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*Women In Private Law Firms:
Slow Progress on Equality of Promotion
and Compensation*

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Women In Private Law Firms: Slow Progress on Equality of Promotion and Compensation¹

I. Introduction

As of 2022, most law schools have achieved gender equality in enrollments, and most prominent law firms and courts have seen increasing women's representation among their partners and judges. Across the country, law firms have made significant strides in their efforts to attract and retain women lawyers, not only because it is beneficial to the legal profession but to also meet client demands for greater diversity. In addition, hiring more women addresses their most fundamental management objective to attract and retain the best legal talent.

Despite these important advances, women in law firms continue to face significant challenges. At the same time that women are entering law firms in greater numbers than ever before, many women are choosing to leave their law firms and/or the practice of law. While firms find this problematic because they have invested resources in preparing women to be successful lawyers, many women see the matter differently. Their broader concern is advancement, and the need to institutionalize the upward mobility of the best talent to senior positions in U.S. law firms. Studies show that even though there are more women in the legal profession, their rate of advancement is the same as it was in the 1990s – over 30 years ago.

Survey data from published studies show that while many women lawyers were satisfied with the compensation, professional autonomy, job security, and recognition they received from their employers, others expressed frustration with institutional biases that continue to interfere with their ability to advance.² These women often changed careers to seek a workplace with policies and work environments that were more in sync with their long-term professional and personal goals. The literature points to several general reasons for women's dissatisfaction with their law firms, including an unsupportive work environment, poor promotion opportunities, and issues related to work/life balance. Hence women in the legal profession face substantial challenges related to time demands, the integration of work and family, workplace climate, and unequal access to labor-market rewards. These factors prevent many women lawyers from enjoying true equity in their jobs.

Increasing numbers of young women look to build a career in the legal profession. On the positive side, private law firms have seen more than half of their applications coming from women, and firms have been successful in hiring new cohorts that are gender balanced. However, women are then not promoted or paid with any level of equality, and the result is that many leave after several years. Private firms need to find ways to not just attract women into private practice but also to retain and promote them, and compensate them equally. This will require a closer examination of all of the ways in which law firms interact with women. Without change, progress will continue to be slow and will disadvantage another generation of young women lawyers.

The objective of this issue brief is to present important studies on women’s status in private legal firms in the U.S. and to offer a current picture of how women lawyers are progressing in their professional lives. This issue brief seeks to shed light on the reasons why some women choose to leave their employers, and the factors that make it possible for women to rise to the top echelons of their firms. It also provides recommendations of best practices that can help law firms achieve greater success in the advancement and retention of women employees. In particular, more women-oriented and family friendly programs need to be implemented, largely because the status quo is not working. Senior management needs to make sure that programs are not just put in place, but firm members are actually encouraged to use them. The issue brief highlights how firms need to look at structural and cultural biases within private firms that are holding back equality for women.

II. Data

Large numbers of women have entered the legal profession in the past four decades. Despite graduating from law school at equal proportions as men for over 20 years, and despite being hired as starting associates in law firms at approximately equal proportions with their male colleagues, women have seen only small changes in their representation in positions of power and leadership since the 1990s.

The problem of overall representation is seen among lawyers across different types of employers, not just law firms.³ As shown in Table 1 below, in 1995 women comprised just 26.4% of all lawyers in the U.S., and this share has risen to 37.9% in 2021. This 37.9% figure is considerably lower than women’s overall representation in the civilian labor force of 47.0% in 2021.⁴ The representation of women and men from traditionally under-represented groups (Black, Hispanic/Latino, and Asian) also rose by about 10 percentage points during the same period, starting from an even lower base of 6.8%. By 2021, a total of 17% of the country’s lawyers were Black, Hispanic/Latino, and Asian women and men. This marks progress but it is not enough.

Table 1: U.S. Lawyers by Gender and by Race/Ethnicity

	Lawyers	Women (%)	Black (%)	Hispanic or Latino (%)	Asian (%)	Total Non-White (%)
1995	894,000	26.4	3.6	3.2	..	6.8
1996	880,000	29.5	3.5	2.8	..	6.3
1997	885,000	26.6	2.7	3.8	..	6.5
1998	912,000	28.5	4.0	3.0	..	7.0
1999	923,000	28.8	5.1	4.0	..	9.1
..
2002	929,000	29.2	4.6	3.1	..	7.7
2003	952,000	27.6	3.6	4.0	2.8	10.4
2004	954,000	29.4	4.7	3.4	2.9	11.0
2005	961,000	30.2	4.7	3.5	2.0	10.2
2006	965,000	32.6	5.0	3.0	2.9	10.9

2007	1,001,000	32.6	4.9	4.3	2.6	11.8
2008	1,014,000	34.4	4.6	3.8	2.9	11.3
2009	1,043,000	32.4	4.7	2.8	4.1	11.6
2010	1,040,000	31.5	4.3	3.4	4.3	12.0
2011	1,085,000	31.9	5.3	3.2	4.2	12.7
2012	1,061,000	31.1	4.4	4.0	4.3	12.7
2013	1,092,000	33.1	4.2	5.1	5.1	14.4
2014	1,132,000	32.9	5.7	5.6	4.4	15.7
2015	1,160,000	34.5	4.6	5.1	4.8	14.5
2016	1,133,000	35.7	4.4	5.6	4.7	14.7
2017	1,137,000	37.4	5.6	4.8	4.4	14.8
2018	1,199,000	37.4	5.5	6.1	4.9	16.5
2019	1,240,000	36.4	5.9	5.8	5.7	17.4
2020	1,183,000	37.4	6.8	5.8	5.2	17.8
2021	1,085,000	37.9	5.4	6.9	4.7	17.0

Note: CWW analysis of the Current Population Survey by the Bureau of Census, the Bureau of Labor Statistics, Table 11. Employed persons by detailed occupation, sex, race, and Hispanic or Latino ethnicity (<https://www.bls.gov/cps/tables.htm#charemp>). The data for 2000-2001 are not available. The data for Asian American are not available before 2003.

A major determinant of women’s representation among all lawyers is their progress through the pipeline (starting with college graduates), particularly in their applications to law school. Data from the Law School Admissions Council show that since 2008, women’s representation among all applicants to law school has increased, from 49% in the 2008-09 academic year to 53.5% in 2018-19, the most recent year for which data are available.⁵ These results indicate that the leaky pipeline is not occurring at the point when individuals apply for law school.

