership tier, there are many attorneys who have little to no chance of ever becoming partners. Associates may be on a "partnership track," but the firm recognizes that most of these people will wash out or leave before final partnership decisions are made. And any attorney — even an equity partner — may be terminated abruptly, at the firm's discretion.

All of these changes in law firm structure have the potential to affect women lawyers differently than men. The data collected by the Survey suggest that, in general, the structural changes occurring in firms have not benefited women lawyers practicing there.

A. Impact of Non-Partner Track Positions.

The use of "staff attorneys" and "contract attorneys" is growing. Staff attorneys are employed by the firm but are typically not eligible for partnership. Contract attorneys are employed by agencies and are also not eligible for partnership.

In the 2010 Survey, we found that a majority of firms hired staff attorneys and about half hired contract attorneys. This year, the number has gone up. Over three-quarters of firms hired either staff attorneys or contract attorneys, and the propensity to hire in these classification was only slightly less for AmLaw 100 than for Second Hundred firms.<sup>10</sup> The median number of staff attorneys employed at a typical big firm is nine; and the median number of contract attorneys working at any one time in a typical firm is nine.

Although contract attorneys are equally likely to be men or women, 55% of staff attorneys are women. This is the highest percentage of women in any category of attorney practice. And since staff attorneys are not on a partnership track, by definition this is a category with little if any potential for women to achieve equity partnership.

One might view staff attorneys differently if these employees consisted of recent graduates, whose job prospects may have been adversely affected by the continuing global economic malaise, or of more senior attorneys. Based on the responses to the 2011 Survey, almost all staff attorneys graduated prior to 2007, and nearly half of them graduated from law school prior to 2000. If women at this level of seniority are accepting non-partnership-track positions within large law firms, the question arises whether they were recruited for these positions originally or somehow gravitated into these positions after being on a firm's partnership track for some years. Either way, though, these positions dampen the prospects for advancement of women in firms.

#### B. The Decline of Lockstep Compensation and the Impact on Women Lawvers.

Not so many years ago, it was common practice for big firms to pay the same salary and even the same bonus to associates in the same class — a practice colloquially called "lockstep." Some firms followed this approach only for their first-year associates although other firms were known to pay lockstep to all associates in a given class. While a lockstep system does not reward an associate for any individual contributions to firm success, one of the rationales for lockstep is that it minimizes subjective factors in evaluation of associates, including gender-based distinctions.11 Another benefit is that it does not pun-

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ish lawyers who have different rates of developing skills along multiple dimensions. Too often, firms get fixated on early "stars." We are not so convinced that it benefits the firm to distinguish early frontrunners to the discouragement of others who, over a 5 to 8 year period, may actually develop better skills for the benefit of the firm and its clients. This is a complicated issue although anecdotally, men benefit more than women in non-lockstep systems and not necessarily for reasons of pure merit.

For 2011, the Survey asked about the status of lockstep promotion at large U.S. law firms. The responses clearly indicate that lockstep promotion is a minority approach. Only 27% of responding firms indicated that they pay true lockstep — both salary and bonus — to all of their first-year associates. And only 9% of responding firms continue to pay true lockstep after the first year. At the other end of the spectrum, almost 25% of firms vary both salary and bonus amounts even for first-year associates. And after the first year, 56% of firms vary both salary and bonus amounts.

From the Survey's perspective, the important question is whether the abandonment of lockstep compensation structures has had an untoward impact on women lawyers. Once a degree of discretion is introduced into the compensation process, it is possible that the discretion will be used, even unintentionally, to pay women less than their male peers. To examine this possibility, we asked about the percentage of salaries and bonuses firms paid in 2010 to all women associates, and compared those answers for lockstep vs. other firms.

The good news is that, when it comes to salaries, there is no appreciable difference in what firms pay men and women associates, whether or not the firms follow a lockstep approach. However, the payment of bonuses shows a more troubling pattern. Since very few firms pay "true lockstep" after the first year, in analyzing the women's percentage of the aggregate bonuses we distinguished between (a) firms which pay salaries in lockstep and (b) firms which do not apply a lockstep approach to either salaries or bonuses.<sup>12</sup>

We found that women associates do not receive their proportionate share of bonuses in either type of firm. Nevertheless, it appears to be marginally better for a woman associate to practice in a lockstep firm. In the typical lockstep firm, the difference between the percentage of women associates and the percentage of aggregate bonuses they received was nearly 6%. However, in the typical non-lockstep firm, the difference between the percentage of women associates and the percentage of aggregate bonuses they received was almost 8%. In other words, women associates are likely to receive

smaller bonuses than their male peers no matter what type of firm they work in, but the difference is slightly more pronounced in non-lockstep firms.

Firms cite a number of reasons why they pay different amounts to different associates, whether they are first-years or more senior. One common answer is that firms vary salary depending on the office in which an associate practices. Another frequent response is that bonuses are dependent on billable hours, which naturally might vary from person to person. However, a number of the criteria firms cite for paying different amounts are less objective, for example: (a) work quality, (b) corporate citizenship, and (c) non-billable activities such as pro bono, recruiting and business development.

It strains credulity to believe that women associates across the board are underperforming their male colleagues along all of the dimensions of practice which are considered when bonuses are determined. At least provisionally, therefore, the data suggest that firms' bonus systems incorporate a degree of discretion that permits gender-biased decision-making. Further study of this area could be enlightening.

#### C. The Evolving Prospects for Lawyers in the Counsel Position.

The Survey has long recognized that firms apply the title of counsel to many types of lawyers but until 2011 we explored only the raw numbers of lawyers in this category. This year, as was true in 2010, we found that women constitute 34% of counsel attorneys at the typical firm — a lower proportion than would be expected considering that firms start out with women occupying close to 50% of associate positions.

For 2011 we drilled deeper. We asked firms whether 90% of their counsel, in essence almost all of the lawyers in that position, were eligible to be promoted to partner and, if so, whether it was the firm's policy to promote counsel to partnership within two years. We also listed a number of possible statements that a firm could make about the roles its counsel play within the firm, with specific emphasis on the reasons a firm might give for not promoting its counsel to partner. The answers we received were astonishing, and highlight that the counsel role in many firms is not something to be sought after.

One third of responding firms indicated that 90% of their counsel were eligible to be promoted to partner. However, among that group of firms, only one firm stated that it had a policy of promoting counsel to partner within two years. Thus, at most of the responding firms, the position of counsel may be "off track" for

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partnership or even a permanent backwater from which no egress is likely. And at almost none of the responding firms can a lawyer — man or woman — be confident of consideration for partnership in the near future.

What do firms think is the role of counsel in their organizations? Prompted by the Survey, firms made a variety of non-exclusive statements on this subject. Over 80% of responding firms agreed that "[i]n our firm, lawyers in the counsel position are more experienced than associates but for one reason or another are not considered suitable for promotion to partner." The next most common statement, from 63% of firms, was that counsels "do not have sufficient business to become a partner." A third common response, from 61% of firms, reflects one of the traditional understandings of the counsel role, that these lawyers "are winding down their careers and moving towards retirement." And, 35% of firms agreed that at least some of their counsel "were previously partners of the firm but have been de-equitized."

