



The Growing Concern of "Family Responsibilities Discrimination"



Prof. Joan Williams and Cynthia Calvert Thomas
Explain How to Recognize – and Get Rid Of – This Bias



"On Saving Your Soul"

An Interview with Judith Richards Hope,
Author of *Pinstripes & Pearls*

Also Featured in This Issue:

Debut: A New "Diversity" Column

Solos: Surviving a Visit to the Bank

Is it Possible to Actually Keep a New Year's Resolution?

Marketing by Collaboration – Instead of All by Yourself

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About NAWL

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Editor's Note

By Holly English

We had great reactions to our issue in the fall. I think you'll find that this Winter 2006 issue is every bit as interesting and provocative.

While all the articles are well worth your while, there are two stand outs that you must read, no matter how crazed you are. One is the article by Prof. Joan Williams and Cynthia Calvert Thomas. These authors have done tremendous research in the past on balanced hours practices in legal settings, in relation to the Project for Attorney Retention (PAR), and their new topic is as timely and thoughtful as their other work. It's about "Family Responsibilities Discrimination," which occurs when an employee suffers discrimination at work based on unexamined biases about how employees with family caregiving responsibilities will or should act. (Sound familiar?) Many of us may have experienced attitudes like this. This article not only describes the phenomenon, but also tells plaintiffs' lawyers, management attorneys and employees how they might handle such cases. A first-rate article by the leaders in the field.

The other must-read is by Judith Richards Hope. Judy wrote *Pinstripes and Pearls*, an intimate, bracingly candid look at the women in the Harvard Law School Class of 1964, of which she was a member. She gives the benefit of perspective about a long career, about how people can "keep their soul," and I think you'll find her thoughts absorbing and perhaps even life changing.

We have a new feature that we're inaugurating this month, about diversity. The first article is written by Jessie Liu, one of our board members, who is an Assistant United States Attorney in Washington. We hope to have articles by people from around the country in upcoming issues exploring the many subjects of interest and concern about women of color in the law.

Otherwise we have a terrific nuts-and-bolts article by Sharla Frost on how to survive a visit to the bank; a plea for priorities in our lifestyle section, by Carmen Bremer; Jennifer Martin's review of a book that argues that all that time our kids are spending on video games is actually – okay! (Martin is skeptical); information from Karen Kahn Wilson on "collaboration marketing," so you don't have to do everything yourself; and a practical piece from Atlanta-based coach Anne Whitaker on making those New Year's Resolutions stick.

We hope to start a "Letters from Readers" section soon. Please let us know what you think about our *Journal* – we're keen to hear your reactions, get suggestions, and otherwise have some dialogue. It will help us produce a *Journal* that is as helpful and interesting as possible, and well worth your valuable time reading it.

On a final note, a wonderful article last month (on police officer batterers) by law student Jennifer Ammons should have been identified as the winning entry in the American Bar Association (ABA) Commission on Domestic Violence 2005 Annual Law Student Writing Competition.

It was mislabeled; the *Journal* apologizes for the error.

Warmest regards,



Holly English
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From the President

By Lorraine K. Koc

Welcome to Law Practice 3.0. It's easy to recognize that this is not your grandfather's profession, with women lawyers approximating 50% of all new lawyers. But women lawyers have hit a wall, making up only 17% of equity partners (National Association for Law Placement, 2/2005, www.nalp.org) and 12% of chief legal officers of Fortune 500 companies (MCCA Fortune 500 Women General Counsel Survey, 9/2005).

Historically, women have had a limited presence in law, and, although this is changing, women lawyers must consciously build the skills essential for professional advancement. NAWL programs and publications emphasize several strategies to help in this effort:

1. **Take charge of your career.** Just as individually directed 401(k) plans have replaced company-driven pension plans, attorneys must actively shape their own careers. "Define success on your own terms," advises Ellen Ostrow, Ph.D. of LawyersLifeCoach. After conceptualizing your career, set specific goals. Evaluate potential work assignments, professional activities and client opportunities from that standpoint to create a progressive, strategic path.

2. **Extend your network.** Research indicates that men spend more time building external networks and use them to effectively promote their careers. Both men and women tend to rely on same-sex contacts for job searches – but since men's networks are more geographically dispersed and larger, men benefit more. Indeed, many individuals "fall into" jobs through their networks even when they are not actively searching for a position. NAWL programming has demonstrated how to build strong relationships through collaborative activities, rather than superficially accumulating dozens of meaningless business cards. You'll also meet some interesting and enthusiastic people along the way!

In this issue, Karen Kahn Wilson, Ed.D. of WomenCentric™ Enterprises encourages women to work in collaborative teams: "This expands the reach of who you know, enables you to be more creative in your business devel-

opment strategy, and you will have more fun at the same time. In addition, research indicates that relationship building is a particular strength of most women. Focus on networking through building relationships, and most of all, stop focusing on 'selling.' The top rainmakers know that business comes through helping others and knowing people well."

3. **Develop the ancillary presentation and negotiation skills that enhance your substantive legal knowledge.** Attorney Carol Frohlinger of Negotiating Women, Inc. observes that, "Negotiation outcomes are not affected by gender – unless women are negotiating for themselves." Women lawyers who consciously "game out" bargaining strategy are more effective. Indeed, a recent survey of 500 upper-level business women during the 2005 Simmons School of Management leadership conference indicated that the most successful women are highly likely to negotiate when they take on a challenging role. (See www.simmons.edu/som/news/archives/2006). NAWL has offered seminars on negotiating for yourself; obtaining "stretch" assignments; and having "difficult conversations" with partners and CEOs.

When women lawyers come together - as for example, in NAWL's "Backpack to Briefcase" program to advise third-year law students, - we find more in common to learn

and discuss, whether liberal or conservative, adding value to our careers. By focusing on these activities, we will truly "own" our profession at every level!

Best regards,



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Surviving the Visit to the Bank

By Sharla Frost

Access to capital is one of the highest hurdles for women entrepreneurs. Women lawyers suffer the same problems in this area as their lay counterparts. However, obtaining financing and establishing an ongoing banking relationship are two of the most important building blocks of a law firm. What do you do if you are a solo practitioner or the partner in a new small firm? How do you go about establishing the all-important banking relationship?

Every community has a bank, or series of banks, that service law firms. Canvass your friends and business acquaintances to find out which banks they use. Then, interview the banks to determine which ones meet your requirements. Commercial transactional businesses and law firms have some similar financing needs, but a banker who doesn't understand the practice of law may underestimate the value of your business and fail to provide the type of support you will need.

A guide to help women lawyers gain access to capital.

Once you choose the bank you prefer, what must you do to survive the bank's interview of you and your business? Approach the issue in the same way you approach a legal problem: that will help decrease the stress level. Research the banking options available to you and your firm, then prepare the paperwork necessary to make the application. Prepare for an in-person interview and practice the responses to the likely questions.

You will need a personal financial statement, containing a complete list of your debts and assets. Most banks have a preferred form to list this information. Request a blank form from the bank's commercial department. If possible, get it in digital form so that you can enter the information on the computer and update it periodically. You

will be required to submit updated statements at least once a year.

Prepare a list of accounts receivable and a business plan. These are the documents the bank will use to judge the viability of your business. Most banks also require three years of your personal tax returns. If you don't have those on hand, order them from your accountant immediately so that you have them available to present at the first meeting. If you have a business tax return, you need to present that, too. Make available your firm CPA or bookkeeper to answer questions about potential tax liabilities.

Compile a list of references. Banks prefer commercial references: your copier company, the phone company, anyone who can verify that you have a payment history and are reliable. If you don't have commercial references, provide professional references who can vouch for your credit-worthiness. Even a landlord who can confirm that you have paid rent on your apartment can serve this purpose. Provide a copy of your curriculum vitae, so that the banker will be familiar with your legal experience and education.

Expect to provide a credit report from one of the national reporting firms and to sign an authorization for the bank to obtain additional reports. If you have anything unusual in your credit history, be prepared to explain it. For example, if you had a personal bankruptcy as a result of medical expenses, but no other credit problems, note that on your financial statement and be prepared to discuss it, as well.

Products and Services

Okay, you've landed a banker. Now what? What products or services do you need?

You should set up an operating account, a client trust account and, preferably, a payroll account. Keeping the operating and trust accounts separated ensures that you and your

staff do not inadvertently mix firm funds and client funds, avoiding potential ethics problems. Maintaining a payroll account may not be necessary if you are a solo practitioner, but it ensures that a payroll service or tax service does not unexpectedly drain your operating account.

The transfer process ensures that you keep track of payroll and tax costs as they are incurred. Bouncing a payroll check or tax payment can have serious consequences to your business; setting up systems to avoid that helps insulate you from inadvertent legal liability.

You'll probably want a firm credit card and

You'll probably want a firm credit card and a line of credit.

a line of credit. The rates applicable to the credit card and line of credit vary from bank to bank, so shop for the best rate. Then, ask about the funding mechanisms for the line of credit. Extremely conservative bankers require that incoming accounts receivable payments go to the balance of the credit line before anything else is paid. Others treat the credit line more like a revolving credit account, providing more flexibility in how funds are applied and credited. If you are a new business without resources, the conservative credit line payment approach may leave you strapped for funds; however, that arrangement may impose financial discipline that ensures the survival of the business in the long term. Only you can determine the method that works best for you, but you must inquire about the repayment arrangements before you can make the decision on whether a particular bank's "products" meet your needs.

If you do not qualify for a line of credit, a firm credit card can provide useful bridge financing for times when cash flow is uneven. Depending on the card, you may also be able to accumulate "points" that can be converted into necessary office equipment or accessories. A cash back card may be a better option for a new business, but, in any event, you should make sure you separate personal and business expenses. Not only does it simplify tax preparation and the firm's bookkeeping, but it prevents inadvertently over-extending your personal resources.

Many banks provide a "lock box" service, which can be useful for safeguarding receipts. A lock box is essentially a mail box at the bank into which checks are deposited. Clients send their payments to the lock box address and the proceeds are then processed into the account. Depending on the location or size of your operation, the security of the set up can be a tremendous asset.

Most banks now offer the ability to monitor your business account on-line, just like you do with your personal account. Commercial on-line access often comes with a fee, but see if you can negotiate a free or reduced version of the service. The ability to monitor your business accounts on a daily basis can be crucial for a new business.

Ask your banker and accountant what products each recommends. Then, decide which ones you can afford. Unlike free checking for personal accounts, commercial banking products cost money. You and your new business may not be able to afford all the products you would like to have. If not, triage. Arrange for the ones you need most, then add the others later when your business is more established.

Follow the above steps, and you can survive the trip to the bank -- and make your banker a trusted partner in your business venture.



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How to Actually Keep Those New Year's Resolutions

By Anne Whitaker

If you started 2006 with New Year's resolutions that have already evaporated, you're not alone. Many lawyers I coach say that they were caught for years in this cycle of making and breaking resolutions. It's frustrating and the cycle continues until you do something proactively to break it. It's not too late for you to do it differently this year and set goals that you can keep.

The key is to turn resolutions, which are too vague, into concrete goals with an action plan to anchor them in your life. Apply the following steps with one of your resolutions for starters and make a three-month commitment to follow the plan. You need paper, a pen, and your calendar.

- **Think of yourself as an important client.** Your mindset about how important you and your goals are is critical. You already know how to achieve goals – you do it for clients daily. You need to make your personal goals as important as theirs.

Break the cycle of frustration by scheduling yourself into your days.

- **Reframe your resolution as a specific, action-based, and time-bound goal.** For example, Joan, a client of mine, turned her resolution to "get more exercise" into "run two miles on Monday, Wednesday and Friday mornings at 6:30, starting next week for the next three months." Write your goal down. You can also write it on index cards and post them where you will see them often at the office, in your car, and at home.

- **Put the dates and times for those activities on your calendar.** If you don't schedule yourself into your days, they will fill up with other things.

- **Identify what support and resources you need.** If you need someone's assistance or there are other things you need to do to prepare, list them and put times for them on your calendar. Joan needed to buy new running shoes and talk to her husband about helping with the children on her running days.

- **Plan for possible roadblocks.** You can't foresee all the potential obstacles, but identify the major ones, strategize how you will get around them, and write these points down.

- **Establish accountability.** Who can hold you accountable by checking in with you regularly, preferably every week? It can be a friend, spouse, anyone who is willing. Schedule when you will talk to them.

- **Schedule a three-month review to assess your progress.** You can do it sooner if you want, but no later. Follow-up is critical. After three months, if you have had trouble sticking to your plan, don't give up. Evaluate what the barriers have been. Brainstorm with a friend about new approaches or get a coach.