Interestingly, the total number of applicants to law school has dropped substantially for both women and men in the past decade, from over 87,000 in 2010 to 54,527 in 2014, with a slight rebound in more recent years. A strong labor market for individuals with undergraduate degrees and rising law school tuition rates and student debt help to explain this phenomenon.

Table 2. Law School Applicants by Gender

Academic Year	Female Applicants	% Female	Male Applicants	% Male	Gender n/a	Total Applicants
2018-19	32,488	53.5%	27,508	45.3%	682	60,678
2017-18	29,772	53.0%	25,963	46.2%	407	56,142
2016-17	29,393	52.3%	26,766	47.6%	79	56,238
2015-16	28,317	50.9%	27,243	49.0%	66	55,626
2014-15	27,245	50.0%	27,244	50.0%	38	54,527
2013-14	29,454	49.6%	29,940	50.4%	32	59,426
2012-13	33,288	49.0%	34,627	51.0%	42	67,957

2011-12	37,602	47.7%	40,564	51.4%	715	78,881
2010-11	41,497	47.4%	45,877	52.4%	102	87,476
2009-10	41,472	48.2%	44,435	51.6%	167	86,074
2008-09	40,486	49.1%	41,687	50.6%	256	82,429

Note: CWW analysis of data from the Law School Admissions Council. Enrollment years 2015 and prior include applicants for the fall term only whereas the years after 2015 include applicants for all academic terms. The number of applicants are based on the data received through the month prior to the first term of each academic year. The number of applicants are based on 'preliminary final' data issued in the Current Volume Summary by Law School Admission Council. The numbers may differ from the final count of applicants that are adjusted sometime after the decision entry process.

Closely related to law school applications is enrollment and retention. Data from the American Bar Association (ABA) on law school enrollments show that since the mid-1970s, both the number of women enrolling in law school and the percentage of law school enrollees who are women have risen dramatically. In the 1976-77 academic year, slightly over 29,000 women enrolled in law school, compared to over 79,000 in the 2021-22 academic year. Women's representation among law school enrollees rose from 26.1% to 67.6%. Additional data for individuals from historically under-represented groups also show an increase in the representation of non-white individuals during this period, from 8.5% to 32.1%.

Table 3. Law School Enrollment by Gender

	Total JD Enrollment	No. of Women	% Women
1976-77	112,401	29,343	26.1%
1977-78	113,080	31,650	28.0%
1978-79	116,150	35,775	30.8%
1979-80	117,297	37,534	32.0%
1980-81	119,501	40,834	34.2%
1981-82	120,879	43,245	35.8%
1982-83	121,791	45,539	37.4%
1983-84	121,201	46,361	38.3%
1984-85	119,847	46,897	39.1%
1985-86	118,700	47,486	40.0%
1986-87	117,813	47,920	40.7%
1987-88	117,997	48,920	41.5%
1988-89	120,694	50,932	42.2%
1989-90	124,471	53,113	42.7%
1990-91	127,261	54,097	42.5%
1991-92	129,580	55,110	42.5%
1992-93	128,212	64,644	50.4%
1993-94	127,802	55,134	43.1%
1994-95	128,989	55,808	43.3%
1995-96	129,397	56,961	44.0%
1996-97	128,623	57,123	44.4%

1997-98	125,886	56,915	45.2%
1998-99	125,627	57,952	46.1%
1999-2000	125,184	59,362	47.4%
2000-01	125,173	60,633	48.4%
2001-02	127,610	62,476	49.0%
2002-03	132,885	65,179	49.0%
2003-04	137,676	67,027	48.7%
2004-05	140,376	67,438	48.0%
2005-06	140,298	66,613	47.5%
2006-07	141,031	66,085	46.9%
2007-08	141,719	66,196	46.7%
2008-09	142,922	66,968	46.9%
2009-10	145,239	68,502	47.2%
2010-11	147,525	69,009	46.8%
2011-12	146,288	68,262	46.7%
2012-13	139,055	65,387	47.0%
2013-14	128,712	n/a	n/a
2014-15	119,845	58,360	48.7%
2015-16	113,907	56,273	49.4%
2016-17	111,095	55,766	50.2%
2017-18	110,176	56,486	51.3%
2018-19	111,581	58,462	52.4%
2019-20	112,877	60,173	53.3%
2020-21	114,549	61,963	54.1%
2021-22	117,278	64,848	55.3%

Note: CWW analysis of data from the American Bar Association. Female enrollment data from 1976 to 2012 based on ABA data found at:

https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/1947_2010_enrollment_by_gender.authcheckdam.pdf, and data from 2014 to 2021 based on JD Enrollment and Ethnicity, Standard 609 Information Reports can be found at: <https://www.abarequireddisclosures.org/Disclosure509.aspx>.

Similarly, data from the ABA on bar passage rates by gender and race indicate that between 2018 and 2020, the percentage of women law school graduates who have taken the bar exam has slowly risen across racial and ethnic groups. Among the bar exam takers who identified as white, the percentage who are women rose from 46.4% in 2018 to 49.7% in 2020. Among the other racial/ethnic groups, the highest percentage of women among bar exam takers was for Blacks, and this rose just slightly, from 65.0% in 2018 to 65.5% in 2020. Among white individuals who ultimately passed the bar exam, the percentage who are women was 46.3% in 2018, and this increased to 49.9% in 2020. All the other racial/ethnic groups except for “race unknown” had an even higher percentage of bar exam passers who are women compared to white bar exam passers. Thus by 2020, in most cases women had achieved and surpassed gender equality among bar exam takers and passers.

