

Advancing Women in the Profession: Action Plans for Women's Bar Associations

REPORT ON THE CONFERENCE, June 11-12, 2007, BOSTON

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THE CALL

“Ten years from now, if we don’t do anything about it, the ranks of senior women will, in fact, thin out. Fewer and fewer women will be ready to assume the positions of leadership. The purpose of this enterprise is to make certain that this will not be true.”

Judge Nancy Gertner, U.S.D.C.

INTRODUCTION

In December 2006, a number of conference calls began across time zones connecting Cambridge, San Francisco, Ellicott MD, and Roseland, NJ, and conversations quickly converged around the idea of gathering activists in Women’s Bar Associations around the country to plan action steps for advancing women in the legal profession.

On June 11-12, 2007, 56 people from 30 cities and 17 states, plus the District of Columbia and Ontario, Canada, gathered at the Parker House in Boston to assess the state of women’s advancement in law firms nationwide, to identify obstacles to advancement, to learn from experts about change processes, and to share experience with action steps that WBAs have taken and their various outcomes.

Contributions to the event were many and generous—from speakers and change experts who donated their time, Women’s Bar Associations that provided materials from their projects, along with guidance and caution, the Alfred P. Sloan Foundation for its support of the MIT Workplace Center in its efforts to construct work-family solutions, the firm of BDO Seidman, LLP for its provision of additional financial sponsorship, and all the participants whose enthusiasm produced a constant buzz of conversation.

The co-sponsors of the event—the co-conspirators referred to above—

Mona Harrington and Ann Bookman, MIT Workplace Center;
Joan Williams, UC Hastings Center for WorkLife Law;
Cynthia Calvert, Project for Attorney Retention and the Center for WorkLife Law;
Holly English, National Association of Women Lawyers

-- thank everyone again for a remarkable experience and offer the following report of the proceedings.

NON-ADVANCEMENT—the Numbers

The numbers in several recent surveys add to and confirm a too familiar story: women enter law firms in numbers equal to those of their male peers, but leave the firms in numbers far higher than those of men. They also appear in very low numbers in law firm leadership positions. This picture emerges clearly from recent surveys and reports excerpted below. Executive summaries or reports of the recent major surveys are in the Appendix.

Nationally:

On average, in law firms across the country, women constitute:

- 45% of associates
- 28% of of-counsel lawyers
- 26% of non-equity partners
- 16% of equity partners

In prime earning years (10 to 25 years experience), women constitute

- 20% of equity partners

Of the most junior equity partners, women constitute

- 24%

Women's membership in their firm's highest governing committee averages

- 16%

Among managing partners nationwide, women make up approximately

- 5%

(From the NAWL National Survey on Retention and Promotion of Women in Law Firms which is copyrighted by the National Association of Women Lawyers and may not be used or duplicated without written permission, copyright 2006.)

In Massachusetts:

- Women and men enter law firms in virtually equal numbers.
- In firm practice men are more likely than women to be married or living with partners, to have children, and to have more than one child.
- Most men in firms live with spouses or partners who are responsible for only a small, if any, part of the household income and who, therefore, have time for family care.

- Most women in firms live with spouses or partners who hold an equal or higher responsibility for household income, so both are subject to severe time constraints and difficulties finding time for family care.
- 40% of women solve the time problem by reducing work hours to part-time. Less than 2% of men work part-time.
- Women who use part-time stay in law firm positions longer than women who remain fulltime, but are less likely to make partner than the fulltime women who do remain.
- Nearly a third of women leave firm practice compared to 20% of men who do so.
- Women—whose numbers, as noted, are virtually equal to those of men at the starting point—make up only 17% of equity partners in firms.
- Nearly 80% of the women who leave firm practice do not “opt-out” of the workforce but work, often as lawyers, in workplaces that provide better arrangements than law firms for combining work and time for families.

(From Women Lawyers and Obstacles to Leadership: A Report of MIT Workplace Center Surveys on Comparative Career Decisions and Attrition Rates of Women and Men in Massachusetts Law Firms, Spring 2007.)

An earlier survey in Massachusetts that focused on issues of part-time underscored both the importance of reduced hours to those who had that arrangement and the difficulty of finding and sustaining the arrangement.

- 90% of respondents with reduced-hours arrangements reported that their firm’s willingness to provide the opportunity to work a reduced-hours schedule has affected their decision to stay at the firm.
- Almost 40% of all full-time and part-time attorney respondents who left their firm between 1996 and 1998 reported that their firm’s policies or approach toward reduced-hours arrangements affected their decision to leave.

(From MORE THAN PART-TIME: The Effect of Reduced-Hours Arrangements on the Retention, Recruitment, and Success of Women Attorneys in Law Firms, a Report of the Employment Issues Committee of the Women’s Bar Association of Massachusetts, 2000.)

In Pennsylvania:

The Pennsylvania Bar Association's Commission on Women publishes an annual Report Card based on surveys of the 100 largest firms in the state and the most recent one shows that women lawyers comprise:

- 48.8 % of associates
- 17.5 % of all partners
- 15.5 % of all equity partners, and
- 79% of all part-time attorneys

In Philadelphia:

Between 2000 and 2005:

The percentage of women lawyers 35 and younger

- increased by about 8% but the years in practice of this larger group did not increase, remaining at five to nine years.

The percentage of women lawyers between 36 and 50 in law practice for 10 to 20 years

- declined from 59% to 42%.

The percentage of women older than 50 in law practice for 10 to 20 years

- declined from 44% to 26%.

The percentage of all women equity partners over age 51

- declined from 28% to 21%.

(From surveys of Philadelphia lawyers conducted by the Philadelphia Bar Association in 2000 and 2005. Initial reports by Roberta Liebenberg and Phyllis Horn Epstein in the Philadelphia Bar Reporter, February 2000. The report by Liebenberg and Epstein included also the results noted from the Report Card published by the Pennsylvania Bar Association's Commission on Women.)

In the San Francisco area:

- The firms with the lowest attrition rates reported billable hours ranging from 1560-1850.
- The firms with the highest attrition rate reported billable hours ranging from 1850-2000.

(From the Executive Summary: Survey on Work-Life Balance, 2006, The Bar Association of San Francisco.)

In Colorado:

Random sample surveys in 1993 and 2000 found wide disparities between women and men in law practice both with respect to compensation and promotion.

- In 2000, “women reported median income that was 70% of that reported by men.”
- Two-tier partnerships “have produced increased stratification within firms, creating a new form of ‘employee’ lawyer without change in the traditional professional model that informs most firm cultures and compensation structures.”

(From the Colorado Bar Association and the Colorado Women’s Bar Association Economic Survey Reports in 1993 and 2000.)

NON-ADVANCEMENT: the Reasons

If non-advancement is to be successfully reversed, clarity about its multiple causes is essential. Introductory and keynote speakers identified eloquently and forcefully the full range of issues to be understood and countered.

Work-family

Judge Nancy Gertner, in her welcome to the conferees, spoke of the hopes of feminists in the ‘70s and ‘80s to bring about deep social and cultural change with respect to women and families. “We wanted to change the nature of work, make it more family friendly, and we wanted to change the nature of home. It wasn’t enough to figure out who was going to do the dishes. The role of parent was up for grabs for either men or women or both. We were changing both options and in addition, it was not a private choice... We recognized then that these were choices that the society supported or didn’t support in a host of ways.” But three decades later, she concludes, “All we had done...was to enable women to make the private choice of whether to go to work or to be at home with their children.” She added that in all that time, women had not yet achieved “a rightful place, we were still struggling for that place.”

