

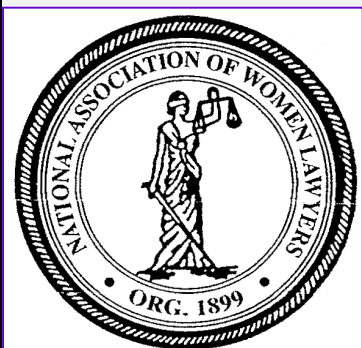


NAWL Foundation

REPORT OF THE SEVENTH ANNUAL NAWL NATIONAL SURVEY ON RETENTION AND PROMOTION OF WOMEN IN LAW FIRMS

OCTOBER 2012





The NAWL Foundation

Affiliated with National Association of Women Lawyers

**The National Association of Women Lawyers[®]
and The NAWL Foundation[®]**

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Report of the Seventh Annual NAWL National Survey on Retention and Promotion of Women in Law Firms

by

Barbara M. Flom

The National Association of Women Lawyers® and The NAWL Foundation® are pleased to report the results of the seventh annual National Survey on the Retention and Promotion of Women in Law Firms (“Survey”).ⁱⁱ The NAWL Survey is the only national study that annually tracks the professional progress of women in the nation's 200 largest law firms by providing a comparative view of the careers and compensation of men and women lawyers at all levels of private practice, as well as analyzing data about factors that influence career progression. The Survey aims to provide (a) an empirical picture of how women lawyers forge long-term careers and attain leadership roles in firms, (b) benchmarking statistics for firms to use in measuring their own progress, and (c) over a multi-year period, longitudinal data for cause-and-effect analyses of the factors that enhance or impede the progress of women in firms.

In this seventh year of the Survey, it is worth stepping back and taking note of the broader economic picture and the changing nature of law practice, since these phenomena affect both women's and men's potential for advancement and success in the large law firm environment. When we issued the first Survey Report in late 2006, the U.S. economy was buoyant and law firm revenues were growing at an impressive pace. AmLaw 200 firms were hiring record numbers of entering associates. Since then, of course, much has changed, and the 2012 Survey responses clearly indicate that large law firms have not fully recovered.

In this challenging economic environment, faced with flat or even declining revenues, law firms have scrambled to control their own costs, the lion's share of which are personnel costs. In addition to reducing the size of incoming associate classes (in a few publicized cases even canceling employment offers to law students), firms terminated lawyers at all levels, de-equitized partners, and trimmed support staff. Moreover, firms have been forced to adopt more cost-effective ways of handling certain matters. Low-level, repetitive work is frequently delegated to lawyers who have lower billing rates than even junior associates: (a) staff attorneys (i.e., non-partner-track lawyers within the firm), (b) lawyers in firm subsidiaries (or captives) formed to perform this type of legal work at a lower cost, or (c) contract lawyers who work for independent companies in the U.S. or even outside the U.S. And one traditional bulwark of law firm hours, document review, is undergoing a sea change because of increasingly sophisticated technology for electronic data analysis.ⁱⁱⁱ

Also, continuing a trend we have noted in previous Survey Reports, the structure of law firms has grown more complex. The typical AmLaw 200 firm is now a two-tier partnership with many different categories of lawyer in a leveraged structure: 151 equity partners (barely 15% women), 91 non-equity partners (26% women), 54 counsel (35% women), 188 associates (46% women), and 11 staff attorneys (70% women). As the preceding numbers clearly show, women constitute a smaller percentage of each category as you move up the career ladder. In other words, over the course of time women exit law firms disproportionately more than their male peers. Moreover, it is troubling to note that the percentages of women equity partners and women associates in the typical firm have declined slightly during the past two years.

Beyond the basic numbers, how are women lawyers faring in this evolving and challenging environment? The good news is that, in general, women are holding their own: for example, although median equity partner compensation is down across the board, women's compensation has declined less than men's. The bad news is that along every dimension of comparison, and in spite of law firms' expressed support for gender equity, women have not made significant progress either economically or in reaching leadership roles during the seven years the Survey has measured the impact of gender in law firms.