Clearly, the title of counsel covers a wide variety of roles and expectations within large law firms. However, women are much more likely than men to be "counsel" in firms than partners or equity partners — and therefore, more likely than men to be viewed as "not suitable" for partnership or not having "sufficient business" for partnership. We would encourage women lawyers and their firms to take a harder look at the counsel position, especially because someone in the role of counsel who has never been a partner (and is not edging to retirement) has a less than strong chance of becoming a partner.

#### D. The Impact of Partnership Tiers.

Back in a simpler time, being a partner in a law firm meant that you were an owner. A partner shared the profits of the firm in a good year, but might lose that investment if the firm failed. Some firms with those structures are still around; the Survey defines them as "one-tier" partnerships if at least 95% of the partners own equity in the firm and are compensated on the basis of their equity investment.

Over the years, however, firms have invented different ownership structures, which in one way or another strain the original definition of partner. A common structure today is what is termed a two-tier partnership, in which there are both "equity" partners and "nonequity" partners. Equity partners are required to invest capital in the firm and usually receive most of their compensation on the basis of their relative ownership interests. Non-equity partners, in contrast, typically own no shares in their firms and receive their compensation in

the form of a fixed annual salary, often supplemented by some kind of performance-based bonus. Non-equity partners are marketed to firm clients as "partners," but they receive lower compensation, have less authority to make important decisions, and have little if any voice of lawyers who are in firm governance. Persons outside of the firm are unlikely to know for certain whether any particular firm partner is an equity partner, since the firms and partners themselves are reluctant to share this information.

In addition to one-tier and two-tier partnerships, the Survey has identified a third type of partnership structure, which we call a "mixed-tier" partnership. A mixed-tier firm typically characterizes itself as "twotier" although in fact it has three tiers: (1) partners paid on an income basis, (2) partners paid on a combined income-equity basis (what we call, "fixed-income equity partners"), and (3) partners paid on a full equity basis. The Survey categorizes a firm as mixed-tier if at least 5% of its partners are fixed-income equity partners. The 2011 Survey found that 28% of firms are one-tier partnerships, 60% of firms are two-tier partnerships, and 13% of firms govern under a mixed-tier structure.

In a mixed tier structure, a partner in the fixedincome equity tier is required to contribute capital to the firm and may receive a (relatively inconsequential) number of shares. However, these partners receive all or nearly all of their compensation in the form of a fixed annual salary and a performance-based bonus. Fixedincome equity partners enjoy little or none of the upside potential of being a true equity partner. Yet these partners stand to lose their capital if the firm fails and may be held liable for firm debts in the same way as other equity partners. It is also our understanding that fixedincome equity partners do not possess the governance rights or business authority of true equity partners.

From our perspective, perhaps the most important difference between mixed-tier and other types of firms is the extent to which women are clustered in the category of fixed-income equity partners. In the typical mixed-tier firm, women constitute five out of every six fixed-income equity partners — meaning that women constitute an overwhelming majority in this category. When we look at all mixed tier firms, of the many hundreds of lawyers who are fixed-income equity partners in firms with that category of lawyer, close to 80% of them are women.

We find that the women in the fixed-income equity tier are in the prime of their careers and is perplexing as to why they should occupy this lower level equity tier in such high numbers. The Survey asked firms to specify the decade during which each of its fixed-income equity

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Our conclusion from last year's Survey remains the same: the disproportionate departures of women lawyers at every level will result in disappointingly smaller numbers of women partners and firm leaders for many years to

partners graduated from law school in an attempt to determine whether seniority, or perhaps the lack of seniority, might lead firms to consign lawyers to the mixedtier category. It turns out that the majority of lawyers who are fixed-income equity partners graduated after 1980, including about 36% who graduated during the 1980s and almost 30% who graduated in the 1990s.13 One might speculate that a fixed-income equity partner who graduated from law school in 2000 or later has been placed into the fixed-income equity partner category for some limited period of time prior to being granted full equity partner status. At the other end of the spectrum, it is likely that some of the attorneys who graduated before 1980 are in the process of winding down their practices in preparation for retirement and have been consigned to the fixed-income equity partner category in recognition of their lessened contributions to the overall success of their firms. But, about two-thirds of the fixed-income equity partners have been practicing law somewhere between 12 and 31 years. And, women are disproportionately placed in this tier; about threequarters of fixed-income equity partners who graduated in the 1980s and 1990s are women. By all accounts, the lawyers who graduated in that time frame should be in the most successful and lucrative years of their practice, and yet they are put into a position within their firms with less authority and upside potential than men with whom they graduated from law school.

The Survey data do not tell us why firms have fixedincome equity partners but several reasons stand out as likely. First, from the firm's perspective, it would appear that a fixed-income equity partner is not counted as a partner when the all-important "profits per equity partner" are calculated.<sup>14</sup> In other words, firms can show higher profits per partner if they are allowed to exclude some partners from the calculation. This alone might be a reason for firms to create such a category of partnership. On the other hand, by promoting women to fixed-income equity status, firms can present better gender statistics to the outside world by categorizing these positions as "equity partners." Yet another factor may be the level of business required by a firm to promote lawyers to full equity status. Consistent with the problem of women generating and receiving credit for business, lawyers who are fixed-income equity partners may not be viewed as generating sufficient business to warrant full equity status, or as having sufficient portable business to threaten a lateral move.

Finally, as we have found in previous years, in some respects women lawyers fare better in one-tier firms. Women constitute 18% of the equity partners in one-tier and mixed-tier firms, versus only 14% of equity

partners in two-tier firms. Moreover, throughout the current recession, one-tier firms have been less likely to reduce lawyer headcount than either two-tier or mixed-tier firms. During the year preceding February 1, 2011, 75% of one-tier firms, 95% of two-tier firms, and 84% of mixed-tier firms, terminated lawyers.

E. The Impact of Involuntary Terminations on Women Beginning in 2009, the Survey has asked firms to share data about involuntary terminations of lawyers in an attempt to determine whether women have been more or less affected by the ailing economy than their male peers. A number of firms selectively chose not to respond to questions about termination of male versus female lawyers. In the group of responding firms, close to 90% of firms terminated attorneys during the period from February 1, 2010 through January 31, 2011. As was true in the two previous years, roughly 80% of those terminated were associates. <sup>15</sup> Thus, firms are continuing to decrease their "leverage," i.e., the ratio of associates to partners, which had been increasing in the years prior to the downturn.

Regarding the impact of gender, women were laid off in very rough proportion to the percentage of positions they held. Thus, in the typical firm where layoffs occurred, women constituted about 38% of terminated associates (actually fewer than expected) and 50% of terminated counsels (a little more than expected). However, there was large firm-to-firm variability in these proportions and it is, therefore, hard to generalize to all firms about gender differences. Nonetheless, women being laid off at the rate which they occupy positions means yet another threat to the long-term pipeline for senior women in firms.

There were fewer terminations of part-time lawyers, a position occupied in large part by women lawyers, than in the preceding two years. Fewer than half of responding firms terminated one or more part-time attorneys in 2010, a marked decrease from 2009 and 2008, when a majority of firms terminated lawyers in these positions. However, in about two-thirds of the firms in which part-time lawyers were laid off, the majority of those terminated were women.

Overall, we continue to be concerned that law firm terminations of recent years are depleting the pipeline of partnership-track women lawyers. Our conclusion from last year's Survey remains the same: the disproportionate departures of women lawyers at every level will result in disappointingly smaller numbers of women partners and firm leaders for many years to come.

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#### IV. Women Lawyers in Law Firm Leadership.

