

2006 Report: NAWL's First National Survey on Retention and Promotion of Women in Law Firms¹

Summary

The NAWL National Survey on Retention and Promotion of Women in Law Firms ("Survey") was designed to collect accurate data concerning the leadership status of women lawyers in private practice. This Survey differs from existing research in that it measures (1) the comparative role of women lawyers at all levels of law firm seniority, including as equity partners; (2) different types of partnership opportunities in law firms and where women stand in relation to men; (3) women's roles in the governance of firms; and (4) women's compensation relative to men's compensation at similar levels of seniority.

The Survey shows that women lawyers are well-represented at the lowest level of the profession, constituting 45% of associates, but not at the top of the profession. While women account for close to half of law firm associates, they account for 28% of of-counsel lawyers and 26% of non-equity partners. At the top level of law firm partnership, women account overall for 16% or 1 out of every 6 equity partners. Representation in the equity partnership during prime earning years (between 10 and 25 years experience in the profession) is a little better; in that group, women account for about 20% or 1 out of every 5 equity partners. Among the most junior equity partners, women account for about 24% or 1 in 4. Whether these differences represent an upward trend of an increasing number of women as equity partners is one issue, among several, that we plan on tracking over time.

Even when women lawyers achieve the formal status of equity partner, preliminary information indicates a gap in compensation between male and female equity partners. Moreover, women's role in the governance of law firms is far less extensive than men's. Women hold on average only 16% of the seats on their firm's highest governing committee. Only about 5% of managing partners are women. To the extent that gender diversity matters for decisions that large firms make about such critical firm-wide issues as long-term strategy and growth, business development, partner compensation and advancement, and policies and practices related to the retention and promotion of women lawyers, it appears that, at the highest level, these decisions are still being made in a decidedly male environment.

Impetus for the NAWL Survey and its Uses

The Survey is NAWL'S first national study about the role of women lawyers in law firms – to our knowledge, the only current national study that offers a statistical overview of the careers of women lawyers at all levels of private practice, including their roles as equity partners and law firm leaders. The impetus for the Survey grew from the now familiar "50/15/15" conundrum: for over 15 years, 50 percent of law school graduates have been women yet for a number of years, only about 15 percent of law firm equity partners and chief legal officers have been women. The partnership pipeline is actually richer than these numbers suggest because, for over two decades, law schools have graduated women in substantial numbers and law firms have recruited women at the entry level in about the same ratio as men.

In an era when partnerships are made within 7 to 10 years of law school graduation, many in the legal profession had expected that, by now, there would be gender parity at all but the most senior levels of law firm partnerships. At the same time, a lack of national data has prevented both a clear picture of and benchmarks for how women progress in law firm hierarchies. Existing surveys on women in law firms focus disproportionately on women associates, too frequently ignore the

important distinctions between non-equity and equity levels of partnership and largely ignore the role of women partners in law firm governance and relative compensation.² The data have not been amenable to benchmarking, on an objective, national basis, the progression of women into the upper ranks of firms.³ While the past year has spawned a number of reports based on information from individual lawyers about retention and promotion of women into the senior levels of law firms,⁴ the studies have limited ability to provide a systematic profile of the status of women and men in the upper echelons of law firm practice and leadership.

The NAWL Survey aimed to fill these gaps. The Survey was designed to provide easily understood and measured indicators of career status at the national level, and the extent to which women are achieving senior roles in law firm practice and governance. NAWL also hopes that state and local bar associations will take up the mantle of this Survey; and NAWL would be pleased to work with such organizations to extend the Survey to local arenas.

The Survey is one of several initiatives being taken as part of the *NAWL 2015 Challenge* – a challenge issued in July 2006 for law firms to double the number of women equity partners and for corporations to double the number of women chief legal officers by 2015. As the data below suggest, there is work to be done.

Survey Methodology

The NAWL Survey questionnaire was sent to the 200 largest firms in the U.S. as defined by *American Lawyer* in 2005.⁵ Although most private practitioners work in smaller settings, we chose to focus on these larger firms because they compose an easily defined sample on a national basis and their results would more readily be viewed as benchmarks for the larger profession.