The findings of the MIT survey confirm issues of work-family as a set of unsolved problems for women and the central reason for women leaving rather than advancing in law firms. Both women and men cite long work hours, work load pressures and difficulty integrating work and family as their top three reasons for leaving firms but women, far more than men, cite the work-family time squeeze as primary. The reason for this discrepancy, again borne out by survey numbers, is that a high majority of men in firm practice have spouses or partners with a lesser commitment to their own careers and in a position to provide time for family care. But this source of time for families is less

available to women in firms because a high percent of their spouses or partners have an equal or greater commitment to their own careers. Women, therefore, are less able than their male colleagues to rely on family structures to provide time for families, and seek time in alternative work structures—part-time or flexible hours. But here they encounter the opposition or ambivalence and possible professional penalties that attend less than full-time practice in many firms. *See: Women Lawyers and Obstacles to Leadership, A Report of MIT Workplace Center Surveys on Comparative Career Decisions and Attrition Rates of Women and Men in Massachusetts Law Firms (Spring 2007).*

Discrimination

Harder to document in women's lack of advancement in firms is what Judge Gertner called the "opacity of discrimination." Clearly gendered remarks are infrequent now, the Judge said, leaving women to assume that neutral negative judgments are being made about their work. This assertion is corroborated by Joan Williams' citation of a large body of work in psychology identifying "implicit (or unexamined) bias"—which is demonstrable gender bias in the judgment of incidents in which men and women are actually behaving in the same way. This bias can take the form of either glass ceiling bias – against women in general – or maternal wall bias – against women who are pregnant, mothers or may become mothers. For example, when both succeed at the same difficult task, men may be judged skilled and women lucky, or men assertive and women aggressive. When both bring attention to a substantial accomplishment, men appear engaged and women self-promoting. Men asking questions are taken to have an inquiring mind; women are seen to lack knowledge.

To these biases, Joan adds "descriptive biases" (assumptions about how women *do* behave) and "prescriptive biases" (assumptions about how women *should* behave) that work specifically against women with or without children. Women often face a form of glass ceiling bias that is a "Catch 22": either they are penalized for not being competent enough or for being *too* competent.

This form of gender bias, she says, "often combines benevolent approval of women in traditional roles with hostile disapproval of women in non-traditional roles, so when they're saying, 'I love women,' it's 'I love women in their place,' implicitly." Or, she adds, firm managers may perceive and therefore describe women as slighting legal work by focusing attention on their children. Or they may perceive women as neglecting their "proper" priorities, what they "should" be doing which is caring for their children. In both cases bias negates a search for solutions to whatever work issues there may be for lawyers with children. Joan also highlighted work being done in sociology on subtle discrimination and ways of combating it, noting particularly a recent article by Erin Kelly, Alexandra Kalev and Frank Dobbin in the *American Sociological Review*, "Best Practices or Best Guesses? Assessing the Efficacy of Corporate Affirmative and Diversity Policies" (Vol. 71, 589-617, August 2006).

Myths

Further attitudinal pressures that can undermine women's professional advancement in the law operate as hard to capture beliefs or mystiques—what Judge Gertner called the mythology of choice. “This unrecognized pattern of thought,” she said, “made women believe that they were choosing to leave an oppressive workplace, when, in fact, there continue to be substantial barriers to their participation, and choosing to go home when, in fact, there was no other choice.”

Then there is the “mystique of motherhood” which has multiple elements but the operative one that Joan identifies as important for the non-advancement of women is the belief common in firms that women *want* to leave firm practice, following a natural maternal imperative. They are, on positive terms, opting out of work to fulfill a desire for family. Obliterated by the force of the mystique is the difficulty, as firms generally operate, of combining work and family, which is what many women actually want.

Business model

Lauren Rikleen, in the keynote, proposed a fundamental change in the business model of law firms. She pointed out that by tradition firms are run by practice group leaders who do not generally have business training, and are fulltime lawyers who allocate very little time to management. They operate in a culture that rewards hard-driving, entrepreneurial individuals maximizing billable hours, and they routinely miscalculate the costs of relying on such high billables. The same tradition leads also to miscalculating the costs of part-time practice, regarding it wrongly as unprofitable. And it blinds managers to the costly high attrition rate of women and younger men who want to have time for families. She argued for a vastly different workplace model including fulltime management which would benefit both the business of law and positive work-family practices. *See Rikleen, Ending the Gauntlet: Removing Barriers to Women's Success in the Law (Thomson Legalworks, 2006).*

ACTION STEPS

Against the barriers, the statistics and the odds, WBAs and other activists have taken substantial steps toward conditions of equality for women in the legal profession. What follows are six steps reported to the conference, providing guides, warnings, encouragement, and overall, stories for WBAs to bear in mind as groundwork for their next stage of action.

Raising the Issues

In 2006, the Women's Bar Association of San Francisco began a project on Work-Life Balance by deliberately "creating a buzz" as a means of raising the basic issues. They organized a large task force of women lawyers to gather information from the city's law firms on their policies for attracting, retaining and advancing women to partnership and to do so by direct personal appeal or "arm-twisting," as Margaret Murray put it. They then held a conference to distribute the information to firm leaders and others as a basis for gaining commitments for further action.

Extended Dialogue

The Women's Bar Association of the District of Columbia adopted a quieter approach, establishing an action step that could be called "pre-action," or the earliest step in the change process defined in presentations at the Boston conference. They organized a four-part discussion among Washington law firm partners and leaders, experts in employment issues of women lawyers, and interested women at all levels in law firms.

To quote their report, *Creating Pathways to Success: Advancing and Retaining Women in Today's Law Firms*, "Once a month, from January 6 through April 3, 2006, we convened a four-hour conference, in an academic setting, that drew firm leaders into a full and cooperative exchange with the experts, the sponsoring firms, and the women who attended."

The purpose of the extended discussion was to reach shared understanding of the basic facts, conflicts, and issues that shape the low level of women's advancement in law firms and the high level of their attrition from the firms, and to discuss possibilities for change.

Karen Lockwood, who presented the *Creating Pathways* story at the conference, emphasized the importance of long pre-planning and pre-marketing for the four meetings, and the commitment, clearly extended to the participants, that the discussion was to be a process of mutual listening and learning and not a pitched battle.

She described as other elements of a successful program:

- a keynote speaker to draw an audience
- the participation of experts presenting solid data to clear away myths and misunderstandings at the outset and to make possible serious consideration of substantial issues
- inclusion of managing partners on all panels
- summaries of each meeting available at the next for new attendees

The process produced general conclusions about solutions called "A Road Map for Advancing Women Lawyers." It is based on the premise that firms have responsibility for

operating programs that actively support women's advancement, and that they stand to benefit from women's advancement and success.

The full report with its detailed Road Map is in print and also available online at the DC website: www.wbadc.org. Print copies may be ordered from the WBA for \$5.00 plus postage, at Women's Bar Association of the District of Columbia, 2020 Pennsylvania Ave. NW, Suite 446, Washington DC 20006. (This address will change in the next year; check for updates on the website or by calling (202) 639-8880.)

Creating Public Competition

Deborah Epstein Henry of Flextime Lawyers described action steps she has followed as a model for instigating change in law firms combining competition, information sharing, and collaboration. She defined the components as follows:

Competition refers to efforts among firms to enhance their reputations as "Good Guys" by matching the policies of other firms with reputations as supportive of women lawyers.

