

A close-up photograph of a hand moving a light-colored wooden chess piece (a king) from its original position. The hand is positioned over the piece, with fingers gripping it. In the foreground, several dark-colored wooden chess pieces (pawns and a king) are visible, slightly out of focus. The background is dark and blurred. A semi-transparent dark horizontal band is overlaid across the middle of the image, containing the text.

STAYING IN THE

GAME WOMEN, LEADERSHIP, AND THE LAW

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Believing that this issue demands the attention of the legal community, the Tampa Bay Chapter of the Federal Bar Association (FBA), along with co-sponsoring organizations Stetson University College of Law, the Florida Association for Women Lawyers, the Hillsborough County Bar Association, the Hillsborough Association for Women Lawyers, the George Edgecomb Bar Association, and the Pinellas Chapter of the Florida Association for Women Lawyers, offered an innovative leadership program in 2015: “Staying in the Game: Women, Leadership, and the Law.”

This program was made possible by a Florida Bar Diversity Leadership grant, as well as platinum title sponsor DLA Piper; special luncheon sponsor Burr Forman LLP; gold presenting sponsors Bush Ross PA, Foley & Lardner LLP, Holland & Knight LLP, Kynes, Markman & Felman PA, Shook, Hardy & Bacon LLP, Thompson, Sizemore, Gonzalez & Hearing PA, and Wiand Guerra King PL; silver premiere sponsors Carlton Fields Jorden Burt PA; and bronze supporting sponsors Crossroads for Florida Kids Inc., Harris & Hunt PA, Jackson, DeJongh & Associates, Johnson & Cassidy PA, and Thomas & LoCicero PL.

“Staying in the Game” fostered dialogue to address the gender disparity in the legal profession by identifying specific steps that law firms, organizations, law schools, and lawyers can take to

encourage female lawyers not to take themselves out of the game but instead to continue on the path toward leadership positions.

The Kickoff CLE for “Staying in the Game” was held Jan. 29, 2015, at the University Club in Tampa. The program included welcoming remarks by Anne-Leigh Moe, president-elect of the Tampa Bay Chapter of FBA; a presentation from Susan Healy, chairwoman of FBA’s Committee on Diversity and Inclusion; and two panel discussions moderated by Dean Christopher Pietruszkiewicz of Stetson University College of Law. The Lawyer Leaders panel included U.S. Attorney for the Middle District of Florida A. Lee Bentley and attorneys Amanda Buffinton, Susan Healy, Kevin Johnson, Mary Mills, Anne-Leigh Moe, Kristin Norse, and Hala Sandridge. The Federal Judicial Panel included Hon. Virginia

Hernandez Covington, Hon. Charlene E. Honeywell, Hon. Elizabeth Jenkins, Hon. Elizabeth A. Kovachevich, Hon. Anthony Porcelli, and Hon. Mary S. Scriven. Each panel was followed by a roundtable at which participants in the program had the opportunity for small group discussion.

“Staying in the Game” continued throughout 2015 with a Sustained Dialogue series of smaller discussion groups that met approximately quarterly throughout the year. Seven discussion groups with a total of about 70 participants shared ideas regarding the barriers that make it more difficult for women to stay in the profession and on a leadership path and strategies for what law firms, organizations, law schools, and lawyers can do to encourage more female lawyers to stay in the game.

Much of the content of this article is derived from the panel discussions at the “Staying in the Game” kickoff CLE and the Sustained Dialogue discussion groups.

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Barriers to Retention and Leadership

“Face Time” Culture

In some firms—but not all—it is not enough to get the work done. Lawyers are expected to be physically at their desks for long hours, or the culture of the firm causes associates to believe that this is a requirement. There is a perception that physical presence is necessary to signal commitment and productivity. Face-to-face communication is critical, especially for new lawyers. Being there when they are handing the work out is also key to advancement. However, firms need to recognize that productivity and mere physical presence do not go hand in hand. Lawyers who are at work for the sake of being at work are not necessarily productive and may be distracted and eventually resentful, leading to poor work product and turnover. Fostering an environment that allows lawyers to fulfill their familial and personal needs without a feeling of guilt or fear that they will not progress within the firm is critical to retention. Attorneys are professionals. There is no doubt an expectation and requirement that the work, quality work, must get done; however, allowing, and even *encouraging*, attorneys to tend to their own needs will increase their productivity and focus while in the office.