A. Women in Law Firm Governance.

As in previous years, the 2011 Survey requested data about women's representation on the highest governing committee of each firm. <sup>16</sup> This committee is responsible for a firm's strategies, policies and practices, including policies affecting the recruitment, training and advancement of lawyers in the firm.

Among the large firms, the median number of members of the highest governing committee is ten. There is substantial firm-to-firm variation in the number of women who sit on these committees. In 2011, 11% of firms have no women on the highest governing committee, 35% have one woman member, and 31% have two women members. Only 23% of firms include more than two women on their highest governing committee. In essence, the majority of the big firms have, at most, two women members on their highest governing committee, with almost half the firms showing none or one women member.

We continue to be concerned that the small number of women at the highest level of firm leadership has broad and negative implications for the advancement of women lawyers. A firm's chief governing committee makes decisions regarding firm policy, strategic growth and direction, recruiting and lateral hiring, compensation, billable hour requirements, elevation to partnership, and policies for time off or part-time or flex-time work. The firm's highest governing committee sets the tone and the policies for overall firm culture. When so few women are part of the dialogue on these important and sensitive topics, it is less likely that the policies and practices implemented by the firm will be responsive to the career needs of women lawyers.

**B.** Advancement of Women into Equity Partnership. For the sixth year in a row, we reluctantly report that the proportion of women who are equity partners in large law firms remains dismally low; in 2011, it is barely 15%. As noted above, two-tier firms had a slightly smaller percentage of women equity partners (14%) than one-tier or mixed-tier firms (18%). Thowever, in no category of firm can the numbers be called encouraging.

What does this mean for the progress of women in private practice and their firms? It means a continuing shortage in firms of lawyers in active practice for reasons connected to their gender, deeply jeopardizing the talent pool of lawyers available to firms and their clients. It means that firms will continue to be unable to fully address the diversity requests and requirements of

their clients. It means a continuing dearth of female role models for women associates, counsels and non-equity partners, further jeopardizing retention of many talented lawyers. It means fewer senior-level women available to be recruited into law firm leadership or firm management with the result that women's voices will be fewer and less likely to be heard in important firm discussions about policies and strategies that can make a positive difference for women lawyers coming up through the ranks. To the detriment of private firms, today's scarcity of senior-level women lawyers is likely to result in a continuing scarcity of senior law firm members in the years to come unless firms proactively and aggressively change their policies and practices for retaining and promoting women lawyers.

#### C. Women and Business Development.

How important is business development to success in a law firm? "A lawyer's ability to generate business is the single most determinative factor in whether a lawyer will become an equity partner." Although some have questioned whether this standard should continue, <sup>19</sup> it cannot be assumed that in the current economic environment, the focus on rainmaking will change anytime soon.

As we have seen in past Surveys, almost half of large firms count no women at all among their top ten rain-makers. Nevertheless, the relative absence of women at the highest levels of business generation does not necessarily mean that women aren't generating business at all, only that few women have achieved the nationwide or specialty-wide level of prominence that would put them in the top 2,000 American big-firm lawyers along this dimension.

In 2011, we broadened our approach to data on business generation. The 2011 Survey asked firms how many of their partners, male and female, were responsible for generating at least a \$500,000 "book of business." The choice of \$500,000 was based on anecdotal discussions that \$500,000 is the minimum for initial recognition of "business" in many large firms (although not the very largest firms) and that firms seeking lateral partners often cite the \$500,000 number as one that would interest them in further discussions with a candidate.

We were surprised and somewhat disappointed by the responses about business generation. At the typical firm, women partners constitute only 16% of those partners who received credit for at least \$500,000 of business, which approximates their percentage as equity partners. To put that number in context, the majority of women partners do not appear to receive credit for

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a sufficient amount of business to cover their compensation and overhead, or to embark upon advantageous discussions with respect to a potential lateral move. Moreover, it appears to be harder for women than men to be recognized for that level of business. We found that a much higher percentage of women partners were relatively "bookless" compared to men — 56% of women partners compared to 38% of men partners.

If a partner does not have her or his "own" business, it means that her or his value to the firm inheres in the ability to service other people's clients. Perhaps it's because a given partner is the "go to" person for Partner X, or perhaps it's because a given partner is a nationally recognized expert in some esoteric legal field. Either way, from the perspective of the firm, if a partner does not pull her or his weight as a rainmaker, that partner is viewed as a service partner. The responses to this year's Survey tell us that women are much more likely to be service partners than men, based on the proportion of women partners who are relatively bookless. Another possible inference from the data is that the firm's top rainmakers, who are almost all men, are more apt to protect a "bookless" male colleague than a female colleague. In addition, the general correspondence between the percentage of women having \$500,000 book of business and their proportionate share of equity partner positions might be read to suggest that the lack of rainmaking credit explains why women continue to represent such a small proportion of a firm's equity partnership.

Whatever the reasons, it appears that women across the spectrum are challenged in their ability to bring in their own business and in the current economic environment that can only make them more vulnerable. Overall, the data clearly underscore the importance for a woman partner to demonstrate that she can develop her own clients and also that she receive credit for the business.<sup>21</sup>

# D. The Continuing Compensation Gap Between Men and Women

Since the Survey began in 2006, one of the perennial sets of questions has been whether men and women in the same positions are compensated similarly. In 2011, overall female associate compensation is slightly less than male associate compensation, although the differ-

ence is not large and is likely explained by greater female attrition at the senior associate level. Meaningful differences in compensation show up, however, at every higher level in the firm — a result that has been consistent in each year of the Survey. In 2010, the gap between female counsel and male counsel narrowed, with women earning roughly 92% of what their male peers earned. The gap between non-equity female and male partners also narrowed slightly, with women earning 95% of the income earned by their male counterparts. Finally, as has been true in each year of the Survey, the gender gap was widest at the equity level. For 2011, women equity partners are earning 86% of the amount earned by their male peers. That means that in a typical firm, male equity partners are earning roughly \$70,000 more than female equity partners.

In short, women are underrepresented in the ranks of counsel, non-equity partner and equity partner; and at each stage of their career progression in a firm, women are likely to earn noticeably less money than their male peers. Our data also show that compensation generally is affected by a firm's structure. One-tier firms had higher lawyer compensation than two-tier firms at all levels. Compensation in two-tier firms exceeded that of mixed-tier firms at all levels.<sup>22</sup>

#### V. Conclusion

The NAWL Foundation, in cooperation with NAWL, sponsors an annual Survey designed to provide reliable benchmarks about the status of women lawyers in private law firms and the factors that impede or advance their retention and promotion. We know from our communications and interactions with large law firms that there is a desire within firms to implement concrete steps that will assist greater numbers of women lawyers in advancing their careers. In particular, we are heartened by the fact that 95% of responding firms disclosed that they sponsor a women's initiative, with the goal of overcoming barriers to success that women may face.

We express our appreciation to all of the firms that participated in the Survey. We especially applaud NAWL's Law Firm Members and Sponsors for their interest in initiatives like the Survey and their cooperative efforts to enhance the role of women in the profession.

#### **NAWL SURVEY**

#### Appendix on Survey Methodology

The NAWL Survey was sent in early Spring 2011 to the 200 largest firms in the U.S. as reported by *American Lawyer*.<sup>23</sup> Although most attorneys in private practice work in smaller settings, we chose to focus on the largest firms because they are an easily defined sample, include firms from all parts of the U.S., and are viewed as benchmarks for the larger profession.

