

Be Bold, Be Wiser

Overcoming the Glass Ceiling in Michigan's Legal Profession



Julie I. Fershtman

Women have entered the Michigan legal profession in greater numbers than ever, but despite this fact, they occupy a small percentage of leadership positions in businesses, law firms, and bar associations. Many dispute the existence of a “glass ceiling” in our profession that blocks women from greater advancement. In my opinion, however, national and state statistics make it all too clear. To help women overcome the glass ceiling and achieve more professionally, I offer encouragement, resources, and a personal challenge.

The Emergence of Women in Our Profession

Women compose a substantial portion of State Bar membership. Currently, 34.4 percent of all active SBM members are female, and that percentage should increase yearly. In 1970, women comprised only 2.3 percent of new SBM members. In 2011, the percentage of new members who were female was 42 percent.¹

Barriers to Women's Progress

Although the percentage of women within the State Bar member ranks has grown steadily and substantially, women have not kept up with their male counterparts in partnership, pay, and power. Those who have studied the issue on state and national levels have identified examples of how women have failed to progress. Here are a few of them.

The Wage Gap

Statistics show that female lawyers in private practice in Michigan earn less than their male counterparts. In his January 2012 report *Legal Economics Realities: Trends Based on Findings from Historic and Current State Bar*

of Michigan Economics of Law Practice Surveys,² Lawrence Stiffman of the Applied Statistics Laboratory discussed trends in Michigan's legal profession. He wrote:

Several trends, beyond probable excess supply and selected areas of weakened demand, appear to maintain downward pressure on real (inflation adjusted) incomes. Attorney income has stagnated for three decades. A “new normal” seems to include: (1) ongoing feminization of the ranks of attorneys, especially among non-private practitioners, (2) the persistency of glass ceiling-type income gender gaps...³

Stiffman's report analyzed the State Bar of Michigan's Economics of Law Practice Survey over 30 years. Evaluating the median reported income of male and female attorneys, Stiffman reported that income rose steadily for female private practitioners until a peak in 2006, after which their income dropped.⁴ In addition, looking only at 2010 economic data, he reported that women attorneys appeared to earn 67 cents for every dollar earned by their male counterparts—the same wage gap he found in 1996.⁵ When taking into account nonprivate practitioners, the wage gap narrowed to 87 cents on the dollar.⁶

Women Leaving Firms in Disproportionate Numbers

Women have left law firm employment in greater numbers than men. A 2007 report titled *Advancing Women in the Profession: Action Plans for Women's Bar Associations*⁷ took into account several unspecified studies and observed:

The numbers in several recent surveys add to and confirm a too familiar story: women enter law firms in numbers equal to those of their male peers, but leave the firms in numbers far higher than those of men. They also appear in very low numbers in law firm leadership positions.⁸

Fewer Female Equity Partners

National statistics suggest that women lag far behind men in their promotion to equity partnerships within law firms. A 2011 study by the National Association of Women Lawyers tracked the professional progress of women in 200 of the nation's largest law firms and found that women lawyers account for “barely 15 percent” of equity partners, a figure that has remained unchanged since the survey began in 2006.⁹

Although the percentage of women within the State Bar member ranks has grown steadily and substantially, women have not kept up with their male counterparts in partnership, pay, and power.

Fewer Women Leaders at State and National Levels

With greater numbers of women in the legal profession, one might expect a corresponding increase in women serving as bar leaders. That does not appear to be the case. I am only the fifth woman president in the State Bar of Michigan's 77-year history. Of the State Bar's 37 sections, only 14 are chaired by women. In the State Bar Representative Assembly, which began in the early 1970s, one-third of its chairs have been female.

A leadership void has been observed on a national level as well. Only four women have served as American Bar Association president, with the fifth to be sworn in later this year. Last month, the ABA Commission on Women in the Profession issued its Goal III report, which reported that the percentage of women section and division chairs was in a "significant" downward trend, from 32.1 percent in 2008–2009 and 2009–2010 and 39.3 percent in 2010–2011 to 28.6 percent in 2011–2012.¹⁰

Female Staff Attorneys

Women frequently occupy nonpartnership positions within law firms. A National Association of Women Lawyers Foundation survey reported that women hold 55 percent of staff attorney positions at law firms—ones that typically offer little chance for advancement.¹¹ The survey also reported that attorneys occupying those positions were often 10- to 20-year practitioners who arguably could have pursued and occupied partnership track positions.¹²

Declining Numbers of Women Entering the Profession

Studies even suggest that the number of women in our profession might be declining. State Bar member statistics show that in 2007, 47.8 percent of new active members were women. In 2011, the number dropped to 42 percent.

What the State Bar is Doing

The State Bar has undertaken several efforts to help women succeed.