The Billable Hours Model

A law firm is a business. The work has to get done, and the lawyers must be compensated for their time. However, the billable hours model, in which attorneys are evaluated and compensated based on their ability to meet high billable hours requirements, results in a schedule that is unsustainable for many attorneys. It can also undermine teamwork. It creates an environment in which those who bring in work have an incentive to hoard it to maximize their own billable hours rather than share it. It can hinder professional development, as the ability to bill is considered more important than taking on tasks and training that will benefit the attorney and the firm in the long run.

Implicit or Explicit Bias

While likely unconscious of it, many have embedded stereotypes about the qualifications and commitments of women attorneys. While there is often a baseline assumption of competence for male attorneys, female attorneys in some environments are obliged to prove themselves again and again. Assumptions about competence can become self-fulfilling—associates who are given the best assignments, training, and mentorship may over months and years become better lawyers and leaders.

Decision-makers sometimes make assumptions that women don’t work as hard, or do not wish to work as hard, because they have families. These assumptions can result in women being left out of the most desirable assignments.

A phenomenon described as the “one mistake rule” can also hurt the opportunities available to women. Every lawyer, no matter how qualified, will make a mistake at some point. For attorneys who benefit from an underlying assumption of competence, one mistake may be seen as an anomaly. Where subconscious bias exists, it may be confirmed by a single mistake, leaving a lasting perception that the attorney is less competent.

Assumptions are frequently made even about the role of female attorneys—numerous discussion group participants recounted attending a deposition, court appearance, or meeting and having others assume she is the court reporter or an assistant.

Lack of Training, Particularly in Business Development

The ability to bring in business is often critical to achieving leadership roles in a law firm. Many participants in the Sustained Dialogue groups did not feel they had the necessary skills to bring in new clients and new cases. These skills can be developed through means such as mentorship or being included in client meetings—opportunities important for female, as well as male, attorneys to receive.

Lack of Mentoring; Lack of Women Already in Leadership Roles

Many firms have no or few women at the highest leadership levels, such as managing partners, practice group leaders, and members of management committees. Senior women are needed to mentor younger attorneys and serve as role models. The presence—or absence—of women who have made it shows that doing so is possible—or not. One woman who has beaten the odds may not be able to single-handedly influence culture in a significant way. Having a critical mass of women in leadership roles allows influence in decision-making and firm culture.

Lack of Transparency

Many attorneys, even years into working at their firms, do not know

what they need to do to move up in their firms, become equity partners, or become firm leaders. In some firms, the compensation structure is not transparent. In most, there are not enough women at the top.

What Law Firms, Organizations, and Leaders Can Do Understand and Communicate to Decision-Makers the Business Case for Diversity

Maintaining a diverse workforce matters because it is the right thing to do. It also makes business sense. Clients value diversity; many corporate clients have explicit diversity goals. A diverse team of lawyers is a better team of lawyers. Attorneys from different backgrounds bring a variety of perspectives to the table. This variety of perspectives contributes to more creative thinking, better decision-making, and superior problem-solving. Attorneys from different walks of life also have different networks and potential referral sources that provide access to business that may otherwise not be available.

Providing training and mentoring to all lawyers in a firm rather than a select few or to certain categories of lawyers is also better for business development. Having more rainmakers, and more capable rainmakers, results in more business and more revenues and profits. Women, with the proper firm support, like men with proper firm support, are very effective rainmakers. It does not make sense from a business perspective for a firm to support fewer than all of its attorneys in business development.

Further, people are by far the most expensive and valuable investment a law firm makes. Value is lost every time an employee leaves a law firm or organization or leaves the practice of law altogether. Many women are leaving the practice before they attain leadership positions. The cost of lawyer turnover is estimated to be as high as three times the attorney's actual salary when the cost of mentoring, training, and development are factored in.

Perhaps as a result of these factors, empirical research demonstrates that the most diverse law firms have more profits per equity partner and generate more revenue per lawyer.

Make Flexibility a Real Option (Not Just a Paper One) and Not a "Mommy Track"

Many firms offer some form of flexible or alternative work arrangements. If attorneys who take advantage of those arrangements are stigmatized, viewed as less committed, or not treated as leadership material, the arrangements do not offer a real alternative. Attorneys on flexible or reduced hours schedules should receive proportional compensation and comparable professional development opportunities, and be provided with proportional advancement opportunities. Life circumstances change. Investing in attorneys by allowing flexibility when attorneys need it will ultimately breed commitment and gratitude, leading to higher retention rates and more productive attorneys.

Recognize That It's Not Just About Women and It's Not Just About Mothers

An attorney may need or want increased flexibility or to cut back on hours for any number of reasons at different points in his or her career: family responsibilities, an outside interest, or simply a desire to lead a more balanced life. Policies intended to promote work-life balance should be made available across the board to men and women, parents and nonparents alike.