The Survey solicited information about each firm as a whole, as of March 1, 2006, regarding the firm's U.S.-based lawyers. The questionnaire asked about total law firm size; number of male and female associates, of-counsel, non-equity and equity partners; whether the firm was a one-tier or two-tier partnership⁶; median compensation and highest compensation by gender; representation on the firm's highest governing committee; and gender of the managing partner. There were additional breakdowns by level of seniority as defined by year of graduation from law school. One hundred and three firms responded to the Survey in time for publication.⁷

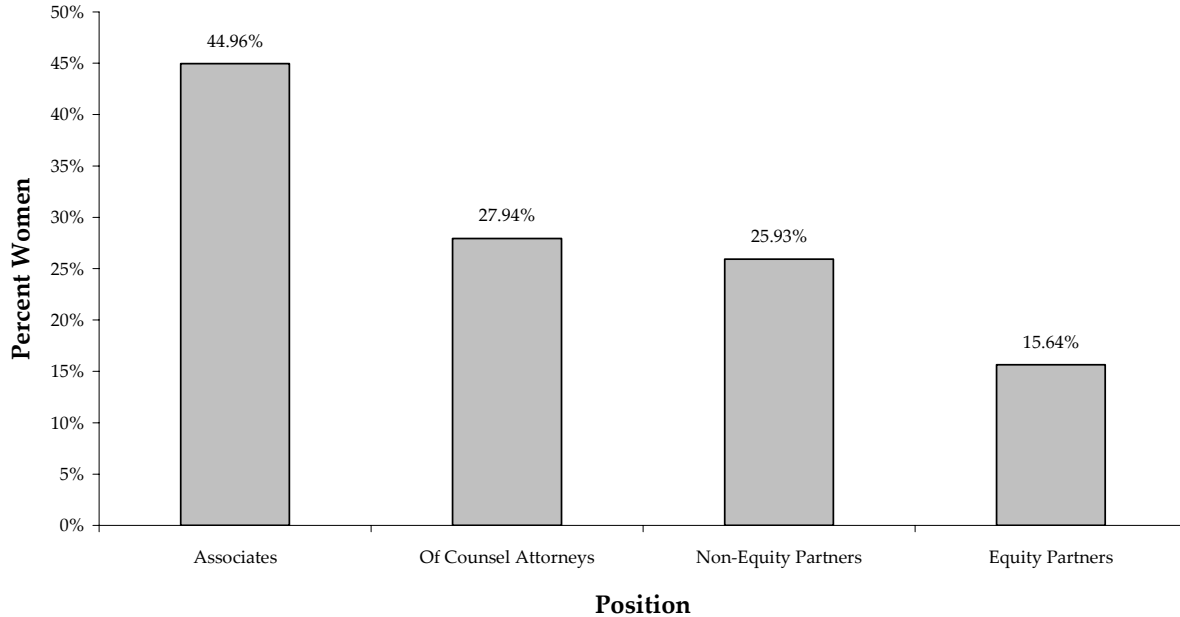
As part of the Survey, NAWL committed not to publish individual law firm data, which was secondary to our goals of finding out how women were doing in the aggregate and setting overall benchmarks.

The Survey was developed and administered by NAWL. The analysis was assisted by Navigant Consulting, Inc.,⁸ which generously contributed its time and resources to this project in validating the statistical calculations and developing the accompanying charts. It should be noted that the analyses, conclusions and opinions expressed in this report are solely the views of NAWL.

Are Women Progressing into Higher Levels of Law Firm Partnership?

We asked firms to identify the number of associates, of-counsel, non-equity partners and equity partners and also to identify the gender breakdown in each category. On average, as shown in Graph 1, women represent 45% of associates, 28% of of-counsel, 26% of non-equity partners, and almost 16% of equity partners.

