

The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2010

PHILADELPHIA, THURSDAY, SEPTEMBER 28, 2010

An **ALM** Publication

Breaking Through the 21st Century Glass Ceiling

For those who grew up in the 1960s, the world was a place where conditions continually improved. In my time, girls in the Philadelphia School District were first allowed to wear pants to school. Central High School opened to girls and the Union League to women. A woman was appointed to the U.S. Supreme Court.

But for women lawyers who started practicing in the 1980s, that linear progression long ago hit the glass ceiling and has not, to date, hammered its way through. I learned this during two years as co-chair of the American Bar Association's woman advocate committee.

As I talked with women litigators from across the country, I was struck by the similarities between the stories of women who could not seem to advance from non-equity to equity positions in their firms, or could not get the credit they deserved for the work they did or the clients they brought in. While the profession focused on the retention of women associates and initial promotion from associate to partner, the progress of midcareer women was stalling.

Two recent studies confirm what I had concluded anecdotally. Just this summer, the Project for Attorney Retention and the Minority Corporate Counsel Association published a groundbreaking report, finding that only about half of women equity partners and 35 percent of income partners were satisfied with their compensation. (See "New Millennium, Same Class Ceiling? The Impact of Law Firm Compensation Systems on Women" available at www.pardc.org/Publications/SameGlassCeiling.pdf.) Even more disturbing, more than one-fourth of women equity partners and nearly one-third of female income partners reported that another partner had tried to bully or intimidate her out of origination credit. A significant number of women partners who participated in the study had been de-equitized. Firms continued to exclude women from rainmaking opportunities. Subjective compensation systems were found susceptible to the influence of gender bias. And women were found to be penalized for self-promotion, while men are rewarded in

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subjective partner compensation systems for the same behavior.

Next, in an article published this fall, *The American Lawyer*, a Legal affiliate, reported that only 45 percent of the female partners in firms with two-tiered partnership systems have equity status, compared with 62 percent of the male partners at these firms. (See the Sept. 1 article, "Looking Into The Equity Box: Woman and Partnership Status," available at www.theamericanlawyer.com.) The *American Lawyer* only tackled this issue after the National Association of Women Lawyers had sought the gender breakdown between equity and non-equity partners at major firms from the National Association for Law Placement, which backed down from seeking the information after law firms resisted.

This recent information comes on top of NAWL's annual survey on retention and promotion of women in law firms, which in 2009 reported that fewer than 16 percent of the equity partners in law firms are women. (See "Report of the Fourth Annual National Survey on Retention and Promotion of Women in Law Firms.") That statistic has not improved since NAWL published its first survey four years ago. NAWL further concluded that women equity partners in 2009 typically earned \$66,000 a year less than male equity partners.

These problems are even more acute for women of color, who achieve equity status in even smaller proportions and who earn less than white women and male law firm partners.

So what can be done to shatter the glass? Some advocates call for in-house counsel concerned about diversity issues to insist that women not only have significant roles in their work but that these women receive due credit

and compensation. Discussions with many in-house counsel have led me to believe that this strategy will ultimately prove ineffective. Even in-house counsel who have the greatest interest in promoting diversity shy away from getting involved in a law firm's internal promotion and compensation structure.

I see three potentially effective strategies.

- Start your own firm. The happiest midcareer women I know are those who left big firms to start their own shops or to become equity partners at smaller firms with democratic cultures where they have control over their own careers and compensation. I am confident that some of these women are going to be the Herb Wachtells and Steve Cozens of this millennium and are eventually going to lead large and prestigious institutions with much larger numbers of women and minorities.

- Strength in numbers. After Justice Sandra Day O'Connor retired, Justice Ruth Bader Ginsburg said that when she was the lone woman justice, she sometimes felt when she made a point at a Supreme Court conference, it was ignored until a male justice made the same point, and then everyone would focus on it. There is strength in numbers. Ginsburg did not feel that way when there were two women justices on the court. Similarly, women in law firms need to continue to press for more than token representation on the committees that count: the executive committees and the compensation committees.

- The old girl's network. Women are wonderful collaborators. We should continue our efforts to help one another, whether by mentoring more junior women lawyers, supporting other women in our firms when they achieve great results or speak out at a partner's meeting, referring business to other women, or providing confidential advice when one of our sisters is being bullied, threatened or intimidated.

While recent reports may have exposed linear progression as a myth, that does not mean the final shattering of the glass ceiling is impossible. I certainly hope to be there when the shards fall.

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