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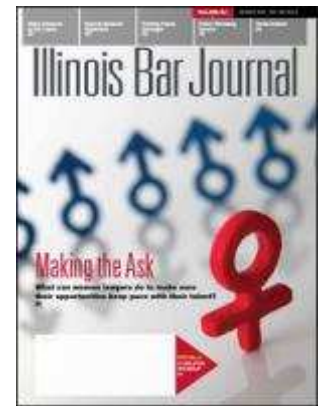
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Women in the Law

Making the Ask

By Ed Finkel

What can female attorneys - and firms that want to hire and keep them - do to ensure that their compensation and opportunities keep pace with their talent and commitment? Do women lawyers define success differently? Attorneys and law firm reps share their thoughts and advice.



Female attorneys need to be more strategic than men to advance their careers, says Valerie Bell, an attorney, civil rights activist, and policy consultant in Clayton, Mo., who began her career in a New York law firm and later worked for a state economic development agency.

"Being as excellent as you can is key because it sets the tone for so many other things," Bell says. "Your own excellence becomes a strategy for being able to negotiate on your own behalf."

Bell was a panelist at the recent ISBA Law Ed program *Because You're Worth It! Achieving Advancement & Fair Compensation in the Legal Profession*, a seminar presented by the ISBA's Committee on Women and the Law. In addition to career advice and a case law update, the program featured SIU Professor Rachel Bridges Whaley's analysis of a recent ISBA economic survey.



Whaley reported gender gaps throughout the state in salary and overall earnings at the partner level, while pay for associates is considerably more equal (see chart on p. 24). She also found a significantly brighter picture for women in firms that already have higher percentages of females overall and at the partner level, a somewhat greater interest

among men than women in becoming partner, and a somewhat higher percentage of men who said they had the opportunity to negotiate their salary.

Not one of the boys

Women need to advocate for their advancement, especially when they have recently won a major case or otherwise performed outstanding client service, Bell says. "Those are great times to raise the question about your compensation and your work in the firm," she says.

Women often face issues related to maternity that can slow their advancement in their firms, but there are also other stumbling blocks that affect all women. Bell, who is African American, once found out that her name had been removed from a large, extensive research memo she had prepared for a client, and that a white male had been asked to present the memo. "I thought I was going to go ballistic, but it's important in those situations to keep calm," she says. The next day, she went to the partner for whom she had done the work and demanded an explanation. He sheepishly - but honestly - told her the client did not feel comfortable with women or blacks.

"My response was, next time find a white guy to do the hard work," she says. "I said, 'That is not going to happen again.' ... That became a little bit of a legend at the firm: 'Did you hear how she just told him what the story was?'"

Reena R. Bajowala, partner in complex commercial litigation at Jenner & Block LLP in Chicago, experienced a similar issue four or five years into her career. Attorneys at her firm took a Fortune 500 client with whom she had worked closely to a college football game at her alma mater, and she was not invited although a junior male associate was. When she confronted the relationship partner about the incident, "He hemmed and hawed and essentially said, 'I didn't know you wanted to go,'" she says.

Making the ask

Don't be shy. Whether it's asking for new and different benefits or negotiating salary, Bajowala says, women have to be willing to make the ask in the first place. "The worst that can happen is that they say 'no,'" she says. "Women are often shy to put forth their accomplishments and say, 'I'm at or above the level of my cohorts.'" Jenner provides the ability for all attorneys to appeal their compensation determinations, she adds.

Kristen Prinz, a solo practitioner in labor and employment at The Prinz Law Firm in Chicago, believes that broadly speaking, women are shyer about asking. She recently ended up on the other side of this discussion when her assistant, whom Prinz regards highly, asked to speak with her, and Prinz anticipated an ask for higher salary. She was disappointed when the assistant did not make that ask and initially did not raise the subject herself because it was not the usual time for her to be giving a raise.

But Prinz later did bring it up, and her assistant said she had been thinking about it. "I felt like, I don't want to be the person who's not treating somebody fairly because they're not speaking up. It was a learning experience for her, too," she says. "A lot of times, people expect that the person on the other side of the conversation knows what you need."



Valerie Bell



Well-intentioned law firms sometimes assume they are treating people well, not realizing that employees feel they're not getting the benefits or compensation they need, Prinz says. "Things like maternity leave or paternity leave, they're not going to come up with the policy until somebody says, 'Hey, we need the policy,'" she says. "Women are better off just saying, 'I think you should offer X amount of paid leave.' ... You want to put that person in the position of thinking, maybe what I was initially offering wasn't fair."

Kristen Prinz

When a firm has offered an attractive solution for something like maternity leave, Prinz would counsel the next woman in line to assume the firm will want to do the same thing for all. "Sometimes it's better to say, 'I know this is what we've done in the past, and I assume you guys want to be consistent,'" she says.