Information sharing consists of using all means available to publicize the policies and practices that mark a firm as supportive of women, and identifying the firms that follow them, thus creating pressure on others to do the same.

Collaboration means working with people, groups, and organizations whose operations are able to put pressure on law firms to adopt certain policies or to reach certain goals and are therefore useful to moving change projects in the firms. Such collaborators may include the media in various forms, law students and law schools, corporate clients requiring diversity in law firms serving them, or law firm members seeking change in their own organizations.

Two of Deborah's recent projects used this formula.

One was a collaboration with *Working Mother* magazine, with a readership of 3 million, which listed in its August/September 2007 issue, "The Best Law Firms for Women" in the United States. Fifty large national firms made the list based on their policies for flextime, child care, women-focused mentoring, leadership, and networking. See *Working Mother*, August-September 2007, in print or online at www.workingmother.com and www.flextimelawyers.com.

Deborah's second recent project, the "Cheat Sheet," was designed to maximize pressure on law firms by law students during the recruitment process. It enables students who are job-hunting to raise a series of questions that identify issues important to the support of women. The collaborative distribution of the Cheat Sheet can occur through distribution at scheduled events or, as Pamela Berman (Massachusetts) suggested, by sending WBA

reports and other information to law students to use in discussions with law firm recruiters. The Cheat Sheet also moves naturally—student to student, student to deans, deans to administrators, across law schools and across years. See: www.flextimelawyers.com.

Several conferees proposed further ideas for provoking firms to become known as a good place for women to work. Specifically:

- Margaret Murray (San Francisco): use monthly WBA publications to list goals and timetables with the names of firms that meet them and urge law students to use them when job seeking
- Pamela Berman (Massachusetts): periodically publish a good practice by a particular firm to set and publicize standards
- Linda Chanow (D.C.): Develop “Good Guy” programs—good assignments, good business development skills, mentoring, flexibility

Skill-Strengthening For Law Students

At many points, conferees spoke of unhappy experience with the unseen problems in law practice that Joan Williams had identified—invisible issues, implicit bias, unexpressed rules, and other obstacles for which they were not prepared—and they urged the further development of WBA programs to prepare women law students for such challenges.

Linda Chanow (D.C.)—outlined a five year program launched by the WBA-DC to provide support at law schools for teaching law students the necessary elements of success as practicing lawyers. The program was based on findings by the WBA that law school administrators generally shared the assumptions of the firms that large numbers of women leave firm practice due to work-family issues and that nothing could be done about it. Therefore from the law school end, little was done to support women’s success in the firms.

The WBA program, as presently projected, is in three parts:

- Informational event including a panel of academics and practicing lawyers; a panel of hiring partners; and a panel of compensation committee members
- Symposium of law school faculty and deans focused on their roles in maximizing the success of women lawyers
- Day of training with a mix of their third year women law students and women lawyers

Linda Marks (Center for WorkLife Law, PAR) – described PAR’s “Balanced Lives Information for New Grads” (BLING) project that is organizing law schools and law students around issues of work/life balance in the legal profession, to help guide students

as they seek and accept post-graduate employment. Two of the tools developed by PAR for this project are:

- “PAR Mythbusters—responses to 9 common myths that students hear about work/life, for example “Work/life balance is a women’s issue” and “Law firms lose money on part-timers.”
- “How to Find a Job that Allows for Work/life Balance.” This includes questions students can ask themselves, how they can do their homework to find out what is happening at firms and questions to ask people at the firms. See: www.pardc.org.

Women—Building a Common Front

Most action steps to reach goals advancing women assume an underlying conflict between women lawyers and the universe of law firms where they practice and, with that premise, action steps necessarily have to cross a divide.

One strategy—dialogue—relies on reason and recognition of common interests.

Another—public pressure—relies on the self interest of firms in avoiding pain of some kind, such as public exclusion from a “good guys” list.

By contrast, action steps based on women helping women seek to build on common interests combined with social sympathies.

Pamela Berman (Boston) outlined a project calling for the systematic building of connections between women in firms and women in-house counsel as a non-contentious means of promoting the interests of both. Referring to a survey and study by the WBA of Massachusetts in 2000,* she said “one of the things that kept coming up... was, if women didn’t have the economic power, they were going to hit that glass ceiling and sooner or later they were going to opt out or opt in to other forms of employment, using their law degrees in other ways.”

WBA members began to think about putting together women in firms and women-in-house and finding ways of creating comfort for the in-house counsel to make it a practice to hire women even if they were not the most prestigious candidates for a job. Some of their thoughts were to bring the groups together on occasions where the skills of firm lawyers could be displayed, or to ask the in-house group to try out law firm women on small projects and build up to larger ones.

She spoke of the possibility of continuing such efforts in the newly reorganized Equality Commission which now includes representatives from the three major Massachusetts bars, the Women’s Bar Association, Boston Bar Association, and Massachusetts Bar Association, as well as the Massachusetts Bar Foundation.

**See: "More Than Part-Time: The Effect of Reduced-Hours Arrangements on the Retention, Recruitment and Success of Women Attorneys in Law Firms," A Report of the Employment Issues Committee of the WBA of Massachusetts (2000).*

Establishing a State Equality Commission—Joint Action by the Major Bars

In 2004 the Women's Bar Association of Massachusetts, responding to a rousing speech by Judge Nancy Gertner at a WBA Gala (see *The Call*, p.3), joined with the other major bars in the state—The Massachusetts Bar Association and the Boston Bar Association—to establish an Equality Commission. Its mission is straightforward and ambitious—to move women to equality in law firms and to leadership in the profession. Its first action was to ask the MIT Workplace Center to conduct a survey to measure the comparative positions of women and men in Massachusetts firms with a particular focus on the availability and use of flexible work arrangements. The survey, presented at the conference, found women holding only 17% of the equity partnerships in the state, and a law firm attrition rate of 30% for women compared to less than 20% for men—along with detailed information on modes of practice showing severe disadvantages for women. (See the Executive Summary of the survey in the back of the Report.) The Equality Commission program for 2007-08 includes an initiative to connect women in firms and women in-house for their mutual benefit, and a conference raising the major issues for women lawyers in Massachusetts.

ACTION ADVICE FROM PAR

Cynthia Calvert and Joan Williams, reviewing the work of the Project for Attorney Retention (PAR) since its inception in 2000, offered advice about what they had found in actual firm practice to be GOOD, BAD, or WELL-INTENTIONED action projects.

Joan explained that the basic premise of the PAR programs is to reframe work-life policies from an accommodation—mainly of the needs of new mothers—to a business strategy, noting that firms that have followed the key elements of the PAR model have benefited substantially by it. She cited, for example, Fulbright and Jaworski which increased its retention of senior female associates from 29% in 2002 to 47% in 2006, and the percent of women partners from 13% in 2002 to 17% in 2006.

Because they are seeking to re-frame thinking and action, they have also re-framed terminology to some extent, and sometimes in startling ways. For example, "part-time" has become "bad" because in common law firm business practice it often carries penalties. The PAR-preferred term is "balanced hours."

Cynthia summarized in general the PAR findings and judgments concerning specific types of projects, as follows.

