

THE RECORDER

127TH YEAR NO. 5

www.therecorder.com

\$2.00

WEDNESDAY, JANUARY 8, 2003

Getting Their Due

It's never been as easy as it is today to be a female lawyer, but a few hurdles remain • By Marcia Ruben, CMC

Former Attorney General Janet Reno, speaking at a California Women Lawyers' dinner at the California State Bar meeting in September 2001, recalled that while at Harvard Law School in the early 1960s, the dean asked what she planned to do with her degree, as if unsure what a woman could accomplish with this credential.

At that time, it was unusual for women to attend law school, and even more unlikely for them to actually practice law. It was inconceivable that a woman could become the attorney general of the United States. Reno recounted that just after her confirmation as attorney general in 1992, she reminded the dean of that previous conversation, much to his chagrin.

The former managing partner at a major law firm in San Francisco reminisced about a moment early in her career, more than 20 years ago, when she was appearing in the courtroom of a recently appointed female federal judge. The judge took a moment to pause and point out that all those with a role in her courtroom for that motion were women: the clerk, deputy, law clerks, court reporters and both attorneys. This was remarkable because just a few years earlier, most or all of these representatives would have been male.

The stories illustrate the tremendous strides women have made in the legal profession and the workplace at large. Nonetheless, women remain vastly under-represented at the top level of law firms and major corporations. Numerous studies on gender bias in the legal profession have uncovered the issues, barriers and challenges facing women.

As a behavioral scientist and management consultant, I sought to discover what distinguishes women who reach the highest levels in legal firms. The Ruben Consulting Group conducted an extensive review of topical literature on gender issues in the legal profession. We then interviewed more than two dozen lawyers, including female senior and managing partners, male senior partners and female associates with fewer than 10 years of experience.

The field of law appears to be in transition. Senior attorneys who are now over 55 started out with few female colleagues. At the time, only men were in positions of authority and power. Some recalled how difficult it was for female law school graduates to get a job, and those that did were sometimes derided or propositioned.

These men promoted those with whom they felt comfortable and who were similar to them, most commonly, other men. In the past 30 years, there have been dramatic changes in the work force, including the professional fields. More and more women have entered the work force, and many have entered the legal profession.

All of the senior male attorneys acknowledged that there is still some bias against female attorneys, but it is certainly not as blatant as it was 30 years ago. These male attorneys believe that today's bias is not deliberate or a result of malicious intentions, but rather due to systemic issues.

Female associates offered a somewhat different perspective. Some reported that they experienced bias from other male associates and not from the more senior male attorneys. One female associate remarked that it was not

unusual for her and her law school colleagues to have male associates call them "baby" or "sweetie."

Others remarked that when they entered a conference room, some of the males asked them to get them coffee. These female associates assumed that their male colleagues behaved in this manner as a way to jockey for position, or perhaps to undercut their female colleagues. They also experienced belittling behavior from male opposing counsel and assumed that this was an attempt to "rattle" the female attorney.

Retention among female attorneys is a pressing issue for the legal profession. All groups interviewed in the study, from senior male and female partners to female associates, indicated that the struggle to balance work and home life is real.

The women emphasized that anyone who says it is easy to raise a family and have a full-time career is not telling the truth. Many in the sample said that while large firms talk about the importance of life balance, they do not "walk the talk," and attorneys are expected to work evenings and weekends. It is not unusual for attorneys in large firms to work 60-80 hours a week. Women who leave large firms and/or the profession often do so because they feel torn between the competing demands of their career and their personal lives.

PROMISING TRENDS

However, the interview data pointed out some promising trends for women in the legal field:

1. Female attorneys are sought after by women in positions of power who like to support and work with female attorneys. Some

even go out of their way to request women.

2. There is a willingness to discuss and tackle gender issues, something not true 30 years ago. Firms are aware of the negative consequences of sexual discrimination and harassment. High-profile legal actions like the 1998 *Weeks v. Baker & McKenzie* case have prompted firms to adopt policies and education programs to prevent such offenses.

