ABA Presidential Initiative on Achieving Long-Term Careers for Women in Law

REPORT ON THE NATIONAL SUMMIT HELD AT HARVARD LAW SCHOOL NOVEMBER 7–8, 2017
“Achieving Long-Term Careers for Women in Law” is an Initiative of ABA President Hilarie Bass. It features innovative research on the careers of women lawyers using life cycle models from the fields of sociology, social psychology and economics. The focus is on the many benefits of remaining in the profession and the career paths of senior women lawyers who continue to practice, exercise power, and will inspire future generations of women lawyers. The Initiative has already featured a successful National Summit at Harvard Law School in November 2017 that examined the unique issues and career dynamics facing women lawyers in practice for over 20 years, and the reasons for their disproportionately high rate of attrition. Another Summit will be held in June 2018 in Chicago. If steps are not taken to change the current trend, the percentage of women equity partners will remain stuck at under 20% for decades to come and women will continue to be under-represented in leadership positions. The Summits will identify best practices to retain senior women lawyers, whose professional development entailed substantial investments by their firms and companies over the years and who have created strong relationships with the clients they serve.
Law school classes have been gender balanced for more than 30 years. It is therefore very troubling that many women find our profession so inhospitable that they choose to leave the practice of law at the height of their experience, walking away from years of hard work. Too little is understood about the career dynamics of women lawyers. There is much conjecture and speculation, but we do not know for sure why so many women leave the profession every year—from law school graduation on—even after 20-25 years of practice. We do know women lawyers are not showing up at the top of law firm hierarchies commensurate with their male counterparts. This is a huge loss of talent and expertise to the legal profession and to our justice system that we cannot afford to allow to continue.

The Harvard Law School Summit in November 2017, a second Summit that will take place in Chicago in June 2018, and a year-long research project will result in identification and dissemination of best practices to stem the disproportionately high rate of attrition of experienced women lawyers from the legal profession, and especially private practice.

I am tremendously grateful to the Initiative Co-Chairs, Stephanie Scharf and Roberta Liebenberg, to our Summit Planning Committee, to our many generous sponsors, and to Harvard Law School for hosting the initial Summit.

Hilarie Bass
President, American Bar Association
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We gratefully thank our sponsors whose vision, generosity, and commitment to furthering the success and advancement of women in law have made this ABA Presidential Initiative possible.

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INITIATIVE CO-CHAIRS

The ABA Presidential Initiative on Achieving Long-Term Careers for Women in Law is examining a significant and longstanding problem: the fact that women attorneys at all levels of seniority, including senior women attorneys, continue to leave the practice of law at a higher rate than their male counterparts. The ABA is studying the reasons why and, on the basis of innovative research, developing best practices to ensure gender parity in workplace leadership and compensation, which will hopefully lead to greater retention of women in all practice settings.

As Co-Chairs of the ABA Initiative, we are particularly excited about the first-of-its-kind research that is being conducted to examine the reasons why so many senior women choose to leave the profession. The November 2017 Summit held at Harvard Law School was enormously successful in serving as a springboard for the Initiative, and we look forward to continuing the momentum at the forthcoming Summit in June in Chicago.

This Report provides a comprehensive recap of the plenary and breakout sessions held at the Harvard Summit. As set forth in the Report, the Summit participants identified myriad reasons underlying the attrition of senior women and also discussed a number of creative ideas to promote their advancement and retention.

We thank ABA President Hilarie Bass for her leadership and vision in spearheading the Initiative. We are indebted to Lorie Masters and Christine Amalfe for their preparation of this Report, which entailed extensive work. We are also grateful to the Summit Planning Committee members for their dedication. The Advisory Council and American Bar Foundation, which have been overseeing the research being conducted as part of the Initiative, also played an integral role in identifying the specific areas to be addressed at each Summit. And of course we deeply appreciate our many generous sponsors, whose support has been essential to this important Initiative.

The success of the Initiative and the Summit is also due in large part to the commitment, organizational skill, and passion of our talented staff, including Katy Englehart, Melissa Wood, Jackie Casey, Angela LaCruise, Cecilia Boyd, BreAnna Moore-Gordon, and Larnetta Buck.

We look forward to discussing the research findings and our concrete solutions, which we expect to provide new resources and inspiration for creating a more equitable profession.