The Good:

- *Balanced hours:* When well-designed, balanced hour programs benefit firms by cutting attrition, increasing client loyalty, and improving productivity, morale, and business development while at the same time supporting women's professional development and advancement. Key features of programs that work are: careful and clear policy development; backing of policy and culture change by key players in the firm; and operationally, strictly observed proportionality of time and compensation.
- *Women's groups or committees in law firms (when done well):* The elements of successful groups include clear purpose and goals, and professional facilitation of discussions involving the needs and interests of different generations of women. A good example would be a group goal of increased cross-selling within a large firm. This activity requires gaining familiarity with the work of group members and forging relationships among them. The facilitator can also help measure success—whether in the form of decreased attrition or increased business development—and report back to management to make sure that success is visible.
- *Assignment systems:* A number of large firms are moving to formal assignment systems which are centralized and keep records on who is doing what. This, Cynthia says, is definitely in the “good” category when it replaces “hey you” tasking, which is the practice of a partner grabbing the first attorney to come along—or when it replaces informal systems in which partners give work to favorites, leading to inequities. Formal assigning is also “good” as long as the program is actually put into practice. If it becomes just the initiative of the week and everyone ignores it after its grand unveiling, then it is definitely “bad”.
- *Time-off for volunteering:* This eases work-family conflict by allowing parents to volunteer in children's schools, but, to be “good,” it must be allowed for all purposes to avoid resentment by attorneys without children, and to support volunteering in general.

The Bad:

- *Part-Time:* for most firms part-time is “well-intentioned,” but for the many firms that have part-time policies but actively discourage their use, it falls into the “bad” category.

The Well-Intentioned:

- *Women's groups (when done poorly)*: Without clear purpose and strong firm support such groups can be undone by resentment from males, discomfort from women who feel they are getting special treatment that undermines their accomplishments, and conflict among different generations of women. For example, the “well intentioned” firm creates the program, puts a professional development person in charge of it, holds monthly meetings to talk about women’s issues such as getting along with your nanny, and when few women come to the meetings, decides it did its best and women obviously do not want to be helped.
- *Day care services*: While certainly laudable by making it easier for working parents to juggle, it doesn’t really give attorneys any greater control over their hours or their lives. It simply allows them to work longer hours.

Specific action advice is found in the following PAR materials:

- Publications: *Solving the Part-time Puzzle: The Law Firm's Guide to Balanced Hours* (NALP, 2004); *Better on Balance?* (a guide for corporate counsel); the PAR Usability Test (a key benchmarking tool that has been adopted by many law firms); the Business Case for a Balanced Hours Program for Attorneys. (www.pardc.org)
- Programs: The Hastings Leadership Academy for Women (an executive education program for women law firm partners); Opting Back In (a national telephone coaching group for attorneys reentering legal practice); the Law Student Project (educating law students on how to achieve work/life balance in law firms).
- Web Resources: “The Scoop” (a database of information about the part-time policies and actual practices of law firms -- www.pardc.org/TheScoop/); “Best Practices” (PAR’s weblog -- www.pardc.org/BestPractices/).

Overall, the importance of the PAR categories for WBAs that are planning action steps is not to prescribe certain projects but to emphasize the need to think through the purposes and likely consequences of proposed action.

CHANGE PROCESS—Theory

Women’s Bar Associations contemplating a project to change policies or practices with respect to the advancement of women, whether in a firm or more generally in a particular locale, should give thought first to the way change works. This means examining change processes as defined by experts and by the experience of others. To provide a general guide, Ellen Ostrow of Lawyers Life Coach LLC outlined a

basic 8-step organizational change process developed by Harvard Business School Professor John Kotter. See Kotter, *Leading Change* (Harvard Business School Press, 1996) and *Our Iceberg Is Melting* (St. Martins Press, 2006).

1. Create a sense of urgency, a sense that a firm's survival depends on the desired change. Important also is an acknowledgement that the process will take time—you are not talking about a quick fix.
2. Organize a guiding coalition of people, including someone from top management in the firm or firms in question, but also people from outside the firm with expertise and credibility based on position, reputation, and authority—and who trust each other.
3. Develop a vision and strategy—an end point, a sense of direction, belief that change is possible and worth periods of discomfort. The vision has to be conveyed in 5 minutes or less or listeners will lose interest.
4. Win buy-in by communicating the vision to everyone at every level with respect to policies consistent with vision.
5. Identify processes, structures, systems that could be obstacles and work to change them—using the sense of urgency to overcome resistance to changing established systems.
6. Produce short term wins to demonstrate that change is possible.
7. Keep going—be relentless—don't stop with small wins.
8. Maintain changes—backsliding with language or decisions has to be resisted with reference to the new values behind the change.

CHANGE PROCESS—Action

Raising the issue in the firms

M.J. Tocci of Fulcrum Advisors proposed opening discussions with firms by focusing directly on the dilemma the firms face in dealing with their women lawyers. They have a painfully high level of women's attrition but can do nothing about it, given long hours and high billables as their prevailing measures of success. The answer is to measure success differently but they do not know how to do it.

Linda Marks of the Center for WorkLife Law proposed making the case for changing measures of profitability by collecting and presenting all the available data measuring the high cost of women's attrition. This should include the firms' internal data as well as the increasing level of published findings. The particular value of the studies is that they

demonstrate models of economic success that include various forms of flexible work arrangements as opposed to the old standard dependent solely on unlimited hours.

In addition to tracing overall costs of attrition, Cynthia Calvert advocated dividing the cost per partner and informing each partner of the cost to him or her of the large numbers of women leaving the firm in a pattern that repeats every year.

Cynthia also proposed that women seek alliances with in-house counsel who share an interest in reducing women's attrition in the firms because it is costly for them as clients to bring replacement lawyers up to speed in the middle of a case. She noted further that companies increasingly require law firms they hire to report their diversity breakdown by race, ethnicity and gender, placing in-house counsel even further on the side of women in the firms. There is also the possibility for women in firms to build their book of business by seeking business directly from in-house counsel—as Pam Berman discussed earlier as “women helping women”—but with the caution that unrestrained pressure on the in-house lawyers could have the opposite effect.

A final necessary condition for raising the issue of women's attrition in firms is to squelch the assumption in firms that women are “opting out” because they want to for personal reasons. Joan Williams referred to her article “Opt-Out or Pushed Out? How the Press Covers Work/Family Conflict” (WorkLife Law, October 2006) to trace the recent ratification by press stories of the idea that the high percentage of women entering and leaving the professions is due to a primary desire for domesticity. A close examination of these stories, Joan pointed out, showed that they were anecdotal, not researched on the basis of actual numbers of women leaving and their reasons for doing so. And she argued that the real reasons were conditions of work that made combining work and family care overwhelmingly difficult, resulting in women being “pushed out.”

This conclusion is backed by the MIT survey (2007) which finds that only 20% of the women who left Massachusetts firms over a five year period left the workforce. 80% continued to work, most as lawyers, but in government, non-profit, or in-house positions.

Launching a WBA Change Effort

Whether the basic issues are raised by creating a buzz in the firms, or by dialogue with firm leaders, or by public pressure through the media or public meetings, the next step for a WBA is to come to basic decisions about what action to take. Ida Abbott, of Ida Abbott Consulting, outlined ways to start thinking and talking about the shape of a change effort.

- Start out thinking with a big picture, a vision.
- Brainstorm to open up ideas.
- Winnow the ideas down to one project.
- Think about the group's readiness to undertake the project.

- Make it enough of a stretch to energize people but not so big that it is demotivating.
- Think about the resources you need—including internal support.
- Identify key players in the relevant organizations to ask for help—managing partners, hiring partners, influential people.
- Think strategically—who is going to make the decisions the plan requires?
- If you don't have direct access to the key people, start planning to use your networks to reach them.

Putting a Plan into Action

Ellen Ostrow, in an elaboration of John Kotter's change theory (presented above) outlined practical action steps to follow a launch.