Graph 1
Representation of Women in Attorney Positions



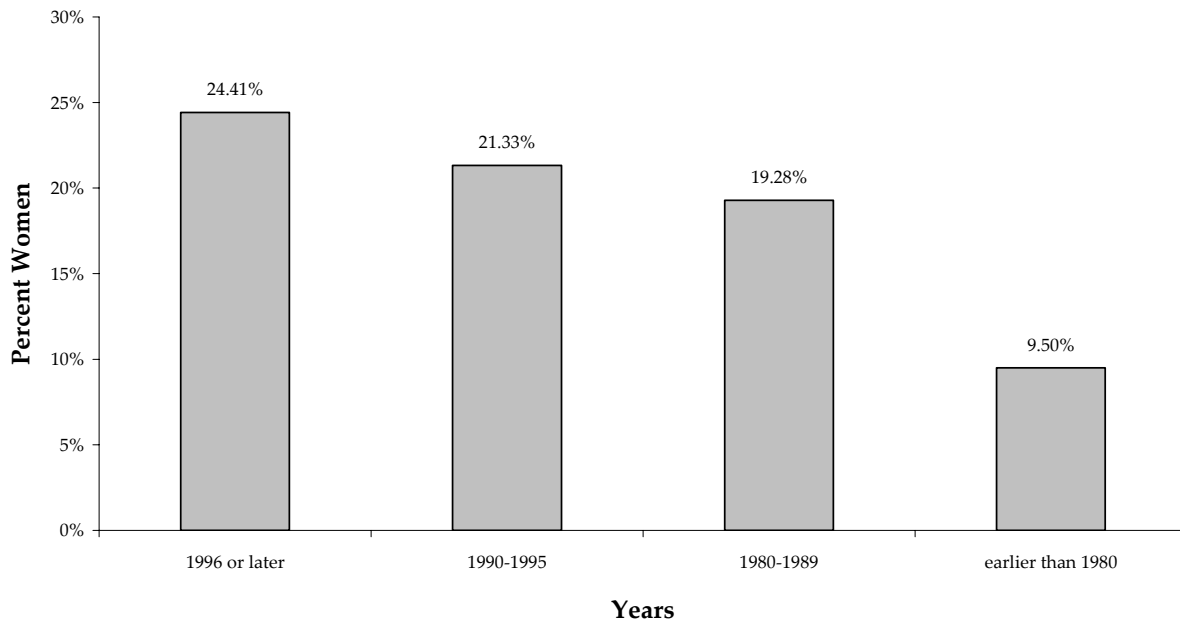
The lowest reported percentage of women equity partners by any firm was 5%; over 75% of the sample reported that at least 13% of their equity partnerships were women partners. That said, only one firm reported a percentage of women equity partners that was higher than 25%. Overall, the firms show a remarkably consistent pattern: the vast majority report that between 10% and at most 25% of their law firm equity partners are women. These results are consistent with other, local studies and large amounts of anecdotal evidence.

The numbers overall also show fewer and fewer women lawyers at each transition point, from associate to of-counsel to non-equity partner to equity partner. There is a dramatic difference between the lowest and highest lawyer positions: while close to 1 out of 2 law firm associates is a woman, only 1 out of 6 equity partners is a woman. Considering that for most firms, equity partnership decisions are made between 8 and 10 years after graduation, it appears that the vast majority of firms have a large bunch of women associates, a little more than half again the number of of-counsel and non-equity partners and an even less robust number of women in equity roles. This phenomenon has broader implications for increased numbers of women in firms given the positive effect that such practices as senior-to-junior mentoring and role modeling have, as generally believed, on the movement of women into senior roles in firms.

Even when women are promoted beyond the associate level, their movement into the highest levels of firms has been limited. Looking at promotion into equity partnership by seniority as defined by class of law school, of the relatively small number of persons who graduated from law school in 1996 and have become equity partners, women represent roughly 24% of them. For graduates from 10 to 15 years ago (classes of 1990 to 1995) – a timeframe when virtually all firms have decided

whether their lawyers will be promoted to equity partner – women represent 21% of equity partners. Among graduates of the classes of 1980 to 1989 – a time when partners traditionally would be expected to be in high gear for productivity and earnings – women occupy roughly the same level, at 19% of equity partners. For graduates of the class of 1979 or earlier, women comprise between 9 and 10% of equity partners, although these numbers are not much different than might be expected given the low rates at which women attended law school before the late 1970s. These results are illustrated in Graph 2.

Graph 2
Representation of Women in Equity Partner Positions



If we look only to those classes where women graduated from law school in large numbers, women occupy equity positions at about 20% the level of men, or at a 1 to 5 ratio. This number is consistent throughout the classes of equity partner from 1980 to 1995. For the more junior equity partners, those who achieved that position in less than 10 years out of law school and where classes were roughly 50% female, the number is somewhat higher (24%).