Table 4: Number of Bar Exam Takers and Passers, by Gender and Race/Ethnicity

	2018					
	Taker			Ultimate Passer		
	# Takers	% Male	% Female	# Passers	% Male	% Female
White	20,101	53.6%	46.4%	18,676	53.6%	46.3%
Black	2,641	34.9%	65.0%	2,094	34.4%	65.5%
Hispanic	3,808	46.5%	53.5%	3,216	46.8%	53.2%
Asian	2,170	41.8%	58.2%	1,914	42.0%	58.0%
Nat.Am/Hawaiian	227	44.9%	55.1%	191	45.0%	55.0%
Non Residents	922	42.4%	57.5%	826	42.1%	57.7%
Race Unknown	1,603	56.5%	43.4%	1,434	56.9%	43.0%
2 or More	939	42.4%	57.6%	827	42.4%	57.6%

	2019					
	Taker			Ultimate Passer		
	# Takers	% Male	% Female	# Passers	% Male	% Female
White	20,076	51.4%	48.5%	18,345	51.4%	48.6%
Black	2,534	34.7%	65.2%	1,895	32.7%	67.2%
Hispanic	3,965	43.0%	57.0%	3,174	43.9%	56.1%
Asian	2,041	40.7%	59.3%	1,706	39.9%	60.1%
Nat.Am/Hawaiian	227	44.1%	55.9%	193	44.6%	55.4%
Non Resident	899	41.5%	58.5%	771	41.5%	58.5%
Race Unknown	1,455	53.3%	46.6%	1,279	54.0%	45.8%
2 or More	998	43.1%	56.6%	838	42.4%	57.3%

	2020					
	Taker			Ultimate Passer		
	# Takers	% Male	% Female	# Passers	% Male	% Female
White	19,453	50.3%	49.7%	17,050	50.1%	49.9%
Black	2,328	34.4%	65.5%	1,543	32.5%	67.5%
Hispanic	3,638	41.1%	58.9%	2,750	41.6%	58.4%
Asian	1,972	41.1%	58.8%	1,576	40.8%	59.1%
Nat.Am/Hawaiian	222	44.6%	55.0%	173	45.1%	54.9%
Non Residents	842	40.3%	59.6%	727	40.2%	59.7%
Race Unknown	1,275	51.5%	47.5%	1,075	52.2%	46.9%
2 or More	1,020	43.1%	56.8%	834	43.9%	56.0%

Note: CWW analysis of data from the American Bar Association, https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/20210621-bpq-national-summary-data-race-ethnicity-gender.pdf. All persons are only reported once. Total counts include those who identify themselves as neither male nor female, and total counts can be greater than the sum of male and female.

The percentage of law school graduates who were initially employed after graduating in bar-passage-required jobs has also changed over time and now shows a slight advantage for women. As of 2019, 77.2% of all female recent law school graduates had initial jobs that required bar exam passage, compared to 75.5% of all men. Looking more closely at the intersection of gender and race, these initial employment rates were highest for white women and multiracial women, followed by white men.

Table 5. Percentage of Graduates Employed in Bar Passage Required Jobs By Race/Ethnicity and Gender, 2015-2019

	2015	2016	2017	2018	2019		2015	2016	2017	2018	2019
MEN						WOMEN					
All	67.0	67.5	71.2	72.8	75.5	All	66.4	68.1	72.8	73.7	77.2
Asian	60.6	61.1	66.4	68.3	66.2	Asian	64.5	66.4	70.4	70.7	73.7
Black	49.7	51.7	54.9	58.3	61.7	Black	48.8	51.0	58.8	57.2	62.6
Hispanic	63.9	63.5	68.3	70.0	73.2	Hispanic	62.7	64.6	68.5	73.1	73.1
Multiracial	62.6	61.8	63.4	74.9	74.8	Multiracial	64.5	64.3	70.9	71.3	78.7
Native American	67.4	57.6	69.2	72.9	58.3	Native American	62.8	67.1	71.6	70.5	65.6
Hawaiian/Pacific	53.8	69.6	41.7	80.0	75.0	Hawaiian/Pacific	53.8	61.3	87.5	45.5	72.7
White	69.3	70.3	73.9	75.6	78.4	White	70.2	71.7	77.0	78.1	81.1

Note: CWW analysis of data from the NALP. Data on Recent Graduate Statistics, National Association of Law Placement from <https://www.nalp.org/0121research>.

These high bar passage rates, however, do not translate into long-term advancement. In U.S. law firms, in 2021, women comprised close to half (48.2%) of all associates but held only 25.9% of all partnerships, including equity and non-equity (Table 6). These numbers have risen only slightly since 2009, when women comprised 45.7% of associates and 19.2% of all partnerships. The figures for all people of color and particularly for women of color are substantially lower, demonstrating that law firms are not diverse workplaces, and that they need to focus their efforts on making their workforces more inclusive.

Table 6: Representation of Traditionally Under-represented Groups in Law Firms

	Partners			Associates		
	% Women	% People of Color	% Women of Color	% Women	% People of Color	% Women of Color
2021	25.9	10.8	4.1	48.2	27.6	15.9
2020	25.1	10.2	3.8	47.5	26.5	15.2
2019	24.2	9.6	3.5	46.8	25.4	14.5
2018	23.4	9.1	3.2	45.9	24.2	13.5

2017	22.7	8.4	2.9	45.5	23.3	12.9
2016	22.1	8.1	2.8	45.0	22.7	12.4
2015	21.5	7.5	2.6	44.7	22.0	11.8
2014	21.1	7.3	2.5	44.9	21.6	11.5
2013	20.2	7.1	2.3	44.8	20.9	11.3
2012	19.9	6.7	2.2	45.1	20.3	11.1
2011	19.5	6.6	2.0	45.4	19.9	11.0
2010	19.4	6.2	2.0	45.4	19.5	10.9
2009	19.2	6.1	1.9	45.7	19.7	11.0

Note: CWW analysis of data from the NALP. Data based on Table 1. Women and People of Color at Law Firms, 1993-2021, 2021 Report on Diversity in U.S. Law Firms from <https://www.nalp.org/reportondiversity>.

Women hold less power than men, even when they are partners. Table 7 shows that among U.S. law firms tracked by the National Association for Law Placement (NALP), in 2021, women accounted for only 22% of law firms' equity partners (those who occupy the most prestigious and powerful positions, and who hold an ownership stake in the firm). The percentage of women among non-equity partners was higher (32.5%), but still substantially below gender parity. Even lower is the representation of people of color: 9% of equity partners and not much higher (12%) for non-equity partners. These numbers have shown some improvement, but very slow, since 2011.

Table 7: Representation of Traditionally Under-represented Groups Among Equity and Non-Equity Partners

	Equity		Non-Equity	
	% Women	% People of Color	% Women	% People of Color
2021	22.0	9.0	32.5	12.0
2020	21.3	8.1	31.6	11.8
2019	20.3	7.6	31.1	10.7
2018	19.6	6.6	30.5	10.7
2017	18.7	6.1	30.7	10.4
2016	18.1	5.8	29.4	9.9
2015	17.4	5.6	28.8	9.4
2014	17.1	5.6	28.2	8.9
2013	16.5	5.4	27.6	9.1
2012	15.3	4.8	27.3	8.4
2011	15.6	4.7	27.7	8.3

Note: CWW analysis of data from the NALP. Data based on Table 4. Distribution of Equity and Non-equity Partners by Gender and Race/Ethnicity, 2011-2021, 2021 Report on Diversity in U.S. Law Firms from <https://www.nalp.org/reportondiversity>.