Diversity and Inclusion Advisory Committee

The Bar's Diversity and Inclusion Advisory Committee, co-chaired by Hon. Victoria A. Roberts and Thomas M. Cooley Law School Associate Dean John R. Nussbaumer, has been developing a database of best practices within law firms and businesses with the goal of sharing the information for others to consider and implement as appropriate. For example, the committee is seeking policies designed to facilitate employees' alternative or flexible work schedules, particularly to accommodate those with primary caregiving responsibilities for children, aging parents, or other personal commitments that pose challenges to the traditional billable-hour model. The committee expects to release its information later this year.

Practice Management Resource Center

All Michigan lawyers seeking to improve their practice management and business development skills should visit the State Bar's Practice Management Resource Center (PMRC), which offers numerous resources on client relations, technology, marketing, financial management, and more. With the assistance of the new PMRC Advisory Committee, the PMRC will further expand its content as the year progresses.

Diversity Within Committee Leadership

Currently, State Bar committee leaders are composed of nearly equal numbers of men and women. Of the Bar's 39 committees, 20 are chaired by men and 19 by women. This is due in no small part to conscious efforts of State Bar presidents like me and my predecessors to emphasize diversity in committee appointments. The Bar has also encouraged section and committee signatories to the State Bar's diversity pledge to consider diversity within their internal committee assignments.

Promoting Women's Leadership

This April, the Michigan State University College of Law is scheduled to conduct a symposium titled "Gender and the Legal

Profession's Pipeline to Power." Its website describes the event's scope and purpose as follows:

Today, although women represent one-third of the nation's highest judicial body, equality has not been achieved. Women lawyers remain significantly underrepresented in major leadership roles, comprise only 6 percent of managing partners in law firms, and hold less than 15 percent of equity partnerships. Fewer than 20 percent of general counsels for Fortune 500 companies, barely 20 percent of law school deans, and only one-third of law review editors-in-chief are women.

The ceiling may be shattered, but the pipeline to power remains elusive for most women. This symposium serves as a catalyst to raise awareness about, discuss the dynamics of, and strategize solutions to the persistent gender disparity that exists in positions of power within the legal profession. Scholars and experts from the fields of law, gender studies, political science, journalism, and beyond will reframe and advance the course of existing dialogue on gender equality.

The State Bar will have a meaningful presence at this important event. I will be joined by State Bar Executive Director Janet Welch and the three living female past presidents of the State Bar on a panel regarding women in bar leadership.

My Personal Challenge

Women can achieve greater success and satisfaction within our profession if they want it. They can become leaders. I offer these personal challenges to encourage women's achievement and to help overcome the glass ceiling:

- I challenge women to seriously consider becoming involved in bar association activities. The State Bar offers numerous opportunities as do local organizations such as county or special-purpose bar associations. Seek out these groups for friendship, personal referral networking, continuing legal education, as a source for mentors, and to overcome the isolation associated with law practice. You will benefit as an individual and as a lawyer.

- I challenge women's bar associations such as the Women Lawyers Association of Michigan and its regional affiliates to continue developing programs devoted to business development for women lawyers. The WLAM Wayne Region's "Leadership Skills Series" is a shining example.
- I challenge young lawyers to take the initiative to seek out mentors they know professionally through their firm or through business or bar activities. The right mentor will help you succeed and you will benefit from his or her experience.
- I challenge and encourage more "seasoned" practitioners to mentor younger lawyers in a meaningful way by being accessible and offering guidance, support, and constructive criticism.
- I challenge everyone to help women lawyers succeed. Consider referring business to qualified female lawyers.
- I challenge female private practitioners to be *bold*—to be willing to take risks and not be afraid to seek out more business or opportunities.
- Finally, I challenge Michigan lawyers to promote civility in all that we do. In these difficult economic times, we compete for business and occasionally find ourselves as adversaries. But we can succeed together. Please help make this a profession of which we can be proud. ■

FOOTNOTES

1. State Bar of Michigan member database statistics.
2. Stiffman, *Legal Economics Realities: Trends Based on Findings from Historic and Current State Bar of Michigan Economics of Law Practice Surveys* (January 2012), available at <<http://www.michbar.org/journal/pdf/trendreport.pdf>>. All websites cited in this article were accessed February 21, 2012.

3. *Id.* at 1.
4. *Id.* at 12.
5. *Id.* at 13.
6. *Id.*
7. *Advancing Women in the Profession: Action Plans for Women's Bar Associations* (Conference Report 2007), available at <http://web.mit.edu/workplacecenter/docs/advncwomen_10-07.pdf>.
8. *Id.* at 4.
9. The National Association of Women Lawyers and the NAWL Foundation, *Report of the Sixth Annual National Survey on Retention and Promotion of Women in Law Firms* (October 2011), p 2, available at <<http://nawl.timberlakepublishing.com/files/NAWL%202011%20Annual%20Survey%20Report%20FINAL%20Publication-ready%2011-9-11.pdf>>.
10. ABA Commission on Women in the Profession, *Goal III Report* (February 2012), p 6, available at <http://www.americanbar.org/content/dam/aba/administrative/women/2012_goal3_women.authcheckdam.pdf>.
11. The National Association of Women Lawyers, n 9 *supra*.
12. *Id.*