At this point, the results are both encouraging and disheartening. While there has been marked improvement in the number of women equity partners from the last generation of lawyers to this one -- comparing women who graduated before 1980 with those who graduated between 1980 and 1995 -- there is a considerably lower percentage of equity partners than the number of women law school graduates would predict. This is an especially striking finding given that the number of women and men who start out as associates in the large law firms is roughly the same, and has been for a number of years.⁹ In addition, these data cannot tell us whether the somewhat higher number associated with the most junior level of equity partner represents a meaningful increase in the rate at which women lawyers are currently achieving and maintaining the position of equity partner or whether, as these younger women progress in their legal careers, there will be a noticeable loss of

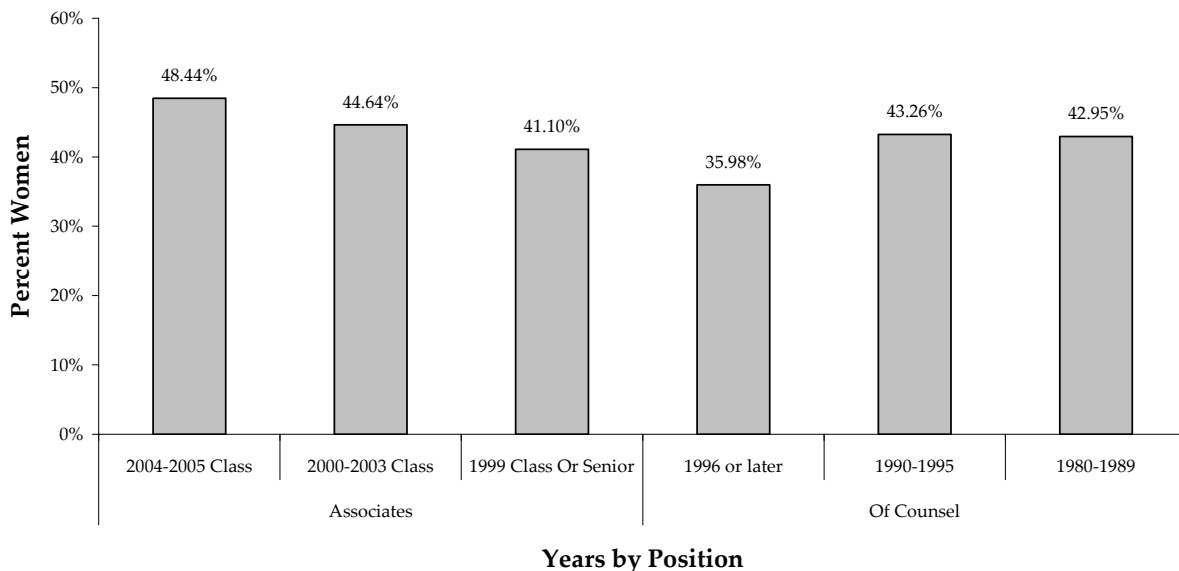
women from the ranks of equity partnerships. One reason why NAWL intends to complete its Survey on an annual basis is to be able to address such questions with meaningful trend data.

At the level of non-equity partner (and looking only at two-tier firms, where there are large numbers of non-equity partners¹⁰), the gender differences are also notable. Overall, women represent 26% of non-equity partners. For people who graduated from law school 10 years ago or less, women represent 27% of non-equity partners. For graduates from 10 to 15 years ago (classes of 1990 to 1995), women represent 30% of non-equity partners. Among graduates of the classes of 1980 to 1989, women occupy the non-equity positions in about the same proportion, 31%. For graduates of the class of 1979 or earlier, women comprise about 11% of non-equity partners.

Thus, in prime partnership years at the nation's largest law firms, women occupy roughly one-fifth of equity partner positions and, in two-tier firms, just under one-third of non-equity positions.

The of-counsel data show a parallel picture: the percentage of women of-counsel is far greater than the percentage of women in either equity or non-equity partnerships. The numbers are especially pointed looking at graduates from the classes of 1980 to 1995. Women represent 43% of lawyers who are of-counsel in each of those classes, although they represent only some 20% of equity partners and 31% of non-equity partners in the same cohorts. Equally striking, the percentage of women in of-counsel positions during the years when partnership would most likely be expected – 1980 to 1995– is about the same as the percentage of women associates in firms. These results are shown in Graph 3.