By examining the Survey results in detail, we hope to uncover some of the reasons why women are not achieving success comparable to their male peers, and to suggest tactics that firms might employ in order to positively affect the long-term advancement of their women lawyers.

Snapshot of the 2012 Survey Results

- Female flight from BigLaw starts early and accelerates over time; the only countervailing trend is in the lower-status staff attorney role, where women are an increasing majority.
- Women are substantially more likely to reach the equity partner position at one-tier firms; they are least likely to reach the equity partner position at two-tier AmLaw 100 firms.

- Women's median compensation lags men's at all levels, with the worst discrepancy at the equity partner level, where women typically earn only 89% of what men make.
- Women's median billable and total hours generally lag men's at all levels; however, for nonbillable hours, women above the associate level record significantly more hours than men. Pro bono hours are typically negligible for both men and women above the associate level.
- Women partners are credited with a smaller median book of business than men, even though their business development efforts may be substantial.
- The gap between the median compensation of male and female equity partners cannot be explained by differences in billable hours, total hours, or books of business.
- Women still typically hold only 20% of the positions on a firm's highest governance committee, and only 4% of firms have a woman as the firm-wide managing partner.

We turn now to a more detailed look at the data.

Gender Differences in Core Data at Each Stage of Firm Practice

1. Associates: Even at the Entry Level, Discrepancies Emerge

The pipeline of entry-level women attorneys continues to shrink. Women constituted 47% of graduating lawyers in 2011¹⁴, but only about 45% of the first- and second-year associates in AmLaw 200 firms. This trend, while not overwhelming,

nonetheless does not bode well for increasing the percentage of women lawyers in the upper echelons of practice, especially because our research shows that women lawyers leave law firms disproportionately more than men, at every stage.

Even at the associate level, where starting salaries are typically equivalent and there often isn't much to distinguish one fledgling lawyer from another, women begin to fall behind. Although the typical overall compensation for women associates is 99% of what men earn, when it comes to bonuses, a disparity emerges: women constitute nearly 45% of the associate pool, yet they receive only 40% of the bonuses.

One occasionally hears the suggestion that women earn less because they work less or because they expend disproportionately greater efforts on pro bono projects or various nonbillable activities (committee work, bar activities, business development, legal publications, women's initiatives, etc.). To explore this concept, this year we asked firms to tell us about the median hours recorded by lawyers in every category, broken down into total hours, billable hours, and pro bono.³ Although the precise discrepancies vary at different stages of practice (and will be noted further in succeeding sections of this report), there are some differences between male and female work profiles at the associate and each senior level.

In a typical firm, male associates recorded 2160 total hours, of which 1841 were billable and 32 were pro bono. Female associates, in contrast, recorded 2127 total hours and 39 hours of pro bono – not much different than men's hours. However, in the typical firm, women associates' median billable hours were only 1789 – 52 hours less than their male peers. Overall, women associates are typically logging slightly fewer billable hours than men, although it is also the case that these data vary firm by firm.

Firms vary in how many billable hours they expect of associates and also how they treat a difference at the level of 50 hours. For some firms, the difference would not be meaningful. In a firm where the expected target for associates is 1800 billable hours or higher, a difference of this magnitude may have more impact. Some firms tie associate bonuses to the number of billable hours, which may adversely affect women who bill less, although this is not uniformly the case.

We also have a tentative conclusion about gender differences for nonbillable hours.²⁴ Of course, the nature of nonbillable hours varies widely. Some firms expect lawyers to keep track of time spent on activities such as reading advance sheets or new court decisions in their field of specialization; others do not. In the area of business development, some firms only count activities such as preparing pitch materials or taking part in a beauty contest, while others expect lawyers to note all time spent on business development, regardless of the nature of the activity. Some firms treat write-offs as nonbillable hours; others do not. Nevertheless, keeping in mind that the precise components of nonbillable hours will differ from firm to firm, it would appear that women associates are logging somewhat higher nonbillable hours than their male counterparts.