Roberta D. Liebenberg

Stephanie A. Scharf
American Bar Association Presidential Initiative:
Achieving Long-Term Careers for Women in Law

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Chair, Executive Leadership Research Initiative for Women and Minority Attorneys
Center for the Legal Profession
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Ajay K. Mehrotra
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Caren Ulrich Stacy
CEO, Diversity Lab; Founder of the OnRamp Fellowship & Women in the Law Hackathon

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Dr. Paola Cecchi-Dimeglio
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Caroline Tipler
American Bar Foundation
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“Equity partners and general counsel are the ones who shape the future for our women lawyers.”
—Balancing the Scales, Documentary Video by Sharon Rowen, Attorney-Documentarian

INTRODUCTION

Women have made up more than 40% of law school graduating classes for 30 years, and nearly 50% since at least 2000. Despite that fact, the number of women in senior leadership roles has been stagnant for at least a decade. Women made up only 19% of all equity partners in 2017, a figure that has hardly changed for many years. The figures for women of color are even more disheartening. White women make up 88% of all women equity law firm partners and nearly 17% of equity partners overall. Women lawyers of color make up 12% of women equity partners and but 2% of equity partners overall.

What accounts for the exodus of senior women lawyers who leave the profession, at a time when their talents, wisdom, and example can have such influence not only on firms and institutions, but also on the next generations of lawyers? Anecdotal evidence, surprisingly, indicates that women are not, as popular wisdom would have it, simply leaving in their prime child-bearing years. Indeed evidence suggests that women are disproportionately leaving their places of legal employment not in their late 20s and 30s, but in their late 40s and early 50s, a time when most women are long past child-bearing years.

To date, no systematic studies have been undertaken to determine when women leave our profession—and, as importantly, why. As summit participants said, “If you can see it, you can be it.” The loss of the perspective and example of senior women lawyers, we believe, is incalculable, and there is an urgent need to stem this attrition in order to best serve clients and ensure the stability and success of our noble profession.

3. Id.
4. National Association of Women Lawyers’ first national survey of the 200 largest law firms, released in October 2006, found that 16% of equity partners were women. See also Women’s Bar Association of the District of Columbia, Creating Pathways to Success at 4 (May 2006) (www.wbadc.org/initiative).
5. NAWL 2017 Annual Survey at 6.
OVERVIEW OF PRESIDENTIAL INITIATIVE PROCESS

The ABA Presidential Initiative on Achieving Long-Term Careers for Women in Law was founded at the behest of Hilarie Bass, 2017-2018 President of the American Bar Association, the world’s largest voluntary association of lawyers. President Bass, after her storied career as a litigator, leader of her law firm Greenberg Traurig LLP, and leader in the profession and bar, recognized a critical lack in the scholarship addressing the question of why senior women leave the profession. We cannot solve this critical problem if we do not know all of its causes.

The November 2017 Summit opened in Wasserstein Hall on the campus of one of our country’s oldest and most prestigious law schools, Harvard Law School, with an address and call to arms by President Bass on the evening of November 7. The setting evoked the history of the Law School as a recognized world leader in legal education, and underscored the importance of President Bass’s Initiative, which seeks to ensure that all law graduates, including all of our women and women of color law graduates, are welcomed into our profession and have an equal opportunity to contribute to and advance the profession and our society.

The work of the Summit began in earnest on the morning of November 8 with a welcome by HLS Dean and Professor of Law, John F. Manning, and the Initiative’s Co-Chairs, two significant leaders in this movement, Roberta (Bobbi) D. Liebenberg, senior partner in Fine, Kaplan & Black, RPC, in Philadelphia; and Stephanie A. Scharf, founder and partner in Scharf, Banks Marmor LLC in Chicago. Setting the stage for this work was a welcome video by Senator Elizabeth Warren, U.S. Senator from the Commonwealth of Massachusetts and a former professor of HLS. Senator Warren made clear the importance of “persisting” in pursuing this work and this ABA Presidential Initiative. As Senator Warren stated in her inspirational video at the Summit, “This work matters. Improving gender diversity in law and senior leadership positions helps build opportunities for women and it also strengthens the profession.”

MORNING SESSIONS

“People stay when they feel successful and people are invested in their success. They leave when they feel the opposite.”
—Jami Wintz McKeon,
Chair, Morgan Lewis & Bockius LLP

Setting the Stage

The call from the Summit is for a national conversation about the need to ensure that all lawyers—including women and women of color—have an equal opportunity to succeed and stay in the law throughout their careers. While the common assumption has been that women leave the profession during their prime child-bearing years, recent statistics show that women make up only 40% of lawyers over age 40 at law firms—and only 27% of lawyers over age 50. As society diversifies and as our talent pool does as well, it is imperative that we find the answers to the question of why senior women, lawyers on the threshold of what should be their most productive years for business development—and talent development of younger lawyers—are leaving.
PLENARY 1:  Why Experienced Women Lawyers Leave and Why We Should Care

MODERATOR
Michelle Banks, Senior Advisor, BarkerGilmore LLC; Former General Counsel, Gap Inc.