The Survey solicited information about each firm's U.S.-based lawyers as of February 1, 2011. The 2011 questionnaire included comparative questions about associates, counsel, non-equity and equity partners, staff and contract attorneys, law firm structure, compensation, governance, rainmakers and involuntary terminations. As in each prior year, NAWL does not to publish individual law firm data. We believe that, at the current time, aggregate analyses rather than highlighting individual firm data allows greater response rates on sensitive questions and is consistent with the goals of tracking how women are doing overall and setting benchmarks.

A total of 121 firms responded to the 2011 Survey, which is an overall response rate of 61%. Responding firms were not significantly larger than non-respond-

ing firms in terms of net operating income, profits per equity partner, or gross revenue. However, responding firms were larger than non-responding firms in terms of revenue per lawyer. Not all firms answered every question. The Survey's questions on compensation, books of business, and involuntary terminations obtained the lowest response rates with, on average, 50 firms responding to questions about compensation, 60 firms responding to questions about books of business, and 70 firms responding to questions about involuntary terminations. Based on anecdotal reports, the lower response rates for these questions suggest that the Survey results are likely to under-represent the levels of gender disparity along these dimensions.

The Survey was designed and developed by Stephanie Scharf, a practicing lawyer and former Senior Study Director at NORC, a national survey research center based at the University of Chicago. The Survey was administered first in 2006 and has been administered annually since then. The 2011 analysis was assisted by Amelia Branigan, MPES Fellow, in the Department of Sociology at Northwestern University.

- 1 Barbara Flom is Secretary of the NAWL Foundation and chairs the 2011 Survey Committee. She practiced law for more than two decades, primarily in AmLaw 100 firms. Her email contact is barbflom@gmail.com.
- 2 Stephanie Scharf is President of the NAWL Foundation and chairs the Foundation's research initiatives. She practiced law as a partner in AmLaw 100 firms before joining Schoeman Updike Kaufman & Scharf. Her email contact is sscharf@schoeman.com.
- We thank Cheryl Tama Oblander, Butler Rubin Saltarelli & Boyd, for her contributions to the design of the 2011 Survey and editing this Report. We also acknowledge and thank the hardworking members of the Survey Committee, without whom this Report would not have been possible: Renee Bergman, Thorp Reed and Armstrong; Ya Marie Chan, SNR Denton; Sally Church, Thorp Reed and Armstrong; Margaret Denton, Realogy; Felice B. Ekelmen, Jackson Lewis; Mindy Block Gordon, NAWL Foundation; Linda Lemel Hoseman, Winston & Strawn; Mary A. Kelly, Prudential; Joni L. Landy, Thorp Reed and Armstrong; Charlotte Pashley, McGuire Woods; Christine Stanitski, Finn Dixon and Herling; Lynn A. Whitcher, McGuire Woods; and Susan White, Westlaw-Thomson Reuters. We also thank Courtney Murtaugh, Survey Administrator, for her dedication and attention to detail in her work on the Survey.
- We gratefully acknowledge the support of the American Bar Association's Commission on Women in the Profession, and in particular the contributions to survey content of Roberta Liebenberg, Commission Chair 2008-2011.
- As compiled by *The American Lawyer*. For more detail, see Appendix of Methodology.
- 6 Several state and local bar associations have used the Survey to enhance their dialogues about the progress of women in particular geographic regions. We would be pleased to work with other organizations to extend the Survey into local and regional areas.
- The 2008 NAWL Survey was the first national study to identify and collect data on a new type of law firm structure, the "mixed-tier" firm, in which all equity partners are required to contribute capital to the firm but some are paid as if they were non-equity partners. To our knowledge, although this is a growing category of partner, it has not been studied by any other entity.
- 8 Women Spurn Law Schools, http://thecareerist.typepad.com/thecareerist/2011/05/fewer-women-at-nations-lawschools.html, May 16, 2011. See also IILP Review 2011: The State of Diversity and Inclusion in the Legal Profession, Table 4 (showing that women's highest percentage of J.D. Degrees awarded occurred in 2004 and has since been on the decline).
- Women Spurn Law Schools, cited in preceding footnote.
- 50 Specifically, we found that 72% of AmLaw 100 firms and 82% of Second Hundred firms use staff attorneys, while 71% of AmLaw 100 firms and 82% of Second Hundred firms use contract attorneys.
- A recent provocative study suggests that the unconscious biases of decision makers may be at least partly responsible for various disparities between men and women lawyers. Levinson & Young, Implicit Gender Bias in the Legal Profession: An Empirical Study, 18 Duke J. of Gender Law & Policy 1 (2010). See also Biernat, Tocci and Williams, The Language of Performance Evaluations: Gender-Based Shifts in Content and Consistency of Judgment, Social Psychological and Personality Science, published online 18 July 2011 at http://spp.sagepub.com.

- 12 Almost no firms pay bonuses in lockstep unless they also pay salaries in lockstep.
- 13 Of this group, 27% graduated before 1980, 36% graduated during the 1980s, 29% graduated during the 1990s, and 8% graduated in 2000 or later.
- 14 The American Lawyer defines equity partners as "those who receive no more than half their compensation on a fixed-income basis." A fixed-income equity partner would thus not be counted in this calculation.
- 15 No equity partners were reported as having been terminated during the period surveyed.
- 6 Such committees are called the Executive Committee, Policy Committee, Management Committee, or some similar title.
- 17 It is worth keeping in mind, however, that a significant number of the women equity partners in mixed-tier firms are fixed-income equity partners.
- 18 Actions for Advancing Women Into Law Firm Leadership, Report of the National Association of Women Lawyers (July 2008). http://nawl.timberlakepublishing.com/files/2008%20Summit%20Report.pdf.
- 19 New Millennium, Same Glass Ceiling?, http://www.pardc.org/publications/SameGlassCeiling.pdf.
- 20 For this question we did not distinguish between equity and non-equity partners, recognizing that non-equity partners may also be generating business and receiving credit for it within their firms.
- 21 For more on this phenomenon from the perspective of women lawyers, see the PAR/MCCA study of 2010, conducted at the encouragement of the ABA Commission on Women in the Profession, which studied many of the factors that hamper women in their rainmaking efforts, including, among others, that women are often excluded from rainmaking opportunities, that they frequently do not receive credit for their contributions to business development, and that they often become embroiled in disputes over billing credit.
- 22 For equity partners, median compensation was \$773,550 in one-tier firms, \$680,000 in mixed-tier firms, and \$492,000 in two-tier firms. For counsel, median compensation was \$280,000 in one-tier firms, \$216,000 in two-tier firms, and \$174,593 in mixed-tier firms. And for associates, median compensation was \$197,067.50 in one-tier firms vs. \$160,000 in both two-tier and mixed-tier firms.
- 23 The list of the nation's largest 200 firms was published by *American Lawyer* in 2010 and was the basis for the population of firms surveyed in early 2011. Certain other data about these firms was obtained from lists published in *American Lawyer* at various times in 2009, 2010 or 2011.