It is important to note that the Survey data merely show the difference; they do not explain the causes, of which there may be several. A traditional firm might rely on individual partners to parcel out work to associates, which may not achieve an equitable result. Or a project-assignment protocol designed to achieve equity among associates might not work as planned.. Women associates may spend more time on CLE or practice

development activities. Or, women associates may devote more time than their male counterparts to in-firm activities targeting associates or women.^{vii}

Whatever the causes, we recommend that firms track billable and nonbillable hours, and also implement or review policies to ensure that billable work is being allocated in a way that is fair to both men and women.

2. Staff Attorneys: Off-Track and Predominantly Female

The Survey was the first national study to measure law firm use of “staff attorneys,” defined as full-time lawyer positions that are not partner-track. Over time, the data tell a consistent and troubling story. The use of staff attorneys is on the rise: this year, 80% of the responding firms reported using staff attorneys. The typical firm employs 11 staff attorneys, 70% of which are women – the only category where women constitute a majority.^{viii} In the typical firm more than half of the staff attorneys are in their first decade of practicing law, but almost all of the senior staff attorneys are women.

Anecdotally, we understand some women staff attorneys are pleased with their situation: they work in a pleasant environment with intelligent colleagues, earn good wages, and can achieve the kind of work-life balance that simply isn't possible for partner-track lawyers and partners in the large firm environment. Some even view their exclusion from a partnership track as beneficial, since they don't face the same competitive stresses as associates and don't have to concern themselves with firm “up or out” policies.

On the other hand, many, many women choose to be on a partner track and aim for partnership. Our ideal would be that, as more women entered big-firm legal practice,

the standards and expectations would evolve to be more accepting of all women's lives and goals – not to slot more women at the lowest, non-partner track position. That approach sends an unfortunate message: “Yes, Ms. JD, you can work in BigLaw, but the right to advance, along with profits, professional status and the most interesting projects, are restricted to those who accept the 24/7 on-demand mentality in every year of their practice, and the resultant stresses and warping of their lives.”

Our goal is to encourage firms to have systems of advancement that build in flexibility and accommodate the needs of women (and men) lawyers at various phases of their careers. After all, when more than one-third of the legal profession is female, it cannot be beneficial to firms to lose so much legal talent after a relatively short span of years. Our disappointment is that so many firms have not yet figured out how to develop policies and practices to retain women lawyers without simply relegating them to a bottom-tier role. [a](#)

3. Counsel: Many Mid-career Women Lawyers, Potentially Off-track for Further Advancement

The typical firm has 54 counsel attorneys, roughly 35% of whom are women. The 2011 Survey found that the counsel role in firms varies widely. Among the people holding counsel positions in large firms are (1) senior partners winding down their practices, (2) de-equitized partners, (3) lawyers who do not possess a sufficient book of business to be considered for partnership, or (4) lawyers who for one reason or another are not deemed “suitable” to be partners. Given these responses, it is not surprising that only a minority of firms (30%) told us that all or nearly all of their counsel are on a partnership track.

This year, women counsel earned 92% of the median compensation of their male peers, the same difference as we saw in 2011. When it comes to total hours recorded, the results differed depending on size of firm. In AmLaw100 firms, women counsel recorded slightly *higher* total hours than men, while in Second Hundred firms men's total hours were somewhat higher. Looking just at billable hours, however, the results were consistently in one direction: the median male-female difference was 119 billable hours overall, and higher if one looked solely at Second Hundred firms.

Our data show that men and women counsel are typically in different stages of their careers. More than two-thirds of women counsel graduated law school in 1990 or later: i.e., they are likely to be in their prime childbearing years. Among the women, only some 5% graduated before 1980. In contrast, roughly 30% of men in the counsel position graduated from law school before 1980, suggesting that they may be winding down their practices in preparation for retirement, and another 20% graduated between 1980 and 1989. This overall pattern resembles what we observed in looking at counsel positions in past Surveys: most men working part-time did so at a time when they might be expected to be considering retirement, while most women were in a much earlier stage of practice. It is also the case that this pattern of results mirrors previous findings about part-time lawyers.