PANELISTS
Denise Keane, Former Executive Vice President and General Counsel for Altria Group, Inc.
Jami Wintz McKeon, Chair, Morgan Lewis and Bockius LLP
Paulette Brown, Past President, American Bar Association; Partner, Locke Lord LLP
Christina Tchen, Partner at Buckley Sandler, LLP; Former Assistant to the President and Chief of Staff to First Lady Michelle Obama; Former Executive Director of the White House Council on Women and Girls
Professor Iris Bohnet, Professor of Public Policy, Harvard Kennedy School

“To encourage women lawyers to stay, we need to be conscious of the reasons that women lawyers leave.”
—Panelist

Studies show that diverse teams get better results, and clients in today’s increasingly competitive world are no longer simply sending out “diversity surveys” and asking for diverse teams, assuming that law firms will get the message. No, according to the gathered panel of legal experts, clients are demanding change, and they want it now. In addition, the cost of attrition to law firms and the loss of important institutional knowledge cannot be overlooked.

We understand the challenge; now, we seek to solve the problems that have led to this talent drain and loss of many women and diverse lawyers at key stages of their careers. As former ABA President Paulette Brown said, “You cannot solve a problem before you can name it.” Our panelists identified three reasons, from their perspective, why senior women leave our firms and leave the legal profession:

• **A real, not just perceived, lack of fairness and transparency and access to the paths to success in law.** Women lawyers want what male lawyers want: a challenging and fulfilling career and the same opportunities to succeed that men enjoy.

• **Lack of flexibility and what we have come to call “work-life balance.”** This is an issue that increasingly cuts across demographic sectors with men as well as women seeking more flexibility in their schedules, with lawyers facing demands not just to take care of children but also to care for aging parents and others needing care.

• **Lack of an inclusive and welcoming culture.** Women generally—and women of color lawyers in particular—perceive themselves to be in the minority, because, in a profession traditionally dominated by [white] men, they are. Everyone wants to feel that she can be her “whole self” at work.

Each is discussed in more detail below.
Lack of Fairness, Transparency and Access to the Paths to Success.

Panel participants agreed that informal systems and lack of transparency lead to unequal access to quality assignments, training and sponsorships, and client relationships. These inequities in turn determine whether a lawyer will be successful in a firm or company, and the extent to which the lawyer will rise through the ranks. When women realize that they have not had the benefit of the networking opportunities and relationships that determine success, they leave. It is a rational decision, especially for highly educated women who can pursue other options.

The panelists noted that decentralized and subjective assignment, promotion, and compensation decisions or processes can allow unconscious biases to affect decisions about who advances and how much lawyers are paid. The fact that many firms do not use metrics to measure and analyze who advances and who has access to the best training and client opportunities can disadvantage women. Partners managing clients, cases, and practice groups are also not generally held accountable for failures of women and women of color to advance at the same rate as men. Conversely, while the lack of metrics about lawyer training and advancement disadvantages women, the use of “metrics” in the typical firm compensation systems often leads to inequitable decisions on compensation.

The panel acknowledged that the compensation systems in most law firms revolve around “client origination.” However, in many firms, it continues to be true that a lawyer receives credit for all work done for a client regardless of whether the lawyer dubbed the “originating attorney” had any relationship to the matter in question or the expertise required. In many firms, one lawyer gets all the origination credit for that client, for all time. Clients do not usually understand or care how origination credit is determined or assigned in a firm and generally prefer to stay out of law-firm politics. It was noted that firms often do not have a formal process for mediating disputes between lawyers competing for origination or other credit for a client or matter. In addition, firms sometimes utilize systems which assign no value to the many other important contributions to the firm that a lawyer may make, and this may also disproportionately disadvantage women who tend to be assigned or take on (or both) administrative and committee work for the firm. It was noted that the resulting inequality in compensation between men and women lawyers, even among lawyers who have similar numbers for origination and hours worked, sometimes gets blamed on women, who often are called “bad negotiators.” “Yes,” the thinking goes, “women negotiate well for their clients but they do not negotiate well for themselves.”

The panel also discussed the reality that the continued paucity of senior women lawyers and women lawyers of color in many firms results in role models being quite scarce. “If you can see it, you can be it,” lawyers are told. By the same token, when lawyers at entry and mid-career levels do not “see it” and have no role models, they do not “believe it,” and are more likely to leave.

Also discussed was the fact that the generation of Baby Boomer lawyers is now beginning to retire, and therefore firms face a critical question: how will they determine who gets credit for the key clients and other relationships that usually determine success in a law firm. Most firms have no client succession plan in place. Many powerful law firm partners were bequeathed the business for which they get credit from their mentors. Yes, those partners need to provide quality work, manage the teams that produce that work, and maintain the relationships that keep that client satisfied. However, they have a more guaranteed path to success than other lawyers who must truly originate a new client and bring in all the matters on which they work. The success and quality of life of a lawyer who inherits an institutional client of the firm contrasts, often greatly, with the success and quality of life (free time) of a lawyer who does not succeed to such a client relationship. Thus, client succession planning is a key issue for firms to focus on, and where they must ensure that women lawyers are fairly evaluated and considered.
The passing off of clients from one generation of lawyers to the next will determine not simply how key client work will be managed, but whether firms can stem the attrition of women and women of color.