If you have reached your goal, first celebrate your success! Then plan for the next three months: you may want to increase your current goal and/or add another.

Use this process with any of your resolutions - just not too many at once. Take it a step at a time and you will have a lot to celebrate on December 31st.



Anne H. Whitaker,

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She is Vice President of Business Development for the Atlanta office of Counsel On Call, Inc., a contract attorney placement firm. Anne previously practiced law for five years and owned and managed a contract attorney placement company that she sold to a national company. Anne has created, chaired and presented numerous seminars on career development for associations such as the State Bar of Georgia, Atlanta Bar Association, and Association of Corporate Counsel (ACC). She is co-chair of the Career Management Committee of the Atlanta Bar Association and is a member of GAWL and Lawyers Club.

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Finding Satisfaction Requires Setting Priorities

By Carmen E. Bremer

When I agreed to guest-write this column for the Winter 2006 issue of the NAWL Journal, the first thing I did was read the column from the previous issue, Autumn 2005. As a University of Houston alum who attended the Law Center during the first three years of Nancy Rappoport's tenure as dean, (if images of the "trailer village" and accompanying port-o-lets just flashed before your eyes, you remember what the post-tropical-storm-Allison era was like for students and administration alike), my first thought after reading Dean Rappoport's article was, "What insight can I offer that someone pulled in as many directions as Nancy did not?"

The insight never came, but I can offer the perspective of a third-year associate at a national firm, and the rules-of-thumb I've tried to follow for getting the most out of my job and out of my free time.

Making Work Meaningful

For most readers of this journal, to say that work is our primary time commitment would be an understatement – a big one. For me, making this time commitment as fulfilling as possible makes everything else in life easier too. As young associates, we do not always have the control over our jobs that we might like. Even within the big firm framework, however, we can maximize our satisfaction on a daily basis by speaking up if our work is not challenging, and by taking as much ownership of our projects as our supervisors will let us get away with.

If, after weeks of drafting, revising, and re-revising that summary-judgment brief, the judge quotes my brief in granting the motion, then the hours spent on that brief suddenly have a tangible result that makes time spent on the next one more exciting and meaningful. In addition, maintaining friendships with co-workers, taking advantage of pro bono opportunities, and getting involved in community activities are not only encouraged as part of our associate development, but they can also do a lot to make hours spent away from family more fulfilling and enjoyable.

Which brings me to family. Whether it's our spouses, children, or parents, family is the most important aspect of our personal lives. Unfortunately, when the pressures of the office

are building, spending enough time with family can sometimes feel like another obligation. But this is backwards! Family knows how busy we are. They want to see us anyway, and we're lucky for it. Even if I have to take work home with me, just spending an hour or two with my husband before turning back to my work is invaluable, and since he's a big-firm attorney as well, he understands the demands that sometimes make bringing work home necessary. Likewise, a phone call to my parents when I need a break from proofing a brief, or better yet a visit – even one that has me checking my email every fifteen minutes – is always worth the time sacrificed. The brief will still be there when I get back.

So for me, striking a satisfying balance between work and my personal life is all about prioritizing. Work has a way of making itself a priority. And when it comes to the rest of my life, I can choose to put spending time with my husband or family at the top of my list and watching television or getting my nails done at the bottom. By making that choice, I control my time outside the office, and I can make sure to spend it in ways that keep me energized for everything else in life – including, you guessed it, work.



**C a r m e n
B r e m e r**

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NAWL's New Diversity Column

By Jessie Lui

When I first became active in the National Association of Women Lawyers, nearly three years ago, I was delighted to find a group that was so supportive. I am an Asian-American woman lawyer, in a field - criminal prosecution - with fewer Asians than many other fields of law. In addition, I recently had given birth to my first child and was just learning to balance motherhood with a full-time trial practice. At the same time, I had been looking to become more involved in bar activities, and NAWL welcomed me immediately. Within six months, I was moderating a panel on life-work balance at the first of NAWL's "Taking Charge of Your Career" programs. In all sorts of ways, NAWL offered me a chance to participate in both organizing and benefiting from programs involving diverse members of the bar. Therefore, I can attest to NAWL's inclusiveness based on personal experience.

Founded in 1899, NAWL was the first nationwide association of women lawyers in the United States, and from its inception, NAWL has been committed to promoting diversity in the legal profession. Most obviously, of course, NAWL has been a force for gender diversity. In its early years, female lawyers were a novelty; indeed, when NAWL came into being, it had been only thirty years since Arabella Babb Mansfield became the first American woman to be admitted to a state bar. Today, due in no small part to the efforts of NAWL and of its members, nearly thirty percent of American lawyers, and about half of American law students, are women.

NAWL has been highly supportive of other kinds of diversity as well. In 2005, it presented its prestigious Arabella Babb Mansfield Award to Judge Ann Claire Williams of the United States Court of Appeals for the Seventh Circuit, the first African American to sit on that court. The same year, NAWL hosted a panel discussion

on "Oral Argument in the Supreme Court" that featured both Justice Sandra Day O'Connor and Justice Ruth Bader Ginsburg, as well as distinguished female and male Supreme Court practitioners from across the political spectrum. NAWL's executive board comprises fifteen women from a variety of personal and career backgrounds. And through its well-attended career planning programming, NAWL seeks to advance all women (and, for that matter, men, as its panels are open to both sexes) by encouraging them to invest in their own career development and to immerse themselves in the practice of law and other legal activities.

In keeping with NAWL's history and traditions, the *Women Lawyers Journal* plans to publish a new regular column on diversity. Each column will feature the voice and views of a different contributor, and each will focus on a particular issue relevant to diversity in the legal profession. We hope that the column will be both informative and inspiring.



Jessie K. Liu is an Assistant United States Attorney for the District of Columbia. Prior to joining the United States Attorney's Office, she was an

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Collaborative Marketing: Expand Your Rainmaking Capability

By Karen Kahn Wilson

Ever wonder if you are on the path to being a powerful rainmaker? Take a moment to take this "Marketing Potency Inventory" to assess your current business development strength:

1. How well do you know the person in the office next to you? (1 = not well; 5 = very well)

2. When was the last time you had an extensive conversation about marketing strategies with this person? (score 1 if never, 2 if 12 months ago, 3 if within the past six months, 4 if within the last 3 months, 5 if within the past month)

3. Do you know the characteristics of her/his ideal client? (1 – no idea, 3--somewhat; 5—intricately) How many people know your vision for new business development? ____

4. How many people know what you enjoy the most about the practice of law? ____

5. How many people know what activities would occur in your ideal professional day? ____

6. How many people know what kind of clients you would most love to work with? ____

If you are like most people I have coached your score is 10 at best. Why is this? Despite the fact that a great deal of the legal profession is organized around law firms, legal departments, practice groups, litigation teams, etc, when it comes to new business development, the legal professional is a pretty solitary pursuit. I see the lack of encouraging collaboration as a loss of rainmaking potential. The concept is relatively easy—when you combine people's spheres of influence (their networks and who they

know), different ways of connecting with people and special knowledge bases the capability of attracting more business grows exponentially. Psychological and sociological research agree, in most cases, two heads are better than one and groups are more creative and smarter than individuals.

When it comes to new business development, the legal professional is a pretty solitary pursuit. Collaboration can help.

Successful collaboration can be defined as follows: a deeply interpersonal business practice where a small group of two to six individuals, joins together with:

- a common vision
- a shared, articulated business development strategy
- an intention to share leads and relationships
- an active desire to introduce each other to anyone and everyone who could potentially build the others' practice, and
- the commitment to work for the betterment of each other.

There are challenges to working together in a cohesive group. Frequent, clear communication is a requirement. The willingness to give feedback, voice perceptions (and assumptions) and be open to "fine tuning" connections within the group is necessary. All must be willing to, and have a similar understanding of what it means to, share time, money, resources, effort, and opportunities.

Collaboration as a business practice is accelerating in Corporate America. The mushrooming applications of the Internet

where knowledge and information are interconnected have promoted the parallel structure among humans—individuals working together, forming webs of communication, creativity and expansive opportunities. The power of "we" has been discovered—and, for women, who tend to enjoy and work better in relationship with others, this work mechanism will enable advancement as never before.

Where to begin? Be committed to having conversations that create working bonds among you and your colleagues. Start by asking for information about their ideal client. As you listen think of opportunities to introduce her to people you may know. The question in your mind must be, "How can I help her expand her business?" Step two, is asking a colleague (or two or three) if they would like to brainstorm ways to help each other and come up with some collective goals and strategies; action steps, shared information and plans proceed from there.

Partnership is the base from which law firms develop and thrive. Collaborative groups, focused on business development, take the concept of partnership to the next level of meaning and purpose.



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Everything Bad Is Good For You: How Today's Popular Culture Is Actually Making Us Smarter

by Steven Johnson

Reviewed by: Jennifer S. Martin

Even as anxious parents, government leaders, and advocacy groups decry the damage that video games, television, movies and the Internet cause, author Steven Johnson bucks conventional wisdom and attempts to make the case that popular culture is, in reality, on an upward, ultimately beneficial trajectory (the "Sleeper Curve"). To the contrary, argues Johnson, the countless hours spent on these pursuits have improved America's analytic skills and measurably increased our intelligence.

"This kind of education is not happening in the classrooms or museums; it's happening in living rooms and basements, on PCs and television screens. This is the Sleeper Curve."

Concerned that the addictive and isolationist effects of these forms of entertainment threaten family and community life? Shocked by the rampant, often misogynist violence and demeaning gender role portrayals woven into games and television story lines? Wondering how we as attorneys and educators will effectively interact with clients, students and peers whose perceptions, attention spans, and expectations are shaped by exposure to popular culture? Fear not, argues the author, content is irrelevant to the "Sleeper Curve." The increasing complexity of gameplay, the growing sophistication of story lines, and the interactive nature of the internet are all magically raising our collective IQs without effect from content. Unfortunately, Johnson's book fails to carry the burden of persuasion.

Johnson cites the research done by James Flynn and Arthur Jensen on the

upward trend in American IQ scores, the so-called "Flynn Effect," in support of his premise that popular culture and its instrumentalities are making Americans smarter. Their studies are not overly helpful to Johnson's thesis, however, as neither of these researchers focused on the cause or causes behind such "cognitive upgrades." The author instead piles inference upon inference to support the conclusion that it is the growing sophistication of modern media in its various forms -- video games, television, film and the Internet—which explains rising IQ test scores. Using a sometimes forced, but usually accessible writing style, the author draws less on actual research and more on excerpts from interactive games and hit TV shows to support his premise. Though the role that each type of media plays in supporting the overall thesis is not always clear, the primary focus appears to be on the virtues of video games and television, with films and the Internet given some treatment.

Video Games

Critics often contrast video games unfavorably with reading. Johnson agrees that reading is important and should not be abandoned. Again setting content aside, he claims that nonliterary popular culture has nevertheless become more complex, honing different but no less important mental skills than does reading. For instance, Johnson maintains that time spent gaming is not time wasted, but rather constitutes the working through of endless, mind-sharpening tasks and stimulating puzzles. He points to the complexity of published game guides as the true measure of the cognitive challenges inherent in video games. While admitting that most of the role-playing in video games consists of drive-by shootings and princess-rescuing, the author nevertheless argues that how gamers think, not what they are thinking about, is key. As support for his argu-

ment, Johnson claims that the best way to gauge the value of gaming is to ask committed gamers.

Yet, he does not point to any studies where he or anyone else has actually done this. Instead, he relies almost exclusively on his own speculation as to what the research might say if performed. This is coupled with his own observations of how much easier it is to pursue a winning strategy in a simple, one-dimensional game of Pac Man as contrasted with the much more complicated, virtual reality of Zelda. The author claims that playing challenging and realistic video games increases players' abilities to "perceive the world more clearly," and dedicated gamers supposedly display enhanced social skills and confidence as compared with non-gamers. Parents worried by the countless hours dedicated to video games on their children should actually be happy at the amount of "focus" that they are able to sustain. Yet, again, Johnson's claims are either supported by unnamed "recent" studies or are completely unsupported by research of any kind.

Television

Johnson next proceeds to a discussion of the cognitive benefits of television, which he relegates to a lower stature on the Sleeper Curve than that of video games. The argument here is that modern television demands greater analytic skills of its audience than the programs of twenty or thirty years ago. Again, he ducks contentious issues related to content and falls into a pattern of lively stories drawn from some of today's popular shows, but told without clear organization or focus.