# One Is Not Enough: Building Your Personal Board Of Advisors

By Ida Abbott, JD



Ida Abbott helps employers manage, retain, and advance legal talent and serves as a mentor and coach to high achieving individuals seeking professional success. A Fellow of the College of Law Practice Management, Ida is co-founder and Director of the Hastings Leadership Academy for Women at Hastings College of the Law, where she is also a Faculty Fellow. Ida has more than three decades of experience as a lawyer and consultant, and is the author of several books, including *The Lawyer's Guide to Mentoring* (NALP, 2000) and *Women on Top: The Woman's Guide to Leadership and Power in Law Firms* (Thomson Reuters, 2010). She publishes a newsletter, Management Solutions, that is available on her website, www.IdaAbbott.com.

When it comes to mentors, one is good but more is better. One person, even one who is fully committed to your success, cannot address all your career needs. Research shows that having a diverse, high quality "constellation" of mentors accounts for more successful long—term career outcomes than having one influential mentor. Mentoring relationships with an array of individuals provides a broader base of career support. You can have a constellation of diverse mentors by creating a personal "board of advisors." The key is finding advisory board members who address various career needs and share one important characteristic: they are interested and willing to help you succeed.

#### Who should be on your personal board of advisors?

That depends on how you answer three essential questions: what you need, what you hope to accomplish, and what kind of help you want. The ways that mentors help you usually fall into three broad categories: acquiring knowledge and skills, developing your professional identity, and advancing your career. Within each category, mentors serve various functions. Some mentors can help you in more than one way, and many mentors fulfill two or more roles simultaneously, but it rare for one mentor to serve you in every way.

Once you have answered the three essential questions, you can look for individuals who have the requisite skills, knowledge, background, connections, and/ or influence you need. In addition to your needs, consider what they might expect from you (if anything) or what you can offer them in return; what would appeal to them about helping you; and how you can best approach them. Keep in mind that their interest in you

may not be altruistic; it may be because your success will help them be more successful. If they don't already know you well, you should be ready to explain why you are worth their time and attention.

When choosing mentors, most people gravitate to people who are like them. There is a greater sense of comfort and trust when people share similar backgrounds, demographic characteristics, experiences, and practices. These mentors can be enormously valuable in lending psychological support, getting you good work, helping you understand how things really work in the office, building confidence, making you feel included, and affirming your professional self—image. But it is equally important to have mentors who push back and see things differently. Having a diverse board of advisors allows you to balance those mentors who are supportive and put you at ease with others who propel you outside your comfort zone, challenge your views and ideas, give you "tough" feedback, and urge you to take risks and try new things. It is often these mentors who most help you learn and advance.

# most help you learn and advance. Where should you look for members of your board?

Mentors can come from anywhere. In most instances, decide first what you need and the characteristics of the person who would be best suited to help you. Then try to find that person. They may be in your firm — or not; in the same practice area — or not; in the legal profession — or not. They may be older, younger or the same age, and may come from any demographic group. Occasionally, someone may unexpectedly reach out to you and offer to help you. When that happens, think about what talents, contacts, or experience they have and how they might help you, and let them know.

The key is finding advisory board members who address various career needs and share one important characteristic: they are interested and willing to help you succeed.

Whether you are seeking them or they reach out to you, potential mentors may not be readily apparent. Sometimes a person outside your firm or the legal profession can help you in ways that an insider cannot. Individuals who do not share the professional interests and biases of the lawyers with whom you regularly work and interact can frequently offer you new ideas and fresh perspectives. For instance, someone in sales may not know anything about law practice but they can help you appreciate the fine points of selling your legal services.

#### Approaching potential mentors.

When you approach a potential mentor, be as clear and specific as possible about:

- · What kind of help you want from them,
- · How their help will further your career goals,
- Why they are the right person to help you, and
- How much time and effort it will take.

If your request is narrowly framed and reasonable, people are more likely to say yes.

When you have a specific need, you can approach several individuals at once. For example, if you are opening your own office or are moving into a leadership position with new and more extensive responsibilities than you have ever held, you may desire immediate help from a number of individuals. But most often, people accumulate multiple mentors over a long period of time. During your early years as an associate, you may seek mentors who are patient and effective teachers, thoughtful career advisors, or supervisors who give you stretch assignments that foster your professional development and build your confidence. A few years later, you may want someone who can help you become a partner, introduce you to clients, or refer business to you. Some of the mentoring relationships you build may last for many years, while others may be short term, but their value to you will be cumulative.

#### Categories of mentors for your board.

There is no magic formula for choosing the members of your advisory board. Your board should be personalized for your specific needs. However, during the course of a legal career, most lawyers will want mentors who fall into many or all of the following eight categories:

#### The Teacher

Mentors who are good teachers have more than knowledge and expertise; they also have the temperament, patience and ability to help you learn. Teachers can help you learn the technical skills you need to be a lawyer, but they can also teach you about clients, managing others, billing, business skills, and almost any aspect of practice. What you need to learn will vary as your career progresses, so you may want more than one teacher on your board.

#### The Counselor

Counselors offer guidance and support. They give you honest feedback and objective advice, and provide insights that you can rely on as you develop your career strategy. They must have empathy and know you, your firm and the legal profession well enough to understand the issues, expectations and dilemmas you are dealing with, as well as the options and opportunities available to you. It is wise to have counselors both inside and outside your firm.

#### The Confidante

It is important to have someone on your board you can confide in without fear of disclosure, embarrassment or repercussion. Confidantes know you very well, sometimes better than you know yourself. They provide emotional support, do reality checks, and help you maintain a sense of perspective and ideally, a sense of humor. This person can be a friend, family member, or professional colleague.

#### The Insider

You need information about how things really work in your firm: the unwritten rules, the political dynamics, who holds the power and who makes the decisions. When you are junior, this person can warn you about the assignments to go after and the partners to avoid. When you are more senior, the Insider can give you information and insights that can help you position yourself for a desirable committee appointment or a higher bonus. At any career stage, the Insider can clue you in to political factors that may affect your career strategy.

#### The Coach

Coaches help you improve your performance. They help you identify and set development and practice goals and hold you accountable for achieving them. They also monitor your performance and work experience. Along the way, coaches give you feedback, urge you to stretch and accept new challenges, and give you encouragement and support.

#### The Champion

Champions have clout and are willing to exert it on your behalf. They advocate for you and sponsor you for promotions or high visibility assignments. The source of their power may be their clients, leadership position, business or community connections, political savvy or the respect others have for them. Because champions who sponsor or advocate for you put their own reputation and credibility on the line, most people will want to know you well before serving as your Champion. They need to have complete confidence in the quality of your work, your character, the scope of your ambition, and your commitment and determination to succeed.

#### The Role Model

A role model is someone you want to emulate. You may want to model your entire practice after theirs, or you may want to follow just one dimension, such as their leadership style, career path, or approach to work—life challenges. Including them in your personal board of advisors gives you a chance to observe them more carefully and ask them how they developed their practice or style, why they made certain career choices, and what tradeoffs they made to have a family and a career.

#### **The Connector**

Some individuals are well connected. They seem to know everyone, either indirectly or through someone else in their network. They can open doors by introducing you to influential people inside the firm and to potential business contacts outside the firm. Connectors are also valuable for helping you become connected within a professional community, whether in your firm, a bar association, or a national organization that interests you.

As you acquire mentors for your board, remember that mentoring is a relationship based on mutuality. Consider what you might do to reciprocate or at least acknowledge each mentor's generosity. A simple thank—you note may be enough, but consider bringing your various mentors together from time to time. Introduce them to each other and give them a chance to expand their own business networks. Send them business referrals, nominate them for mentoring awards, and find creative ways to show appreciation for their investment

As you acquire mentors for your board, remember that mentoring is a relationship based on mutuality. Consider what you might do to reciprocate or at least acknowledge each mentor's generosity.