Step 1. Like Ida Abbott, she urged an ambitious start—"decide on a big, hairy, audacious goal."

Step 2. Make it a "smart goal"—which means it is specific, unambiguous, and measurable, the steps needed to achieve it are possible, and it has a clear beginning and end.

Step 3. Assess commitment of the members interested in the project—and their practical ability to commit to work on achieving the goal over a considerable time period.

Step 4. Engage in "backward planning": with the goal clearly in mind, imagine in detail what needs to be done to get there.

Step 5. For each part of the process, observe the following practice:

- Define the step
- Decide who does it
- Set a specific time for action with reminders built in (e.g. email to self) for doing it at that time
- Have each person accountable to someone else for accomplishing the action
- Anticipate obstacles and plan action steps (following the process above) for overcoming them

Step 6. If delegation of a task is necessary, add a sub-set of steps:

- Decide on an appropriate person to substitute for you
- Arrange a meeting
- Ask for the needed help
- Explain the process (Steps 1-5) and gain the substitute's agreement to follow it

All presenters emphasized the importance of recognizing that real change takes time!

CONFERENCE TAKE-AWAYS

Ideas stimulated in the course of the conference were taking form by the end in potential projects for the WBAs at home. Here are some of them—summarized:

Margo Kirschner, Association for Women Lawyers, Milwaukee

- Extend law student mentoring programs—from information on areas of practice to teaching skills discussed at conference, such as interviewing, recruiting, the right fit in a firm, identifying steps to success

Stacy Walsh, Connecticut

- Create Women’s Bar Association for Connecticut (none at present)
- Initiate a “Best Law Firms List for Women” in Connecticut—might work on the competition theory because few women presently stay in Connecticut firms but might think of staying if law firms were competing to be best for women (Ida Abbott advises getting expert help on this because collecting data from firms is difficult)
- Conduct Law Student Forum using Cheat Sheet idea (Deborah Epstein Henry notes that Cheat Sheet is copyrighted with her and New York City Bar so its use should be discussed with NYC Bar)

Mindy Caterine, Women’s Law Section, Maine

- Develop active mentoring program for law students—use example from Minnesota
- Develop self-marketing program for law students “That’s something I would never have thought of but for being here. Young lawyers need to focus on law as a business and need to market themselves effectively.”
- Conduct re-entry program—particularly useful for small firms that do not hire straight out of law school
- Initiate business development for women—work with former co-chairs of the Women’s Law Section, at least one woman from each of the major law firms in Maine

Julia Huston, Women’s Bar Association, Massachusetts

- Post Cheat Sheet on WBA (MA) website (with permission)
- Connect with law school placement directors and partner with them on issues of concern to women
- Seek NALP reporting on attrition statistics by gender and race
- Seek local reporting, e.g. *Massachusetts Lawyers Weekly*, on attrition statistics by gender and race
- Plan forum for in-house counsel on their issues
- Continue present study of issues for women lawyers in non-law firm employment

Megan Phillips, Women Lawyers' Association of Greater St. Louis

- Create scorecard or comparative analysis of policies supporting women in local firms (inspired by Deb Henry's *Working Mother* survey)—have little information on the policies of firms in the area and few members from big firms in the locale to provide it

Joan Williams, PAR

- Provide law students with “myth busting” sheet—e.g., part-time is uneconomic

POST CONFERENCE CONNECTIONS—Yahoo discussion forum

This is the end of the Report but not the end of the story. Action steps are no doubt being planned now or are well under way around the country (and Canada) and we will all benefit by knowing what is going on, how it is being done, and what changes are taking place. Happily it is possible for this information flow to go on and to do so easily through the Advancing Women discussion forum that Cynthia Calvert has established on Yahoo for continued exchanges among WBA members wherever they are.

Bar association leaders who are interested in joining the forum should contact Cynthia at the Project for Attorney Retention at CynthiaCalvert@parc.org , or call 410-480-4882.

Good luck to all!!!!

PARTING WORDS:

“We have to work on what we need to do now to make the workplace safe for mothers and fathers.”

Judge Nancy Gertner, U.S.D.C.

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PROGRAM

ADVANCING WOMEN IN THE PROFESSION: ACTION PLANS FOR WOMEN'S BAR ASSOCIATIONS

JUNE 11 – 12, 2007
BOSTON



National Association of
Women Lawyers



PROJECT *for* ATTORNEY RETENTION

An Initiative of the Center for WorkLife Law at UC Hastings College of the Law

DAY 1: All events in Press Room unless otherwise indicated

11:30 **Registration**

12:15 **Lunch**

Welcome: Mona Harrington, MIT Workplace Center

The challenge: Judge Nancy Gertner (USDC)

The Numbers: Mona Harrington and Helen Hsi, MIT Workplace Center
Women Lawyers and Obstacles to Leadership

Keynote: Lauren Stiller Rikleen, Bowditch & Dewey LLP; author of
Ending the Gauntlet: Removing Barriers to Women's Success in the Law

1:45 **Why the Ladder to Success is So Slippery: The Glass Ceiling and the Maternal Wall—Joan Williams, PAR**

“Tables of 8” discussion

2:45 **The Good, The Bad, and the Well-Intentioned: Current Solutions to the Woman Problem—Cynthia Calvert, PAR**

“Tables of 8” discussion

3:45 **Break**

4:00 **Panel—Women's Bar Associations and Organizations: Initiatives and Results**

Moderator: Holly English, Post, Polak, Goodsell, MacNeill & Strauchler, P.A.;
National Association of Women Lawyers

Karen Lockwood, Howrey LLP; Women's Bar Association, District of Columbia

Margaret Murray, Folger, Levin and Kahn LLP; Bar Association of San Francisco

Pamela Berman, Adler, Pollock & Sheehan P.C.; Women's Bar Association, MA

5:30 **Reception—King Room**

DAY 2: Morning sessions in Lowell-Hutchinson; afternoon sessions in Brandeis-Holmes

8:00 **Continental breakfast**—*Brandeis-Holmes Room*

9:00 **The Change Process**, Ellen Ostrow, Lawyers Life Coach

9:15 **Panel—Ringing the Bell: How to Get Firms’ Attention, Part I:**
Moderator: M.J. Tocci, Fulcrum Advisors

Linda Marks, Director of Training, Center for Work/Life Law
Cynthia Calvert, PAR

10:15 **Break**—*Brandeis-Holmes Room*

10:30 **Panel—Ringing the Bell: How to Get Firms’ Attention, Part II**
Moderator: Mona Harrington, MIT Workplace Center

Deborah Epstein Henry, Founder and President, Flex-Time Lawyers LLC
Linda Chanow, Senior Consultant, Shannon and Manch LLP

Noon **Lunch**—*Brandeis-Holmes Room*

1:30 **Bringing It to the Local Level**
Facilitator: Ida Abbott, Principal, Ida Abbott Consulting LLC

Working session for participants to plan action for their legal communities

3:00 **Break**—*Brandeis-Holmes Room*

3:15 **Putting It Into Action**
Facilitator: Ellen Ostrow, Founder, Lawyers Life Coach LLC

Working session for participants to develop action plans

4:45 **Staying in Touch: Building an Action Network**
M.J. Tocci, Fulcrum Advisors, and **Cynthia Calvert**, PAR

5:00 **Adjourn**

ADVANCING WOMEN IN THE PROFESSION: ACTION PLANS FOR WOMEN'S BAR ASSOCIATIONS

JUNE 11 -12, 2007

BOSTON

Speakers

Ida O. Abbott, President of Ida Abbott Consulting LLC, is an internationally recognized leader in the field of lawyers' professional development. She specializes in helping employers manage, develop, and retain talented lawyers. Ida has more than 30 years of experience as a practicing lawyer and consultant to law firms, and is a Fellow of the College of Law Practice Management. She is the co-founder and Director of the Hastings Leadership Academy for Women, a leadership development program for women law firm partners, at Hastings College of the Law. She also serves as Vice-Chair of the Academic and Professional Development Committee of the International Bar Association.