He does not compare the supposed benefits of television-watching vis-à-vis other activities, nor does he discuss whether the cognitive benefits peak out after a certain amount of exposure. Rather, he explores the alleged benefits of watching today's television programming through a structural analysis based on the number of narrative plotlines embedded in different shows. For instance, the 70's action drama, "Starsky and Hutch," typically maintained one individual storyline per episode, whereas "Hill Street Blues" pursued as many as ten interrelated plots in one episode. Similarly, "The

Sopranos" routinely explores about a dozen different threads per episode.

Johnson admits, but does not explain away, that long-running daytime soap operas and some older shows such as "Dallas" also involved many different characters and narrative threads. His primary message is that today's television shows have trended away from simple formats such as "Dragnet" and "I Love Lucy," and towards more complex and therefore more challenging plots. "Even the crap has improved," argues Johnson. The author admits that though "The Apprentice" is "not the smartest show in the history of television," it is an "intellectual masterpiece" when compared with "The Price is Right" or "Webster." Television viewers-- not unlike gamers--cannot sit passively by, but must instead actively work to understand and follow clever strategies and rapidly developing "real-life" situations. Thus, again in a small set of examples he selects, Johnson claims to find evidence supporting the Sleeper Curve because we think more now than we did twenty years ago when we watch television.

Films and the Internet

Johnson gives film and the internet much shorter treatment, but follows the same basic tack of suggesting that interactivity is the key to cognitive learning, no matter what the content. Again, the author digresses into stories and personal opinion to fill the pages. The internet gives us more opportunities to connect with others and to inform, publish and exchange our opinions, and is thus a complicated medium. Johnson also argues that films have become more complicated, with growing numbers of characters involved in the storytelling. Although he again makes references to a number of popular movies, his sole example of any substance is the comparison of the number of characters in "Star Wars" to "Lord of the Rings" as evidence of the complexity of modern moviemaking. Typically, Johnson overlooks the fact that the "Lord of the Rings" trilogy is based on a classic series of novels dating back to the '50s. The drumbeat remains constant: another example of how the increasingly multifaceted nature of popular media forces us to think in ways that give us a "mental workout."

Women, Attorneys and the Sleeper Curve

Throughout the book, the author argues that the singular, incontrovertible cause of documented IQ gains across the population must be the Sleeper Curve: the upward spiral of sophistication and complexity evident in our media over time. Yet in attempting to demonstrate how modern media may bear a positive correlation to increased cognitive learning (of which we remain skeptical), Johnson avoids or glosses over its most controversial implications.

Can playing a game such as Grand Theft Auto, in which women are frequently the abject victims of sexual and physical violence, really raise IQs without any downside?

Most disturbing is his out-of-hand dismissal of the impact of the content of media on its audience despite the obvious ramifications for women and even women lawyers. Can playing a game such as Grand Theft Auto, in which women are frequently the abject victims of sexual and physical violence, really raise IQs without any downside? If Zelda's princess-rescuing scenario is a popular theme common to many video games, may repetitively playing this game affect how women in leadership and supervisory roles are viewed in the workplace? Does the way in which women professionals are portrayed—for example, Assistant District Attorneys Claire Kincaid and Abbie Carmichael on the show "Law and Order"—really have no effect on the way that women are perceived as lawyers, particularly by their clients? What about the potential effect on professional women of color of the unseemly antics of Omarosa on "The Apprentice?"

While avowing that a "race to the bottom" is unthinkable in a market that values complex analysis for its entertainment value, Johnson nevertheless asserts (once more without any meaningful support) that any declining ethical or moral values and perva-

sive, negative stereotypes are simply not absorbed by the audience. He merely repeats his belief that bad attitudes, beliefs and behaviors are learned elsewhere.

If It's Too Good to Be Believed...

Johnson's *Everything Bad is Good for You* fundamentally fails to make the case that we should wallow guilt-free in the deepest sludge of today's popular culture, secure in the belief that we are becoming smarter in the process. Perhaps we really do want to believe that video games and television, films and the internet are having a positive effect on our society despite, all too often, the apparent absence of redeeming social values. But then again, we're not quite ready to recommend a steady diet of fatty meats, hot fudge and cream pies just yet: we don't really believe that's good for you, either.



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England College, teaching in the area of corporate and commercial law. She earned her B.S. in Business Administration from the University of Nevada, Las Vegas, with honors, and her J.D. from the Vanderbilt University School of Law. Thereafter, Professor Martin became an Associate with the international practice group of Baker & Botts, L.L.P., practicing in both the Houston and Dallas offices. A member of the Texas and American Bar Associations, Professor Martin was a Principal Attorney for Houston Industries Incorporated (now Reliant Energy), working on power generation transactions domestically and internationally. She has published numerous articles in publications such as the Texas International Law Journal, Southwestern Law Review, Georgia State University Law Review, Tennessee Law Review, Seton Hall Law Review, Boston College International and Comparative Law Review, and Vanderbilt Journal of Transnational Law. Professor Martin can be contacted by email at jmartin@law.wnec.edu.

On Preserving One's Soul

An Interview with Judith Richards Hope,
Author of *Pinstripes and Pearls*

by: Holly English

Judith Richards Hope has had a distinguished career stretching over forty years. Her book, Pinstripes & Pearls, published in 2003, focused on the fifteen women in her Harvard Law School class of 1964, and was a close and probing look at their professional and personal experiences, both during their law school years and beyond.

Judith Richards Hope, counselor, lecturer, corporate director, and author is Distinguished Visitor from Practice and Adjunct Professor of Law at Georgetown University Law Center. Her work and her teaching focus on the resolution of complex matters pending before the United States Government, particularly those involving high profile political litigation, international negotiations and multi-national disputes. She has held faculty appointments as Lecturer in Trial Advocacy at Harvard Law School, Executive in Residence at the University of Richmond, and Lecturer on Constitutional Law at Pepperdine



Judith Richards Hope

University. Mrs. Hope has been a practicing lawyer, first with the law firm of Williams & Connolly and, from 1981 through 2004, as a partner in and senior advisor to the international law firm of Paul, Hastings, Janofsky & Walker LLP.

Ms. Hope is a Director of General Mills, Union Pacific Corporation, Russell Reynolds Associates, and Altius Holdings Ltd. She is a National Director of the American Red Cross, a Trustee and Executive Committee Member of Meridian

International Center, Co-Chair of the Washington Round Table of the Center for Strategic and International Studies (CSIS), and a Director of the Rappahannock Country (Virginia) Conservation Alliance.

Ms. Hope served as Vice Chairman of the President Reagan's Commission on Organized Crime, and as Associate Director of the White House Domestic Council during President Ford's Administration. She was the first woman to be named to the seven-person senior governing board of Harvard University, the Harvard Corporation, where she served from 1989 – 2000. Ms. Hope is a graduate of Defiance (Ohio) High School, Wellesley College, and the Harvard Law School. In June 2000 Harvard University awarded her an honorary Doctor of Laws degree. She has two adult children.

NAWL Journal Editor Holly English spoke with her in December of 2005.

Q. Holly English: How did you come up with the title of your book, *Pinstripes and Pearls*?

A. Judith Richards Hope: There was no process. It just came to me on one of those many days when I was over-committed and hurrying. I got up early to run with my dog, tried to get the house organized for the day and to call my kids before they went to work. I thought, "I have to go to court -- what should I wear?" and I thought, "Good old pinstripes and pearls. Always appropriate." When there's no time to plan, I always wear a pinstriped suit and I always wear pearls. The title also had a secondary meaning: in my era at law school, the guys wore the pinstripes and the girls wore the pearls.

Q. What reactions to your book have surprised you?

A. One thing that surprised me is that a lot of men, including men in my class, said, "My God, we didn't even notice what was

photo credit: Ian Wageich/U.S. Chamber

going on. And we're amazed. We just didn't see it." Strangely enough, I think most of the women students at that time didn't see it. It was a time of rapid transition, and we were all used to the fact that women were not in the workplace very much, and certainly not in the professions, not in the law, not in medicine. Women were mostly at home, they were living "Ozzie and Harriet." Any woman who tried to break in at that time knew that they were going into the guys' locker room. It was just a very different time.

On her book: "500 people have told me, 'That's my story.'"

The other thing, as a general reaction to my book, is that women of a certain age, who were working or having families during the late 50's and early 60's, say to me, "That's my story." 500 people have told me, "That's my story."

On the other hand, younger women professionals today, like the men of our era, can hardly believe it, because it's so very different from their experiences today. They say, "Are you sure that that really happened?" Some of the things that professors said and that employers said would be actionable under the civil rights laws today. It was a different planet, a different century.

Q. Can you spotlight a story from early in your career that crystallizes some of the challenges at that time, an "ah ha" moment?

A. One is in the book. It was when I was a summer associate at Hughes, Hubbard & Reed. I was asked to prepare the documentation on a big corporate deal. I walked into the conference room with a huge pile of documents in my arms. I was the only woman in the room, but even having one woman professional at the table was unusual at that time. I came to the client, and I handed him some documents. He looked at me, and said those immortal words that are always music to a woman's ears, "Honey, can you get me a cup of coffee?"

I thought, "This is the test. What do I do?"

Nobody had prepared me at Wellesley College or Harvard Law School for a client saying get me a cup of coffee.

I decided to get him his coffee. In those days there was no coffee in the firm, no fancy coffee machines or anything; you had to go outside, take the elevator, cross the street and go to the Chock Full o' Nuts for coffee. Which is exactly what I did.

After I returned and gave him the coffee, and he said, "Thank you, honey, how much do I owe you?" I said, "\$25." He said "\$25? Why is it so much?" I said, "I'm a summer lawyer, my rate is \$50 an hour, it took me half an hour. That's \$25. But don't worry about it -- we'll put it on your bill." That situation was like an oral Ph.D. exam. It made my entire summer. I think right then Hughes Hubbard decided that they could give me an offer of full time employment. Which they eventually did.

Q. What was your thought process when you gave that answer?

A. Since I was poor as a churchmouse in those days, one of the first things I thought was: "I wonder if I have to pay for this out of my own pocket?"

I didn't plan to say what I said. I just blurted it out. When I was standing in the long line for coffee, I was looking at my watch and thinking: "This cup of coffee is costing me half of a billable hour." I also remember very clearly that I thought, "I will do what it takes to get where I'm going. If I have to get coffee, I will; if I have to type, I will. I will find a way not to be a whiner, no matter what, to get where I'm going."

Q. How can women deliver difficult messages in the workplace?

A. It really is hard to find the middle ground, but that's the key. You can't be too aggressive or too abrasive yet you can't be too much of a petunia either. You have to do it a bit with a smile and with laughing eyes. You can't get anywhere with anger, but you do have to be firm. When I was younger, I occasionally blew my stack and displayed my Welsh temper. These days, when I oppose someone's actions, I tend to be understated and cool, to say something like: "I suggest that what you are doing is most

unwise." I find that words like that, delivered with icy calm, can be more effective than a tirade.

My thought when I started out is, "I will do what it takes. I will find a way not to be a whiner and get where I'm going."

At a Minneapolis board meeting recently I made what I thought was an effective plea for a business proposal. One of the male directors said, "Oh, I love to see all this emotion." I thought: "Here I am sitting on a New York stock exchange board in 2006, and a fellow director is using the same line to deflate my suggestion that an opposing counsel used against one of my closing court arguments forty years ago." At that time I was speechless. This time I did better: "You know, Bob, if I were a man, you would say that's an impassioned plea, whereas with a woman it's emotion." Everyone laughed and jumped all over him. The women on the board all cheered. It was funny, and, I suppose, the ultimate indication of how far we've come.

Q. Many older women lawyers complain that younger female law school graduates don't appreciate the challenges that were overcome by women lawyers before them, and that younger women tend to disbelieve that challenges based on gender exist or to underplay its significance. What are your thoughts?

A. I think we're in a time of transition again. There are still biases, but they're much more hidden than they were. Younger lawyers, women and minorities, are stunned when they come up against them. It's hard to know when they will surface, but they still exist. While there are managers of law firms who are women, the management of private law firms is still disproportionately in the hands of men. For better and for worse, men and women see things differently.

There are two developments in the legal workplace that are making it difficult for women to get to the top. First, a significant

number of women are now not willing to pay the price to "make partner," in terms of the long, long hours required over eight to ten years, the very years when their biological clocks are running. At the same time, many large law firms, with the huge overhead they confront, are increasingly less willing to make accommodations for women during these same years.