THE LEADERSHIP GAP

Since the mid-1980s, more than 40% of law school graduates have been women, and as of 2012, women have made up 33.3% of lawyers. In recent years, women account for approximately 45% of law firm associates, roughly proportionate to the percentage of female law school graduates. Women are not, however, obtaining leadership positions in numbers consistent with their representation in the profession:

- Women are approximately 20% of law firm partners.
- About 18% of equity partners at large law firms are women, a number that has changed little in about 10 years.
- Approximately 28% of non-equity partners are women.
- At the 200 largest law firms in the United States, 4% of managing partners are women.
- The members of law firm executive committees are 22% women, and the members of law firm compensation committees are 18% women. Out of the largest U.S. law firms, 11% have no women at all on their governing committees.
- As of 2011, the median salary of women lawyers was 86.6% of the median salary of male lawyers.
- While 32% of attorneys who appear in civil cases are women, only 24% of lawyers appearing as lead counsel in civil cases are women.
- Out of the Fortune 500, 21.6% of general counsel are women.
- Of ABA-accredited law schools, 20.6% of law school deans are women.
- In the federal judiciary, 24.1% of judges are women; in the state judiciary, 27.5% of judges are women.
- Additionally, women are more than twice as likely to leave law firms as men. Of those who leave law firms, nearly one-third of female associates and another one-third of female, non-equity partners also leave law firm practice entirely, as compared to 20% of men at each of those levels.



Take a Long-Term View; View Employees as an Investment

A firm that is concerned only with the number of hours an attorney bills in a particular day, month, or year, with no concern for the attorney's professional development, is a red flag. Employees who believe their interests and priorities are valued are happier, more productive, and more loyal employees.

Encourage the Development of Mentoring Relationships; Reward Good Mentors

One of the most significant factors contributing to an attorney's professional success is the presence of an effective mentor. Mentoring relationships, both outside of and within firms, can be invaluable for less-experienced attorneys. A mentor can provide guidance and feedback from someone who may have been through some of the same experiences. Within a firm, mentors can help newer attorneys with the often-complex task of understanding the "unwritten rules" that are necessary for success in many firms.

Have a personal brand that establishes you as an expert in your field. Personal branding does not replace teamwork and collaboration; think about what your colleagues have to offer your clients. Collaboration leads to more business.

Less-experienced attorneys should be encouraged to take advantage of available mentoring programs. For example, the Tampa Bay Chapter of the FBA offers the Federal Mentoring Program to less-experienced federal practitioners. The Hillsborough County Bar Association offers the Thirteenth Judicial Circuit Mentoring Program to new lawyers. The Hillsborough Association for Women Lawyers offers mentoring to law students.

Firms should consider establishing formal mentoring programs. Good mentors should be rewarded for the contribution they make to the firms.

Compensation and Advancement Models Should Focus on the Big Picture and the Long Term

Billable hours, collections, and business generation are not the

only factors that should matter for compensation and advancement purposes. Activities and attributes that contribute to a firm's long-term success—quality of work; teamwork; committee participation; development of professional skills; a commitment to mentoring, training, and talent development; bar association and community involvement; and similar factors—should be valued and rewarded as well. Additionally, firms should be transparent about the factors that influence compensation and promotion.

Provide Leadership and Business Development Training

Business development is critical to success in law firms. The skills and steps necessary to develop business should be shared and cultivated. Developing those skills requires practice and access to business development opportunities. Lawyers should be trained in successful networking techniques. Firms should communicate what is necessary to achieve leadership roles and provide training in the necessary skills.

This is an area where law schools have a great deal to contribute. Training on how to run a business, how to bring in clients, networking, management, and leadership skills can and should begin in law school.

Lawyers and law firms may also wish to consider professional attorney coaching.

Provide Diversity Training

Training in diversity and inclusion issues for all employees helps create awareness of the issue. It also helps foster a common language in which to discuss difficult issues and a space in which issues surrounding diversity can be aired and addressed.

Use a Systematic Method for Distributing Work

Unconscious bias may affect how work is distributed. Mechanisms should be in place to ensure that work is distributed equitably, as opposed to going to whomever the assigning attorney happens to think of or happens to come across. Doing so ensures that the most desirable assignments, and the learning opportunities that varied assignments represent, are distributed to all attorneys. Female as well as male attorneys should be receiving the same opportunities even if they experience some failures along the way.