We would be less concerned about significant numbers of mid-career women in the counsel role if we had confidence that these women could return to a partnership track at a later point in time. However, with women continuing to make up only a dismal 15% of equity partners, it is an unavoidable conclusion that women who go off the prescribed partnership path, even for a few years, seldom if ever make it back.

4. Non-equity Partners: Close to Parity

The large majority of AmLaw200 firms (78%) are two-tier partnerships. The typical firm includes 91 non-equity partners, of whom women constitute slightly over 26% (an increase of one percentage point from last year's number). Women non-equity partners typically earned 98% of the compensation of their male peers, which is a heartening sign, particularly when one compares it with Survey data from prior years. At the Survey's inception in 2006, women non-equity partners, at the median, made only 84% of what their male colleagues earned, but since then the compensation gap has narrowed almost every year.

The median hours recorded by non-equity partners show the same pattern we have observed in most other categories, i.e., women's total hours were only slightly fewer than men's, but women's billable hours lagged by 64. Pro bono hours for men and women were only slightly different. It is difficult to know the impact on women of a typical gap of 64 billable hours. Although we recognize that non-equity partners are seasoned lawyers and expected to take charge of their own careers, we believe firms still have a role to play in supporting the professional development of lawyers at this level, both women and men. If fewer billable hours – even if the gap is not large -- is detrimental to the further advancement of women non-equity partners, firms have the obligation to consider what techniques they might employ to ameliorate the situation.

5. Equity Partners: Structural and Operational Challenges Abound

We have reached the pinnacle: the career path for lawyers in firms culminates with seizing the brass ring of equity partnership. Equity partners hold an ownership interest in

their firms and occupy the most prestigious, powerful and lucrative positions.³

Unfortunately, the Survey data make clear that disappointingly few women reach this stage. Moreover, in many respects, even women who have achieved this rarefied level face significant career challenges.

Once again, the Survey data show that women lawyers account for barely 15% of equity partners in the typical firm. There has been essentially no change in this percentage during the seven years the Survey has examined this statistic, and anecdotally this percentage has not increased in more than two decades. In other words, throughout an era when substantial numbers of women have been graduating top law schools and beginning practice in large law firms, through both boom and bust economies, and irrespective of the oscillating political climate, women's representation in this elite group has not increased. The United States Supreme Court – certainly the most prestigious and vetted set of lawyers in the United States -- has a far higher percentage of women members than equity partnerships in large U.S. law firms.

In past Surveys, we observed that women have achieved relatively greater success in one-tier firms than in two-tier firms, and for this year the difference is particularly noteworthy.⁴ Overall, in a typical one-tier firm, women constitute 21% of the equity partners while in the typical two-tier firm, women make up only 15% of the equity partners. Although a woman lawyer's chances of achieving equity partnership are significantly higher in a one-tier firm, the prevalence of one-tier firms has been declining for decades: only 22% of responding firms still operate under a one-tier structure.

In our initial review of the data, we saw a modest difference in the women equity partner median percentage for AmLaw100 (14.8%) vs. Second Hundred firms (16.2%),

which might suggest that a Second Hundred firm is a slightly more promising environment for women lawyers. However, we also noted that almost all of the one-tier firms are in the AmLaw 100 rather than the Second Hundred, and in fact one-tier firms made up a significant fraction of the responses we received from AmLaw 100 firms. Therefore, we took the further step of calculating the median percentage of women equity partners in one-tier AmLaw100 firms (21.%) vs. two-tier AmLaw100 firms (barely 13%) – an even greater and striking difference. These data suggest that the chance of long-term success for a woman lawyer is greatest with a one-tier firm – although they are becoming a rarity—and then with a two-tier Second Hundred firm, with a two-tier AmLaw 100 firm typically offering the lowest chance of success for women lawyers.

The Phenomenon of Mixed-Tier Firms

While firms generally describe their partnership structures as one-tier or two-tier, depending on whether they have a significant number of non-equity partners, the NAWL Survey has identified a third type of structure: the “mixed-tier” firm^{xi}. In a mixed-tier firm, a subset of the equity partners, “fixed-income equity partners,” are required to contribute capital to the firm, like other owners, but they are not compensated like full equity partners. Instead, they receive most of their compensation in the form of a fixed annual salary and/or a performance-based bonus. Moreover, fixed-income equity partners seldom possess the control rights of an owner: they cannot vote as equity partners and possess little or no governance authority.^{xiii} In our view, it significantly strains the concept of equity partner to report lawyers as “equity” partners when they lack the traditional perquisites and advantages of ownership.