Finally, the panel participants emphasized that to succeed in a law firm or in a corporate legal department, a lawyer needs a sponsor. The fact is that women and women of color continue to suffer from a lack of sponsorship in law firms and companies. There appears to be a lack of powerful leaders who are truly committed to the success of women as compared to men.

**Lack of Flexibility and “Work-Life Balance.”**

Speakers called out the need and hunger among women and diverse lawyers for flexibility in the work environment. The burden of care-giving for both children and elderly parents and other family members continues to fall disproportionately on women. In addition, contrary to stereotypes and popular conception, a high percentage of women are the sole or primary breadwinners for their families. The percentage of women lawyers of color who are the primary breadwinner for their families is even higher. The reluctance of some firms to encourage telecommuting; Face Time, Skype or other video conferencing; and the use of support services remotely to the maximum extent possible can exacerbate this problem.

Mid-career women lawyers also suffer from what panelists called “success fatigue.” Obtaining law firm partnership is considered a “brass ring,” but, with that status, comes many demands which add stresses for women lawyers who already face many demands. Women often are assigned or volunteer to serve on firm committees. Speakers pointed out that this is in part because women are team players and want to help and serve. It is also because women continue to make up less than 20% of law firm equity partners, and law firms need, and want, to have representation by women on firm committees, although women remain under-represented on firm management and compensation committees. While a greater percentage of women partners than men serve on committees and perform administrative work for the firm, such service is typically not rewarded in the firm’s compensation system. The demands of administrative work create additional demands that conflict with the desires of lawyers for flexibility.

In addition, many lawyers continue to feel the need to put in “face time” and women can feel more pressure than men to put in “face time” because they perceive a bias that causes people to doubt women’s commitment to their jobs. In these days of email, cell phones, scanners, bike messengers, and overnight couriers, “face time” should be less important and certainly not something that is necessary to prove commitment to the job.

**Lack of an Inclusive and Welcoming Culture.**

The panel discussed the idea that law firms underestimate the extent to which women lawyers, and especially women lawyers of color, feel excluded from the “majority culture” in firms. The continuing lack of women and women lawyers of color in top leadership positions exacerbates this problem. The presence (actually the absence) of women lawyers and particularly women lawyers of color as firm and office managing partners, with real power; on firm and company committees with the most power (including management and compensation committees); and as key client leads and “relationship partners” reinforces the other subtle messages that women and women of color receive that they have less opportunity than men to succeed over time. In part for these reasons, it was reported that women tend to feel like outsiders, excluded from social and other traditions that law firms, with their
male-dominated cultures, continue. For example, the focus on sports tickets as a business development activity may feel exclusionary to women, as do the traditional golf and similar outings. This is compounded by failures to invite women to participate in social and client- and business-development activities.

It was reported that women of color feel that they cannot dress or act as they otherwise might wish, given unwritten expectations or indications of disapproval that are conveyed through unconscious reactions and comments. Some women and women of color report feeling like outsiders in their law firms. It was suggested that years of feeling that they cannot bring their “authentic selves” to the workplace may lead many women to leave law firms mid-career.

**PLENARY 2: Fixing the Problem: What Works?**

“Diversity must be intentional; it does not ‘just happen.’”
—Sheila Cheston, Corporate Vice President and General Counsel, Northrop Grumman Corp.

**Moderator**

Patricia Gillette, Author/ Speaker/JAMS mediator

**Panelists**

Guy Halgren, Chairman of the Executive Committee, Sheppard Mullin Richter & Hampton LLP
Michele Coleman Mayes, Vice President, General Counsel and Secretary for The New York Public Library
Sheila Cheston, Corporate Vice President and General Counsel, Northrop Grumman Corporation
Professor Scott Westfahl, Professor of Practice, Harvard Law School; and Faculty Director, Harvard Law School Executive Education
Caren Ulrich Stacy, CEO, Diversity Lab and VP of Policy & Partnerships, U.S. National Committee for UN Women in San Francisco

The panelists identified a number of solutions to the problems identified above. We organize them into the categories discussed above.

**Ensuring Fairness, Transparency and Equal Access to the Paths to Success.**

Firms and companies need to ensure that all lawyers, regardless of gender and race or ethnicity, have equal access throughout their careers to substantive assignments, training, and client or business opportunities; and to fair evaluation systems that correct for unconscious or other biases. As one speaker said, bias is systemic and systems to correct it must be systemic also.

**Transparency.**

All speakers at the Summit agreed that transparency is a key across all of the points made throughout this report. Women and women of color are less likely than men, particularly white men, to have access to sponsors who will explain the internal firm politics and systems. They similarly are less likely to have access to the most valuable client and firm relationships to ensure success. These disadvantages
are compounded by lack of established systems and transparency in how decisions are made and how processes work.

