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CONSTELLATION OF TALENTS

How the recession could be one of the best opportunities for women lawyers

CASE STUDY

Creating an environment where women lawyers and their clients can relate

SPECIAL FOCUS

Mentoring tomorrow's rainmakers



Tomorrow's rainmakers

Because women lawyers have been disproportionately affected by the recession, they should even more actively seek to bolster their relationships with fellow female lawyers and lead by example through active mentoring, say [Marianne Trost](#) and [Cheryl Tama Oblander](#).

The full measure of the impact of the economic downturn on women in the legal profession is difficult to discern and most likely will not be fully understood for at least a few years. The most recent 2009 National Association of Women Lawyers (NAWL) and NAWL Foundation Survey on the Retention and Promotion of Women in Law Firms offers early valuable insights. Our purpose in this article is to share the most important data from the 2009 NAWL Survey, provide insights based upon our collective 47 years of observations and experience in the industry, and suggest how to implement positive change despite the current economic challenges.

The NAWL Survey compiles annual objective data from the 200 largest firms in the United States. It was created to provide a means to longitudinally view the progress of women, as compared to their men counterparts, in private legal practice. Developed in 2006 by Stephanie Scharf and Lorraine Koc, both former NAWL presidents, the survey focuses on several key core benchmarks that quantitatively identify progress and success in the legal profession, including the status of women in law firm leadership, the elevation of women to equity partner, and their level of compensation at each stage of their careers.

Over the years, the survey has expanded to explore additional benchmarks, such as the impact of lateral hiring and law firm structure on the advancement and success of women attorneys in private practice. The 2009 survey includes remarkable new data on how women rank as “rainmakers” (those attorneys who successfully originate new business) and whether the current

spate of involuntary terminations in the legal profession has a higher level of impact on women in private practice.

Underrepresented and worse off

The most notable statistics from the 2009 survey are found in the numbers and types of attorney layoffs, the identity of law firm rainmakers, partner compensation comparisons, the impact of lateral hiring, and law firm leadership composition. Overall, the 2009 survey underscores, yet again, that women are significantly under-represented in the upper levels of law firm practice and management. Men are, and remain, the most powerful and best compensated firm members, hold the vast majority of ownership shares, dominate firm governing committees and represent the overwhelming number of significant “rainmakers”.

The survey results were clear that the 2008–2009 economic instability affected all lawyers. In order to achieve the largest sample possible for the 2009 survey, NAWL studied the comparative impact of law firm terminations through June 2009, beyond the traditional survey sampling cut-off date of 1 February. During that extended period, 95 per cent of the firms responding reported that they implemented involuntary attorney layoffs. The associate ranks were hardest hit, close to 75 per cent of attorney layoffs were associates. Men and women lawyers generally lost their jobs in numbers equivalent to their respective percentages as partners and associates – unless the attorney was part-time. Almost all of the laid off part-time attorneys were

women. This may in some part be due to the fact that the majority of part-time positions are held by women.

Women as rainmakers

In today's law firm environment, the ability to bring in business, "rainmaking", is critical for the advancement of any lawyer into the upper ranks of law firm leadership and compensation. For the first time, the 2009 survey collected data on the gender of top law firm business generators. The results were astounding – even for those who are experienced in the vagaries of legal business development: 46 per cent of major United States firms indicated that they have no women among their top ten rainmakers; 33 per cent reported that only one of their top ten rainmakers was a woman; and, 72 per cent had no women at all in the top five rainmakers. The data cannot explain whether this underrepresentation is a function of less aggressive marketing by women, the result of internal clients being passed down to men generationally, or whether women are equally included in business development proposals and origination opportunities, whether women accurately and fully receive credit for business originations, or some combination of these and other factors. The survey did, however, find a correlation between the number of top women rainmakers in a firm and partner compensation disparity. The more women rainmakers a firm has, the smaller the compensation differential between men and women partners.

Partner compensation

As in previous years, the survey found that the highest compensated lawyer at the responding law firms continues to be a man in 99 per cent of cases. Although the magnitude of the difference declined from 2008 (perhaps in part because average compensation for all partners declined in 2008, thereby reducing the gender gap differential), a sizeable gap still exists. Women equity partners earn only 88 per cent of the compensation of men equity partners, which is the median equivalent of \$66,000 less per year. Women non-equity partners fair somewhat better, earning 92 per cent of the compensation of men non-equity partners, which is the median equivalent of \$25,000 less per year.

Impact of lateral hiring

The survey first analysed lateral hiring in 2008 and found that a lateral move to another law firm could improve the chances of both men and women reaching equity partnership. Surprisingly, the 2009 survey revealed that, either in spite of, or due to, the faltering economy, the lateral market for partners continued to be robust. The 2009 data outpaced the 2008 results, with a remarkable 21 per cent increase in recent equity partner hires. However, the moves made were primarily by men, who made up an astounding 85 per cent of all the recent equity lateral hires, while women made up only 15 per cent.