As a result, many young women quit. They say, "We're not putting up with this." The more enlightened law firms and certainly many government entities have more accommodating policies, such as flex time and part time. But that certainly is not true in many of the large private law firms.

A brilliant woman lawyer, with two young children, was with my former firm for over ten years, many of them working an 80% schedule. She had her own major clients, and was highly regarded by the leadership of the firm and of her department. I regularly tried to persuade my firm to elect her to the partnership, even though she was not full time, but I failed. There was a belief among the senior managers that, because she was so successful there, even though she could not become a partner, she would never leave.

Well, she did. She found another firm that was thrilled to have her \$2 million worth of business and elected her to the partnership despite her part-time status. They're so pleased with her talent and her work ethic that they've already made her a member of the management committee of that firm. She in turn is a successful recruiter for them, precisely because of their enlightened policies for people who have family commitments.

And that goes for men, too. Men who are single fathers, men whose parents become ill. These Neanderthal concepts have to go, the ones that say, "If women want to have families, fine, but you can't do that and fulfill the commitments in a major law firm," or "If you need time to care for you aging parents, fine, but you'll need to find another job."

Q. There are lots of articles about women, especially women lawyers, "opting out" of work or law to stay home with children.

What are your thoughts on this supposed trend?

A. Most firms offer part time status, but the usual rule is that you don't advance much, if at all. Their policy is, when you come back to full-time work, you have to do two or three years of full-time work before being considered for partner or of counsel. I understand the reasoning but I think it's an old fuddy-duddy rule. My personal experience is that women who are given a break, especially during their child bearing years, become very loyal to the institution, they work really hard to keep those doors open, and when they come back full time they are extraordinarily productive.

There are a lot of women who are opting out but they will come back in. When they do, they will have to find a different path. I think it's very hard, if you've been out for six or seven years, to start again at the very bottom. They will go to not-for-profits, or to government jobs, and they will work their way up from there. They don't want the stress that my classmates and I were willing to put up with to break the path. Sandra Day O'Connor told me that she went back to work after five years of raising her children, because she was persuaded that if she didn't go back then she would never be able to go back.

While it's different today, in private practice it is less different than we might hope. There are many, many demands in the big firms – from clients, from co-workers and bosses, and from the institution of the firm. The reality is that financing "big law" is the most demanding of all: the annual overhead of many big firms runs nine or even ten figures. Operations that size require ever growing billable hours and collections, making it hard to think about being humane. Given the pressures, the easiest thing to say is, we have so many hours we have to produce to make our budget, and there are so many people to produce them, and that's it. It's a multiplication game.

Some firms have been able to be creative, with part-time partners and flex-time partners. Others say it just doesn't work. The law is a very broad base, and there are many fascinating and wonderful things to do in the

law, in addition to private practice. The training in the big firms also tends to be absolutely spectacular. It may be that, after women get a good education and a good grounding in the practice, many may decide not to pay the price to move to the top of a giant international law firm. Still, they can have a great career doing other things in the law.

Q. What differences do you see these days with expectations about billable hours in firms?

A. When I was a young lawyer at Williams & Connolly, we always worked Saturday mornings. Afterwards, Edward Bennett Williams took everybody to lunch, and that was the end of the day. Saturday morning was the rehash time, not necessarily billable hours. It was like a seminar, and it was wonderful. Today it's more that people come in, close themselves in their offices, glue themselves to their computers, and try to get the work out that they didn't get out during the week.

*I told one young lawyer,
 “Your son is going to
 grow up whether you’re
 there or not.” He said,
 "You’re right," and then
 he turned back to his
 computer.*

As hard as I worked, the young lawyers of today work much harder. When I joined Paul, Hastings as a partner, the annual billable hour requirement was 1400 hours. That was at the end of 1981. You were also expected to train associates, to mentor associates, to do pro bono work in the community, to be involved in recruiting, and all of that together was 2200 hours per year as the overall requirement. Now the billable hour requirement expectation for partners at Paul Hastings is 2000 billable hours per year, and they're still expected to do all those other things. That gets you to 3000 work hours a year, or even more. That means, since you

don't bill for going to the bathroom or eating lunch or taking the elevators between the floors, you work 11 to 12 hours a day, 6 days a week, with two weeks vacation.

It's stark for women and for men. I see these young men with young children. I was talking with one of them, who has a beautiful baby boy who's now 6 months old. He's been on a case that's going on in Japan, and I told him, "Your son is going to grow up whether you're there or not." This was on a Saturday afternoon at 4 o'clock. He said, "You're right," and then he turned back to his computer.

Q. What effect do these long hours and high billable requirements have on people?

A. The price you pay is a tiny bit of your soul every few months. I just think that it's heady to be part of a big law firm, or a big team at the Justice Department. It gets your adrenaline going, it gets all your fighting responses going, and it's kind of a high. You love it and you want to be the best. You want to win for your clients and you get hooked on that. And how do you be the best? You work even harder. You get all the kudos from your clients and your colleagues and your bosses.

And when you go home, your kids say, "Where have you been? You haven't had dinner with us all week." It's a downer. You tend to go where you get the compliments and praise and the pats on the back. In doing that you have to be very careful that you haven't lost too much of your soul, as a person, as a spouse, as a friend. Big law can be more than a little addictive: "I'm a big lawyer with big clients and making big money."

In D.C., I'd say there's a very high divorce rate among lawyers. My friends who are psychiatrists tell me that their largest clientele in D.C. are lawyers in private practice. Of course it's stressful! Did you know there's a reason that health plans for law firms carry premiums that are higher than for a manufacturing company? Why? Because big law is known as a "killer profession." Lawyers tend to have more cancer, heart attacks, and other maladies that are life

threatening. They're burning their bodies out, fast.

Yes, when you're in the middle of a big deal or a big case, the price seems worth paying. It's exciting, and the money is very good. I certainly was a victim of all of that myself. I was determined that I wasn't going to let my gender stop me. In my day, because your gender could stop you, no matter what you did, you had to triple your effort. As I think about it, looking back, I wonder why – and how – I did it. And, of course, I worry about the promising young lawyers of today.

Q. What differences between men and women actually make a difference?

A. Men are less likely to opt out, but they're thinking about it, too. I hate to be an old fashioned girl here, but the truth is that there is -- thank God -- a biological difference between men and women. Women, biologically, bear the children and if they believe all of the information about breast feeding, which they should, they have to nurse the children for a while. There is a special biological need for them and for their children to do those things.

*Many women keep going.
I was nuts to do it,
but I did it.*

The men can be very loyal to their children but they don't get pregnant and they don't nurse. And so they have a different path, which says, "It's really all right if I get home at 7 o'clock at night and I leave at 7 o'clock in the morning. We'll be together on the weekends," and so forth. So it think biologically it's easier for men to keep going during the child bearing years. Many women keep going. I was nuts to do it, but I did. I really only knew that one way of working -- private practice. I was foolish to think I couldn't explore other opportunities.

Q. What reflections can you give us as you look back on your career?

A. I've been very candid with you because I'm at the end of my career as a practicing lawyer, and am now teaching law and serving on corporate boards. I've seen it with

women and with men who didn't spend enough time on themselves and their families. Despite their enormous successes, when they go home, the person at their kitchen table, says, "Who are you?" And you say, "I'm your dad, I'm your mom." I should have but didn't always remember that the old saying is true: the law is a jealous mistress. I believe you have to rein that mistress in from time to time. You have to say, "I'm taking three weeks off now, I am not taking my Blackberry, I am not giving you my phone number." That would make a huge difference. Very few lawyers do that. I certainly didn't do it enough.

Q. Your book included some significant information about your children and their reactions to your professional life.

A. For the book, I asked my kids what they thought, which was harder than I expected. I thought they would say what all my clients said, which was, "Oh, mom, you were so great, oh, we're so proud of you, you always took care of us, you're the best mom, you were just amazing." They said, "Frankly, you let us down." So I negotiated with them and tried to get them to change that. And they wouldn't. My daughter is a particularly good writer so she really knows how to tell her side in eloquent sentences. In the end, I felt that including their views was the only fair thing to do. It broke my heart.

Would I do it again in the same way? Probably. It's the only way I know.
Should I do it again in the same way? Probably not.

Yet I loved private practice and had a great run for over forty years. Yes, it was hard and, yes, it was hard on my kids, who ended up getting pretty mad at me. After they left for college, their father and I divorced. Would I do it again in the same way? Probably. It's the only way I know. Should I do it again in the same way? Probably not. I wish I had not tried to do as much as I did. There was a time when I was practicing law

full time, on eight corporate boards, and on the Harvard Corporation Board, which met every two weeks in Cambridge. Now that's ridiculous. It comes from the experience that I had as a young lawyer, when about 80% of what I tried for didn't come through because of factors that were outside of my control, especially my gender. So I and my contemporaries went after a lot more than we could manage because we believed that was the only way to be sure we had a full plate of things to do. As we grew in stature and as times changed, we found that we won more, and lost less. Our plates became much too full, but we had forgotten how to say "no." You find many of us overcommitted even today.

There is a lot of "not telling the truth" by women lawyers.

Q. Do you think that women tend to (publicly) minimize some of the personal difficulties that careers place upon family life? Should we be more open about these difficulties to help ease them?

A There is a lot of "not telling the truth" by women lawyers. There are wonderful opportunities in the law for women and for men, at every level, and young lawyers certainly should try one or more of these exciting challenges. But they should always keep their soul firmly in their hands. And if they start paying the price with their soul for their work, then they ought to reevaluate. Be sure the price you're paying is the price you can afford.

Family Responsibilities Discrimination: What Plaintiffs' Attorneys, Management Attorneys and Employees Need to Know

By Joan C. Williams and Cynthia Thomas Calvert

A woman's position is eliminated while she is on maternity leave. A father who takes time off to be with his kids receives an impossibly heavy workload from his supervisor. A mother isn't considered for promotion because her supervisor thinks she won't want to work any additional hours now that she has little ones at home. A man is fired when he asks for leave to care for his elderly parents.

Chances are you are familiar with these types of situations, either from personal experience or through observing clients or friends. There is a name for what is happening in each scenario: Family Responsibilities Discrimination, or FRD.

Employers may assume that new parents won't be as committed to their jobs or as reliable as they were before they had children.

FRD occurs when an employee suffers discrimination at work based on unexamined biases about how employees with family caregiving responsibilities will or should act. Employers may assume that new parents won't be as committed to their jobs or as reliable as they were before they had children; this is an example of an assumption of how the employee "will" act. Employers may also assume, as another example, that mothers "should" be home with their children and may give them assignments that don't require travel or late hours. The discrimination arises because the employer's actions are based not on the individual employee's performance or own desires, but rather on stereotypes.

Increasingly, employees are suing their employers in court for FRD and are winning. Some recent cases:

- A school psychologist had received outstanding performance reviews until she became a mother. She was denied tenure by supervisors who allegedly made comments to her such as it was "not possible for [her] to be a good mother and have this job," and they "did not know how she could perform her job with little ones." The court ruled that making stereotypical assumptions about a mother's commitment to her job is sex discrimination, even if the mother does not have evidence that similarly situated fathers were treated differently. *Back v. Hastings on Hudson Union Free School District*, 365 F.3d 107 (2d Cir. 2004).

- A car salesperson was married with four children. Her supervisor was very antagonistic toward her, would not give her a set schedule, and made comments about how his wife did not have childcare problems. He also kept notes on her "offenses," which he did not do with other employees. The employee had a doctor's appointment on her day off and was ordered to come in afterward; she was then yelled at for coming in "late" on her day off and the supervisor said she should "do the right thing" and stay home with her children. He added that as a woman with a family, she would always be at a disadvantage at the dealership. The case survived summary judgment and settled immediately thereafter. *Plaetzer v. Borton Automotive, Inc.*, 2004 WL 2066770 (D. Minn. 2004).

- A well-performing male maintenance worker who had been employed for more than 25 years took intermittent leave to care for a father with Alzheimer's and his sick mother, who later died. While he was on leave, the employer instituted a policy of

grading employees based on the amount of work completed in a set period of time. The new policy was designed to create grounds for terminating the employee. The employee won an \$11.65 million verdict. *Schultz v. Advocate Health and Hospitals Corp.*, No. 01 C 0702 (N.D. Ill. 2002).