The panel suggested that firms and companies need to implement systems that remove informality and limit subjectivity from the assignment and evaluation processes. All attorneys should be judged by the same standards. All attorneys, regardless of gender and race or ethnicity, should be given substantive feedback at the same intervals. Data on assignments and feedback can be measured and should be tracked. Use of these metrics can ensure that all attorneys are receiving access to high-quality assignments, timely feedback, and training.

**Accountability:**
Firms and companies should keep statistics on who gets access to training and who is promoted. Organizations should hold practice group leaders, key client leads, and managers accountable for equality of access to high-quality assignments, feedback, training, and client- and business-development opportunities.

**Leaders and Role Models—“The Mansfield Rule”:**
Organizations need to ensure that women lawyers and women lawyers of color are given equal opportunities to ascend to all positions of leadership and success in our firms and companies. The 2016 “Women in Law Hackathon” proposed the “Mansfield Rule,” as one way to help achieve this goal, so necessary to stem attrition and expand diversity and inclusion in our profession. Named after Arabella Mansfield, the first woman admitted to the practice of law in the United States, this Rule uses the percentage of women lawyers and attorneys of color in the candidate pool—at least 30%—as the guideline for those lawyers considered for promotions, senior level hiring, and significant leadership roles in the firm, including promotion to equity partnership, lateral partner and mid-level hiring, office and practice group heads, and appointments to the most powerful firm committees (e.g., Executive Committee, Board of Directors, Compensation Committee).

**Compensation:**
The Panel suggested that a key factor in many women’s decisions to leave their firms is inequality in compensation, real and perceived. If firms and companies are going to solve this problem of disproportionate attrition, they need to tackle the compensation problem. Compensation in law firms, in particular, is often subject to lack of transparency and metrics and to influence of subjective factors. Discussion at the Summit made clear that, even in those firms that use metrics or have well-understood and transparent systems in place for distributing profits and bonuses, subjectivities and favoritism or “lobbying” by powerful partners can override the decisions that otherwise would be made on compensation. In addition, the continuing failure to use firm compensation systems to incentivize key partners to advance diversity and inclusion leads to this now-predictable result: that the number of women equity partners in law firms continues to be capped at 18-20% across AmLaw 200 law firms. This also continues to be the case to a lesser extent in corporate law departments.

7. The Hackathon was sponsored by Diversity Lab, Bloomberg Law, and Stanford Law School. See http://www.diversitylab.com/pilot-projects/mansfield-rule/. To date, 44 law firms have agreed to follow this version of the “Rooney Rule,” developed in professional football to help increase the number of people of color hired as coaches. Firms that consider women and attorneys of color for 70% or more of their leadership roles during the review period will qualify to become “Mansfield Certified.”
**Promoting Flexibility and “Work-Life Balance.”**

The Panel felt it was important to note that providing more flexibility to attorneys is not simply a “women’s issue.” Increasingly all attorneys seek and expect such systems, leaving firms whose systems and processes do not match these expectations. While more flexible systems and work arrangements can increase retention of women and women of color, they can also increase retention overall and lead to greater attorney satisfaction. Reducing attrition reduces the costs necessary to recruit and train new attorneys to replace those who left. Below are ideas discussed at the Summit.

**Support and Emergency or Backup Care:**

Women disproportionately have responsibility for childcare and care for elderly parents. The burden of these responsibilities falls most heavily on heads of households. Firms that provide childcare options either in the firm or with nearby care providers help ease this burden and create loyalty. Firms could also consider offering funds to parents to use for child and other care, fees for “nanny headhunting” agencies or other ways to defray costs of searching for quality care.

**Use of Technology:**

Firms and companies should explore and employ available technologies to ensure that attorneys can get their jobs done from almost any location, seamlessly. This includes use, of course, of email and cell phones. Today, it also includes use of mobile technologies and “apps”; cell and video conferencing; and online or virtual platforms that allow for real-time collaboration and communication and editing and sharing of documents.

**Part-time Partnerships:**

Although most law firms today have written policies allowing for “flex-time,” “balanced hours,” or a less than full-time partnership track, it remains the case that a lawyer working on a reduced schedule has less chance, often much less chance, of becoming partner than other lawyers. Some attorneys on reduced schedules have made partner in firms only after decades of work at the firm. Women lawyers seeing these examples therefore doubt the efficacy of such “part-time policies,” which are greatly underutilized for that reason. Because most law firms today have at least several (if not many more) partnership tracks or “counsel,” “senior counsel,” and other tracks, there is an easy solution: a “part-time partnership track.”

**Use of Team Concepts:**

Leaders of in-house law departments at the Summit discussed use of team concepts, in which team members come together for specific projects and then disperse. The use of team concepts contrasts with traditional assignment of attorneys to set job responsibilities and departments. Use of team concepts promotes not just efficiency and flexibility, but helps ensure that all feel they are valued by the employer and thus included in the work necessary to the organization’s success.