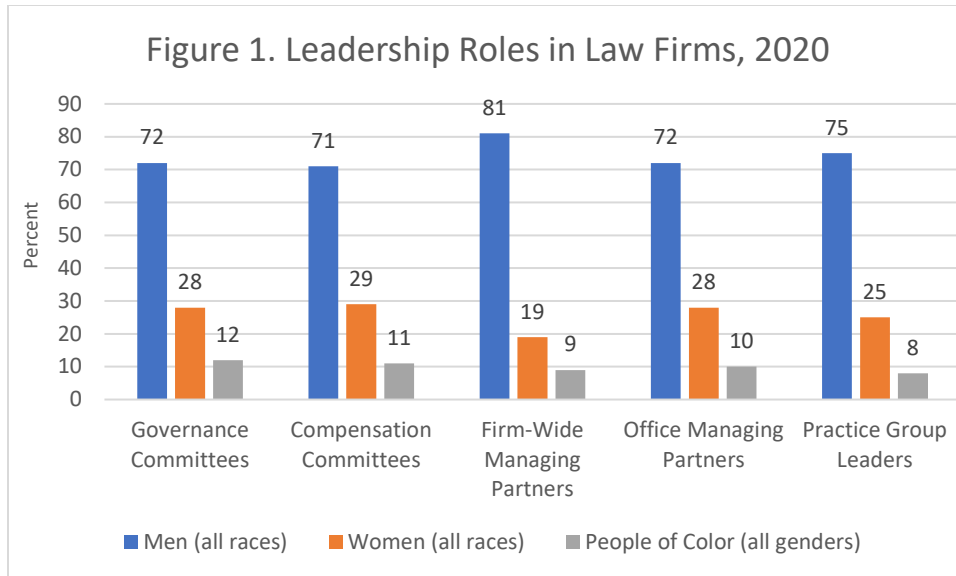
Another organization that tracks women's progress in U.S. law firms is the National Association of Women Lawyers (NAWL), which has been conducting an annual survey of law

firms in the U.S. since 2006. These surveys point to very slow and incremental progress for women, as well as the challenges that firms continue to face in supporting and promoting women and diverse attorneys. Despite universal adoption of women's initiatives, a ramping up of diversity initiatives, and increased awareness of the challenges women face in the law firm, there have been only small increases in the overall representation of women and diverse attorneys, especially among partners – those who occupy the more senior, higher-status positions in law firms.⁶

Results from the NAWL surveys on women's representation in different levels of seniority within law firms are similar to those of the NALP. In 2021, women constituted 47% of associates at law firms, a number that has changed very little for the past ten years. Moreover, about 25% of associates were people of color (5% Black, 10% Asian/Pacific Islander, 6% Hispanic/Latino, 3% multiracial, and about 1% other racial identities). Women comprised 32% of all non-equity partners, and people of color (of all genders) were just under 12% of all non-equity partners. These percentages were even lower for equity partners: women made up 22% of all law firm equity partners, and people of color (of all genders) accounted for only 9% of equity partners. Again these percentages have changed very little in the past ten years.⁷

A 2017 report from McKinsey paints a similar picture of the declining representation of women and people of color while moving up along the ranks at post-associate levels in law firms.⁸ Moreover, a 2018 report from the ABA indicates that these low figures for the representation of women are similar in high level positions of other types of legal institutions, including general counsel positions in Fortune 500 companies, law school Deans, and the U.S. Federal Court system.⁹ More recently, a 2022 report from the ABA points to greater racial and ethnic diversity in hiring in 2020 relative to 2019 among large law firms, but leadership positions were still primarily held by whites and by men.¹⁰

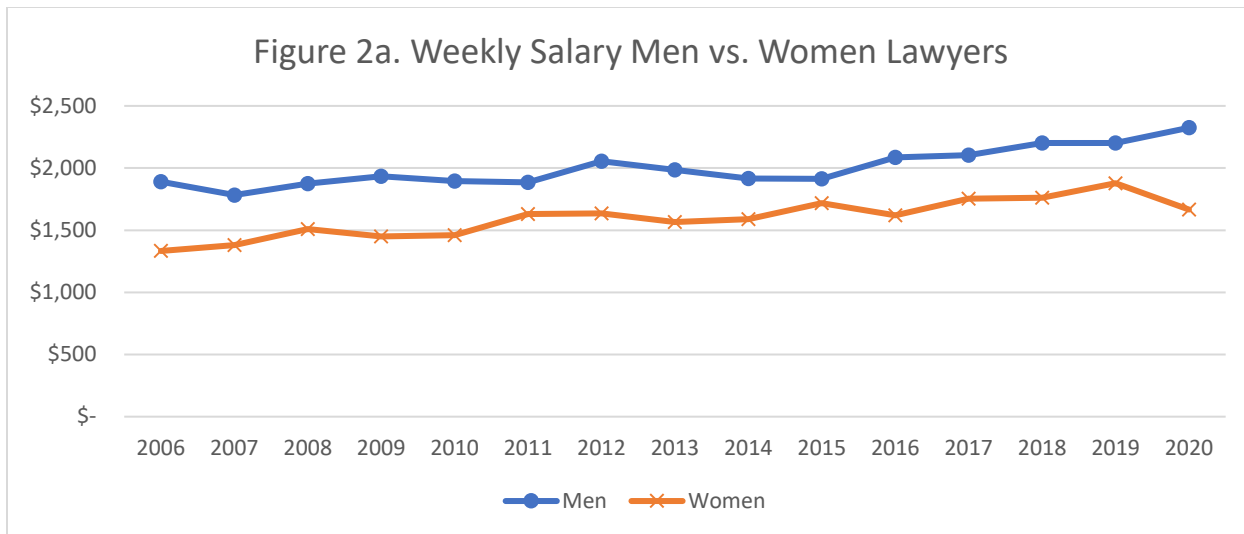
The NAWL also tracks the composition of leadership roles in law firms. As shown in Figure 1 below, similar to the findings for the composition of partners at law firms, women and people of color hold a relatively small share of leadership positions, especially that of firm-wide managing partner. The representation of women and people of color is similarly low on compensation committees, which could partly explain why gender and racial pay gaps are still pervasive across law firms given that compensation committees do have decision-making power on compensation at some large law firms.¹¹ Again, these findings are echoed in the 2017 McKinsey report, with the additional point that women constitute 26% of board of director position.¹²



Source: CWW analysis of data in NAWL (2020).