- A top sales person with outstanding reviews experienced hostility from her supervisor when she returned from maternity leave. The hostility included scrutiny of her work hours when no other employee's hours were scrutinized, refusal to allow her to leave to pick up her sick child from day-care, and throwing a phone book at her with a direction to find a pediatrician who was open after hours. The Eighth Circuit affirmed the damages award of \$625,000. *Walsh v. National Computer System, Inc.*, 332 F.3d 1150 (8th Cir. 2003).

Of more than 600 Family Responsibilities Discrimination cases filed in the last 10 years, at least 67 of those cases have resulted in a verdict or settlement in excess of \$100,000.

More than 600 FRD cases have been filed, most in the last 10 years, and at least 67 of those cases have resulted in a verdict or settlement in excess of \$100,000. Each of us – as attorneys representing employees who may have been discriminated against, as attorneys who represent employers who need to prevent being sued for FRD, and as employees ourselves who may be subjected to FRD – needs to become award of this growing employment law trend. This article will tell you what you need to know from each of these three perspectives.

The Plaintiff's Attorney's Perspective

The key to handling FRD cases is to be able to recognize them so they can be litigated appropriately. Often the facts involving family caregivers at work will smack of dis-

crimination, but it may be hard to find the right causes of action.

While there is no federal statute that expressly protects workers from adverse employment actions based on their family caregiving responsibilities, there are several federal statutes that can be used to protect these workers. The most commonly used statutes are Title VII of the Civil Rights Act of 1964 and the Pregnancy Discrimination Act (PDA). The Family and Medical Leave Act also provides key protections, and other statutes, such as the Employee Retirement Income Security Act, the Americans with Disabilities Act, the Equal Pay Act, and Title IX have also been successfully used to protect family caregivers in the workplace. State and local laws and common law causes of action also play a part.

The first place to look is Title VII. FRD cases have embraced all the various types of actions cognizable under this statute: disparate treatment (e.g., holding open the job of a man who is recovering from a heart attack but firing a woman because she takes maternity leave); disparate impact (e.g., a company policy that prohibits new employees from taking time off for any reason disproportionately impacts pregnant women and new mothers); harassment (e.g., snide remarks, heightened scrutiny of hours and work performance aimed only at this employee, and unreasonable work demands that occur after leave is taken); failure to promote (e.g., women without children and men with children are considered for promotion, but not women with children); and retaliation (e.g., mother's loss of a flexible schedule after she complains about a discriminatory action). A newer and very promising cause of action is discrimination based on gender stereotypes; as in *Hopkins v. PriceWaterhouse*, plaintiffs may be able to sue their employers for taking personnel actions based on stereotyped assumptions about the employee (e.g., not promoting a mother because the employer assumed she would not want to relocate her children so she could take the new position).

If the employee has taken FMLA-protected leave, discrimination that occurs after the leave can be redressed through the anti-

retaliation provisions of the FMLA. For employees who work at companies that don't meet the 50-employee threshold for FMLA coverage, state law counterparts with a lower threshold may exist. Other FMLA causes of action include denial of leave, particularly in the case of men wishing to take leave to care for a newborn, and interference with leave, such as asking a new mother to work during maternity leave or asking her to return from leave early.

Some plaintiffs' attorneys have been very creative in bringing FRD actions. While the Pregnancy Discrimination Act typically is used to protect women who are pregnant or on maternity leave, it has also been used to combat discrimination that arose because a woman might become pregnant in the future. Where a supervisor in a large company has interfered with a caregiver's ability to do his or her job, such as withholding resources needed by a salesperson to meet a quota, actions for tortious interference with business relations have been successful. In situations where women have been fired for taking maternity leave at companies that are too small to fall within the ambit of Title VII or state anti-discrimination laws, wrongful discharge actions have been brought.

Plaintiffs' attorneys need to be prepared to educate opposing counsel, judges, and juries about FRD. Expert witnesses, particularly social psychologists who can explain the unexamined biases against family caregivers that lead to the discrimination, may be useful. Typically, these biases will cause employers not to want to hire or retain an employee with family caregiving responsibilities because the employers think the employee will not be a good worker, or won't come to work regularly. Some examples of unexamined biases include the assumption that mothers are not as competent as men and as women who do not have children, the belief that women cannot be good workers and good mothers, and the idea that certain jobs are not suitable for women with young children.

The Employer's Attorney's Perspective

Preventing FRD lawsuits is the key objective for your client. Setting up an FRD

prevention program for your client is much like setting up an anti-discrimination or sexual harassment prevention program: the critical steps are awareness and training; adopting a non-discrimination policy; reviewing personnel policies and practices for potential problems, and establishing an effective complaint mechanism.

The need for training is huge. While most supervisors today know they can't say things like "I don't want a woman working here," the case law shows that they see nothing wrong with saying things like "I don't see how you can be a good worker and a good mother," "Don't have a baby if you want to get ahead here," and "Men make better employees because they don't take time off to have babies." Some supervisors have expressly told women that they were not promoted because they have young children, and that they won't approve their requests for training because they don't expect them to stay with their employer for very long.

Training should discuss the perception of men who take time off to care for family members as being slackers, not being team players, or being effeminate.

There are several points to emphasize during training. Most fundamentally, personnel actions have to be based on legitimate business needs and individual performance, not on stereotypes and biases. Rather than assuming a man with aging parents wouldn't want a rush assignment or a woman with children wouldn't want a promotion that requires overtime, for example, supervisors should ask them. Instead of trying to force an employee with family responsibilities to quit by making his or her job unpleasant, supervisors should work with the employee to manage his or her workload and schedule so the employee remains productive. The business benefits of such active management can't be overlooked; it is far cheaper to retain a worker

who is already trained and experienced than it is to replace him or her, and retention helps morale and productivity.

Training should also include a discussion of common biases; in addition to the biases mentioned in the preceding section, trainers should discuss the perception of men who take time off to care for family members as being slackers, not being team players, or being effeminate. In addition, trainers should also discuss gender-based biases in evaluations (e.g., a man is assertive, a woman is aggressive; attributing success to a man's skill but to a woman's luck).

Adopting an anti-discrimination policy with respect to family responsibilities is also important. It sets the expectations for the organization, and if it is implemented well, it may reduce or eliminate punitive damages if the company is sued. The policy should include a definition of FRD, a statement of zero tolerance, and directions for filing a complaint internally. A sample model policy is available online from The Center for WorkLife Law, www.worklifelaw.org.

Finally, employers' attorneys should review the personnel policies and practices of their clients to make sure they do not discriminate against employees with caregiving responsibilities. Common problem areas include: attendance policies that prohibit time off to new employees; alternative work schedule policies that are available only to mothers; denying part-time work to mothers but allowing men to take time off regularly to play golf or coach soccer; leave policies and forms that do not comport with FMLA requirements; pay policies that pay part-time workers a lower effective wage rate than full-time workers; and lack of written promotion criteria or promotion criteria that allow too much consideration of factors that can be gender based (such as confidence, interpersonal skills, leadership qualities).

The Employee's Perspective

How to respond when you think you've been discriminated against because of your family responsibilities is a vexing problem. You don't want to let the problem go unaddressed, but you don't want to ruin your professional career, either. While each situation

will necessarily be different, here are a few pointers that may help.

First, realize what is going on.

It's not easy to respond when you think you've been subject to Family Responsibilities Discrimination: you don't want to let the problem go unaddressed, but you don't want to ruin your professional career, either.

Understanding FRD and its common patterns helps you to see that what is happening to you isn't your fault or the result of some personal failing. Most of us are used to being on the star track – excelling in school, doing all the right things to succeed professionally – and if we are faced with a situation such as having a baby or the need to care for an elderly parent that requires us to step back a little at work, we may question our competence or commitment. We may even perceive that others are questioning us, too. One of the underpinnings of FRD studies is the recognition that women are caught in a clash of two social ideals: the ideal that good workers should be committed 110% to their employers and the ideal that we should care selflessly for our children and other family members. Workplace structures exacerbate the effects of this clash. Seeing the situation for what it is may help you to remove the personal elements so you can decide your next steps.

Second, realistically assess the situation. Your performance up until the time you became perceived as a "caregiver" and during the time you have caregiving responsibilities is a critical factor. Did your performance change? Is your supervisor justified in finding fault with you? If so, then your remedy may include working out a plan with your supervisor to improve. If not, then look next at whether you are being treated differently from your coworkers, focusing particularly on comparisons with men with children and women without children (or

family responsibilities discrimination

whatever the relevant caregiving category is). Look also at your situation chronologically; when did the discriminatory actions arise in relation to the time your supervisor became aware of your caregiving responsibilities?

Third, address the situation within your workplace if you can. A calm conversation with a supervisor about the situation ("I know you are trying to protect me from too much travel because of little Becky and that is nice of you, but I really would like to be working on The Big Client Case even though it requires travel because I need that type of experience for my professional development") may be all that is needed. If not, a discussion with a member of the HR department or of the managing committee is in order, and be prepared to educate him or her about why the situation is actionable discrimination.

Finally, consider whether legal action is warranted. As attorneys, we all know the unpleasantness of litigation and we are concerned about the impact litigation may have on our careers, but we also know there are steps short of a court case, such as a negotiated settlement by an attorney working on our behalf or an EEOC mediation, that might resolve the situation. WorkLife Law has a network of attorneys across the country who are familiar with FRD cases and may be able to help you evaluate the legal merits of your situation.

Conclusion

FRD has always existed, but its effects, particularly on the retention and advancement of women, are only now coming to light. We all have a role to play in ending FRD, starting with spreading awareness about it. The result will be a fairer and more productive workplace for everyone.

Joan C. Williams is the Director of the Center for WorkLife Law (www.worklifelaw.org), and Cynthia Thomas Calvert is Deputy Director. WLL works with employees, employers, attorneys, legislators, journalists, and researchers to identify and prevent family responsibilities discrimination. The authors can be reached at info@worklifelaw.org.



Joan C. Williams, a prize-winning author and expert on work/family issues, is the author of *Unbending Gender: Why Family and Work Conflict and What To Do About It* (Oxford University Press, 2000), which won the 2000 Gustavus

Myers Outstanding Book Award. She has authored or co-authored four books and over fifty law review articles (including one of the most cited ever written); her work is reprinted in casebooks on six different subjects; she has given over two hundred speeches and presentations in North and Latin America and has lectured at virtually every leading U.S. university. Founding Director of WorkLife Law (WLL), she joined the faculty at University of California at Hastings as Distinguished Professor of Law in fall 2005. She has played a leading role in documenting workplace bias against mothers. Her current work focuses on how work/family conflict affects families across the social spectrum, with a particular focus on how caregiving issues arise in union arbitrations. For more information visit www.worklifelaw.org.



Cynthia Thomas Calvert is an employment attorney who practices in the District of Columbia and Maryland. In addition, Ms. Calvert is co-director of the Project for Attorney Retention ("PAR"), a project of WLL that examines work/life balance and part-time work for lawyers. PAR has developed a model policy and benchmarks for law firms regarding non-stigmatized part-time schedules for attorneys, and has recently completed a study of work/life balance in corporate law departments. Ms. Calvert is also co-author (with Joan Williams) of *Solving The Part-Time Puzzle: The Law Firm's Guide to Balanced Hours* (NALP 2004). More information about WLL and PAR can be found at www.worklifelaw.org. Ms. Calvert is a graduate of the Georgetown University Law Center. After graduation, she clerked for the Honorable Thomas Penfield Jackson, United States District Court for the District of Columbia. She is married and has two children

Recent NAWL Meetings

NAWL hosted a its first annual Women Lawyers General Counsel Institute® for women corporate counsel, with plenary sessions, keynote speakers, small group workshops, and networking events on November 7 and 8, 2005 at the Sofitel Hotel in New York City. NAWL's CLE program attracted lawyers from across the country and was geared toward helping senior women in-house counsel attain the skills and knowledge necessary to advance to the position of chief legal officer of a major public corporation. NAWL's most distinguished speakers included Catherine Kinney, President and Co-Chief of the New York Stock Exchange, Carol Robles-Roman, the Deputy Mayor of New York City, Peter Harvey, New Jersey Attorney General, L. William Seidman, Chief Commentator for CNBC, Douglas Babb, Executive Vice President and Chief Legal Officer of Beverly Enterprises, David Bell, Co-Chairman of Interpublic Group, Michelle Hooper, Co-Founder and Partner of the Directors' Council, Marilyn Seymann, the Associate Dean of the College of Law at Arizona State University, Michael Cherkasky, President and CEO of March and McLennan Companies, Inc., Beth Levine, General Counsel of U.S. Pharmaceuticals-Pfizer Inc., Richard Bernard, General Counsel of the New York Stock Exchange, Vilma Martinez, a principal of the Directors' Council, Melba Hughes of Hughes Consultants, LLC, Miriam Frank of Major, Lindsey and Africa, LLC, Carrie Mandel of Russell Reynolds Associates, Inc., and Sue Sneider of New Vistas Consulting. A highly successful program with outstanding feedback from its participants, NAWL plans to hold the General Counsel Institute annually.