Ida is a prolific writer and a frequent speaker at local, national, and international conferences. She has authored numerous articles and resource materials, and four highly acclaimed books, including *The Lawyer's Guide to Mentoring*; *Lawyers' Professional Development: The Legal Employer's Comprehensive Guide*; and *Mentoring Across Differences: A Guide to Cross-Gender and Cross-Race Mentoring*. She has been a columnist for *Diversity & the Bar Magazine* and serves on the Editorial Board of www.WomeninLaw.com. Her free newsletter, *Management Solutions*, is available on her firm's website, www.IdaAbbott.com.

Pamela E. Berman is a partner in the Litigation Section of Adler Pollock & Sheehan's Boston Office, with significant jury and non-jury trial experience. Her practice includes all aspects of commercial litigation, with a specialty in cases involving injunctive relief. Committed to supporting women in the law and society, Ms. Berman chairs the Equality Commission which is dedicated to achieving equality for women in the legal profession. She is a Past President, Officer and Board member of the Women's Bar Association of Massachusetts, where she currently serves as Co-Chair of its Appointments, Awards & Endorsements Committee. Ms. Berman co-chaired the WBA's Employment Issues Committee and co-authored the WBA's ground-breaking report: *More Than Part Time: The Effect of Reduced-Hours Arrangements on the Retention, Recruitment, and Success of Women Attorneys in Law Firms*. Additionally, Ms. Berman serves as the Deputy General Counsel to the Democratic State Committee of Massachusetts.

Ms. Berman has lectured extensively for Massachusetts Continuing Legal Education and the Massachusetts Bar Association. She is also a member of the Boston Bar Association Task Force on Work-Life Balance. She serves as chair of the AP&S Diversity Committee. Ms. Berman is also a member of the American Bar Association and has served as a Member of the Criminal Justice Act Panel of the United States District Court for the District of Massachusetts. Also active in her community, Ms. Berman is the President of the Canton Alliance for Public Education, an educational foundation that supports the Canton Public Schools.

Cynthia Thomas Calvert is Deputy Director of the Center for WorkLife Law and Co-Director of the Project for Attorney Retention (PAR), an initiative of WorkLife Law that examines work/life balance for lawyers and the retention and advancement of women lawyers.

Calvert practices law in the District of Columbia and Maryland. She was with the D.C. litigation firm of Miller, Cassidy, Larroca & Lewin, L.L.P. (now Baker Botts LLP) for fourteen years, six as a partner. At MCLL, she worked full-time, part-time, and flex-time. She has now set up her own employment law practice. Calvert is co-author (with Joan Williams) of *Solving the Part-Time Puzzle: The Law Firm's Guide to Balanced Hours* (NALP, 2004) and of *WorkLife Law's Guide to Family Responsibilities Discrimination* (WLL Press, 2006). She speaks frequently about attorney retention, alternative work arrangements, family responsibilities discrimination, and women in the law. She has written numerous articles, some of which have appeared in the ABA's *Law Practice Management* magazine, *The Legal Times*, and *Raising The Bar* (Women's Bar Association of the District of Columbia), and on the Internet. Calvert is a graduate of the Georgetown University Law Center (cum laude, 1985). After graduation, she clerked for the Honorable Thomas Penfield Jackson, United States District Court for the District of Columbia. She is married and has two children.

Linda Bray Chanow is Senior Counsel and Director of Research at the Center for WorkLife Law and the Project for Attorney Retention. Since 1997, Ms. Chanow has worked to advance women lawyers and promote work life integration in law firms. Ms. Chanow serves as Co-Chair of the D.C. Women's Bar Association Initiative on Advancement and Retention of Women and was instrumental in the WBA Initiative's groundbreaking final report, *Creating Pathways to Success*. She is the author of the nationally-referenced work, *Results of Lawyers, Work & Family: A Study of Alternative Schedule Programs at Law Firms in the District of Columbia*. In addition to her local bar association work, Ms. Chanow recently designed and implemented *Ready to On-Ramp?* for the National Association of Women Lawyers to help women lawyers develop their own personal strategy for re-entering the legal workplace.

Until recently, Ms. Chanow was head of the Women's Career Development practice at Shannon & Manch, L.L.P. Ms. Chanow began her legal career as a bankruptcy lawyer and commercial litigator at WilmerHale. At WilmerHale, she played a leadership role in assessing and developing policies and programs related to work-life balance and the advancement and retention of women lawyers. Ms. Chanow is a graduate of the Washington College of Law where she served as a legal assistant to Distinguished Professor of Law Joan Williams and assisted Professor Williams with her book *Unbending Gender*. She is a frequent speaker and author on topics relating to women lawyers and flexible work arrangements.

Holly English is of counsel to Post, Polak, Goodsell, MacNeill & Strauchler, P.A., in Roseland, New Jersey, with a concentration in labor and employment law. She advises management on issues such as hiring, wage and hour, leave of absence, severance and employment contracts, termination, and provides training on issues such as harassment. Additionally she advises management on all phases of labor law, including collective bargaining negotiations, union avoidance, representation before the NLRB, election campaigns and decertification proceedings. She is the author of *Gender on Trial: Sexual Stereotypes and Work/Life Balance in the Legal Workplace*, published in 2003 by Law Journal Press, a division of American Lawyer Media.

Ms. English is admitted to the Massachusetts and New Jersey state and federal bars. She is President of the Board of the National Association of Women Lawyers, the oldest organization dedicated to women lawyers in the country.

The Honorable Nancy Gertner was appointed in 1994 to the United States District Court for the District of Massachusetts. She is also an adjunct professor at Yale Law School teaching sentencing. For the preceding 23 years, she was a civil rights lawyer, specializing in gender and race discrimination, and an active member of the Women's Bar Association of Massachusetts. On October 29, 2003, Judge Gertner gave the keynote address at the annual Gala of the Women's Bar Association entitled "The Myth of Return – A New Feminine Mystique," which sparked the formation of the Equality Commission of Massachusetts and raised the concerns it embodies.

Mona Harrington is the Program Director of the MIT Workplace Center. She is a political scientist and writer who examines connections between American political culture and social policy. Her recent work focuses on the policy implications of profound changes—personal, political, economic, social—produced by the transformed roles of American women. Her latest book, *Care and Equality: Inventing a New Family Politics* (Routledge, 2000) calls for a national conversation about new ways to connect families, care, women, and work. Her article "Women, the Values Debate, and a New Liberal Politics" (Dissent, Winter 2005) locates these issues in political discussion before and after the presidential election of 2004 and her chapter "Liberalism and Family Values" in the just published *Liberalism for a New Century*, Neil Junonville and Kevin Mattson, eds, (University of California Press, 2007) continues that discussion. Ms. Harrington's other publications include *Women Lawyers—Rewriting the Rules* (Plume/Penguin, 1995); *Women of Academe: Outsiders in the Sacred Grove* (with Nadya Aisenberg, University of Massachusetts Press, 1988); and *The Dream of Deliverance in American Politics* (Knopf, 1986).

