

10 Years and Counting:

Gender Disparities in Salary and Advancement Continue in the Legal Workplace

By Hope Viner Samborn

New studies of how women are faring in the legal profession show the same thing they have for 10 years: Women are being discriminated against in compensation, partnership, firm governance, committee assignments, and client development in all law practice settings, despite a multitude of attempts at change. It's like a scene from the movie *Groundhog Day* that repeats over and over again.

Recently released results of one of the most comprehensive studies done to date reveal one striking difference from previous studies: Women attorneys who start at the same salary as their male counterparts are earning substantially less than the men only two years into their careers and are exiting from the practice of law earlier as well.

The study, done by the American Bar Foundation and the NALP Foundation, is called "After the JD: First Results of a National Study of Legal Careers." Almost 5,000 attor-

neys nationally who began practicing in 2000 were surveyed in 2002.

This research provides insights into gender discrimination experienced by the participants only two years into their legal careers. These results are the first wave of data from this 10-year longitudinal study.

Researchers are now interviewing 10 percent of the original respondents to clarify some results. In addition, all survey respondents will be questioned again in 2006 or 2007 and in 2010 or 2011 so that their long-term progress is tracked.

Money Matters

After two years in the practice, the median salary for women was \$66,000, compared with \$80,000 for men, the results show. In the largest law offices of 251 or more attorneys, there was a \$15,000 gap in men's and women's median salaries. In almost every practice setting, men out-earned women. There were only a

few bright spots, and they were relatively dim. Women outpaced men in median salaries by \$5,000 in solo firms and private firms of 101 to 250. In nonprofit/education groups, women also were slightly ahead of men, but the compensation differences were smaller.

"The law firms are still for the most part a man's world," says Bryant Garth, senior research fellow at the American Bar Foundation and former director of the foundation.

"Women are excluded from networks that would provide them with support and opportunities for business development," says Deborah L. Rhode, former chair of the American Bar Association's Commission on Women in the Profession. "There are largely unconscious biases that create double standards and double binds for women saying they are too aggressive and not aggressive enough or that they are not committed as a professional and as a mother."

Researchers theorize that the compensation differences are attributable in part to women being less aggressive in negotiating for pay and the fact that they often face subjective evaluations. "We know historically that, when there are subjective evaluations, women are not given the benefit of the doubt in terms of how they are doing and whether they are as promising," Garth says.

Not surprisingly, women who are single earn less than married men and even less than married men with children. "This is true in every profession," Garth adds. "That is still the male attitude that they are the 'breadwinner.'"

Compensation and a dearth of opportunities for advancement appear to be among the reasons for the early exodus of many women from their practices. In this study, 48 percent of the women indicated that they intended to change jobs within the first two years, compared with only 38 percent of the male respondents.

A lack of meaningful part-time work opportunities also may be a cause of many women abandoning

the law, says Rhode, professor of law and director of the Center on Ethics at Stanford University. "There is still resistance to creating meaningful and equitable part-time work structures," she adds.

"There is a significant dropout with women who have young children who are frustrated by the lack of workable part-time policies," she explains. "Their hours aren't respected. They are tethered to the workplaces, and many of them have decided it isn't worth it."

Even when law firms have part-time and other policies, they often fail to make a difference, says Joyce S. Sterling, a professor at the University of Denver Sturm College of Law. "It is one thing for firms to advertise all of the good policies that they have. It is another to show their commitment to those policies," she explains, adding that law firms need to remove the stigma that often comes with working part time.

New Attitudes Needed

Results of a separate study released recently indicate that many women also leave practices late in their careers for reasons including lack of opportunities for advancement or to do fulfilling work such as pro bono and community service, says Nancy Reichman, professor of sociology at the University of Denver, who co-authored the Colorado study with Sterling. The professors interviewed 100 Colorado attorneys—50 men and 50 women—for a study entitled "Gender Penalties Revisited: Summary of Findings." These attorneys were selected from a pool of Colorado attorneys surveyed for earlier studies.

Some young Colorado women attorneys left to start their own firms. "That was more entrepreneurial and involved taking more risk," Sterling says. "That might be encouraging—that younger generations might have a different attitude toward their career."

But the researchers who conduct-

ed the "After the JD" study found that fear among this younger generation caused many women to delay marriage and child rearing. They believe marriage and children will adversely affect their chances for partnerships or other career advancement. "It may be perceived by women to be too much of a sacrifice," Garth says.

And they often don't have the opportunity for marriage, Rhode says. "A lot of them don't have time working the sweatshop schedules to form the relationships that would lead to marriage."

Women reported to the national researchers that they face discrimination in all practice settings, including

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governmental and legal services offices. Women attorneys told researchers "some remarkable stories of how attitudes have not changed," Garth says. "It takes a long time for today's norms to work their way through these long-established environments dominated by males."

Networking continues to be a difficult area for women, despite nationwide efforts to develop mentoring programs and try to help women network.

"The women are on the committees doing the entertaining and detail work, which is not rewarded," Garth says. Some of these committees include summer associate and recruiting committees. In contrast, men are lunching with partners and serving on governance committees.