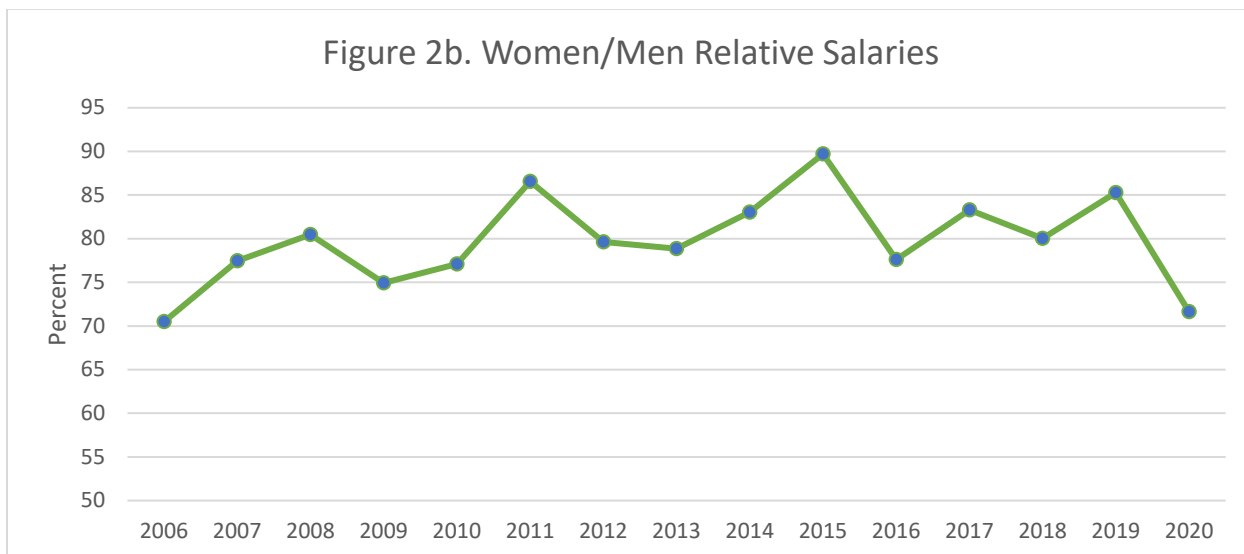
Gender discrepancies in pay remain and are institutionalized in the legal profession. There is clear evidence of a continued gender gap in earnings among lawyers. Evidence reviewed in Sterling and Chanow (2021) indicates that male partners have substantially higher average compensation than women partners.¹³ For example, male equity partners surveyed by the ABA earned 27 percent more than women equity partners. Another study in their review clearly shows that male partners make on average 53 percent more than women partners at the largest firms (\$959,000 per year vs. \$627,000 per year). Finally, a study of independent lawyers and small firms found that women partners made 36 percent less than men (Sterling and Chanow 2021). An important question is the extent to which the different ways that law firms determine compensation for equity partners help to explain some of these gaps. Research in Cotterman (2004) examines the different approaches to compensation decisions among law firms, but it stops short of assessing whether these approaches work to improve or worsen earnings disparities between men and women.¹⁴

These discrepancies among partners in law firms are representative of earnings disparities among all types of lawyers. Figure 2a shows that women's salaries since 2006 have consistently remained below those of men, with men averaging about \$2000 per week during the period and women averaging approximately \$1600 per week. Also of note, after both the 2008-09 and the 2020 economic recessions, men's salaries did not fall whereas women's salaries dropped, especially in 2020.



Source: CWW analysis of Bureau of Labor Statistics data, median weekly earnings of full time wage and salary workers by detailed occupation and sex, from <https://www.bls.gov/cps/tables.htm>.

These discrepancies are also demonstrated by Figure 2b, which shows women’s relative salaries during the period. The ratio of women’s to men’s weekly salaries rose from 70.5% in 2006 to a peak of 89.7% in 2015 before dipping back down in the past few years. This ratio dropped dramatically from 85% in 2019 to 71.6% in 2020. Much of this fall is likely explained by some women working fewer hours due to the childcare disruptions caused by the pandemic. In fact, survey evidence on Covid-19 impacts on household coping strategies show that in the Northeast, up to 29% of respondents cut their working hours due to childcare disruptions.¹⁵



Source: CWW analysis of Bureau of Labor Statistics data, median weekly earnings of full time wage and salary workers by detailed occupation and sex, from <https://www.bls.gov/cps/tables.htm>.

The *After the JD (AJD)* research study, commissioned by the American Bar Foundation and the NALP, further gauges income disparities within the profession. The *AJD* is an empirical

study of the career outcomes and experiences of a cohort of almost 5,000 new lawyers. It is a nationally representative sample of lawyers who were followed over ten years after their law school graduations; the cohort was first surveyed in 2002, a second time in 2007, and a third in 2012.

These data indicate that after only 2 to 3 years of practice, women and men had a 5% gap in income. By Wave 2, after 7 years, that gap had increased to 15%, and by Wave 3 after 10 years of practice, the gap was 20%. As shown in Table 8, in 2012, the largest firms showed the greatest gap between women's and men's incomes.

Within the public sector, the gap narrows considerably. Yet, there is still no parity on a widescale basis. Women in the public sector made between 96% and 98% of men's incomes for comparable positions.¹⁶ In some contexts, women's median incomes exceeded those of men, including full-time lawyers in solo practices, lawyers in unknown firm sizes, and public interest lawyers. Also of note, in most cases, gender earnings ratios for full-time lawyers only (column 3) exceed the ratios for all lawyers (column 6). This is also true of gender earnings ratios overall for the U.S. This is largely because the ratios include part-time workers who earn less than full-time workers, and women are over-represented among part-time workers.