Deborah Epstein Henry is Founder and President of Flex-Time Lawyers LLC, a national consulting firm advising law firms, corporations and lawyers on work/life balance, flexible and reduced schedules, re-entry, business development, women's initiatives and the retention and promotion of women attorneys. She runs a chapter organization and has participated in over 150 programs on these issues. She writes articles and fields inquiries from the press, lawyers and legal employers about how to live a balanced life and thrive as a professional.

Debbie was the principal author of "The Cheat Sheet," the ultimate guide to selecting, creating and ensuring a woman-friendly employer, produced in conjunction with the New York City Bar Committee on Women in the Profession. Flex-Time Lawyers LLC has also teamed up with *Working Mother* magazine to release an annual list of the Best Law Firms for Women and report on trends about work/life and women from the national survey.

Debbie is the work/life columnist for *Diversity & the Bar*. She is an Advisor to the "Hidden Brain Drain" Task Force for the Center for Work-Life Policy which has released several *Harvard Business Review* articles on retaining and promoting women and people of color. Debbie is a consultant to two New York State Bar Association Special Committees. She was named a 2007 "40 Under 40" by the *Philadelphia Business Journal* and a 2004 "Pennsylvania Lawyer on the Fast Track" by *American Lawyer Media*. Debbie is trained as a commercial litigator. She is married and the mother of three boys.

Helen H. Hsi is a Ph.D. candidate in Industrial Relations at MIT's Sloan School of Management and a research assistant with the MIT Workplace Center. She received her Bachelor's of Science degree from Cornell University's School of Industrial Relations. Her work experience includes being a research analyst at Analysis Group, Inc. in Los Angeles and at Applied Economic Solutions, Inc. in San Francisco. Her research interests include inequality, careers, and worker mobility.

Karen M. Lockwood is a partner at Howrey LLP in Washington DC, where she carries on a commercial trial and arbitration practice and heads Howrey's global Women's Leadership Initiative. As 2005-06 President of the Women's Bar Association of the District of Columbia (WBA), Karen conceived of and spearheaded the creation of the WBA's Initiative on Advancement and Retention of Women. In the first year of the Initiative, she designed and led the WBA's innovative program drawing law firm leaders, women, and experts on the subject into an intensive exchange examining how to step up the advancement and retention of women lawyers in law firms. Ms. Lockwood directed the writing of the nationally recognized report on the Initiative, *Creating Pathways To Success* (May 2006). She has received numerous awards including the Washington College of Law's "Women And Law Leadership Award." She contributed significantly to the New York Times article "Up The Down Staircase" (March 19, 2006), and appeared on "PBS's To The Contrary" with Bonnie Erbe. She speaks extensively on women's leadership and advancing women professionals.

Karen has twenty-eight years experience with commercial and complex trial and appellate litigation, specializing in complex commercial disputes, including antitrust, patent and trademark, contract and tort matters. She has extensive experience also in counseling and negotiations in commercial matters, including telecommunications, contract, and tort issues. She teaches trial advocacy to lawyers through the National Institute of Trial Advocacy.

Creating Pathways To Success is available in booklet and .PDF format at www.wbadc.org.

Linda Marks is Director of Training and Consulting at the Center for WorkLife Law. She has over 25 years experience in corporate consulting and training and specific expertise in flexible work arrangements and work-life balance. She previously directed the Work Time Options in the Legal Profession project for New Ways to Work (NWW), a nonprofit organization founded in 1972 to promote workplace flexibility, and is co-author of *Negotiating Time: New Scheduling Options in the Legal Profession*. While at NWW she also directed the FlexGroup, a consortium of 14 companies that were taking the lead in moving workplace flexibility forward as a business strategy. Included in this group were Hewlett-Packard, Marriott International, Royal Bank of California, Chevron and other major corporations.

Linda leads Hastings' "Opting Back In and Forging Ahead" program, designed for attorneys who have left law for a year or more and want to return to legal practice, and has been involved with the Hastings Leadership Academy for Women, an executive education program for women law firm partners. She also works with women's bar associations on designing and implementing conferences on work/life and balanced hours and is currently working with the Dallas, Beverly Hills and Cleveland Bar Associations.

Margaret E. Murray practices labor and employment law in San Francisco, California. Ms. Murray was with Folger Levin & Kahn LLP for eighteen years, twelve as a partner. In July 2007, she left to create her own firm (visit www.memlawsf.com). Ms. Murray's expertise includes all areas of evolving state and federal labor and employment law. She has extensive experience in state and federal litigation and appeals, arbitration, mediation, and administrative proceedings. She counsels employers in litigation avoidance, drafting and application of personnel handbooks, negotiation and drafting of employment contracts, and compliance with labor and employment laws. She speaks frequently to the legal and business communities on practical aspects of employment law compliance. Ms. Murray was an active participant in the Bar Association of San Francisco's WorkLife Task Force in 2006, is a member of the Board of Equal Rights Advocates, and is a member of the Advisory Board of the Center for WorkLife Law.

Ellen Ostrow founded Lawyers Life Coach LLC to provide professional coaching services to women - and men - lawyers wanting to achieve professional success without sacrificing those things that made their lives meaningful and fulfilling.

Lawyers Life Coach LLC provides professional development, career and executive coaching to attorneys and consultation to law firms. Through its virtual (by phone with e-mail and fax backup) individual and group coaching services, attorneys anywhere in the world can work toward goals related to work/life integration and balance, strategic career design, client development, leadership and effective communication.

Ellen's articles have appeared in more than 20 different bar association print and electronic publications. Women's bar associations throughout the U.S. have invited Ellen to address their members on strategies for balancing work and life; business development issues for women lawyers; and planning, designing and controlling one's career path.

Ellen received her Ph.D. in psychology from the University of Rochester in 1980 and began her coaching training in 1998 in the MentorCoach™ Program, through which she is certified as a coach. Prior to entering full-time independent practice in 1987, Ellen held faculty positions in the psychology departments of three universities and served as staff psychologist in the counseling centers of four universities. She teaches the "Strategic Career Design Master Class" for the MentorCoach™ Program.

Ellen serves on the advisory boards of the Project for Attorney Retention and the Project for Attorney Retention - Corporate Counsel (<http://www.pardc.org>). Ellen also serves on the Board of Directors of the Third Path Institute.

Lauren Stiller Rikleen is the Executive Director of the Bowditch Institute for Women's Success (www.bowditch.com/success), and a senior partner in the Real Estate and Environmental Law Group of Bowditch & Dewey, LLP. Through the Bowditch Institute, she combines her unique qualifications with her dedication to the advancement and retention of women to help law firms and other professional service organizations create an environment where women can succeed. She is also the author of *Ending the Gauntlet: Removing Barriers to Women's Success in the Law*, a book about the institutional impediments to the retention and advancement of women in the legal profession. She is listed in The Best Lawyers in America and Chambers USA America's Leading Business Lawyers. Among her many honors, she was also recognized as one of the "Top 50" woman attorneys in the Massachusetts Super Lawyers publication. In August 2005, she was appointed to the American Bar Association Commission on Women in the Profession. As the

former President of the Boston Bar Association (1998-1999), she appointed the Task Force on Professional Challenges and Family Needs, which produced a nationally-recognized report entitled *Facing the Grail – Confronting the Costs of Work/Family Imbalance* (July, 1999). She also has an extensive background as an involved member of her civic and professional community.