Make it about the firm, not you. But women should not raise their own financial situations when asking for a raise, Prinz says. "It is irrelevant to the business," she says. "Somebody told me about an employee who said, 'I just bought a home. I need X percentage [raise] to account for that.' Both sides have to look at this as a mutual relationship" that requires a win-win.

Christopher J. Bannon, co-managing partner at 32-attorney Aronberg Goldgehn in Chicago, says his firm had zero women partners 20 years ago but the partnership is now 35 percent female. He believes all attorneys should go into a review process ready to talk about their performance and attributes. They should lay out "what their value to the firm is and will be, and be prepared to advocate for those, and be prepared to ask questions about how the firm views those same attributes," he says. "And then be prepared to negotiate."

What firms can do

In plotting their strategies, however, women who plan to have a family face a different set of challenges than men, says Bell, who received a year off, six months paid, when she had her first child. "We have the joyful task of being the child-bearing group," she says. "It's very difficult to just plot a path from 'A' to 'Z' and say, 'This is what I'm going to do.' ... I can't tell you how many people get pregnant and say, 'Oh my gosh, what am I going to do now?'"

Flexible hours and more. Law firms can help their women attorneys think through that question in creative ways if they are so inclined, says Bell, who ultimately left her original firm despite what they offered her for maternity leave because they expected her to return to working 60 hours per week.

"Firms can devise scenarios where they can take advantage, if you have two or three women out at one time, they might be able to collaborate on one case, or for a time job-share: you cover this piece, I'll cover that piece," she says. "They're investing in the female lawyers that they have in the firm, and that will create a lot of good feeling. At some point, that female is going to pop out on the other end [of the mommy track] and be ready and raring to go."

The state-run urban development corporation for which Bell worked in New York was strategic in this sense, and even some of their legal work around the 1990s-era redevelopment of Times Square was handled in this fashion. "I would think, 'Firms are so silly not to do this,'" she says. "To me, it's an oversight that we don't think like that more. People who had large responsibilities figured out ways to get the job done and figured out ways to take care of their family."

But law firms at that time did not have the same level of openness and flexibility, Bell says. "It has to reach the radar," she says. "A couple of people have to think it through. This is where women have a special opportunity and responsibility, to think of the structures: 'Wouldn't this be a workable structure for all concerned?' Firms have to be open to that, and women have to be aggressive in coming up with potential solutions."

"That sort of flexibility is going to be essential to keeping women in the workplace," adds solo practitioner Sarah Toney of The Toney Law Firm in Chicago. "We lose women in the workplace because they stay home. To keep them,

you have to have flexibility in terms of, can they work from home one day a week? That allows them to be productive and still be a good member of the firm but recognizes their dual role. In recruiting, firms need to be clear at the outset that they celebrate women and recognize their effort."

Bannon, whose firm does not have a minimum billable hour requirement, believes firms should consider both formal flexible work schedules, such as four days per week, and time off on a more irregular basis. Several attorneys including some partners have such schedules at Aronberg Goldgehn, he says. "That has made the firm attractive to many female attorneys," he says. "Obviously, not all female attorneys are interested in that type of schedule. For those who are, we've made it a fixture here, and found that's been very helpful in attracting excellent female attorneys."

Prinz suggests that firms take surveys once or twice a year to see how people are feeling about policies related to women and family issues. "The more times there's a two-way conversation, instead of just issuing policies and making assumptions about the other side," the better, she says.

Woman-to-woman networking. Aronberg Goldgehn also has worked to host networking events between female attorneys and female executives and other decision makers, which Bannon sees as "very beneficial to marketing our female attorneys." And he believes firms need to demonstrate a desire and opportunity for women to participate in management; three out of his firm's five principal practice groups are chaired or co-chaired by women. "That should send a message that women are invited and important in the management of a firm," he says.

Bajowala says the creation of female affinity groups can help women talk among themselves to discuss issues and strategize. She began a "mother's circle" at Jenner within the firm's overall women's forum that focuses on issues particular to mothers. "Some of it is just being able to network with each other and being able to share stories about being in this challenging role, of being a busy attorney at a large law firm and then being a parent," she says.

The group has a benefits roundtable once every couple of years to talk about policies like reduced-hour schedules and how those work, Bajowala says. Another forum brought speakers to talk about how to stay engaged in your child's life when they're school aged, for example, volunteering at a big event at the school even though managing the entire event might not be realistic for one's schedule.

"It's important to be able to create opportunities, if you feel like the environment is such that you are able to do so," she says. "The environment at Jenner was open to making changes. The mother's circle met with enthusiasm and support from the firm. I used that as my platform to make sure that we can keep the conversation going, and offer opportunities to use each other as resources."

Identifying and bouncing ideas off a solid mentor, whether male or female, can be important in strategizing and raising questions, Bell says. "You need one or two advisors and to keep those people apprised of what you're doing, and use them as sounding boards as to what your negotiating positions can and should be," she says.