**Ramp-up and Ramp-down Arrangements:**

Traditionally, once an attorney leaves the firm, she, and other talents and institutional knowledge and training, are lost. Use of “ramp up” and “ramp down” concepts can help ensure that valued attorneys can contribute to the firm at a later stage. These concepts can also help attorneys retain skills, keep up with evolving technology and systems, and create loyalty, thus reducing the costs of attrition.
Use of Senior Lawyers:
Many law firms have retirement ages or tracks that transition lawyers from traditional partner roles to “senior counsel” or other roles. Most firm and companies do not have expectations or well-considered roles for these experienced and often long-time members of the firm. Summit participants suggested that firms should develop programs that can help the firm use the many varied skills and insights of such “senior counsel” more effectively. For example:

- In an era of high billable hour, administrative, and business-development expectations, partners are less likely to provide training than was done in earlier times. Firms could deploy senior lawyers to use the substantive skills they have acquired over a lifetime of practicing law to provide invaluable training to younger lawyers in their practice area.
- Senior lawyers could also be deployed to help provide the mentorship and sponsorship that younger lawyers in both law firms and companies need today to succeed.
- Senior lawyers can be used as sounding boards and “coaches” to help other lawyers achieve their business development and other career goals. Senior lawyers can help younger lawyers develop “business plans” and follow-up to help ensure that goals are met. Senior lawyers can provide advice when younger lawyers have questions or encounter obstacles. This kind of advice can be particularly helpful to women lawyers and women lawyers of color since women are less likely to have powerful sponsors and mentors within the firm or company.

Promoting an Inclusive and Welcoming Culture.
As noted above, the Panel suggested that women and particularly women of color often feel that they cannot bring their “authentic selves” to work, leading to feelings of isolation and alienation that, over time, cause those lawyers to leave. Speakers at the Summit advised that many of the solutions discussed above are key to addressing this perceived isolation and alienation, and ensuring that women and women of color feel included and welcomed in all aspects of firm and law department culture. According to the Panel, key factors include:

Increasing Numbers of Women and Women of Color in Key Leadership Positions:
To accomplish this key objective, firms can implement—and ensure that they follow—the Mansfield Rule. Committing to following the goals of the Mansfield Rule can help ensure that there is follow-through and obtaining the “Mansfield certification” would be a visible demonstration of the firm’s commitment to real change (and offer great tools for recruitment and public relations as well). Doing so will provide the role models that women and women of color want, and need, to see in positions of power so that they believe that they too can succeed.

Rotate Leadership:
Rotating membership in key firm committees and rotating leadership of practice groups and client teams are important steps to creating role models and altering subtleties in firm culture that often seem exclusionary to women and women of color.
Changing Firm Incentives:
Firms should consider changing compensation and other systems to reward group success instead of individual successes. For reasons discussed above, women often fill a disproportionately high number of committee slots, except for management and compensation committees. Firms should track non-billable hours (for committee service, pro bono, etc.) by lawyer and by gender and race/ethnicity and compare those statistics to compensation and billable hours.

Ensure Equal Access to Client Pitches and Relationships and Other Business Opportunities:
Clients increasingly want and are demanding diverse teams. They also want access to the law firm lawyers best suited to their needs based on experience and expertise and other factors, including diversity. It is important that pitch teams should not—as too often has been the case—simply be composed of lawyers who tend to work together or to those who come first to mind when an opportunity or RFP comes in. Because, as Summit discussions showed, diversity is the result of intentional decisions, firms should establish systems that ensure that the best team is sent on pitches and business development opportunities. These groups should be diverse. Women and women of color also should have equal access to a firm’s marketing resources (dollars, staff, and outside consultants).

AFTERNOON SESSIONS

At the conclusion of the morning sessions, the attendees at the Summit organized into collaborative working groups to talk, share and gather information about important issues that were previously identified as potentially impacting the long-term careers of women lawyers. These topics included whether there are identifiable behaviors, qualities or traits exhibited by lawyers who practice long term in law firms or organizations, and similarly if there are characteristics of law firms or other legal employers that influence the long-term retention of women lawyers. The working groups also sought to identify the proactive steps that law firms can take to increase the retention of senior women lawyers and any successful corporate practices that have increased the retention of senior women lawyers. Finally, the groups considered why law firms and organizations should care about the retention of senior women lawyers.

Characteristics of Successful Lawyers
Identifiable Behaviors Exhibited by Lawyers Who Practice Long-Term in Law Firms.
It was initially observed that the women who are successful in the legal profession all work hard, are passionate about what they do, have significant confidence and great substantive expertise. They generally make client issues a first priority. They are willing to work long hours and they have the ability to handle stress.