Be that as it may, the data over time suggest this category is growing. In 2012, 15% of firms govern under a mixed-tier structure, with the typical firm reporting eighteen fixed-income equity partners, an increase from prior years. Another difference from the 2011 Survey is that this year, in the typical mixed tier firm, women constitute 37% of fixed-income equity partners^{xiv}.

We remain concerned about the mixed-tier phenomenon. Even if women do not dominate the fixed-income equity partner category, the data suggests that a far greater proportion of women occupy the mixed-tier category -- over 1/3 of fixed-income equity partners -- than the full equity category (with typically only 15% women). Fixed-income equity partners may be held out as partners to the world, but within the firm environment they lack power and therefore are unlikely to take senior leadership roles or have a decisive influence on firm policies and programs that affect women lawyers.

Participation by Women Lawyers in Law Firm Leadership

As one would expect, the senior leadership roles in large law firms are staffed almost exclusively by equity partners. Since women comprise only 15% of equity partners in the typical firm, it should come as no surprise that women have similar levels of progress in reaching firm-wide leadership ranks. Women constitute only 20% of the members of a typical firm's highest governing committee.^{xvii} The data on firm-wide managing partners is similarly disappointing: a woman is a firm-wide managing partner in only 4% of firms. In another 6% of firms there are multiple firm-wide managing partners of which at least one is a woman.

Thus, we continue to see that women are not visible in significant numbers at the top, either as owners of firms or in management or leadership roles. The relative dearth of women at this level cannot help but have depressive effects on the advancement of succeeding cohorts of women lawyers, not only because of the relative lack of female role models, but for at least two other important reasons. First, women's voices are few in the important discussions of strategy and policy that give rise to our notion of “firm culture.” If a firm's culture and policies are not developed with the input of all appropriate constituencies, they are unlikely to reflect the values and goals of all of its lawyers, and thus it is only to be expected that those whose views went unheard (whether women, minorities, or other marginalized groups) 'vote with their feet' and leave the law firm in search of a more responsive, supportive professional environment.

Second, and equally important, the scarcity of visible, senior, successful women in large law firms sends a powerful message to other women, either those coming up the ranks within firms or those who are making a decision whether to attend law school or to apply for an associate position in BigLaw. The message – whether or not intended by those in power – is clear and simple: “You do not belong here.” Perhaps this, as much as anything, is responsible for a trend we first noted in the 2011 Survey: the declining percentage of women attending law school.

Compensation and Hours at the Highest Levels

The news for women equity partners is slightly better when we look at relative compensation. This year, at the median, women equity partners earned about 89% of what their male peers earned – a narrower gap than we observed in 2011 (when it was 86%) and the narrowest gap we have seen since the inception of the Survey in 2006.^{xvii}

However, Survey responses show that median compensation – for both men and women equity partners – has been declining every year since 2008, suggesting that many lawyers – male and female-- have suffered a reduction in compensation due to the continuing economic malaise. Thus, rather than saying that women equity partners have gained ground, a more apt observation might be that women equity partners have suffered disproportionately less than men.

Although the effects are not as pronounced, we observed that the relative compensation gap between women and men equity partners differs for one-tier, two-tier and mixed-tier firms. Once again, women equity partners fared best in one-tier firms and worst in two-tier firms; with mixed-tier firms falling somewhere in between.

A review of hours recorded by men and women at the equity partner level discloses a somewhat different pattern than we saw for other lawyers. At the median, women's total hours exceeded men's by 34. When it came to billable hours, women lagged men by 28 hours. Once again, women's and men's pro bono hours were not meaningfully different. So one must infer that women's overall hours are higher because they spend more time on nonbillable matters. That being said, women's and men's hours – total or billable – are sufficiently close that they do not explain the difference in relative compensation.