These committee assignments and

a lack of relationships with partners in the firm may mean that women will not advance, Garth says.

Researchers suspect that some of these early discrepancies in salary, committee assignments, and network opportunities—combined with discrimination and the early exodus from law firms by women—result in fewer females reaching partnership.

The number of women partners at major law firms nationwide has risen less than 5 percent in more than 10 years, according to recently released survey results of the 2004–2005 NALP Directory of Legal Employers. That number—17.06 percent—is still a small portion of the number of women who are in law school. The percentage of women in law school has hovered between 40 percent and 50 percent since the late 1980s. In 1993, NALP reported that women made up 12.27 percent of the partners at major firms. NALP's newest study is based upon surveys of about 125,000 partners, associates, staff attorneys, senior attorneys, and summer associates in more than 1,300 law offices nationwide.

Putting Plans into Action

Despite all of this bad news, lawyers—coupled with bar associations and other organizations nationwide—are trying to fix the problem.

"There is a mix of some very promising initiatives," Rhode says. Some bar associations and law firms have developed mentoring programs. Others have asked law firms to sign pledges promising to ensure gender equity within their offices. In some cases, firms are conducting self-audits to determine where gender disparities exist.

But it is too early to tell what impact many of these programs—some started in 2002—have had on women's climb through the glass ceiling.

"We don't have good systematic evidence to see what works best yet," Rhode says. "People's hearts are in the right place, and, in too many work-

places the initiatives are largely symbolic, and they don't get the underlying structural problems."

"After the JD" researchers are undertaking additional in-depth, follow-up interviews to see if change is happening since the establishment of many of these initiatives and to see what other programs can be developed. They are looking at participants' personal lives—time spent going to the gym, doing household chores—and what they expect to be doing in the coming years. They also want to learn about the participants' "social networks, including family, friends, colleagues, and classmates; the factors that lead lawyers to change practice settings, between and among firms of varying size government and public interest organizations," and how family con-

siderations impact career opportunities and choices.

"We are getting at some quality-of-life issues and quality-of-life issues in the firm," Garth says.


When results of all of the studies are in, researchers hope the findings will bring about change. Some hope the results will assist law firms in conducting self-audits to stem gender disparities within their firms.

In the meantime, Sterling and Reichman recommend that women help themselves.

"Women have to be more strategic," Reichman says. Women need to "think through their networks and use them more instrumentally." They need to recognize that "friends and friendships are potential sources of business. It is a question of recognizing what we

have rather than something new."

Job seekers need to ask tough questions. How many women are in the firm? How many women partners are in the firm? Ask associates how many women associates are on family leave? How many work part time? Do part-time attorneys receive credit toward partnership, or are they kicked off the partnership track?

Finally, more women need to follow in the path of those who have made it to the top by staying in law firms. "Women have to decide that they are going to stick it out and that they are going to build within these law firms a cohesive group of women who become powerful," Sterling says. 

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2002 Lawyer Salaries, by Gender*

| Setting | Median Salary | Female Nos. | Median Salary | Male Nos. |
|------------------------------------|-----------------|--------------|-----------------|--------------|
| Solo Firm | \$50,000 | 40 | \$55,000 | 74 |
| Private Firm 2–20 lawyers | \$56,000 | 364 | \$60,000 | 511 |
| Private Firm 21–100 lawyers | \$90,000 | 245 | \$100,000 | 347 |
| Private Firm 101–250 lawyers | \$125,000 | 162 | \$120,000 | 193 |
| Private Firm 251+ lawyers | \$135,000 | 86 | \$150,000 | 131 |
| Government | \$50,000 | 262 | \$50,000 | 258 |
| Legal Services or Public Defender | \$38,500 | 62 | \$43,000 | 35 |
| Public Interest | \$37,750 | 30 | \$48,000 | 8 |
| Nonprofit or Education | \$53,300 | 42 | \$51,000 | 20 |
| Business | \$65,000 | 110 | \$87,000 | 165 |
| Missing or Other | | 109 | | 172 |
| Total based on valid Number | \$66,000 | 1,445 | \$80,000 | 1,779 |

NALP 2004 Employer Survey Data*

| | Total Number of Partners | Partners % Women | Total Number of Associates | Associates % Women | Number of Offices |
|-------------------------------|--------------------------|------------------|----------------------------|--------------------|-------------------|
| Nationwide | 53,977 | 17.06 | 61,269 | 43.46 | 1,366 |
| Firms of 100 or fewer lawyers | 7,880 | 16.64 | 5,666 | 41.25 | 287 |
| Firms of 101–250 lawyers | 14,261 | 16.90 | 12,398 | 42.39 | 283 |
| 251–500 lawyers | 13,431 | 17.41 | 14,108 | 43.62 | 339 |
| 501+ lawyers | 18,405 | 17.10 | 29,097 | 44.07 | 457 |

*Statistical data from *After the JD* (NALP Foundation/American Bar Foundation 2004).