NAWL co-sponsored "A Call to Action: Diversity Includes Retaining Minority & Women-Owned Law Firms" on January 9, 2006 in New York City, hosted and sponsored by The Rainbow Push Wall Street Project.

NAWL co-sponsored the Web Conference Series, "Maximizing Your Potential", launched on January 26, 2006 with the first program in the series entitled "Leadership: Embracing It and Achieving it", hosted and sponsored by Foley & Lardner LLP and also in cooperation with the National Conference of Women's Bar Associations (NCWBA). The program was successful and the series will continue. Program materials can be obtained by contacting NAWL.

Upcoming Program News

NAWL Midyear Meeting: Effective Techniques to Advance Women Lawyers to the Top

March 2-3, 2006

Washington, D.C.

Co-sponsored by the National Conference of Women's Bar Associations, Florida Association of Women Lawyers, Food and Drug Law Institute Women in Food and Law, Washington Metropolitan Area Corporate Counsel Association, and the Women's Bar Association of the District of Columbia

Mark your calendars now for two days of career building and networking with NAWL. The program will include a coaching session and reception hosted by Jenner & Block LLP on March 2nd. On March 3rd, Jones Day will host two panels: "Setting the Debate: What can be Done to Drive Change so that Women Attorneys can Achieve at the Highest Levels", followed by "Building Relationships: How In-House Counsel Select and Evaluate Outside Counsel", sponsored by Martindale-Hubbell. NAWL's Midyear will close with a networking luncheon at Jones Day, and Author Joan Biskupic will speak on her book, *Sandra Day O'Connor: How the First Woman on the Supreme Court Became Its Most Influential Justice*.

From Backpack to Briefcase: A Transitions Program for Law Students

March 24, 2006

McDermott Will & Emery LLP, 600 Thirteenth Street, NW, Washington, DC 20005

Co-sponsored by the Women's Bar Association of the District of Columbia

Law Students, join us for the third program in our Transitions series! Learn from a panel of experienced women attorneys, who will discuss the transition from third-year law student to first-year associate. Get tuned in on the basics of office practice and survival, and start your career with confidence and understanding about the real practice of law. The panel discussions will be followed by an informal networking reception, where you can meet the speakers and other law students. This is

intended to be an interactive discussion, so come with your questions! Registration is free, but pre-registration is required online.

Women in Law Leadership Academy

March 30-31, 2006

Co-sponsored with the American Bar Association Commission on Women in the Profession, Section of Litigation, and Young Lawyers Division

Hyatt Regency McCormick Place Hotel, Chicago

The first WILL Academy held in 2004 offered an exciting opportunity for women lawyers who have practiced ten years or less to interact with a diverse, world-class faculty of leading lawyers and judges from around the country. This WILL Academy is intended for young women lawyers, specifically those three to ten years out of law school. Its primary focus is career and legal skills development with an eye toward leadership. Participants will learn to take charge of their leadership potential, self-assess, build their own personal leadership plans, and hear from those who have led the way before them. The CLE sessions will be strong on content and focused on practical, concrete advice and guidance. While the programs are designed to attract women lawyers who have practiced ten years or less, the WILL Academy is open to all women in the profession. The Women in Law Leadership Academy will offer the perfect networking opportunity for young women professionals.

Taking Charge of Your Career: Best Practices for Women Lawyers and Their Firms

April 19, 2006

Los Angeles, CA

NAWL's hallmark career development series moves to the west coast! Plan on joining NAWL for the sixth program in its nationwide series, designed to jump start the process of learning the skills and information needed for career success, leadership roles, and a sense of personal achievement. Learn from the advice of experts who have been put to the test and emerged as leaders in their field of law. NAWL's most well-known CLE series has consistently sold out and received excellent participant feedback. Please join us in L.A.! Registration is now available online.

NAWL thanks all 2005 Program Sponsors

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Jones Day

Holland & Knight

Latham & Watkins, LLP

Wolf Block

Publications

NAWL is now accepting listing applications, renewals, corporate and law firm sponsorships, and advertisements for the 7th Edition of The National Directory of Women-Owned Law Firms & Women Lawyers. All applications can be submitted on the NAWL website.

Amicus Committee News

The United States Supreme Court heard argument in *Ayotte v. Planned Parenthood Foundation of America*, No. 04-1144 (U.S.) on November 30, 2005. NAWL supported the amicus brief on privacy issues drafted by the Center for Reproductive Rights. On December 1, 2005, NAWL sent out a press release discussing its amicus support of the Petitioner in *Ayotte* and received a favorable reaction to the press release. Many members wrote to express appreciation and support for NAWL's position in *Ayotte*.

International Law Committee News

Since November 2005, NAWL's International Committee lobbied the President and Justice Minister of Mali to promote the passage of a national law against Genital Mutilation. This law is sought by a coalition of women's groups in Mali, which has worked since 1994 to stop this practice. While some regions have ceased FGM, others have not. FGM practitioners from neighboring countries, which have criminalized FGM, are now regularly crossing into Mali with their "clients". It is therefore felt by women in Mali that a national law criminalizing FGM is urgently needed.

International Committee members are currently working on supporting African women in their effort to obtain ratification of the Protocol on Women's Rights, a protocol to the African Charter of Human Rights. Letters are being sent to heads of state and other key political leaders in Africa. The committee plans to sustain its efforts to support this campaign led by African and international women's coalitions. Timelines will be coordinated with local activists in Africa.

The committee further intends to continue to respond to urgent action alerts from women around the world to support their struggles for human rights. Members are encouraged to submit news of significant international issues of concern to NAWL to the International Committee Chairs. The Chairs are also seeking volunteers to serve on the committee. Please contact Eva Herzer at eva@igc.apc.org or Stephanie Masker at smasker@mwe.com if you are interested in getting involved on NAWL's International Committee.

Legislation Committee News

On January 5, 2006, President Bush signed into law the Violence Against Women Act of 2005 (VAWA 2005). The National Association of Women Lawyers commends President Bush and Congress for reauthorizing VAWA. Ground-breaking when first passed in 1994, the VAWA funded women's shelters and law enforcement training and also focused on other crucial aspects of efforts to combat domestic violence and sexual assault. It provided funds to treat children affected by violence and enhance health care for rape victims. It included provisions to hold repeat offenders and high-tech stalkers accountable and ease housing problems for battered women.

On July 1, 2005, the Legislation Committee of NAWL, then chaired by Elizabeth Bransdorfer, wrote to the reauthorization bill's chief sponsor and supporter, Senator Joseph R. Biden, Jr. (D-DE), stating NAWL's support for the reauthorization of VAWA. In arguing for reauthorization of VAWA, NAWL emphasized its support of VAWA 2005's provisions to "provide funding for direct service programs for all victims while addressing the unique needs of underserved communities such as disabled, elderly, racial and ethnic populations, along with those living in rural communities."

The legislation was the result of a bipartisan effort of Senator Biden, and co-sponsors Senators Arlen Specter (R-PA) and Orrin Hatch (R-UT).

The Legislation Committee Chairs are seeking suggestions on legislative issues of interest to NAWL and volunteers. Please contact Kristen Albertson at kristen.albertson@tyson.com if you would like to get involved on NAWL's Legislation Committee.

Committee for the Evaluation of Supreme Court Nominees

The National Association of Women Lawyers Committee for the Evaluation of Supreme Court Nominees, completed an evaluation of Judge Samuel Alito for the position of Associate Justice of

the Supreme Court of the United States on January 8, 2006. The Committee determined that Judge Alito is not qualified to serve on the Court from the perspective of laws and decisions regarding women's rights or that have a special impact on women. The evaluation was issued to all major national media contacts, all members of the Supreme Court and of the Senate Judiciary Committee. The full statement can be viewed on the NAWL website.

Membership

Alston & Bird

Jane Thorpe, a partner with Alston & Bird LLP, was recognized as one of Atlanta's 25 most powerful women by Atlanta *Woman* magazine. Last year the Crohn's and Colitis Foundation Georgia Chapter "Woman of Distinction" award honored Jane for her work with the task Force for Child Survival and Development. Jane has served as national or coordinating counsel in mass tort litigation involving consumer products, pharmaceuticals, biologics and medical devices as well as mold, uranium and asbestos cases.

Kathleen (KC) Bradley, Esq. is pleased to announce the establishment of her new firm, The Executive Lawyer LLC. Based in the Washington, DC metropolitan area, *The Executive Lawyer LLC* provides consulting and training for law firms, associations and corporations, as well as executive coaching in the areas of career and leadership development, workplace integration and work-life balance. To learn more, please visit the website at <http://execlawyer.com>.

Sharon F. Bridges, RN, BSN, JD, has been named Partner at Brunini, Grantham, Grower & Hewes in Jackson, Mississippi. Attorney Bridges practices in the areas of product liability, environmental torts, medical malpractice and commercial litigation representing national and local corporations. Attorney Bridges draws her expertise from experiences as a nurse at Duke University Medical Center, Assistant General Counsel for Tulane University Medical Center and as a former plaintiff's attorney.

Alice E. Dolan, Esq. of Chicago, Illinois announces the formation of her new firm Dolan & Nisivaco, LLC. Alice joins her practice with that of John L. Nisivaco, who was a named partner with Lavin & Nisivaco, P.C. in Chicago, until starting his own firm in 2005. The new firm will continue to concentrate on plaintiff's personal injury matters, including medical malpractice, product liability and wrongful death litigation. Both Alice and John have been selected by their peers as two of Illinois' Leading Lawyers and have received further recognition as Illinois Super Lawyers, an honor limited to the top 5% of the attorneys in the State. Alice was selected in 2005 as one of the Top 50 Female Lawyers in Illinois and John enjoys further distinction on the list of the "Top 40 under 40" lawyers in Illinois. The firm has offices at 30 North LaSalle Street, Suite 2900, Chicago, Illinois, 60602, (312) 386-1600, 312 386-1616 (facsimile).

Leigh Ann M. (Patterson) Durant, a Partner at national law firm Nixon Peabody LLP and former president of the Women's Bar Association of Massachusetts, was named for the second consecutive year to *Women's Business Boston's* "Top Ten Lawyers" in January 2006. The recipients of this award are determined based on the recommendations of clients, one of whom described Leigh-Ann as having "provided us with strategic and forward-thinking business advice which has been instrumental to our success."

Edwards Angell Palmer & Dodge

recently promoted Stacie Sawchak Aarestad, Stephanie H. Massey and Kris A. Moussette to Partner. The attorneys practice in the areas of Corporate Law and Public Finance.

Stacie Aarestad focuses her practice on public company representation and merger and acquisition transactions. She represents issuers in a broad range of capital market transactions,

including initial public offerings, follow-on public equity and debt offering and private placements. Stacie received her law degree, *magna cum laude*, from Boston University School of Law. She received her undergraduate degree, *magna cum laude*, from Colgate University.

Stephanie Massey serves as bond counsel, underwriter's counsel and borrower's counsel in several states in connection with the issuance of tax-exempt and taxable revenue bonds for governmental entities (including affordable housing and utilities) and in conduit issuer transactions (including pooled borrowings) for nonprofit institutions including hospitals, colleges, private secondary schools and cultural and other institutions. Stephanie received her Juris Doctor from Boston College Law School, and her undergraduate degree from Cornell University.

Kris Moussette serves as bond counsel, underwriter's counsel, disclosure counsel, and borrower's counsel in tax-exempt financings for 501(c)(3) organizations and government agencies in Massachusetts New Hampshire, Maine and Vermont. Kris has significant experience in health-care and educational financings, including the development and management of pool-financed borrowings involving various modes and an innovative commercial paper program, master trust indenture transactions and combination taxable and tax-exempt financings. Kris has significant experience serving as disclosure counsel to major water and sewer and transportation issuers. Kris received her Juris Doctor from Boston College Law School, and her undergraduate degree, *magna cum laude*, from Colby College.

Elaine Fitch, has been elevated to partner with the law firm of Kalijarvi, Chuzy & Newman. She will continue to specialize in all aspects of employment law.

Foley & Lardner

announced the promotion of seven female attorneys to partnership, effective February 1, 2006. Foley promoted 30 attorneys to partnership this year, bringing the percentage of new female partners to 23 percent.