<sup>1</sup> Monica C. Higgins and David A. Thomas, "Constellations and Careers: Towards Understanding the Effects of Multiple Developmental Relationships," Journal of Organizational Behavior, 22:223-247 (2001)

#### **BOOK REVIEW**

# Knowing Your Value: Women, Money, and Getting What You're Worth

By Mika Brzezinski (Weinstein Books, 2011) Reviewed by Donna Gerson

Knowing the fairmarket value of our contributions at work is a critically important piece of knowledge for today's (and tomorrow's) professional woman.



Do you know your value? Mika Brzezinski, co-host of MSNBC's Morning Joe, did not. When she learned that her co-host, Joe Scarborough, was earning 14 times her salary, Mika struggled to ask for a raise. Brzezinski's journey to establish her value in the workplace was fraught with challenges both personal and external. In the process, she

sought advice from influential sources, including Sheryl Sandberg, COO of Facebook, Valerie Jarrett, President Obama's Senior Advisor, financial specialist Suze Orman, Norah O'Donnell, Chief Washington Correspondent for MSNBC, and many more. It turns out that even the most successful women struggle with issues of worth and compensation.

The resulting book, *Knowing Your Value*, chronicles Brzezinski's personal journey and offers practical advice to all women who seek better compensation and professional recognition. Written in a lively, conversational tone, Brzezinski conveys practical tactics and

strategies on how to speak up, negotiate from a place of power, close the deal, and get the compensation you deserve. The book highlights differences between men and women in the workplace and ways to move beyond stereotypes to achieve one's career goals.

Women lawyers still lag in pay equity and professional achievement. The Project for Attorney Retention (PAR) surveyed the new partner class of 2011 and found that law firms slid one percentage point in promotions of women attorneys in U.S. offices since last year, nearly 33% compared to 34% in 2010. NAWL continues to be at the forefront of compensation and promotion issues for women lawyers. The NAWL Challenge to increase female leadership in all sectors of the legal profession by 2015 is an important first step.

"Knowing the fair-market value of our contributions at work is a critically important piece of knowledge for today's (and tomorrow's) professional woman," writes Brzezinski. "Our families' future depends on our knowing what we should be paid, and getting it. If we can't quantify and communicate our value with confidence, the achievements of the tremendous women before us will have all been for nothing."

Donna Gerson is the author of several legal career books and speaks at law schools nationwide on issues related to networking, business etiquette, and small firm hiring. Donna is a Career Service Partner with attorneyjobs.com (Thomson Reuters). She is licensed to practice law in the Commonwealth of Pennsylvania. www.donnagerson.com.

#### **COMMITTEE SPOTLIGHT**

# The International Women's Day (IWD) 2012 Summit

Jointly Organized by NAWL and the Law Society of England and Wales



National Association of Women Lawyers\* the voice of women in the law\*



The International Committee of NAWL is expanding NAWL's footprint overseas in a first-ever summit jointly organized with the Law Society of England and Wales to be held in London on March 8, 2012 in conjunction with International Women's Day. The summit aims to challenge the career barriers women face in the legal sector in England and beyond. Senior legal professionals from across the globe will gather at the summit in a bid to identify and address the barriers to women's career progression. The exchange of change strategies and ideas aims to create a manifesto for women in the legal sector that will set an agenda for positive, tangible change.

NAWL's International Committee seeks to engage globally in efforts that promote the recruitment, retention, and advancement of women in the legal profession. Our work focuses on expanding and strengthening NAWL's presence globally by developing and participating in an active network of women bar associations and legal organizations; compiling a robust web-based library of dynamic resources and research materials; providing content and commentary on issues related to the status of women in the legal profession in various jurisdictions throughout the world; and developing information regarding best practices, innovative strategies and programs in the legal profession.

# Recent NAWL Meetings and Programs

#### NOVEMBER 3-4, 2011

# 7th Annual General Counsel Institute

A DYNAMIC TELECONFERENCE BOOK DISCUSSION GROUP FOR NAWL MEMBERS AND GUESTS 2:00 P.M. EST FACILITATED BY KAREN KAHN ED.D. PCC

#### **Building Bridges: Making the Connections**

The Institute provided a unique opportunity for women corporate counsel to learn from leading experts and experienced legal colleagues in a collegial and interactive environment. Plenary and workshop sessions with general counsel of major public corporations and nonprofit organizations and other professionals fostered frank discussions about what it takes to build and strengthen relationships up, down and across organizations, improve legal skills and knowledge, and make strategic decisions. The Seventh Annual General Counsel Institute was an engaging and enriching program with opportunities to learn and network with other senior legal professionals. Participants came from throughout the U.S., Canada and Europe and included counsel from large Fortune 100 to small private companies.

Sponsored by: Allstate Insurance Company • ALM • AT&T • Bank of America • Blake, Cassels & Graydon LLP • Crowell & Moring LLP • DLA Piper • Epstein Becker & Green, P.C. • Greenberg Traurig, LLP • Haynes and Boone, LLP • Hodgson Russ LLP • Huron Consulting Group • Intel Corporation • Jackson Walker LLP • Manatt, Phelps & Phillips, LLP • Mayer Brown • McCarter & English, LLP • McDermott Will & Emery • McGuireWoods LLP • McKool Smith • MetLife • Nukk-Freeman & Cerra, P.C. • Ogletree, Deakins, Nash, Smoak & Stewart, P.C. • Pfizer Inc. • Porzio, Bromberg & Newman P.C. • Siemens • Southern Company • Sutherland Asbill & Brennan LLP • The Cooper Group LLC • Walmart • Wragge & Co LLP

OCTOBER 20, 2011

#### NAWL's Networking Night of Giving

SIMON, PERAGINE, SMITH & REDFEARN, LLP NEW ORLEANS, LA The NAWL Networking Night of Giving-New Orleans benefitting Crescent House Battered Women's Program.

OCTOBER 20, 2011

#### NAWL's Networking Night of Giving

ALSTON + BIRD LLP LOS ANGELES, CA The NAWL Networking Night of Giving-New Orleans benefitting Daybreak.

#### NAWL NEWS

# Recent NAWL Meetings and Programs

#### OCTOBER 11, 2011

KAHN ED.D. PCC

#### Connect, Listen & Learn Series

A DYNAMIC TELECONFERENCE BOOK DISCUSSION GROUP FOR NAWL MEMBERS AND GUESTS 2:00 P.M. EST FACILITATED BY KAREN

# Power and Influence for Lawyers: How to Use it to Develop Business and Advance Your Career

by Susan Letterman White

Power and Influence for Lawyers: How to Use it to Develop Business and Advance Your Career is a combination of scientific research, advice, suggested activities, and worksheets for law students and lawyers interested in achieving career and personal success through the use of research based strategies. Susan wrote this book to help lawyers learn to think and act more effectively in their efforts to advocate for themselves, develop business, advance up the organization ladder, or lead their teams and law firms in new directions.

Susan Letterman White, J.D., M.S., is a business strategy consultant who also trains lawyers to think and act like business leaders through coaching, retreats, workshops, presentations, and other programs designed for a law firm, law department, or lawyer's unique needs including Crossing-Selling Strategy Teams for Business Development, Women's and Diversity Initiatives, and Strategic Communication for Career Advancement and Business Development. Outcomes of Susan's work include better and more productive business meetings, alignment and cohesion among an organization's lawyers, identification of strategic opportunities, conflict management, better team performance, and improved business performance.