M.J. Tocci, who was named “One of California’s Most Effective Prosecutors” by *California Lawyer Magazine* in 1991, now helps law firms increase productivity and profitably through recruiting, retaining and promoting talented women attorneys. Focused on addressing bias and institutional obstacles that constrain talented women lawyers, Tocci uses a multidisciplinary approach to help law firms identify areas of strength, identify where professional systems and cultures could better contribute to the success of all lawyers, and develop market-based strategic plans which capitalize on a diverse talent pool.

For 20 years she has been a consultant and trainer, working with lawyers on professional development and with law firms as a litigation consultant. She has coached and trained lawyers and managers in government, the not-for profit sector, and private practice. She has consulted with firms on women’s initiatives, strategic planning and programming to increase the pathways for success for all lawyers. She is nationally recognized for identifying the strategic considerations of gender in litigation through understanding the connection between gender and persuasion, language, learning style, perceptions, behavior and values. In 1994 she developed the first national program addressing gender issues in litigation for the National Institute for Trial Advocacy called *Training the Woman Advocate*. Since then she has created programs for men and women including *Gender in Advocacy*, *Gender in Questioning*, *Gender in Negotiations*, and *Gender and Persuasion*.

She trains women to negotiate effectively for assignments, opportunities and resources, and trains managers to better recognize the talents and accomplishments of all lawyers.

Joan C. Williams is Distinguished Professor of Law, founding Director of the Center for WorkLife Law at University of California, Hastings College of the Law, and Co-Director of the Project for Attorney Retention (PAR). A prize-winning author and expert on work/family issues, she is author of *Unbending Gender: Why Family and Work Conflict and What to Do About It* (Oxford University Press, 2000), which won the 2000 Gustavus Myers Outstanding Book Award. She has authored or co-authored four books and over sixty law review articles. With Cynthia Thomas Calvert, she co-founded the Project for Attorney Retention (PAR). In 2001, PAR’s *Balanced Hours* report introduced a path-breaking new approach to flexible schedules that has been adopted in whole or in part in many law firms, and has led to sharply increased retention of women associates. In 2003 PAR published *Better on Balance?*, the only full-length study of work/life issues in house. In 2006, PAR initiated the first “Opt In” program in the country to help women re-enter the legal profession. In 2007, PAR initiated its Leadership Academy for Women, designed to help women partners achieve their leadership goals. In 2006, Williams received the American Bar Association’s Margaret Brent Award for Women Lawyers of Achievement. In 2008, she is scheduled to give the Massey Lectures on American Civilization at Harvard University.

2006 Report: National Association of Women Lawyers First National Survey on Retention and Promotion of Women in Law Firms

Executive Summary

The NAWL National Survey on Retention and Promotion of Women in Law Firms (“Survey”) was designed to collect accurate data concerning the leadership status of women lawyers in private practice. This Survey differs from existing research in that it measures (1) the comparative role of women lawyers at all levels of law firm seniority, including as equity partners; (2) different types of partnership opportunities in law firms and where women stand in relation to men; (3) women’s roles in the governance of firms; and (4) women’s compensation relative to men’s compensation at similar levels of seniority.

The Survey shows that women lawyers are well-represented at the lowest level of the profession, constituting 45% of associates, but not at the top of the profession. While women account for close to half of law firm associates, they account for 28% of of-counsel lawyers and 26% of non-equity partners. At the top level of law firm partnership, women account overall for 16% or 1 out of every 6 equity partners. Representation in the equity partnership during prime earning years (between 10 and 25 years experience in the profession) is a little better; in that group, women account for about 20% or 1 out of every 5 equity partners. Among the most junior equity partners, women account for about 24% or 1 in 4. Whether these differences represent an upward trend of an increasing number of women as equity partners is one issue, among several, that we plan on tracking over time.

Even when women lawyers achieve the formal status of equity partner, preliminary information indicates a gap in compensation between male and female equity partners. Moreover, women’s role in the governance of law firms is far less extensive than men’s. Women hold on average only 16% of the seats on their firm’s highest governing committee. Only about 5% of managing partners are women. To the extent that gender diversity matters for decisions that large firms make about such critical firm-wide issues as long-term strategy and growth, business development, partner compensation and advancement, and policies and practices related to the retention and promotion of women lawyers, it appears that, at the highest level, these decisions are still being made in a decidedly male environment.

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2007 Report:
MIT Workplace Center
Women Lawyers and Obstacles to Leadership: Surveys on
Comparative Career Decisions and Attrition Rates of
Women and Men in Massachusetts Law Firms

Executive Summary

The two MIT Workplace Center surveys in 2005-06 sought to measure concretely and to find specific reasons for the persistently low numbers of women partners in Massachusetts law firms—and, because of the prestige of partnership, low numbers of women in professional leadership.

The search for reasons begins with the confounding fact that women and men have been graduating from law schools and entering the firms in virtually equal numbers for at least 15 years but, according to the MIT Survey #1 on Rates of Attrition women make up only 17% of firm partners. That number increases to only 21% if the period before women entered firms in large numbers is excluded, according to the 2006 National Association of Women Lawyers survey.

MIT Survey #2 on Career Decisions provides answers to this dilemma through an innovative method that traces the movement of individual attorneys in and out of firms over time—2001 to 2005. It gathers expressed reasons for moves, descriptions of firm practices that affect staying and leaving, and also complex demographic information that provides a social context for individual career decisions.

It readily answers the seeming anomaly of men and women entering and leaving firms at the same rate yet with men far outnumbering women partners. Firms record departures, but they do not necessarily record the destinations of those who leave. Tracking the “stayers” at a firm, the “switchers” to another firm, and the “leavers” of firm practice reveals that, over time, women leave the long partnership track before the point of election to partnership at a much higher rate than men. Some women move to off-track positions in a firm but nearly a third of associates and another third of non-equity partners leave firm practice entirely, compared with less than 20% of men at both levels.

Women leave the partnership track mainly due to the difficulty of combining law firm work and caring for children in a system that requires long hours under high pressure with little or inconsistent support for flexible work arrangements. Likewise, they stay in a firm or switch firms mainly in response to the possibility of support for schedules allowing time for family care without penalties for promotion.

On the whole, however, law firm policies open to the entry of women are not matched by policies open to women taking care of children. While many women with children negotiate a part-time schedule for family care (about 40% in 2005), and those who do are more likely to stay in their firms, they are still less likely to be promoted to partner than women who stay in firms but do not use part time options.

Men on the partnership track have, on average, more children than their female colleagues and many adjust their daily work hours to support children's activities, but almost none use part-time for family reasons.

The difference in the impact of work and family pressures on women and men lies significantly in the neo-traditional division of family labor that typifies professional couples at present.

- Most of the male lawyers in law firms live with spouses or partners who have a lesser commitment to their own careers, hold little or no financial responsibility for the household, and are able to assume responsibility for family care.
- Most of the female lawyers live with spouses or partners who have an equal or greater commitment to their careers and contribute an equal or higher percentage of the household income so that both have severe time constraints. And assuming traditional gender roles, more women than men in law firms solve the time problem by reducing work time which for many means leaving firm practice.

Somewhat like women pathbreakers of earlier generations, women who stay in firms to non-equity and equity partnerships limit their family commitments to a greater extent than their male colleagues. Overall, men are more likely than women to be married or living with partners, to have children, and to have more than one child.

The career decisions survey also provides information for current discussions about professional women "opting out" of careers to assume full-time family care. Only 22% of the "leavers" list themselves as "not employed." Most do not even leave the legal profession. Over 50% move to work as lawyers in corporate law offices, government or non-profit organizations, which, according to survey comments, provide better arrangements for combining work and time for families.