Jennifer G. Karron is a member of the Business Law Department and Finance Practice Group in the firm's Milwaukee office.

Carolyn T. Long is a member of the Business Law Department, Transactional & Securities Practice Group and Private Equity & Venture Capital Industry Team in the firm's Tampa office.

Sharon Mollman-Elliot is a member of the Litigation Department, General Commercial Litigation Practice Group, Appellate Practice Group and Labor & Employment Practice Group in the firm's Madison office.

Miki V. Tesija is a member of the Litigation Department, General Commercial Litigation Practice Group and Entertainment & Media Industry Team in the firm's Chicago office.

Yvette M. VanRiper is a member of the Business Law Department, Transactional & Securities Practice Group and Automotive Industry Team in the firm's Detroit office.

Ellen M. Wheeler is a member of the Litigation Department and Securities Litigation, Enforcement & Regulation and General Commercial Litigation Practice Groups in the firm's Chicago office.

Rebecca E. Wickhem is a member of the Litigation Department, Securities Litigation, Enforcement & Regulation Practice Group, Antitrust Practice Group and General Commercial Litigation Practice Group in the firm's Milwaukee office.

Gordon Hargrove & James

Valerie Shea, shareholder with Gordon Hargrove and James P.A., was recently named the Southeast regional director of DRI – The Voice of the Defense Bar. In this position, she will oversee activities for Alabama, Florida and Georgia. Shea focuses her practice on employment law, general civil litigation, commercial litigation and professional liability. Valerie was also recently named among *South Florida Legal Guide's* 2006 "Top Lawyers." She was recognized as a leader in the employment and insurance defense practice areas.

Carol A. Gart was recently named shareholder at Gordon Hargrove & James P.A. She focuses her practice on appellate litigation and litigation support, handling matters such as class actions.

Tanya M. Lawson was recently named shareholder at Gordon Hargrove & James P.A. She has been with the firm since 2003. She focuses her practice on products liability, commercial, employment and railroad litigation.

Jenner & Block

Debbie L. Berman, Partner at Jenner & Block LLP, was recently named by Crain's Chicago Business to its prestigious "40 Under 40" list, recognizing her representation of media giants like CBS and Paramount Pictures, and for her exemplary community and pro bono work.

Kali N. Bracey of Jenner & Block LLP was elected to the partnership on January 1, 2006. Ms. Bracey is a member of the Litigation & Dispute Resolution, Entertainment and New Media, Insurance Litigation and Counseling, and White Collar Criminal Defense and Counseling Practices. Ms. Bracey received her B.A., summa cum laude, from Spelman College and J.D. from Yale Law School. After graduation, Ms. Bracey clerked for the Honorable Stephen Reinhardt on the United States Court of Appeals for the Ninth Circuit.

Jill S. Factor, Partner at Jenner & Block LLP, served as a panelist at the December 8 Counsel to Counsel forum entitled, "Getting the Deals Done: Managing Complex Commercial Transactions," which addressed issues like creating a high performance deal team, management approaches to planning, budgeting and reporting to the team, effective due diligence and compliance review as well as in-house and outside staffing and resource issues.

Jill S. Factor, E. Lynn Grayson, Susan C. Levy, Teri A. Lindquist and Catherine L. Steege, Partners at Jenner & Block LLP, were highlighted in the article "What Corporate Clients Want: Women Attorneys Who Know How to lose the Deal" in the Chicago Daily Law Bulletin, sharing the professional and personal lessons that taught them how to provide exceptional service to corporate clients in transactional practices that were once dominated by male attorneys.

Sarah Hargrove-Koleno of Jenner & Block LLP was elected to the partnership on January 1, 2006. Ms. Hargrove-Koleno is a member of the Litigation & Dispute Resolution and Domestic and International Arbitration Practices. She graduated from the University of Illinois, magna cum laude, with a B.S. in Finance, and she received her J.D., magna cum laude, from the University of Illinois.

Linda L. Listrom, Partner at Jenner & Block LLP, was named among the top lawyers in their fields by their clients and peers in the inaugural issue of Lawdragon magazine's "500 Leading Lawyers in America," which identifies the "best lawyers and judges practicing today."

Terri L. Mascherin, E. Lynn Grayson, Partners at Jenner & Block LLP were selected by their peers for inclusion in The Best Lawyers in America 2006. Ms. Mascherin was named in the Communications Law, Ms. Grayson was named in Environmental Law.

Molly J. Moran of Jenner & Block LLP was elected to the partnership on January 1, 2006. Ms. Moran is a member of the Class Action Litigation and Litigation & Dispute Resolution Practices. Ms. Moran graduated from Indiana University at Bloomington. She obtained her J.D. from Indiana University School of Law-Bloomington. Prior to entering law school, Ms. Moran served for over four years as a legislative assistant to Congressman Tim Roemer in Washington, D.C.

Carla J. Rozycki, Partner at Jenner & Block LLP, recently received the Illinois Department on Aging's Governor's Award for Unique Achievement in recognition of her outstanding volunteer leadership within the Suburban Area Agency on Aging.

Stephanie A. Scharf, Partner at Jenner & Block LLP, was recently appointed to the Board of Directors of the Illinois Bar Foundation. A Fellows Director, Mrs. Scharf is also serving as chair of the Board's Cy Pres Committee.

Lisa T. Scruggs of Jenner & Block LLP was elected to the partnership on January 1, 2006. Ms. Scruggs is a member of the Firm's Litigation & Dispute Resolution Practice. Ms. Scruggs graduated cum laude from Georgetown University, received her master's degree in education policy from the University of Chicago and obtained her J.D. from the University of Chicago. From 1998-2000, Ms. Scruggs served as a law clerk to the Honorable Ann C. Williams on the United States District Court for the Northern District of Illinois and the United States Court of Appeals for the Seventh Circuit.

Margaret J. Simpson of Jenner & Block LLP was elected to the partnership on January 1, 2006. Ms. Simpson is a member of the Firm's Antitrust and Trade Regulation and Litigation & Dispute Resolution Practices. Ms. Simpson received her B.A. from St. Olaf College in Minnesota, and her M.S. and Ph.D. in economics from the University of Wisconsin-Madison. She received her J.D., with honors, from the University of Chicago.

Courtney A. Stevens, Associate at Jenner & Block LLP, has been appointed the Legislative Liaison for the Chicago Bar Association Alliance for Women for 2005-2006. Ms. Stevens primary responsibilities include receiving and reviewing any and all Illinois legislation or proposals for legislation to determine if it may be of interest to the Alliance for Women and allowing the Executive Committee of the Alliance for Women the opportunity to comment on such legislation.

Mary Downie Talarico of Jenner & Block LLP was elected to the partnership on January 1, 2006. Ms. Talarico is a member of the Firm's Estate Planning and Administration Practice. Ms. Talarico received her B.A. in Economics and Management (with a concentration in Accounting) and Music Performance from Albion College, where she was a *summa cum laude* graduate, an Albion College Fellow and a member of Omicron Delta Epsilon (the international honors society for economics). Ms. Talarico received her J.D. from The John Marshall Law School, where she was a magna cum laude graduate, a member of The John Marshall Law Review, and received numerous academic honors.

Amy L. Tenney, Associate at Jenner & Block LLP, was honored with Jenner & Block's Albert E. Jenner, Jr. Pro Bono Award, which annually recognizes those attorneys at the Firm who have been nominated by their peers as having demonstrated an exemplary commitment to pro bono or public service work.

Susan Ann Koenig, is proud to announce that the Law Office of Susan Ann Koenig, P.C., L.L.O., has become Koenig & Tiritilli, P.C., L.L.O., in recognition of Angela Dunne Tiritilli becoming a shareholder and principal in the firm. Tiritilli earned her Bachelor of Arts in English literature from Nebraska Wesleyan University in 1997 and her J.D. from the University of Nebraska College of Law in 2000. She is admitted to practice in Nebraska (2000). Angela practices in the areas of family law and estate planning.

Lash & Goldberg

Lorelei J. Van Wey, a partner with Lash & Goldberg LLP in Miami, Florida, obtained a dismissal with prejudice of free speech, religion and due process claims in a federal District Court case against a psychiatric hospital that offered externships to graduate social work students. The four-year-old case, *Watts v. Florida Int'l, et al.*, before the Southern District of Florida, involved complex issues of state action as well as the federal constitutional claims. The case is on appeal to the Eleventh Circuit.

McDermott Will & Emery

is pleased to announce that 12 of its female attorneys have been promoted to partner. McDermott promoted 37 of its attorneys Firm-wide to partner as of January 1, 2006.

Erin Powers Brennan (Boston) advises private equity firms and emerging and established public and private companies on a wide variety of corporate and securities law matters, including private placements of equity and debt securities, public and private mergers and acquisitions, going-private transactions, registered offerings of securities and international transactions. She earned her J.D. from Boston Law School, her M.A.L.D. from Fletcher School of Law and Diplomacy (Tufts University) and her B.A. from Scripps College.

Katie Clark (London) focuses on both contentious and non-contentious employment matters. Her clients include global corporations, financial institutions, FTSE 100 companies, manufacturing companies, service providers and start-ups. Ms. Clark has experience on a range of employment advice, from providing day-to-day practical advice for clients to negotiating PLC Board Director contracts.

Amy Doehring (Chicago) focuses on complex commercial and business litigation, including class actions, breach of fiduciary duty, fraud, unfair business practices, shareholder litigation and breach of contract. She is currently the co-editor of the ABA's *Business Torts Journal*. She earned her J.D. *magna cum laude* from Loyola University of Chicago School of Law and her B.A. (departmental honors) from Stanford University.

Heidi Echols (Chicago) focuses on information technology (IT) transactions and counseling clients on privacy and security issues. Her experience includes negotiating and drafting agreements with respect to the acquisition, development, implementation, licensing, marketing, distribution and support of IT. Ms. Echols has experience advising on the privacy and security rules promulgated under HIPAA. She earned her J.D. with honors from the University of Chicago Law School and her B.A. *summa cum laude* from Saint Olaf College.

Davina Garrod (London) focuses on all aspects of EU and UK competition and telecoms regulatory law, including advising on mergers and acquisitions (including multijurisdictional filings and risk arbitrage), distribution strategies, cartels, technology licensing, investigations by regulators, compliance programs, litigation before the European and UK Courts, and arbitration. She also provides strategic and regulatory advice in connection with telecoms, broadcasting and e-commerce activities.

Erika E. Olsen (Washington, D.C.) focuses her practice on telecommunications regulatory issues for emerging technologies, common carriers and electric utilities, as well as spectrum-related issues including licensing, RF interference and tower siting. She has participated extensively in representing client interests before the Federal Communications Commission, state utility commissions and Federal Courts. Ms. Olsen earned her J.D. *magna cum laude* from Washington and Lee University School of Law and her B.A. from Yale University.

Nicola Purcell (London) focuses on various international corporate/commercial tax issues, including corporate restructuring, transfer pricing and thin capitalization, double tax treaty issues, corporate and structured finance projects, mergers and acquisitions, and management buyouts. Ms. Prucell advises on the taxation of intellectual property and the availability of tax relief in respect of research and development.

Danielle A. Schweiloch (New York) represents various institutional and individual clients in the prosecution and defense of complex commercial disputes. She earned her J.D. from the University of Pennsylvania Law School and her B.A. with honors from Rutgers University.

Katherine Christensen Stenander (Chicago) focuses on international tax planning for both U.S. and non-U.S. based multinational companies. She earned her J.D. with highest honors from Chicago-Kent College of Law and her B.S. degrees in accounting and finance from the University of Illinois at Urbana-Champaign. MS. Stenander is a Certified Public Accountant.

Jacqueline M. Sutton (Los Angeles) focuses on mergers and acquisitions, finance, securities offerings, and private equity and emerging companies. She has experience negotiating and drafting documentation for equity and asset acquisitions and financing agreements for complex loan transactions and has represented clients in connection with the development, construction, operation and financing of large infrastructure projects. Her clients have included private equity investment companies and companies in the health care and energy industries. She earned her J.D. from Stanford Law School and her B.A. *magna cum laude* from New York University.

Bonnie J. Warren (Washington, D.C.) concentrates her practice on intellectual property law and patent litigation. Prior to practicing law, Ms. Warren worked in the software design and development industry where she designed utility software for NASA that allowed for better storage and access of important flight data, and commercial software applications for a large corporation. She earned her J.D. from Cumberland School of Law, a M.S. in computer science from Alabama A&M University and a B.S. in chemistry from Oakwood College. Ms. Warren was also a judicial law clerk for the Honorable Edward S. Smith of the Court of Appeals for the Federal Circuit.