Toney counsels women to network, both within and outside of their firms, from day one. "Just getting to know people, people getting to know you, building relationships that have no ulterior motive at the time," she says. "Don't be afraid, as a woman, to ask for what you want: 'Can we go to lunch? I really want to talk about how you build a client base.' Women don't need to couch it in, 'How are you? We should catch up.' Other women, especially, are very receptive to [a more direct ask] and understand that we should help each other out."

Defining success

Based on her first-hand experience, Bell suspects that broadly speaking, men and women have somewhat different definitions of success, with females placing

Average Earnings by Current Position and Sex

(based on ISBA's 2014 Economic Survey)



greater emphasis on finding the right life balance. As a young attorney, Bell says, she believed that she could have a child and a 60-hour-per-week job and be happy, but that all changed.

"It wasn't until I had my first child that I was like, 'Whoa!'" she says. "No one could tell me what I would be like: This is really putting a kink in this career thing because I, Valerie Bell, really like this mom piece. And put on the scale with 60 hours per week - I'm not really feeling that anymore."

For her and most women she has known, Bell says, "Success was finding your niche..., feeling like you were being a good mom and a good parent and everything else. Success is more balance-based. Whereas men go at it as, 'I made partner. I'm making this much money.' Part of it is ego; part of it is prestige-driven."

Bell's husband has enjoyed success in "continuing to move on in a professional way that was more in alignment with what he had in mind when he came out of law school," she adds. For her and many women, though, "You feel really good about kicking butt on a case - and then taking your child to the doctor. I felt that was my success.... For many families, those are similar kinds of tracks that we all end up on."

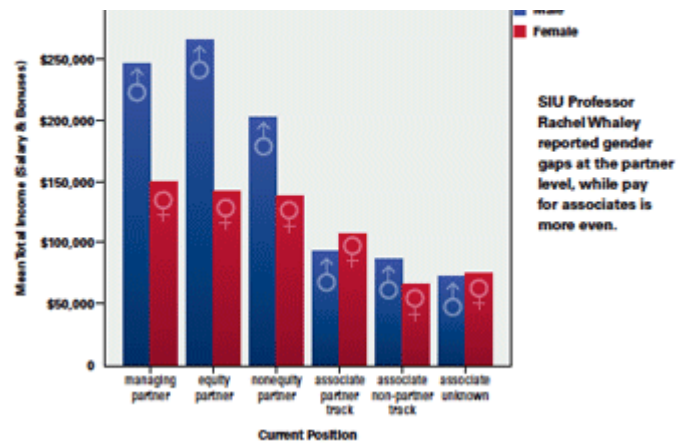
Bajowala agrees that socialized norms have meant that a woman most often becomes a family's primary child-care provider, although she believes that is changing - and notes that the question of which gender plays which role becomes moot in the growing number of same-sex households. She definitely agrees with Bell that whoever the primary child care provider ends up being takes a different view of success.

"Being that primary child-care provider really does change the dynamic and your definition of success in integrating all of these things," Bajowala says. "Being able to be present for a child if you're the primary child-care provider, and not feeling as if you're disengaged from their care, and maintaining the leadership track - that's what I think a lot of women and primary child-care providers would like to do."

Toney believes women take a longer-term view of success. "Women define success in terms of their value," she says. "Even if it's mentoring, or feeling as if they've made a client happy."

Prinz sees less of a gender difference in definitions of success than a generational one, with Millennials of all stripes seeing balanced lifestyles as more desirable. "It's not just about, 'You're becoming a partner, you're making X amount,'" she says. "It's so binary to say you're successful if you become a partner and you're not successful if you don't. I don't think a lot of people really, truly buy into that...."

"If firms defined success differently, that would help both women and men achieve more of what they want in their careers."



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ISBA RESOURCES >>

- Coming Soon: ISBA Free CLE, *Because You're Worth It! Achieving Advancement & Fair Compensation in the Legal Profession* (May 2015).
Presenters include Valerie Bell and other interview subjects for this article.
- Ed Finkel, *The Rise of the Freelance Lawyer*, 102 Ill. B.J. 576 (Dec. 2014), <http://www.isba.org/ibj/2014/12/risefreelancelawyer>.
- Matthew Hector, *Stronger Workplace Rights for Pregnant Women and New Moms*, 102 Ill. B.J. 518 (Nov. 2014), <http://www.isba.org/ibj/2014/11/lawpulse/strongerworkplacerrightspregnantwome>.
- Timothy A. Slating, *2014 Compensation & Benefits Survey: 5 Key Findings*, 102 Ill. B.J. 528 (May 2014), <http://www.isba.org/ibj/2014/11/2014compensationbenefitsurvey5keyf>.
- John M. Olmstead, *Beyond Eat-What-You-Kill: Determining Partner Compensation*, 91 Ill. B.J. 575 (Nov. 2003), <http://www.isba.org/ibj/2003/11/beyondeatwhatyoukilldeterminingpart>.

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