Table 8. Median Income by Organization Type and Gender for Full-Time Lawyers, 2012

	Full-Time Only			Everyone		
	Women	Men	W/M Earnings Ratio	Women	Men	W/M Earnings Ratio
Solo	65,000	60,000	108.3	60,000	60,000	100.0
Firm: 2-20 lawyers	95,000	120,500	78.8	87,000	120,000	72.5
Firm: 21-100 lawyers	135,000	165,000	81.8	131,000	165,000	79.4
Firm: 101-250 lawyers	170,000	193,000	88.1	160,000	193,000	82.9
Firm: 251+ lawyers	191,000	290,000	65.9	191,000	290,000	65.9
Firm Size Unknown	85,000	115,000	73.9	170,000	115,000	147.8
Gov't – federal	124,000	129,000	96.1	122,744	129,000	95.2
Gov't – state	80,000	82,000	97.6	78,000	82,000	95.1
Legal services/public defender	76,500	79,000	96.8	75,000	79,000	94.9
Public interest	90,000	70,000	128.6	85,000	70,000	121.4
Nonprofit/education	90,000	100,000	90.0	78,000	90,000	86.7
Business - inside counsel	180,000	210,000	85.7	175,000	210,000	83.3
Business - not practicing	100,000	145,000	69.0	95,000	134,000	70.9
Other	105,000	122,000	86.1	105,000	110,000	95.5
Total	106,000	132,000	80.3	100,000	130,000	76.9

Note: National sample from the After the JD study. Earnings include salary, bonus, and profit sharing. http://www.americanbarfoundation.org/uploads/cms/documents/ajd3report_final_for_distribution.pdf

III. Underlying Issues: A Scan of the Literature on Women in the Legal Profession

Numerous studies in the academic and gray literature have examined the causal factors behind gender gaps in the legal profession. This section offers a synopsis of the underlying issues as well as strategies to address them. As documented in the previous sections, even though women have entered law school in relatively equal numbers as men over the past few decades, they remain substantially under-represented in positions of leadership and power across sectors within the legal profession, especially private practice.

One of the key barriers is the incompatibility between the demands of working in private practice with the demands of caregiving at home, where women still have disproportionately higher workloads. Legal workplaces are notoriously inflexible, entail unpredictable schedules, and require long working hours, which makes it difficult for parents to balance their professional work with raising children, or to take care of an aging/sick parent.

Closely related, practices around the partnership track also serve as a key roadblock for women. Not only is the partnership track time period inflexible, but it has also risen from six years to anywhere from 10 to 15 years. This period effectively covers most new lawyers until they are almost 40 years old, making it difficult to delay child bearing. Unlike in academia where many universities allow the tenure clock to be paused, at least for childbirth, most private law firms do not allow the partnership to be paused for family reasons. This issue of inflexible partnership tracks has contributed to a large differential in contract partners and equity partners who are women, which in turn is a factor behind gender differences in compensation in the legal profession.¹⁷

The challenges in reconciling the demands of a legal career with the responsibilities of family life is cited in a number of studies as a key reason for why women have left the legal profession.¹⁸ For example, Tremblay and Mascova (2015) show that these challenges result in a high permeability of social time and even a spillover of work into private and family life.¹⁹ In addition, major law firms have still not fully embraced gender equality and work-life balance.²⁰ In McKinsey's (2017) report on women in law firms, survey results indicate that fewer women (58%) than men (73%) wanted to be partner. The study also shows that the top reason associates gave for not wanting to be partner was the inability to balance family and work commitments: more women (61%) than men (51%) gave this reason. Another important reason that both men and women gave for not wanting to be partner was that there were not enough benefits – financial and otherwise – to make up for the costs to their personal and family lives.²¹

The time demands and inflexibility of working at a law firm serve as one of the biggest constraints facing women lawyers. These barriers not only impede women's advancement within the legal profession, they also impact decisions about when to have children. Park and Rim (2020), find that women lawyers are more likely than men to delay the birth of their first child.²² This gender difference in fertility timing is more pronounced among associates who are being considered for promotion, demonstrating that women delay fertility until late career in strategic pursuit of their career advancement.

Women are trying to avoid a “motherhood penalty” or comparable backlash that exists in the workplace as a response to childbirth. Evidence in the Park and Rim study indicates that women were more likely than men to report that employers questioned their commitment to work after childbirth, that they lost challenging assignments, and that they lost their own clients after childbirth.

Gender bias and outright discrimination also play a role in hiring and promotion decisions that contribute to persistent gender inequities in the legal profession. Bias can also contribute to disparities in compensation and in the distribution of assignments at law firms, resulting in fewer billed hours and less credit for women coming up the ladder. Closely related is “visibility bias,” in which perceptions of women’s representation exceed their actual representation, so that inequities are relatively invisible and remain unaddressed.²³

Evidence in Nelson et al. (2019) indicates that perceived discrimination on the basis of gender, as well as race and sexual orientation, remains pervasive in the legal workplace despite efforts of bar leaders to eliminate discrimination from the legal profession. In particular, attorneys of color, white women, and LGBTQ attorneys perceive high levels of workplace bias compared to white heterosexual male attorneys and to respondents in other workplace studies. Indeed, women attorneys, in every racial and ethnic group, reported higher levels of discrimination than their male counterparts (ranging from 50% of Black women to 30% of white women).²⁴

Focus group and interview data in Sterling and Chanow (2019) indicate that gender bias is endemic in law firms and results in disparities in compensation, promotions, work assignments, and the ways in which work is recognized and credited. For example, study participants reported that they are often paid less for comparable or larger books of business than their male counterparts. The justifications given by their firms for the pay disparities are facially discriminatory: the need for the male colleagues to financially support their families.

In addition, men were getting credit for the work that women originated. Origination credit is determined based on the dollar value of revenue from clients a partner has brought to a firm, and that credit is awarded during the compensation process to the partner who brought in the clients or the business, regardless of who is currently working on the matter. Origination credit has taken on increasing weight in many law firms’ compensation systems, and the available evidence suggests that how origination is credited holds women back in compensation decisions. In their interviews and focus groups, Sterling and Chanow (2019) found two common cases in which women were not getting credit for business: (1) they did not get credit for cultivating relationships with existing clients, and (2) they did not receive credit when their firm got new business even when they were part of the pitch team.