Jennifer L. Yokoyama (Orange County) focuses her practice on patent infringement litigation. She earned her J.D. *cum laude* from Georgetown University Law Center and a B.S./B.A. from the University of California-San Diego.

Laura Beth Miller, a shareholder (partner) at Brinks Hofer Gilson & Lione in Chicago, was a member of the trial team that won a recent landmark ruling in a Section 337 patent infringement matter before the International Trade Commission in Washington D.C. It appears that this is the first time in the 75-year history of the ITC's Section 337 investigations that an Administrative Law Judge has ruled for a respondent in an enforcement proceeding. The complainant had sought penalties in excess of \$40 million, all of which were denied. Ms. Miller has also been named an "Illinois Super Lawyers" in Intellectual Property Litigation for 2006 for the second consecutive year in a survey conducted by Law & Politics magazine. The publication surveyed more than 47,000 active Illinois attorneys in practice for five years or more, representing 50 areas of practice, and asked them to identify the best Illinois lawyers they had personally worked with or had observed in action.

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo

Three women members of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. were honored recently for their professional excellence.

Faith L. Charles, a Member in the firm's New York office, has been nominated to the *BTI Client Service All-Star Team for Law Firms 2006*. Ms. Charles, who practices in the Business & Finance Section, was among 134 attorneys from law firms across the nation who were singled out by Fortune 1000 corporate counsel as lawyers who deliver exceptional client service. BTI's research anonymously evaluates how well attorneys and law firms are meeting clients' needs, expectations and spending guidelines.

Mary-Laura Greely, a Member in the Boston office, has been selected as one of the "Top Ten Women Lawyers in Boston," for the second year in a row by *Women's Business Boston* for her dedication to client service, commitment to community and overall professional excellence. She was also named as one of the *Super Lawyers of Massachusetts by Boston Magazine* in November 2004. Ms. Greely practices in the Business & Finance Section and serves as director of the firm's Private Company Practice Group.

Singleton McAllister, a Member in the Washington, D.C. office, has been selected by *The Network Journal* as one of "25 Influential Black Women in Business" for 2006. Ms. McAllister, who practices in the Employment, Labor & Benefits Section, was selected for her outstanding achievement, contribution to leadership, and influence in the corporate and entrepreneurial arenas, along with her service to the African-American community.

Virginia Mueller, long-time member and past president of NAWL, reports that her husband, Dr. Paul F.C. Mueller, died suddenly December 27, 2005. They were married 60 years ago at Cornell University, when Virginia was in her last year of law school. She started practicing law in California, where she was admitted to the Bar in 1946. She still maintains her solo practice in Sacramento, serves as a pro tem Judge on the Probate Court's settlement calendar, and continues on the Sacramento County Grand Jury until June 30, 2006.

Nelson Mullins Riley & Scarborough

earned a victory on behalf of children in poor school districts in South Carolina following a court verdict Dec. 29, 2005. After a 102 day trial in which Nelson Mullins represented the students and school districts against the State of South Carolina on a pro bono basis, the trial court ruled that the system of public schools was unconstitutional. The court ruled that poor children were denied the opportunity to receive the opportunity for the minimally adequate education mandated by the state constitution because the State failed to provide and fund effective early childhood intervention programs to minimize the negative impact and effects of poverty on their educational achievements.

Anita Thomas of Nelson Mullins received the 2006 Commitment to Equality Award given by State Bar of Georgia's Women and Minorities in the Profession Committee for the Firm's commitment to providing opportunities that foster a more diverse legal profession for women and minorities. "The award is a tremendous recognition of Nelson Mullins' commitment to promoting diversity not only in the workplace, but in the legal profession," Kenneth Millwood, managing partner of the Atlanta office said.

The North Carolina Supreme Court has ruled in favor of Presbyterian Hospital and its parent company, Novant Health, a not-for-profit health care system based in Winston-Salem, in its effort to operate a hospital in the Charlotte suburb of Huntersville, one of North Carolina's fastest growing areas. *Denise Gunter and Noah Huffstetler* of Nelson Mullins Riley & Scarborough represented Presbyterian and led efforts to secure a multi-year certificate of need concerning development of the \$60 million hospital.

Powers & Frost

Andrea M. Johnson, partner with Powers & Frost, L.L.P. (Houston, Texas), will be speaking about women's issues in Employment Law for the annual seminar of the Texas Women Lawyers' Association in February 10, 2006 (Houston, TX); on the basic parameters of employment Retaliation Claims for the Houston Bar Association, March 3, 2006; and on e-discovery issues as part of the "Ediscovery Preparedness for Pharma" seminar in New York City on March 28, 2006. Ms. Johnson is the head of P&F's Employment and Commercial Litigation Section.

Saul Ewing

Harriet E. Cooperman, Partner and Chair of Saul Ewing LLP's Labor, Employment and Employee Benefits Practice Group, was recognized in November 2005 with *The Daily Record's* Maryland Leadership in Law Award. Ms. Cooperman practices in the Firm's Baltimore, MD office.

Constance B. Foster, Partner and Immediate Past Managing Partner of Saul Ewing LLP's Harrisburg office was promoted to Chair of Saul Ewing's Business Department in December 2005. Ms. Foster previously served as Vice Chair of the Business Department and is Co-Chair of the Insurance Industry Service Team.

Pamela S. Goodwin, Saul Ewing LLP's Princeton, NJ Office Managing Partner was featured in *New Jersey Law Journal's* Women and Minorities in the Legal Profession in August 2005. Ms. Goodman also was appointed Chair of the Clean Water Council of New Jersey in September 2005.

Laura L. Katz, a Partner at Saul Ewing LLP and a member of the Health Law Practice Group, was named one of "Maryland's Top 40 Legal Elite" by Baltimore SmartCEO in August 2005.

Villanova University School of Law

Sheilah Vance, Villanova Law Assistant Dean, received the Philadelphia Barristers Association Woman of Distinction Award, recognizing her contributions to the legal profession, especially her pioneering work with the Villanova/Lincoln University PLUS program, a project that prepares minority students for law school. Dean Vance helped develop the program with a \$100,000 annual grant from LSAC. One of eight programs nationwide receiving LSAC funding, it is the only one granting college level credit.

Professors Michelle Anderson and Anne Poulin were appointed by the American Bar Association to co-chair the Pennsylvania Assessment Team for the ABA's Death Penalty Moratorium Project. They will lead a team of judges, prosecutors, defense attorneys, legislators and students in a detailed assessment of the Pennsylvania death penalty system.

Weston, Benshoof, Rochefort, Rubalcava & MacCuish

Deborah Yoon Jones, has been promoted to Partner at the law firm of Weston, Benshoof, Rochefort, Rubalcava & MacCuish LLP in Los Angeles. Ms. Jones is a member of the firm's Business Litigation Group. She has litigated a wide variety of cases in state and federal courts, including contract disputes, franchise/PMPA actions, construction issues, trademark infringement, corporate control disagreements, real estate matters, professional malpractice, products liability, and insurance bad faith claims.

Women Lawyers' Association of Greater St. Louis (WLA)

For the first time in the history of the Missouri Non-Partisan Court Plan, three women were elected to serve on area judicial selection commissions. The judicial commissions are responsible for selecting judicial nominees for appointment by the governor. The commissions are comprised of lay members chosen by the governor and lawyer members elected by the bar.

The Women Lawyers' Association of Greater St. Louis (WLA) initiated the effort in the fall of 2004 by recruiting three of its own members to get in the race. WLA formally endorsed the candidates, promoted them throughout their campaigns, and worked to get out the vote during the election period.

The Victors:

Nancy Mogab is the first woman ever to be elected to serve on the Appellate Judicial Commission as its lawyer representative from the Eastern District of Missouri. The appellate commission selects judicial nominees for the Missouri Court of Appeals and the Missouri Supreme Court.

Mary Anne Sedey was elected to serve on the 22nd circuit judicial commission, which selects judicial nominees for St. Louis City.

Debbie Champion was elected to serve on the 21st circuit judicial commission, which selects judicial nominees for St. Louis County. She is only the second woman ever to be elected to this position, and the first in over decade.

The Mogab and Sedey victories were decided by run-off elections that ended December 10, 2005. The Champion election was decided in a primary election November 5, 2005. All lawyers in the respective jurisdictions are eligible to vote.

NAWL recognizes Law School Members

- The John Marshall Law School
- Lewis & Clark Law School
- Saint Louis University School of Law
- Samford University School of Law
- University of Denver Sturm College of Law
- University of Washington School of Law
- Valparaiso University School of Law
- Villanova University School of Law
- Washburn University School of Law
- Western New England College School of Law

NAWL recognizes Law Firm Members

- A. Kershaw, PC
- Alston & Bird, LLP
- Arnold & Porter, LLP
- Butler Snow Omara Stevens & Cannada, PLLC
- Chester Wilcox & Saxbe, LLP
- Dickstein Shapiro Morin & Oshinsky, LLP
- Edwards & Angell, LLP
- Epstein Becker & Green, PC
- Goodwin Procter, LLP
- Gordon Hargrove & James, PA
- Griffith Sadler & Sharp, PA
- Hirschler Fleischer, PC
- Holland & Knight
- Jenner & Block, LLP
- Jones Day
- Kirkland and Ellis, LLP
- Lash & Goldberg, LLP
- Latham & Watkins, LLP
- Mayer Brown Rowe & Maw, LLP
- McDermott Will & Emery, LLP
- Mintz Levin Cohn Ferris Glovsky and Popeo, LLP
- Nelson Mullins Riley & Scarborough, LLP
- Powers & Frost, LLP
- Sidley Austin Brown & Wood, LLP
- Spriggs & Hollingsworth
- Steptoe & Johnson, LLP
- Stites & Harbison, PLLC
- Strickler Sachitano & Hatfield, PA
- Weston Benshoof Rochefort Rubalcava & MacCuish, LLP
- Wolf Block

NAWL NETWORKING DIRECTORY

PRACTICE AREA KEY

ACC	Accounting
ADO	Adoption
ADR	Alt. Dispute Resolution
ADV	Advertising
ANT	Antitrust
APP	Appeals
ARB	Arbitration
BDR	Broker Dealer
BIO	Biotechnology
BKR	Bankruptcy
BNK	Banking
BSL	Commercial/Business Lit.
CAS	Class Action Suits
CCL	Compliance Counseling
CIV	Civil Rights
CLT	Consultant
CNS	Construction
COM	Complex Civil Litigation
CON	Consumer
COR	Corporate
CRM	Criminal
CUS	Customs
DOM	Domestic Violence
EDU	Education
EEO	Employment & Labor
ELD	Elder Law
ELE	Election Law
ENG	Energy
ENT	Entertainment
EPA	Environmental
ERISA	ERISA
EST	Estate Planning
ETH	Ethics and Professional Responsibility
EXC	Executive Compensation
FAM	Family
FIN	Finance
FRN	Franchising
GAM	Gaming
GEN	Gender & Sex
GOV	Government Contracts
GRD	Guardianship
HCA	Health Care
HOT	Hotel & Resort
ILP	Intellectual Property
IMM	Immigration
INS	Insurance
INT	International
INV	Investment Services
IST	Information Tech/Systems
JUV	Juvenile Law
LIT	Litigation
LND	Land Use
LOB	Lobby/Gov Affairs
MAR	Maritime Law
MEA	Media
MED	Medical Malpractice
M&A	Mergers & Acquisitions
MUN	Municipal
NET	Internet
NPF	Nonprofit
OSH	Occupational Safety & Health
PIL	Personal Injury
PRB	Probate & Administration
PRL	Product Liability
RES	Real Estate
RSM	Risk Management
SEC	Securities
SHI	Sexual Harassment
SPT	Sports Law
SSN	Social Security
STC	Security Clearances
TAX	Tax
TEL	Telecommunications
TOL	Tort Litigation
TOX	Toxic Tort
TRD	Trade
TRN	Transportation
T&E	Wills, Trusts & Estates
WCC	White Collar Crime
WOM	Woman's Rights
WOR	Worker's Compensation

The NAWL Networking Directory is a service for NAWL members to provide career and business networking opportunities within the Association. Inclusion in the directory is an option available to all members, and is neither a solicitation for clients nor a representation of specialized practice or skills. Areas of practice concentration are shown for networking purposes only. Individuals seeking legal representation should contact a local bar association lawyer referral service.

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