Prior to consulting, Susan managed her own solo practice while raising children and then joined Hepburn, Willcox, Hamilton, & Putnam in Philadelphia as an associate, became a partner, and then the managing partner. In addition to her J.D. (from Loyola Law School), Susan has a master's degree from American University in Organizational Development.

AUGUST 8, 2011

#### **Roundtable Discussion**

MINNEAPOLIS, MN

# The Choices We Make: Alternatives to Private Practice and Why Women Pursue Them

A roundtable discussion of the alternative career paths available to women and the circumstances that influence their decisions. The panel included women at different stages of their careers in public service, private practice and corporate America.

#### NAWL NEWS

# Recent NAWL Meetings and Programs

#### JULY 20, 2011

#### NAWL's Networking Night of Giving

EPSTEIN BECKER & GREEN, P.C. NEW YORK, NY This philanthropy and networking event benefitted the Young Women's Leadership Network, an organization that enables low-income students to achieve their highest educational potential and to break the cycle of poverty.

JULY 21, 2011

# NAWL's Annual Meeting and Awards Luncheon

WALDORF=ASTORIA
301 PARK AVENUE
NEW YORK, NY

The 2011 Annual Meeting and Awards Luncheon honored the following individuals:

**President's Award:** Prudential Financial, Inc. Legal Department, Susan Blount, Senior Vice President and General Counsel

**Arabella Babb Mansfield Award:** Jamie Gorelick, Partner, Wilmer Cutler Pickering Hale and Dorr LLP

**M. Ashley Dickerson Award:** Michele Coleman Mayes, Senior Vice President and General Counsel, Allstate Insurance Company

Public Service Award: Brooksley Born, Retired Partner, Arnold & Porter LLP

**Lead by Example Award:** Honorable Harold Baer, U.S. District Court, Southern District of New York; and Marc Firestone, Executive Vice President, Corporate and Legal Affairs and General Counsel, Kraft Foods, Inc.

Virginia S. Mueller Outstanding Member Awards: Dominica Anderson, Partner, Duane Morris; Laurie Charrington, Senior Associate, Jones Day; Stephanie Cohen, Partner, McCarter & English LLP; Nancy A. Lottinville, Counsel, Gibbons P.C.; Jane Mallor McBride, Principal and General Counsel, Optimus Legal Management and Consulting; Anne O'Neill, Partner, Hinshaw & Culbertson LLP; Randi Engel Schnell, Partner, Bondurany Mixson & Elmore LLP

JULY 7, 2011

Join Live or Rewind Webinar

"Powerful Presence: 6 Steps to Greater Impact for Women Lawyers" with Kelly Baker, Asbury Automotive Group, Allegra Lawrence-Hardy, Sutherland Asbill & Brennan, Marsha Redmon, Lawyer Communications Coach

#### Member News

The law firm of Becker Meisel has announced the addition of **Reneé F. Bergman** as counsel to the firm, practicing in its Cherry Hill office, focusing her practice on business litigation, including mediation and arbitration in Pennsylvania, New Jersey and New York. Previously, Ms. Bergmann was a member of Thorp Reed & Armstrong, LLP's Commercial and Corporate Litigation Group, as well as a member of the nationally ranked franchise team with the global firm Nixon Peabody LLP.

Ms. Bergmann has specific experience representing regional, national and international clients in commercial contract disputes, business tort claims, franchise litigation, employment discrimination suits, and insurance coverage matters. She has represented financial institutions in connection with consumer-related claims, breach of contract claims, as well as insurers in declaratory judgment coverage cases. Ms. Bergmann has successfully briefed and argued matters in both state and federal courts and negotiated favorable settlements in substantial contract disputes.

Global law firm K&L Gates LLP has appointed litigator **Carolyn M. Branthoover** as Administrative Partner of the firm's Pittsburgh office, effective August 1. Branthoover succeeds Michael G. Zanic in the role, following Zanic's naming as co-leader of the firm's new Energy, Infrastructure and Resources practice area.

One of K&L Gates' most experienced complex civil litigators and first-chair trial lawyers, Branthoover has represented companies such as Alcoa, United Technologies, DuPont, PPG Industries, and other leading corporations in state and federal courts across the United States and before domestic and international arbitration tribunals. She is a past chair of the Pittsburgh office's Associates Committee.

**Keya Koul**, an attorney at the New Mexico office of Castle Stawiarski, LLC, a provider of high-quality legal representation, focusing on commercial foreclosure, bankruptcy and mortgage-related litigation, has been named the Outstanding Young Lawyer of the Year by the State Bar of New Mexico.

The Outstanding Young Lawyer of the Year Award is presented annually by the State Bar of New Mexico to an attorney who has, during the formative stage of her legal career, by her ethical and personal conduct, exemplified for her fellow attorneys the epitome of professionalism. The State Bar of New Mexico presents this award to an attorney who has demonstrated commitment to clients' causes and to public service and who enhances the image of the legal profession in the eyes of the public. Ms. Koul received her Juris Doctor from Southwestern Law School and concentrates her practice in the areas of real estate and bankruptcy law. She also holds a Bachelor of Arts degree in Spanish and biology from Smith College, and a Masters degree in medieval Spanish literature from the University of California, Los Angeles.

Ms. Koul is the vice chair of the State Bar of New Mexico's Young Lawyers Division, and serves on the Board of the New Mexico Women's Bar Association. She is also a member of the American Bar Association's Young Lawyers Division (YLD), where she currently serves as assistant editor of The Affiliate, the YLD's newsletter. Ms. Koul was also previously elected as an inaugural 2010 American Bar Association Touch 10,000 Ambassador.

The law firm of Becker Meisel has announced the addition of **Suzanne lazzetta** as counsel to the firm, practicing in its Livingston office, handling both debtor-side and creditor-side bankruptcy and restructuring matters. Previously, Ms. Iazzetta was an associate at Lowenstein Sandler, where she spearheaded the development of the business and finance curriculum at Lowenstein Sandler University, the education arm of the firm, in addition to playing an integral role in numerous highprofile bankruptcy cases.

Ms. Iazzetta is the founder of the Quixote Law Association, a fellowship of attorneys and other individuals who believe in using the law to fight for what is right, and true, and just. She serves as the secretary of the Board of Trustees of the Oskar Schindler Performing Arts Center in West Orange, New Jersey, indulging her deep love of music, and serves as pro bono counsel to Coming Home Rescue, Inc., a non-profit organization in Rockaway, N.J. that rescues, cares for, and finds new homes for homeless and unwanted dogs. She is also member of the advisory board of LegalBizDev, an organization that helps law firms increase profitability by improving project management, business development, and alternative fee structures.

# **Outstanding Law Students**

NAWL congratulates the 2011 Outstanding Law Students. Selected by their law schools as the outstanding law students of their class, these talented and dedicated awardees are among the best and brightest.

Honored not only for academic achievements, these students were also chosen for the impact they made in areas beyond the classroom. The men and women listed below have worked to further the advancement of women in society and promoted issues and concerns of women in the legal profession with motivation, tenacity and enthusiasm that inspired both their fellow students and law professors.