This endemic inequity dampens the aspirations of younger women lawyers to become partner. A study based on *After the JD* data analyzes the sizeable gap between men and women in their early aspirations to become law firm partners, despite similar early investments by employers, and educational backgrounds (Azmat et al. 2020).²⁵ The study shows that aspirations are affected by early work experiences and can be dampened by commonplace work occurrences

that occur early in people's careers including harassment or demeaning comments. This research highlights the importance of accounting for, and managing, career aspirations as an early intervention to close gender career gaps in the legal profession. Growing gender pay gaps in the higher ranks are undoubtedly another reason why aspirations to become partner may be dampened.

These inequities need to be addressed not only within law firms, but also in legal education, a critical place for creating change in the legal profession as it relates to the ethical issue of gender equality.²⁶ As noted in Bowman's (2009) historical piece, "Law firms are a quintessential example of a male-structured working environment; they exist in a male dominated society and women are still required to fit into that model if they are to succeed," (p. 24).²⁷ Discriminatory practices and traditional attitudes are no longer working, and the workplace environment at law firms needs a new mold that meets the needs of all lawyers regardless of gender, race, or sexual orientation.

IV. Best Practices in Action: Firm Case Studies

Several firms have been successful in both retaining women lawyers and in promoting them to partners. One such example is Jenner and Block, where nearly 30% of partners are women. One mechanism through which the firm retains and promotes women is through mentorship. Jenner and Block purposefully pair their first- to third-year associates with mentors, and not always pairing women with women: they often pair women with male mentors because they know that is where a lot of the power in the industry is held. Similarly, McDermott, Will, and Emery, another firm with high rates of women partners (32%), have focused their attention on retention through meaningful networking. The firm has a retention group where women from across different practice groups are given opportunities to connect and share resources.²⁸

Jenner and Block also has a 'returnership' program for women who have taken a step back for family obligations. The program offers a flexible return process, allowing lawyers to ramp back up at their pace when returning from parental or family leave. The firm has found this helps keep individuals affiliated with the firm, rather than losing their talent upon reentry to the labor force.²⁹ Similarly, Epstein, Becker, and Green offers more customizable career paths, allowing women in caregiving rolls to pursue more low-key work during that time of their life, but also encouraging women's roles as breadwinners in their family. The firm makes a point to explicitly avoid the assumption that childrearing women will be less committed to their paid work, helping to minimize bias young women lawyers may face. The firm also emphasizes the importance of seeing other women in leadership and cites its several women board members as providing visible career paths for their lawyers.

V. Recommendations

Employers with best practices that provide effective work/life programs arguably will benefit from better recruiting, greater productivity, improved client service, and reduced expenses associated with turnover. The practices that law firms can use to retain women lawyers highlighted in this report fall into four categories: (1) assist with **work/life balance**, (2) monitor **advancement policies**, (3) develop **resources**, and (4) remove **bias**.³⁰

(1) In the **work/life balance** category, an important strategy is to define the business case for assisting attorneys with their work/life balance; that is, best-practice firms are able to iterate how a firm's bottom line is affected by the inclusion of flexible work arrangements. Managers and partners emphasize this best practice as critical to any successful change in policy implementation. Without the support of key stakeholders who accept the business case, programs and policies to advance women struggle for justification. Defining the business case for such policies is critical given how legal practices in the past few decades have transformed into enterprises that more closely resemble corporate businesses rather than genteel practices, with a keen eye on the bottom line.³¹

Other best practices in the work/life category reflect directly on flexible work arrangements. This includes allowing customizable work arrangements to best fit the needs of the individual, and making them available to all attorneys at the firm, not just women, mothers, or other specific populations. Several reports by bar associations and law societies have advocated policies regarding workplace family accommodations (e.g., flex time, compressed work week, flexible place, part-time hours, job sharing, and parental leaves), yet many of these alternative work patterns are negotiated at the individual level rather than the organizational level, leaving room for inequities.³²

For instance, scholars have found that women in the legal profession often find themselves unable to return to work after having children because of strenuous and inflexible work hours, and among mothers who do return to work, they often face halted career progression or permanent damage on their track to partnership.³³ Qualitative evidence suggests that coworkers did not think mothers took their jobs seriously after having children.³⁴ A quantitative study found that caring for children reduced women's pay over the span of their legal careers, and that working part-time for even just a few months early in their careers damaged their long term earnings permanently—by an estimated 5.6% for every year they worked part-time.³⁵ Having written policies for part time and flexible work arrangements are a best practice because they can ensure equitable implementation. Best-practice firms also have an individual or department assigned to monitoring flexible work arrangements at the firm level, reviewing its impact among different practice areas at the firm, and to reaffirm that the arrangement is beneficial to both the firm and the individual employee. Firms should have less aversion to flexible work arrangements, especially those that involve working from home at least part of the week, given the large increase in telework arrangements across sectors during the Covid-19 pandemic and a growing body of evidence that employees were equally if not more productive compared to before the pandemic.

Considerable progress has been made with firms offering paid leave policies. Evidence in NAWL (2020) indicates that most large law firms offer paid parental leave, for an average of 15 weeks, and some firms offer additional unpaid leave, for an average of 8 weeks. Conditional on taking leave, women use virtually all (99%) of the paid parental leave time, while men use 73% of the available paid parental leave. One reason why men are less likely to take parental leave and use a smaller percentage of the allotted leave time is because they worry it may hurt their careers. In a qualitative study on male lawyers and parental leave in Finland and Canada, many

also cited stigmas that they would be perceived as lazy or unmotivated if they took leave. Even those in leadership positions shied away, with one interviewee stating, “as I am a partner, the usual parental leave does not apply to me.”³⁶ Other studies have shown that taking parental leave means many lawyers lose clients, which is also costly for their career building.³⁷

(2) In terms of **advancement policies**, women lawyers are often unsure of the pathways to advancement in their firms, and poor promotion opportunities are a leading reasons for leaving a former employer. A 2013 report recommends building transparency into the compensation and promotion process, in which there is a diverse compensation board before which attorneys can present an appeal for their compensation review process.³⁸ Best practice firms that attract and retain top women lawyers make their advancement policies transparent, and also review their assignment and evaluation systems regularly to identify gender and other types of bias. Whether a review of assignment and evaluation system be undertaken by internal decision makers, human resources departments, or external agencies, reviewers should examine key metrics in pay differences and promotional opportunities and should keep in mind how gender differences (like those in care expectations) can imply uneven playing field. Such reviews need also take into account scholarship which indicates there may be gender difference in advertising individual contributions: in other words, men in the legal profession are more likely to self-promote than women.³⁹ Ultimately, a fair review of assignment and evaluation systems will keep these gender differences in mind and will incorporate metrics accounting for these differences in order to level the playing field.