If and when there is discrimination, there are now internal processes in place to file complaints and seek justice. The interviews revealed that it is important for female attorneys to work with their firm management when encountering discrimination from opposing counsel. While client concerns should not override blatant discrimination, firms that support female attorneys will take decisive action to ensure equality.

3. Men who are partners in firms are more likely to have daughters or granddaughters in law school than their fathers or grandfathers were at the same stage in their careers.

The attorneys interviewed speculated that today's male partners are more sensitive to issues facing young women in law firms. In work concerning gender equity in corporations, this factor turned out to be the one that resonated most deeply and created an opening for change. The growing awareness of the issues facing their daughters and granddaughters allowed for a shift in mindset.

4. Women generally no longer have to dress and act as men do to be accepted. In the early 1980s, women wore jackets and skirts that mimicked men's suits, and women were prohibited from wearing pants in a courtroom. Stories abound about early female pioneers in the professions and corporations who felt they had to act like men in order to be successful.

5. There are law firms that are truly gender-neutral, where talented women can soar. These tend to be smaller firms that have lower billable-hour requirements for all attorneys. Female attorneys who work there are strongly

committed to their careers, their firms and their profession. They have a level of flexibility and support that allows them to balance the demands of their outside life with the demands of the profession.

6. Women can succeed in the larger firms, although there are more challenges. The billable-hour requirement is higher for both men and women in larger firms. Even when employment policies allow women to work part time or take time out for raising children, often the policies are not put into practice.

In firms where female partners do take time to be with their newborn children and are full partners, young female associates can look to the top and see a positive role model. This encourages young women to stay with their chosen career and firm. On the other hand, when a female partner takes only two weeks off to give birth and then comes back to work, younger women think they must follow the same standard.

7. Today's young women are less willing to sacrifice their lifestyles. The young female associates in the interview sample were well aware of the challenges of balancing work and family. Among those who wanted a family, some thought that they would have to choose between career advancement and a family. Others said they found no role models in their firm to assure them that one could successfully do both. These women gave a lot of thought to determine which firms they chose. As they become a more dominant force, they will put more pressure on the legal system to accommodate them.

8. Young men are becoming accustomed to supporting the goals and needs of a two-profession couple. As the population of women in law school has increased, their classmates have grown used to women as professional equals. Some of the female associates indicated that the younger men were more open-minded about women in the workplace.

Senior male partners who had female boss-

es in their firm or during their internships appreciated and accepted women in the law. Examples of young professional couples, both juggling demanding careers and families, give hope of a new generation of law firm leadership seeking creative solutions to retain top talent and accommodate family needs.

THE NEW FRONTIER

The legal profession is at a turning point. More women than men are choosing the law as a career. Yet, at the same time, talented female associates and partners are leaving their firms, and even the profession, because they don't feel that their needs are being met. In corporations, the loss of key talent can cost millions of dollars in recruitment expenses, work put on hold, loss of clients and lowered morale and productivity. Firms invest a great deal to develop new attorneys. The return on that investment depends on creativity in addressing issues of concern to women.

A true meritocracy requires both institutions and individuals to do their part. Law firms and lawyers alike need certain mindsets and competencies, and an understanding of the rules of the road. There are tremendous opportunities to re-create the culture of law firms.

Female attorneys who wish to can beat the odds and make it to the top levels of the legal profession. They will do well if they commit themselves to mastering the necessary attitudes and skills and learning the unwritten rules. With a similar commitment from their peers, from law firm management committees, and from senior partners of both genders, the next generation of female lawyers will be fully represented in the top ranks of the legal profession.

Marcia Ruben, CMC is a certified management consultant and principal of Ruben Consulting Group in San Francisco. She can be reached at marcia@rubenconsulting.com.

RUBEN CONSULTING GROUP, LTD.



Marcia Ruben, CMC

Ruben Consulting Group, Ltd.

520 Pacheco Street

San Francisco, CA 94116

(415) 564-7135 office

(415) 564-4998 fax

marcia@rubenconsulting.com email

<http://www.rubenconsulting.com>