NAWL is for women and men who want to change the world. We salute these individuals who have begun working early in their careers to promote justice for women, and we encourage them to continue making a difference as their

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ANT	Antitrust	EST	Estate Planning	NET	Internet	
APP	Appeals	ETH	Ethics & Prof. Resp.	NPF	Nonprofit	
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EEO	Employment & Labor	LND	Land Use	WCC	White Collar Crime	
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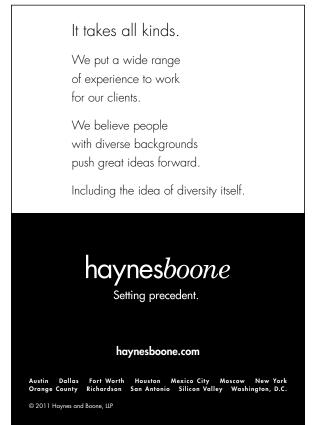
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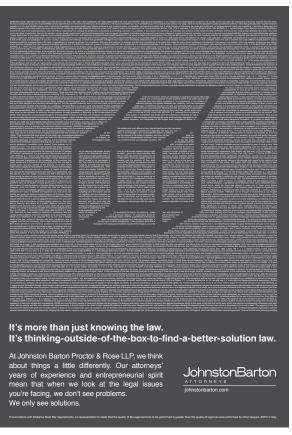
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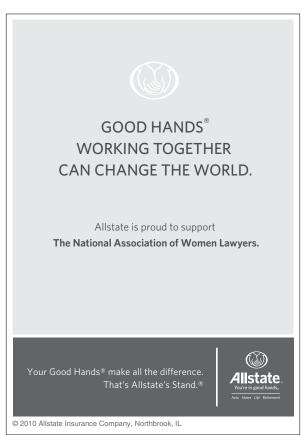
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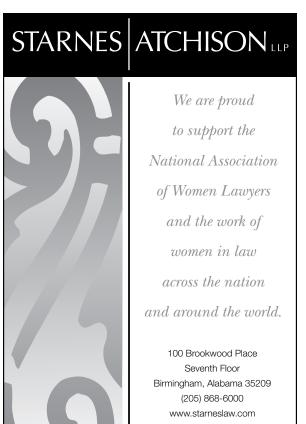
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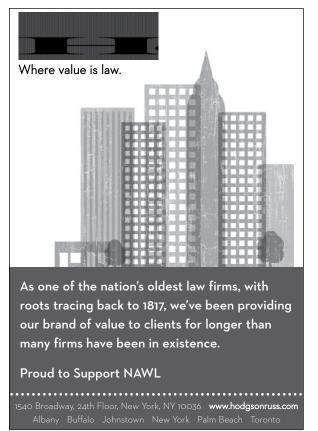
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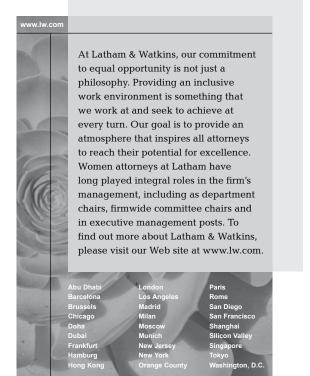




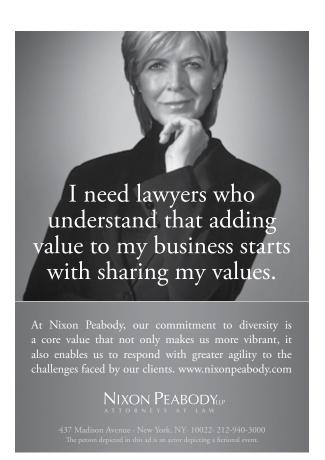
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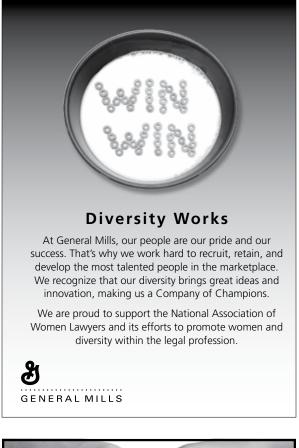
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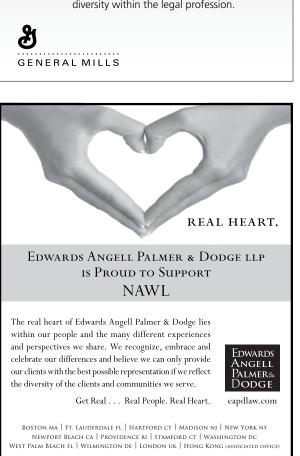


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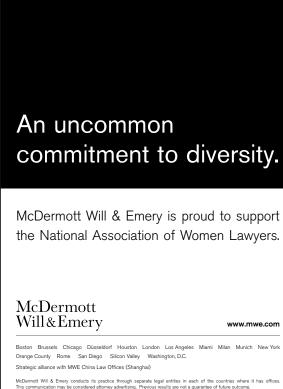


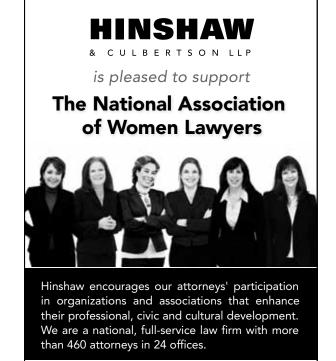










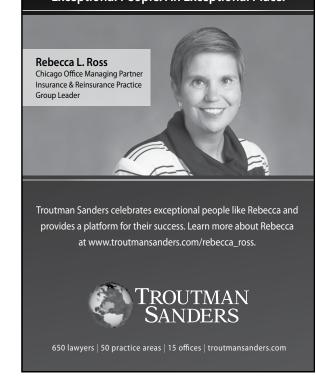


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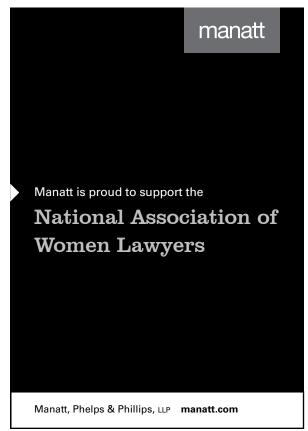


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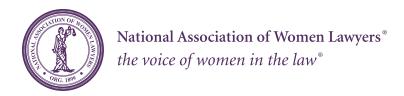
Dickstein Shapiro is widely regarded for its commitment to advancing women's issues in the legal marketplace. The Firm actively works to foster an environment that is consistently employee- and family-friendly and maintains focused efforts to attract the most talented female attorneys. In 2009, Dickstein Shapiro topped the Project for Attorney Retention survey with 67% of its new partner promotions going to women in the Firm. The Managing Partners of the New York and Los Angeles offices, the Deputy General Counsel, two members of the Executive Committee, and four of its five C-level officers are women. For the past 18 years, the Firm has been an avid supporter of NAWL, and its attorneys have served in various leadership positions. Dickstein Shapiro partner Katherine Henry is a former NAWL President, and partner DeAnna Allen currently serves on the NAWL executive board. Working together with NAWL and other like-minded organizations, Dickstein Shapiro continues to improve the professional lives of women attorneys by encouraging their development and retention.

To learn more about our Women's Leadership Initiative (WLI), contact WLI Co-Leader Elaine Metlin at (202) 420-2263 or metline@dicksteinshapiro.com



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