Women in law firm management

Women continue to be woefully underrepresented in law firm management. They constitute fewer than 16 per cent of equity partners, only 6 per cent of firm managing partners, and barely 15 per cent of the members of a firm's highest governing committee. These percentages have not changed since 2008 and have barely advanced since the survey began exploring these data in 2006. These results have not improved, even though for more than 20 years women have graduated from United States law schools and started careers in private practice at roughly the same rate as men.

What can be changed?

The 2009 survey confirmed a fact that many had suspected – that women are grossly underrepresented in the ranks of the law firm rainmakers. The economic pressures in the legal profession to develop business are only increasing, so it is axiomatic that the ability of women lawyers to bring in new business will become an even greater determinant of their compensation, their advancement to equity partnership, and their achievement of law firm leadership positions.

Without a doubt, women must be empowered to succeed in business development. A woman lawyer's ability to generate her own book of business is a critical skill that she must have in addition to excellent legal skills. Successful business development will have an impact on a woman's range of professional options and self-determination, compensation, opportunities for advancement and leadership, and on the financial health and viability of her firm. Absent a clear or single root cause for the rainmaking disparity, the challenge can and must be addressed on multiple fronts including:

- Making certain women are given equal access to the firm's largest and most significant clients. Initiatives by corporations that give preference to law firms that staff matters with women and minority lawyers have forced firms to become more aware of the discrepancies in gender and minority staffing, but more needs to be and can be done;
- Considering women equally when planning for the succession of primary responsibility for client relationships from one lawyer in the firm to another;
- Finding ways to ensure that women participate equally in client pitches, client presentations, and client activities. Women need to take the initiative to express their desire to participate, ask for opportunities, and raise concerns when excluded. Checks need to be put in place so part-time women are not inadvertently excluded due to incorrect perceptions about their priorities, their hours, or their commitment to the firm;
- Creating opportunities for additional support and skills training such as asking for the business, stating accomplishments, "closing the sale," in addition to other areas where societal

influences and biases may subtly, or not so subtly, create unequal footing for women;

- Expanding business development venues to include broader, contemporary and gender-neutral environments that reach beyond the traditional settings of a professional sporting event, golfing, or cocktails and socialising after work;
- Supporting and encouraging women to seek origination credit for the work they generate. Women should receive sole or shared credit for the client relationships that they grow, nurture, and expand and for the role they play in achieving positive outcomes for the firm's clients;
- And last, but not least, women need to support women in their efforts to succeed in business development.

Women helping women

Traditionally in the legal services industry the legacy of the transition of business credit and responsibility for existing clients within firms has been marked by passing the business from one generation of men to another. Over time understandings develop between male lawyers with business to give and share and those with whom they are willing to share. Years of dedicated service to a client is often understood to mean the allocation of some percentage of the business development credit when the time is right. Among women, we have not seen the equivalent, especially in the generational transition of business and sharing billing credit. Whether this is due to the extremely small numbers of women in senior positions with books of business to pass to the next generation or the force of some other bias is unclear, but the net result is the same.

This pattern is not limited to legal services. It is seen in almost every industry and particularly in those that are traditionally male dominated such as the sciences. Carol W. Greider shared the 2009 Nobel Prize in Medicine with her mentor, Elizabeth H. Blackburn, and Jack Szostak. In commenting on how women succeed in her industry, she made a point clearly applicable to the practice of law. "Women need to help other women, because most men still help other men. 'The old boys network' is no longer driven by conscious discrimination; modern men don't say, even to themselves, 'I only want to work with men.' It's not that they are biased against women or want to hurt them. They just don't think of them. And often feel more comfortable promoting their male colleagues." (see *The New Haven Register*, 'Nobel Winner Takes Big Step For Women', 20 October 2009, by Susan Estrich).

The legal services industry needs more women ready, willing and able to promote other women. As women, we must take more proactive steps to ensure that we open doors for other women in the context of business development. Julie Vogelzang, a successful rainmaker and labor and employment partner at Duane Morris, experienced women helping women early in her career. "When I was a junior associate, there were very few

women partners. But there was one woman partner who took a particular interest in mentoring me. She started staffing many of her cases with me and basically taught me how to litigate employment cases. She once told me that she believes women in leadership positions have a responsibility to reach back and guide women in junior positions, and I have tried to channel that philosophy now that I have reached a more senior status in my law firm."