Books of Business and Gender

That differences in hours worked does not correlate to differences in median equity partner compensation is perhaps not surprising. After all, at the equity partner

level it is generally understood that a lawyer's value to a firm inheres less in the hours the lawyer bills than in the client business or relationships she controls.

For the past several years, recognizing that the ability to generate business is critically important to a lawyer's advancement, the Survey has been asking questions about rainmaking. Initially, we found that few firms counted even a single woman among their top ten rainmakers. And from the 2011 Survey, we learned that women equity partners are significantly less likely than their male peers to receive credit from their firms for even a modest \$500,000 book of business. In this year's Survey, we added another innovation: we asked firms to tell us the amount of their median book of business – for men, for women, and overall. Although many firms declined to answer these questions, we nevertheless garnered substantial data.

Consistent with the responses to previous Surveys, we found that the typical female equity partner receives less credit for business generation: women equity partners receive only 75% of the amount credited to their male colleagues. The percentage gap was notably higher in AmLaw100 firms (71%) than in Second Hundred firms (83%), suggesting that women in the largest firms face disproportionately greater challenges in receiving credit for business generation.

To our surprise, the level of credited business appears to be uncorrelated to compensation level for both men and women. The typical woman equity partner's compensation is 63% of her billings, while the typical male equity partner's compensation is only 57% of his billings. Thus, if billings were the **only** factor firms utilized in setting compensation, women equity partners should be receiving higher compensation than men. Of course, except in the purest of “eat what you kill” law firms, one wouldn't expect

billings to be the exclusive touchstone of compensation. Indeed, we observed such wide variation in the data that firms must be considering much more than a partner's billings (or hours) when setting her or his compensation. ^{xviii}

Over time, the composite picture we are developing of rainmaking confirms that women partners have not generally been credited with the level of business generation of their male peers, whether at the highest levels, at the median, or at the \$500,000 level. Although we have found no direct correlation between credit for business and compensation, the coincidence that women fall behind in both may be telling. The challenge is for women and their firms to develop strategies that give women appropriate credit for business generation, and to translate that credit in ways that eliminate compensation gaps. ^{xix}

Looking at the overall picture, the difference between median compensation for men and women equity partners cannot be explained either by reference to relative hours worked or to relative billings credited. It thus remains unclear what factors firms use in setting equity partner compensation, and how those factors are weighted. The Survey data highlight the fact that compensation systems in large law firms typically lack transparency. Our concern is that, in the absence of transparency, there is the potential for unintended bias to affect the process in ways that disadvantage women lawyers disproportionately.

Conclusion

The NAWL Foundation, in cooperation with NAWL, sponsors an annual Survey designed to assess the status of women lawyers in the largest private U.S. law firms and

to elucidate the factors that impede or support their retention and promotion. Firms have repeatedly advised us that they are committed to the goal of increasing gender equity and they wish to implement concrete steps to assist their women lawyers in advancing their careers. We hope that the data presented here will assist those efforts by sparking constructive dialogue across the profession on these important topics.

We express deep appreciation to all of the firms that participated in the Survey and their willingness to entrust us with confidential and sensitive data to facilitate the analyses presented above. We especially applaud NAWL's Law Firm Members and Sponsors for their interest in the Survey as well as their other cooperative efforts to enhance the role of women in the legal profession.

Appendix on Survey Methodology

The NAWL Survey was sent in March 2012 to the 200 largest firms in the U.S. as reported by *The American Lawyer*.³⁵ Although we recognize that most attorneys in private practice work in smaller organizations, we have chosen to focus on the largest firms because they are an easily defined sample, include firms from all parts of the U.S., and are viewed as benchmarks and bellwethers for the larger profession.

The Survey solicited information about each firm's U.S.-based lawyers as of February 1, 2012. The 2012 questionnaire included comparative questions about associates, counsel, non-equity and equity partners, staff and contract attorneys, law firm structure, compensation, governance and rainmakers. As has been true since the inception of the Survey in 2006, NAWL does not publish any individual law firm data. We believe

that performing aggregate analyses of the law firm population, rather than highlighting individual firm data, is more consistent with the goals of tracking how women are doing overall and setting benchmarks. We also believe that the confidentiality we promise encourages firms to be forthcoming with sensitive information that immeasurably enriches the data available for our analysis.