The characteristics were similar for lawyers who practice long term in organizations other than law firms although there was more emphasis on the need for those lawyers to “know the business.” It was also emphasized that women in corporations need to have the ability to “manage up.” Notably, there was a view that men are more likely to believe they will progress through a corporate organization and be promoted as compared to women. There was also a view that women expect the organization to be loyal to them. In turn, women attorneys often stay with a corporate employer out of loyalty as compared to true satisfaction or because they are succeeding to their satisfaction.
Access and Opportunity:
Consistently, for both law firms and corporate employers, it was noted that for women to be successful and to remain with their employers long term, they need access and opportunity. This can be provided through sponsorship. The attendees at the Summit viewed sponsorship as critical for the long term success of women lawyers. The groups also agreed that women needed to feel valued through compensation, engagement and progress. One group concluded: “Women would stay at law firms longer if they had champions and sponsors to introduce them to clients, guide them through the strategy of law firm politics and success and provide opportunities on meaningful substantive matters throughout their careers.” There was also an overwhelming view that women lawyers need to be more strategic about the use of their non-billable time. Volunteering or assignment to numerous committees or non-billable activities is not always in the best interests of the women lawyers.

Women in Law Firms:
With regard to the characteristics of law firms that influence the long-term retention of women lawyers, the working groups focused on the need to incentivize all lawyers to create diverse teams. The most successful tool for incentivizing lawyers is compensation. In addition, firms need to introduce women lawyers to important clients, allowing them to develop long term relationships over time.

Women also need to be given appropriate credit and recognition for their work with important clients and on important matters. They may not have originated the matter but their contribution to the client and the success of the matter needs to be recognized and rewarded by the law firm. There was a view that introducing sabbaticals and encouraging and empowering men to step back and take advantage of part time or flex time work may result in less critical judgment of women when they choose to do the same.

The working groups emphasized that true parity in compensation is critical for women, especially as they rise in seniority within their law firms. “Nothing chills enthusiasm more than feeling that your contributions are not being fairly and holistically valued by your firm.”

Women in Corporations:
The characteristics of corporate employers that influence the long-term retention of women are similar to those discussed above but there are some important distinctions. First, there was a recognition that the way work is done in corporations is sometimes different than in law firms. The attendees suggested there is more collaboration and the work is more often done using a team approach within corporate law departments. There was also a view that corporate jobs offer greater flexibility in terms of work style and work life balance. Importantly, it was emphasized that there is often more diverse leadership within corporate law departments and that diversity better promotes a culture of inclusion within the company. Finally, it was observed that there is much more of a focus on development planning that connects individual goals with corporate objectives within corporations and this has a positive effect on the long term careers of women. Development plans often include training and a focus on individual growth and these in particular are viewed to be extremely helpful to maintaining women in the work place and allowing them to succeed. It is clear that, as compared to law firms, corporations use development plans and talent management on a much more regular basis.

Overall, the view of the working groups was there was still much work to be done in order to retain senior women in the practice of law. Women need to experience more job satisfaction and they need to be more engaged in the work place. Women in corporations need to be included to a greater extent in
the corporate law department’s decision making regarding which firms are to be selected for legal work and which lawyers are to be staffed on a particular legal matter.

Many suggested that the “Mansfield Rule” should be applied to interviewers and not just interviewees. More women need to be in decision-making roles on the corporate side to effectuate change on the law firm side. It was also thought that, while corporate America likely has better policies and internal practices, those policies are not always entirely clear or followed in practice. This is usually worse in the law-firm setting, where policies are sometimes overlooked or not enforced.

Leadership in both law firms and corporations should establish accountability for following and enforcing corporate policies.

Women on Corporate Boards:
Having more women on corporate boards was also viewed to be an important way to influence the long-term careers of women in the law. Similarly, benchmarking and having metrics relating to diversity and holding people accountable across all levels of the organization for those goals was viewed to be critically important. One working group argued that, if women held 50% of the senior most positions in a corporation, that would result in empowering women, a culture of inclusion, equal compensation and opportunities, flexible work arrangements and excellent benefits. In short, including more women in senior management will “accelerate a culture change.”

Women in Government and Nonprofits:
The important characteristics of government and not-for-profit organizations differ slightly. One group suggested “great lawyers are attracted to non-profit and government work due to the mission and likely enhanced ability to control your own time.” There was also a view that, while compensation is often lower as compared to law firm or corporate jobs, government and not-for-profits are able to offer the lawyer the ability to devote herself to a meaningful purpose. There is great respect for the work done by lawyers in government and nonprofit settings and this helps to attract and retain women in those settings.

It was noted that not-for-profit and government legal jobs recognize values and abilities outside of rainmaking and there is a better quality of life with more predictable hours.

The working groups felt that women could be retained long term in government and not-for-profit settings if there was greater transparency, and more incentives to stay long term, including more significant pensions or retirement packages.