Graph 3
Representation of Women in Associate
and Of Counsel Attorney Positions



Traditionally, of-counsel positions were given to partners nearing retirement, who wanted to maintain a practice but not on a full-time basis and without the business responsibilities of equity partnership. It is unclear, however, what factors are influencing the percentage of women who occupy of-counsel positions. Are women more likely to seek less visible roles as partners? Are these of-counsel positions a place for women lawyers who are denied partnership status for legitimate reasons? Or are women in large firms disproportionately directed into of-counsel positions instead of promoted to partner level work and compensation? Because NAWL anticipates conducting this survey on an annual basis, we hope to accumulate data amenable to answering at least some of these questions.

Does Law Firm Structure Have an Impact?

Law firm structure – whether the firm has a one-tier or two-tier partnership – impacts whether women progress to the level of equity partner. First, as a threshold matter, the percentage of associates in one-tier firms who are women is the same percentage as in two-tier firms (45%). The percentage of of-counsel lawyers who are women is also roughly the same in single-tier versus two-tier firms (31% versus 26%).

At the level of equity partner, there are some differences. In single-tier firms, women comprise 17% of equity partners. In two-tier firms, where women may occupy either an equity or non-equity position, 15% of equity partners are women. This difference between one-tier and two-tier firms is sufficiently large enough to be statistically significant at the 95% confidence level.¹¹ There are also a substantial number of women non-equity partners in two-tier firms (26% on average); that position has negligible numbers in one-tier partnerships for either men or women.

These statistics raise the question, is the one-tier or two-tier structure more amenable to promoting women into senior positions as equity partners? One-tier firms have a lower percentage of women “partners,” if we count both equity and non-equity positions, than two-tier firms. On the other hand, the point of most two-tier firms is to stratify the partnership. That is why in most two-tier firms, non-equity partners are denied authoritative input into the governance of the firm, receive substantially lower compensation and benefits, and frequently need to follow an “up or out” track within a few years of becoming a non-equity partner, which limits the number of years in which they may occupy partnership positions.

A similar point is made when we disentangle the data by seniority, where we find differences by law school classes. In the most junior group of equity partners, the percentage of women equity partners is about the same whether in one-tier or two-tier partnerships, about 24%. That group consists of law school recruits from classes that were divided about equally between men and women graduates. In looking at more senior classes, a greater percentage of women equity partners is found in one-tier firms. In the classes of 1990-1995, where women graduates account for close to 50% of classes, women account for 25% of equity partners in one-tier firms and 19% of equity partners in two-tier firms.¹² In the classes 1980-1989, where women graduates account for roughly 40% of graduates, women account for 22% of equity partners in one-tier firms and 18% of equity partners in two-tier firms.¹³ In the most senior classes, those graduating from law school earlier than 1980, women account for about 11% of equity partners in one-tier firms and 8% of equity partners in two-tier firms, numbers that are not significantly different and are roughly consistent with the level of law school graduates before 1980.¹⁴

Do Women Lawyers Participate at the Highest Level of Law Firm Governance?

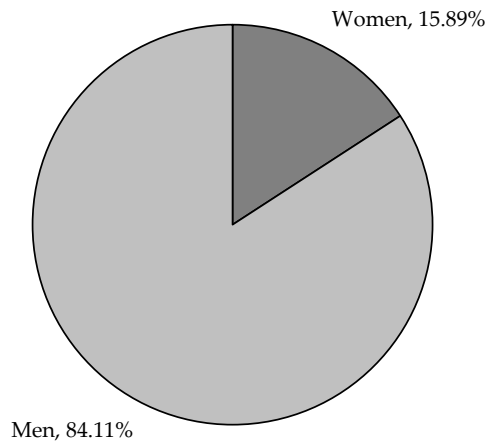
We surveyed the gender of the managing partner and also the composition by gender of the highest governing committee in the firm.

Firms reported an average of 12 members on their highest governing committee. As shown in Graph 4, on average, the membership of the highest governing committee in a firm is about 16% women – about the same gender ratio as is found in equity partnerships. About 15% of the firms report as many as 25% female members of the highest governing committee. However, roughly 10% of the firms report no women members on their highest committee; and one fifth of the firms report that fewer than 10% of the members of the highest governing committee are women.