(3) Developing **resources** that are proven to retain and advance women is also important in best-practice firms. Examples include programs like a “Women’s Initiative” that provide opportunities for formal or informal mentoring, business and professional development, and visibility in the social fabric of the firm. The key question is whether these kinds of initiatives are meaningful and impactful.

More opportunities for training are highlighted in Melaku (2019) as key for the advancement of women and people of color in the legal profession. This goal would be achieved with structural changes, such as making partners accountable for making sure that women and people of color have access to training opportunities that will help them to advance in their careers.⁴⁰ Another key resource is access to appropriate technology. Examples here include technological assistance through at-home access to firm systems, hand-held devices, and similar technologies. These resources are critical to lawyers’ ability to serve their clients as needed while maintaining work-life balance.

(4) A final best practice category is removing **bias**. Many women in the legal profession are stereotyped as either cutthroat or as secretaries or housewives, and in either case, men are almost always perceived as better leaders and decision makers over women.⁴¹ These types of biases often mean men receive promotion over women. While much of the blatant gender bias that was prominent in the workplace in earlier decades is less evident, there are still examples of bias affecting career advancement that firms should be aware of, and about which they should make the effort to educate their entire organization. Managers in best-practice firms see this as an important part of their role as the public voice of their firm’s policies.

Policies to remove bias should focus especially on four key areas.⁴² The first is recruitment and hiring, and examples of policies include requiring a diverse applicant pool before moving forward with the hiring process, involving people trained to stop bias in the hiring process, and using structured interviews such as using the same questions for every candidate. The second key area for removing bias is making and crediting work assignments, and examples of policies here include giving credit (both in terms of hourly pay and promotion potential) for work done on committee work and mentoring, establishing a rotation for sharing administrative responsibilities, and giving equal credit for equal work done on an assignment. The third key area in removing bias is performance evaluations, and examples here include setting clear and specific performance criteria directly related to job requirements, and training people involved in the process to spot and interrupt bias.

The final key area in removing bias is determining compensation, and examples of policies include looking for patterns in compensation data through multiple lenses to identify disparities, and giving credit for non-billable work that is vital to the firm. Giving credit for non-billable hours is particularly important for women given that women tend to cluster in certain areas of the law, like employment law, where the billable rates are lower than other areas of the law where men cluster, such as mergers and acquisitions. Moreover, the importance of business generation in determining compensation has grown in recent years. The current culture around compensation places too heavy weight on billable hours and origination credit in determining pay, and this culture needs to change. In its 2013 report, the ABA recommended that credit be more fairly divided among teams, rather than individuals, considering roles like, “who brought in the work, the billing partner, the partner who manages the client relationship, and the partners who actually do the work.”⁴³ They argue that this type of team mentality and the explicit accreditation to social relationships with clients will help even the playing field for women.

V. Conclusion

Covid-19 has forced all workers to evaluate their relationships with their employers. It has also made clear that employees value flexibility, and that they can be just as productive and responsive to work needs working remotely from home. Employers should institutionalize some of their Covid-era strategies to give women employees the flexibility that they have expressed that they need, and should not penalize them for leveraging technology to perform their work duties.

The changing landscape of work life now intersecting with home life is poised to shift social norms around work-life balance. Workplace accommodations and occupational tracks to provide working parents with greater flexibility to meet their parenting demands have long been associated with stigma. By way of a virus, this stigma may dissipate as women and men feel less ashamed of creating boundaries around work and home. At the same time, senior management at law firms (still predominantly held by men) may drop their preconceptions of diversity and inclusion support programs as signals that women are more committed to their families than the workplace. During the pandemic, these same men have needed to deal with juggling their own

paid and unpaid work, a change that may pre-empt longer-term changes in views as to what constitutes an ideal lawyer.

Even where firms have implemented gender-aware policies, actual outcomes in terms of greater equality in partner promotion and compensation may be slow to change. Explicit action at the firm level could help ensure that policies translate into realized outcomes. Senior leadership should take the mask off work-life overlap and communicate company support for leave programs. Such messaging is particularly important because both men and women are stigmatized or feel shame in taking advantage of workplace programs that support leave for unpaid care work. Senior leadership should also be encouraged to take advantage of leave programs, thereby playing an essential role in communicating what the firm values. This can go a long way to help de-stigmatize taking advantage of family-friendly policies and increase acceptance among all employees. To create sustainable workplaces in the legal profession that support working parents, these practices must be supported and reflected by key stakeholders, leadership, employees, and clients.

Some law firms have already made strong advances in retaining and advancing women within the legal workplace; sharing their strategies will help other firms improve their workplaces by creating more women-friendly environments. In the legal profession, the best talent means the best business. As women's involvement in the field becomes more important, law firms are seeking to increase their bottom line by stemming the tide of attrition and dissatisfaction. The business case for family-friendly policies and women's initiatives could not be more compelling. This report provides firms with a clear guide to the steps they can take to increase retention and advancement of the talented women lawyers they employ.

Endnotes

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- ¹ The Center for Women and Work thanks Kirsten Branigan, Elise Holtzman, Kristin Sostowski, Jillian Stein, Corinne McCann Trainor, and Penny Venetis for their helpful comments on this issue brief.
- ² This surveys and the associated citations are discussed further below.
- ³ This section represents an update and extension of Lee, Philip, "The Demographics of the Profession," *IILP Review 2019-2020: The State of Diversity and Inclusion in the Legal Profession*, pp. 13-39. https://theiilp.wildapricot.org/resources/Documents/IILP_2019_FINAL_web.pdf.
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ABOUT THE CENTER FOR WOMEN AND WORK

The Center for Women and work (CWW) promotes economic and social equity for women workers, their families, and their communities. CWW conducts research, advances education, and engages in programming that support women in the workplace and contribute to effective policy making. CWW's work focuses on providing training, technical assistance, and programs for students, educators, industry, and governments; analyzing and addressing issues that directly affect the living standards of working families locally and globally; and collaborating with partners to support community-level work. CWW is housed within the School of Management and Labor Relations at Rutgers, The State University of New Jersey and is a member of the Institute of Women's Leadership Consortium.

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