Proactive Steps To Increase Retention

Law Firms:
The working groups were also asked what steps law firms could take to increase the retention of women lawyers. Overwhelmingly, the study groups determined that having more women on key law firm committees, like the management and compensation committees, will assist with the retention of women. One group noted: “50/50 representation on management and compensation committees ... should lead to equity in pay and leadership opportunities and better decision making and service.”

There was a view that term limits should be implemented on important committees and there has to be more incentive for law firms to prioritize gender equality and diversity.
The groups also suggested that there should be more transparency in compensation and greater openness to changing the compensation system to account for contributions other than rainmaking and origination of clients.

There should also be more flexibility for senior women lawyers. The need for flexibility is not limited to the early stages of a lawyer’s career and often it is most needed when the woman lawyer is more senior.

Corporations:
Corporations can also assist with the retention of women lawyers in law firms. First and foremost, they can impose real consequences on law firms for not complying with required corporate diversity metrics and they can provide women lawyers more visibility. Corporations should be more vocal with regard to their expectations and the need for diverse teams to handle their corporate matters. The working groups felt strongly that clients must demand diversity of teams and staffing on important matters and only then will law firms really step up to implement change. One group suggested that corporations should consider applying the standards used by government contractors relating to diversity requirements.

Corporations should engage with law firms on client succession planning and high performing women lawyers should be considered in that context. Corporate counsel should also make a concerted effort to identify and consider women lawyers for new matters when they arise.

Corporate lawyers can also recommend and endorse women lawyers in law firms with regard to peer ratings to assist them in raising their profile and gaining status in their practice area.

Finally, there was a view that secondments from law firms to corporate law departments should be increased and inhouse counsel should work to actively sponsor women and women of color lawyers.

Law Firms:
Law firms can also make structural changes to help increase the retention of women lawyers long-term. One suggestion was that rainmakers should be compensated along with their team “as a team” and rainmaker compensation should include an evaluation of the rainmaker’s ability to form and develop diverse teams. The view was that it is vitally important for rainmakers to understand and agree that their work is done by teams and there is thus a need to share the economic rewards. In this respect, it was suggested that law firms should provide financial incentives to rainmakers to use diverse teams.

It was also suggested that law firms and partners need to agree on the appropriate metrics for valuing partner contributions and the individual partners and decision makers should then use those metrics to measure performance and determine compensation. The working groups thought compensation decision-making should be tied to three pillars of function:

1. Non-rainmaking functions,
2. Team contributions, and
3. Rainmaking functions.

One of the working groups suggested that law firms have to stop compensating client originators differently than non-client originators. If that change in compensation system initially seems difficult and the traditional “eat what you kill” or similar systems continue, then women should be given early and consistent business-development training and coaching.
Client relationship and development training for associates was also identified as something that should be offered to more junior women lawyers. Young women lawyers need to be taught that rainmaking is essential, not optional.

Finally, in order to retain more women in law firms, women have to be more involved in management, and law firms need to make more of an effort to seek the view of women lawyers within the law firm. Law firms also should make an effort to reach out and interview senior women lawyers to see what they need to succeed in their practice and then work with them to move toward that success. It was also emphasized that law firms should complete more rigorous exit interviews for all “regretted losses,” by an outside firm if necessary, to get a better understanding of why women leave and what may have changed the outcome.

The working groups were also asked if there were successful corporate practices and policies that could be adopted by law firms to better retain senior women lawyers. The following suggestions were made.

First, it was viewed to be important that law firms change their bonus structure to account for performance beyond rainmaking and to measure performance beyond billable hours.

Second, there must be more of a purposeful approach to professional development for women lawyers and women lawyers of color with emphasis and focus on client succession planning. One suggestion was that law firms should use “360-degree evaluations” more often as corporations do.

Third, working remotely should also be encouraged along with flexible work arrangements. The view was that this is just as important for senior women as it is for more junior women lawyers.

Finally, there was a view that there needed to be more purposeful career development in law firms with intentional development of internal and external leadership skills and opportunities for growth.

CONCLUSION

On the question of why law firms and corporations should care, the overwhelming response was the need for women role models to assist with the development and success of younger women lawyers and women lawyers of color entering the profession. Senior women as sponsors and role models are critical for retaining and recruiting more junior women. Also, it is critically important that women are retained in leadership roles so that there is more diversity of viewpoints, which should result in better business decisions and better client work product. This diversity will also better reflect the diversity of customers, clients and juries. Finally, the replacement of women lawyers who leave is costly, and it is very difficult to replace lawyers at the upper levels in the lateral market. There is no doubt about the economic incentive and business case for law firms and corporations to retain senior women lawyers. After all, their training and development have entailed the investment of considerable time and expense. They have built strong relationships with the clients they serve and extensive knowledge of their business and legal needs.