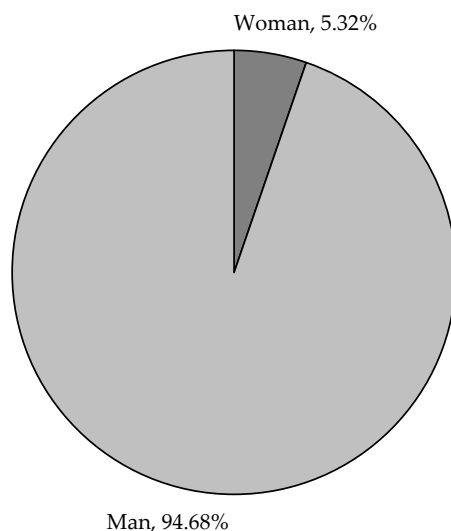
As shown in Graph 5, only 5% of managing partners are women, a much lower percentage than would be expected on the basis of equity partnership levels.¹⁵

These statistics suggest, among other things, that women occupy lower positions within the firm's equity partner ranks, as it is our impression that selection of the firm's managing partners and members of the highest governing committee typically comes from the top half of the equity partnership.

Graph 4
Representation of Women on
Firm's Highest Governing Committee



Graph 5
Gender of Firm's Managing Partner



Is There Gender Parity in Compensation?

Questions on compensation were the only ones that our sample of law firms frequently did not answer and the overall response rate, therefore, is lower than on the other questions.¹⁶ That said, there were a sufficient number of responses to provide suggestive data and some significant findings.

Of the 62 firms that reported whether a male or female lawyer earned the most compensation in the firm, 57 firms – or roughly 92% – reported that their highest paid lawyer was a man.

Twenty-seven firms reported male and female median compensation for the non-equity partner position. Among these firms, the average median compensation for men is \$239,000¹⁷ and for women is \$207,400. The male compensation advantage of \$31,600, however, is not statistically significantly different from zero at any reasonable confidence level.

Thirty-five firms reported male and female median compensation for the equity partner position. Among these firms, the average median compensation of a male equity partner is \$510,000. The comparable figure for a female equity partner is \$429,000. The difference, a compensation premium of \$81,000 for men, is statistically significant at the 95% level. However, it is also the case that there are substantially more men at the most senior levels of partnerships and this difference may account for the income disparity.

Twenty-nine firms reported male and female median compensation for the of-counsel position. The average median compensation for men of-counsel is \$202,000, and the figure for women is \$184,000. This difference of \$18,000 is significantly different at the 99% confidence level.

Conclusion

The NAWL Survey confirms that in American law firms, women are well-entrenched at the associate and of-counsel levels but do not occupy senior positions in the number many expected based on the large number of women law school graduates over the past 25 years. Women are not represented in large numbers as equity partners, on the highest management committee of their firms or in the role of managing partner. The data on compensation, while more sparse, are consistent with the overall view that women, on the whole, are not on a par in law firms with their male colleagues.

On the more positive side, we continue to see a large number of women lawyers practicing in private firms at all levels. The evident commitment of women to careers in private practice combined with the desire of firms to retain and promote women lawyers provide a solid foundation for advancing women into leadership positions in greater numbers. The pipeline is filled with women lawyers capable of occupying positions as equity partners, law firm managers and members of the highest governing committees in firms. The challenge for the profession – individual women, their firms and other interested stakeholders, such as law firm clients – is what policies and practices will work best to open that pipeline and advance women quickly into roles they have earned and will occupy with distinction.

NAWL conducted the Survey to provide initial benchmarks and stimulate discussion on the general issue of the status of women in private firms. We intend to repeat the Survey on an annual basis and look forward to seeing continued progress towards gender parity in private practice. We also have planned, as part of the NAWL Challenge, a number of initiatives to assist law firms in developing effective policies and practices that will enhance the progress of women in private practice. We know from our experiences in collaborating on diversity programs with private law firms around the country that there is a desire to implement meaningful, concrete steps that proactively increase the number of women lawyers at the more senior levels. We thank our Law Firm Members and Sponsors for their support of initiatives like the NAWL Survey and their cooperative efforts to enhance the role of women in the profession.

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² At the national level, “NALP” annual surveys provide very interesting data at the more junior levels of practice but do not focus on equity/non-equity distinctions or measure other indicators of success at the partnership level and law firm governance. Census data do not provide easily accessed distinctions among lawyers and focus more broadly on members of the legal profession, which includes many non-lawyer personnel, and also do not provide data on professional status or progression. The EEOC has conducted some research on women lawyers with a focus on compensation but only on an occasional basis.