Just one person can do a lot

- If you have a matter to refer to a practice group within your firm, do your homework and seek out another woman – directly – who can competently handle that matter. This helps you build your profile within the firm and assists another woman in career development;
- If you have a matter to refer outside of your firm or you need local counsel, consider first the women you know. Give thought to the women you have met through Continuing Legal Education programs, American Bar Association functions, industry seminars, NAWL events, or even opposing counsel who have done an excellent job. If you don't know any, ask a woman colleague what woman lawyer she would recommend;
- Develop your own contacts. Do not just rely on the men contacts of your men colleagues. While it is important to select the best attorney for the matter, there are many highly qualified and competent women lawyers who would benefit from your referral. There is a reason that men colleagues refer business to their men counterparts – it is a two-way street – the work flows back and forth. By developing your network of women lawyers, you will be creating a similar flow back and forth, but with the benefit going to you and your women colleagues. If you are doubtful, ask yourself how many times you have referred work to the referral sources of your men colleagues and how many times business from those men has been referred back to you;
- If you are a mentor, include discussion of successful business development strategies and encourage your mentees to ask for opportunities. Encourage all mentors, men and women, to share business development strategies, experience, and tips with their women mentees;
- If you writing an article or serve on a panel, consider whether there are advantages to co-authoring or co-presenting. If so, ask a woman colleague, woman client, woman referral source, or woman contact. By supporting them, you will advance the whole collectively. "When I started mentoring an emerging rainmaker in my practice area, she and I co-authored, co-presented, and co-attended," says Robyn Nordin Stowell, partner and chair of the golf course, resort and community development team at Holme, Roberts & Owen. "Now she initiates and executes her own business development plan and she does a remarkable job. It's a win-win."

- Make certain the lawyers who have contacts you would like to meet, know that you are interested in participating in client presentations, proposals, and events. Proactively ask for opportunities. Don't sit back and wait for an invitation. If the answer is "no" the first time, don't assume that means "no" always. Rather, ask again to increase your chances of being in the right place at the right time;
- When given an opportunity to refer business to a non-lawyer, consider a women-owned business or a women contact. Many women in other industries face similar challenges to women in the law. They will appreciate your efforts, as you appreciate theirs. "When colleagues (or other small business owners) ask me how I was able to start my own firm, I always tell them that it was from my fantastic support team – my accountant, my banker, my computer gurus, my marketing coach, and so on. I know that the person looking for the referral will receive the same fantastic service that I do and that the wonderful woman accountant, woman banker, minority techie and woman coach are becoming more successful, too," says Laura Carpenter, a pharmacy law attorney and successful rainmaker who left a large national firm to found Carpenter Law Firm;
- When approaching management with suggestions for positive change, join together with other women, including equity women partners, to speak collectively and maximise your viewpoint while guarding against type-casting, mischaracterisation, or 'special interest' labelling. "For years I was one of very few women equity partners at my former firm. That role gave me an opportunity to refine the firm's policies that particularly impacted women. These laid the foundation for future changes that positively affected the women lawyers in the firm," says Rita A. Meiser, an adoption attorney and founder of Rita A. Meiser PLC in Phoenix.

What the future holds

It is an understatement to say that segments of the legal industry, and most notably the law firms included in the 2009 NAWL survey, have been rocked by the economic crises of the last 18 months. Many of the firms included in the survey are no longer among the top 200 firms in the United States and a few no longer exist. And it may not be over yet.

What do we expect the 2010 survey results to reveal? That is anyone's guess, given the tumult that has reverberated through the industry. The paradigms that have been the backbone of law firm hiring, retention and promotion are shifting. It is fair to say that nearly every one of the top 200 firms in 2010 will most likely have looked at, and in some manner changed the process, procedure and criteria for every measurable milestone of attorney progress and achievement including: (1) eliminating or downsizing on-campus interviewing; (2) eliminating or downsizing summer associate programs; (3) downsizing and deferring first year associate start dates; (4) decreasing first year

associate salaries; (5) rethinking or eliminating lock step associate compensation; (6) adjusting billable hours requirements; (7) reengineering the merit review process; (8) redefining bonus compensation; (9) and closely scrutinising partner productivity and compensation, including de-equitisation of equity partners.

Stephanie Scharf, president of the NAWL Foundation and partner at Schoeman Updike & Kaufman LLP, says: "We believe that the NAWL survey will continue to break new ground in identifying both the opportunities and obstacles women encounter in advancing their careers in private legal practice. We very much look forward to the 2010 survey and are ready for the challenge of analysing and learning from the new data that will surely arise from the changed circumstances in the legal profession."

How will these future changes affect women? As women, we have a role to play in the answer to that question. Never before has our industry been faced with so much possibility for change. "From the client's perspective, the pressure on in-house law departments to control legal costs cuts two ways. A new openness to smaller firms, as exemplified by DuPont's April 2009 announcement that it would go beyond six national firms to consider regional firms, may help women lawyers who seem better represented at the top of these smaller firms. However, the de-leveraging and de-equitisation process within the AmLaw 200 firms may limit partnership to strong rainmakers and little room for schedule flexibility," says Lorraine Koc, Vice-President of the NAWL Foundation, and General Counsel of national retailer Deb Shops, Inc.

As we move into the next decade with new possibilities and an emerging, albeit unclear, shifting law firm paradigm, we must develop a more conscious awareness of the importance of working together to improve our collective success, particularly in the area of business development. Within our firms, small or large, we must explore new processes, new procedures, and alternative ways of doing business. We must make recommendations for change that will increase the opportunities for success of women, and lead by example as we move collectively into a new decade of possibility. [WOMENLEGAL](#)

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For more information about the NAWL Survey or to volunteer to serve on the NAWL 2010 Survey committee, contact Stephanie Scharf at (312) 759-3471 or log on to www.nawl.org