A total of 107 firms responded to the 2012 Survey, which is an overall response rate of 56%. Responding firms were not significantly smaller than non-responding firms in terms of revenue per lawyer and profits per partner. Responding firms were somewhat larger than non-responding firms in terms of gross revenue and net operating income. Geographic representation was not consistent: the response rate was highest for National and Southern firms, and lowest for Western firms. Not all firms answered every question. The Survey's questions on compensation, books of business, and hours worked obtained the lowest response rates with, on average, 52 firms responding to questions about compensation, 56 firms responding to questions about billings and 59 firms responding to questions about hours worked. Based on anecdotal reports, the lower response rates for these questions suggest that the Survey results are likely to under-represent the levels of gender disparity along these dimensions.

The Survey was designed and developed by Stephanie Scharf, currently President of the NAWL Foundation as well as a practicing lawyer and former Senior Study Director at NORC, a national survey research center based at The University of Chicago. The Survey has been administered annually since 2006. The 2012 analysis was assisted by Russell Bittmann, Economics Ph.D. student at The University of Chicago.

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ii We thank Stephanie Scharf, President of the NAWL Foundation and a partner in Scharf Banks Marmor LLC for her leadership in creating the NAWL Annual Survey, and for her thoughtful ideas and edits to this 2012 report. We also thank the Survey Committee for their tireless efforts in encouraging firms to respond to the Survey: Andi Groomes <andi@thresholdadvisors.com>, Ava Youngblood <ava@yngbloodexecsrch.com>, Brenda Ryals <brenda@yngbloodexecsrch.com>, Kandice Bridges <kbridges@alvarezandmarsal.com>, Ya Marie Cham <yamarie.cham@snrdenton.com>, Charlotte Pashley <cpashley@mcguirewoods.com>, Christine Stanitski <CStanitski@fdh.com>, Dawn Simmons <dawn@yngbloodexecsrch.com> Felice B. Ekelman <ekelmanf@jacksonlewis.com>, Gail Golden <ggolden@gailgoldenconsulting.com>, Beverly Garofalo <GarofalB@jacksonlewis.com>, Jill Pryor <pryor@bmelaw.com>, Joni L. Landy <jlandy@thorpreed.com>, Linda Chanow <LChanow@law.utexas.edu>, Linda Lemel Hoseman <lhoseman@winston.com>, Mary A Kelly <mkelly@prudential.com>, Melissa Zabor <zaborm@mail.maricopa.gov>, Sabrina Rose-Smith <SRoseSmith@goodwinprocter.com>, Jennifer L. Ryan <jryan@curtis.com>, Sara G. Sidwell <Sidwells@jacksonlewis.com>, Lynn A. Whitcher <LWhitcher@mcguirewoods.com>, and Chidinma Ukonne <cukonne@gmail.com>. We take special note of the help provided by Courtney Murtaugh, Administrator of the NAWL Foundation and Survey Administrator, and express deep appreciation for her dedication and unflagging energy on the work of the Survey.

iii Anecdotally, one particular technology, 'predictive coding' of documents, is already squeezing hundreds of hours out of major legal projects, particularly in the area of litigation discovery. Although lawyers are still needed to analyze the output of these programs, the bottom line is that the work can be done faster and more cheaply – meaning the firm needs fewer lawyers.

iv National Summary Chart for Class of 2011, available at www.nalp.org/classof2011.

v Firms reported on the most recent data for an entire year, which is the 2011 year.

vi While the Survey did not ask specifically about nonbillable hours, we were able to create an index of nonbillable hours. From data on total hours, we deducted total billable hours and total pro bono hours and then estimated the remainder as time spent on nonbillable hours.

vii Note that the observed difference in billable hours is unlikely to be due to the fact that some women may be working a part-time schedule. All of the reported numbers are medians, i.e., the data for the person, man or woman, who falls in the middle of the pack. If the pack includes some small number of part-time workers, their hours are likely to fall below the median.