³ A number of local law news media have published surveys of the status of women lawyers in firms in a given geographic locale, although none of them have systematically studied the progression and role of women into senior levels of partnership and governance. In addition, there are validity issues with many of the surveys of women in equity partnerships because sponsors routinely allow a firm at its own discretion to obliterate the distinction between equity and non-equity partner by reporting all partners as “equity” partners. The result is a statistical sleight of hand, at two levels. First, firms treating non-equity partners as equity partners report a much higher number of “equity” partners than if they reported the two separately. In addition, the data from such firms put the overall group average into question, because it reflects the inflated number of equity partners that exists in the reports by

individual firms. Not surprisingly, the firms who refuse to report gender statistics for equity and non-equity partners are, by our observation, typically the firms that have the worst records on promoting women to equity partner. What is surprising is that law publications have allowed this practice to continue without sanction.

⁴ See, e.g., L. Blohm and A. Riveria, *Presumed Equal: What America's Top Women Lawyers Really Think About Their Firms*, (Authorhouse 2006); American Bar Association Commission on Women in the Profession, *Visible Invisibility: Women of Color in Law Firms* (September 2006)(preview available at <http://www.abanet.org/women/perspectives>); L.S. Rikleen, *Ending the Gauntlet: Removing Barriers to Women's Success in the Law* (Glasser Legalworks 2006). See also, e.g., T. O'Brien, *Why Do So Few Women Reach the Top of Big Law Firms?* New York Times, March 10, 2006.

⁵See "The AmLaw 100" for 2005, *American Lawyer* May 2005, and "The AmLaw 200" for 2005, *American Lawyer* August 2005.

⁶ A one-tier firm was defined in the Survey as a firm where at least 95% of the partners are equity partners. Of the 101 firms that responded to this particular question, 39 reported a one-tier partnership structure and 62 reported a two-tier structure.

⁷ An analysis of the non-responding firms showed that responding firms were larger in terms of revenue, total number of lawyers, and total number of partners than non-responding firms. In addition, a greater fraction of firms from Northeast and Midwest regions than South or West regions responded to the Survey, reflecting the regional distribution of the larger firms. The overall results are thus weighted toward the larger firms that were surveyed and the regions where the larger firms are located.

⁸ Navigant Consulting, Inc. (NYSE: NCI) is an international consulting firm providing dispute, financial, regulatory and operational advisory services to government agencies, legal counsel and large companies facing the challenges of uncertainty, risk, distress and significant change. Information about Navigant Consulting, Inc. may be found at www.navigantconsulting.com.

⁹ See, e.g., Women and Minorities in Law Firms at <http://www.nalp.org/content/index.php?pid=157>.

¹⁰ By Survey definition, fewer than 5% of partners in one-tier firms are non-equity partners. See note 6, *supra*.

¹¹ We did not include in our analysis four firms that chose not to distinguish their equity and non-equity partners. These firms treated all of their partners as "equity" partners when in fact they have substantial numbers of partners at the non-equity level. As reported to us anecdotally by members of those firms, they have a much lower proportion of women equity partners than women non-equity partners. In one such firm, as an example, we were informed that fewer than 10% of the equity partners are female although, because of the large proportion of women at the non-equity level, the firm reported that over 20% of its "equity" partners were women. The effect of reporting all partners as equity partners inflates a firm's progress on advancing women into equity partnerships and misreports the real state of the partnership. See also note 2, above.

¹² This difference between one-tier and two-tier firms is sufficiently large enough to be statistically significant at the 95% confidence level.

¹³ This difference between one-tier and two-tier firms is sufficiently large enough to be statistically significant at the 95% confidence level.

¹⁴ This difference between one-tier and two-tier firms is not statistically significant at the 95% confidence level.

¹⁵ The vast majority of the firms (95) reported a managing partner position.

¹⁶ In addition, the firms that responded to the compensation questions were larger in terms of gross revenue, net operating income, and total number of lawyers when compared to the participating firms that chose not to report compensation data. Also, while the response rate varies widely, firms with AMLAW rank 1-50 or 151-200 had lower response rates. However, there do not appear to be systematic differences in geographic distribution.

¹⁷ Compensation values are rounded to the nearest \$100.