viii When we asked the same question last year, women only constituted 55% of the staff attorneys in the typical firm. A one-year increase, even of this magnitude, is not sufficient to confirm a trend, but it is disturbing to see growing female predominance in a low-status role. Our expressed fear that this role would become a “pink-collar ghetto” may have been prescient.

ix Along these same lines, some thoughtful commentators suggest that we need to reconceptualize work norms and career arcs, in all fields, to better fit not only women, but Generation-Y and later cohorts of men, as well as their families. “[N]ow is the time to revisit the assumption that women must rush to adapt to the 'man's world' that our mothers and mentors warned us about.... If women are ever to achieve real equality as leaders, then we have to stop accepting male behaviors and male choices as the default and the ideal.” “Why Women Still Can't Have It All,” Anne-Marie Slaughter, *The Atlantic Monthly* (July 2012), available at <http://www.theatlantic.com/magazine/archive/2012/07/why-women-still-cant-have-it-all/309020/>. Slaughter particularly singles out the prevailing norm of “face time” as detrimental to women's ability to structure manageable, and complementary, work and home lives.

x The Survey defines an equity partner somewhat more restrictively than other definitions we have seen: for our purposes, an equity partner is a lawyer who owns an interest in her or his firm and who typically receives the majority of her or his compensation as a distribution with respect to that ownership interest (rather than in the form of a fixed salary or performance-based bonus). Nevertheless, irrespective of the differences in how observers define equity partner, the trend is clear: there has been no substantial improvement in the numbers of women equity partners among most of the large firms.

xi Our conclusions have been corroborated from time to time by other surveys, most recently by the National Law Journal. See “At big firms, equity gender gap continues,” Vivia Chen, 7/23/12, available at <http://law.com/jsp/nlj/PubArticlePrinterFriendlyNLJ.jsp?id=1202563849769> (pegging women's equity percentage in NLJ250 firms as 15.1% overall, but notably higher in one-tier firms, 17.6%, than in two-tier firms, 14.7%).

xii The 2008 NAWL Survey was the first national study to identify and collect data on mixed-tier firms. To our knowledge, although the numbers of fixed-income equity partners in mixed-tier firms are increasing, no other entity has studied the phenomenon.

xiii Economically, fixed-income equity partners, depending on the required buy-in, may be at greater risk: they stand to lose their capital if the firm fails, yet if the firm is successful they enjoy little or none of the profits. And, to compound the risk, it is an open question whether a court would find these people liable for a share of a failed firm's debts (even some non-equity partners are currently fighting this battle in some highly-publicized cases). See, e.g., “Quote of the Day: What's In A Name?” at Above the Law: <http://abovethelaw.com/2012/09/quote-of-the-day-whats-in-a-name> (9/19/12), discussing the efforts by former non-equity partners of Howrey to avoid clawback in the defunct firm's bankruptcy proceedings.

xiv Some responding firms reported having a large number of fixed-income equity partners, both women and men, although this was not typical.

xv Such committees are called the Executive Committee, Policy Committee, Management Committee, or some similar title.

xvi Roughly one-third of responding firms indicated that they have at most one woman on their highest governing committee.

xvii The percentage compensation gap between men and women equity partners for the years of the Survey are as follows: 2006, 84%; 2007, 86%; 2008, 87%; 2009, 88%, 2010, 85%; 2011, 86%; 2012, 89%.

xviii For example, for men and women alike, median compensation translated to a minimum of roughly 30 cents for every dollar of billings and a maximum of roughly \$1.23 per dollar of billings.

xix See, e.g., the PAR/MCCA 2010 study, finding that women are often excluded from rainmaking opportunities, their contributions to rainmaking efforts are discounted, and their claims of billing credit are often disputed.

xx The list of the nation's 200 largest firms was published by *The American Lawyer* in 2011 and served as the basis for the population of firms surveyed in early 2012. Certain other data about these firms was obtained from lists published in *The American Lawyer* at various times between 2009 and 2011.