Seek Input and Feedback on the Experiences of Employees

Employee feedback and input should be sought out, shared with those in leadership and taken into account. Conduct exit interviews of departing employees. It should not be assumed that attorneys are leaving for reasons specific to the attorney or that attorney's personal circumstances; consider that there may be structural, cultural, or systemic issues in your organization that contribute to employee dissatisfaction.

What Attorneys Can Do

Choose Your Partners Wisely—In Both Your Work Life and Personal Life

Many participants in the Sustained Dialogue groups echoed Sheryl Sandberg's sentiments that choosing a supportive life partner can be the most important career decision you make. In particular, whether parenting responsibilities are shared proportionately was identified as a significant factor in female attorney's satisfaction with both their work and home lives.

Participants likewise emphasized the importance of selecting a workplace in which they are valued. Encourage lawyers early on in their careers to be open minded and open to working in a wide range of areas. Place a higher value on who you work with than the particular subject area. Work with great people who want to help you grow.

If you don't speak up about issues you experience, those in power won't know what the issues are. Share your experiences, with real life examples.

Be Valuable

Have a personal brand that establishes you as an expert in your field. Personal branding does not replace teamwork and collaboration; think about what your colleagues have to offer your clients. Collaboration leads to more business.

Strive for excellence and be known as someone who does a great job. Make yourself substantively and publicly indispensable to your firm. Learn how to showcase your value.

Bring in Business

Numerous participants emphasized that bringing in and developing business is the key to success in a law firm. Lawyers who bring in clients and generate revenue for their firms are more valued and have significantly more ability to negotiate their own terms. Develop your own business and marketing plan. Focus on groups whose missions interest you and develop relationships with people with whom you have a common interest.

Promote Yourself

Don't assume that if you work hard and do a good job, people will notice. Exude confidence—even if you have to fake it until you make it. Take advantage of the opportunities you are given. Put your name in even if you don't check 100 percent of the boxes. Keep your own data; don't rely on others to do that for you.

Take the Corner Office

Send the signal that you are valuable and successful. Take the accoutrements of leadership that you have earned.

Speak Up

If you don't speak up about issues you experience, those in power won't know what the issues are. Share your experiences, with real life examples. Communicate your goals. Advocate for yourself at

least as strongly as you would advocate for a client. If you are not being treated fairly, speak up. If you are not being put on important matters, ask to be. Be open about your goals and what you want. If you don't understand the structure of your organization and how decisions are made, ask the questions.

Recognize That the Decisions You Make Will Involve Tradeoffs

An attorney who is in the office less frequently or for fewer hours may miss opportunities, such as a partner walking the hallways looking for someone to help with a project. The need or desire for a predictable schedule may make some practice areas less realistic. Working fewer hours, over a period of years, leaves an attorney less experienced than one who has consistently put in longer hours. For most people, obtaining flexibility and a more balanced lifestyle will probably involve earning less money and could reduce or delay opportunities for advancement.

Seek Out Mentors and Sponsors

Have multiple mentors and understand the role that each plays in your life. Work to develop a real relationship with your mentor or sponsor. Look for a mentor with enough influence to impact your career. Look for mentors who don't necessarily look like you, talk like you, or think like you. Keep in mind that mentors and sponsors can come from outside the legal field.

Recognize That It Will Not Always Be This Hard

The more experienced participants in the Staying in the Game program had this message for younger lawyers: It gets better. Being a midlevel or senior associate is in many ways the most difficult stage in a legal career. Likewise, while being a parent is tremendously rewarding, parents of young children are often getting little sleep and even less free time. When combined, as these life stages often are, the pressure and responsibilities can feel overwhelming.

Many find that challenges on both the home and work fronts become more manageable over time. As attorneys progress in their careers, greater experience and the ability to manage their own cases allow for more autonomy and flexibility.

Prioritize, Delegate, and Outsource

Doing the things that matter most to you requires acknowledging that you can't do it all yourself. There is only so much time in a day. Saying yes to one thing means saying no to something else. Pick the things that really matter to you to focus on. Outsource and delegate everything else that you can.

Think Like an Owner About Your Own Career

Have an ownership mindset about your own career. Figure out what your long-term goals are and what steps you need to take to accomplish those goals. Say no to obligations that do not move you toward those goals.

Be Prepared To Overcome Whatever Obstacles Come Your Way

If you are taking risks—and you should be—there will be obstacles and failures. Don't be afraid of them. Don't be afraid to be embarrassed. Don't be afraid to be told no.

Conclusion

The "Staying the Game: Women, Leadership and Law" program is

only the beginning. Thanks to a very generous grant from the Foundation of the Federal Bar Association, the Tampa Bay Chapter is continuing the dialogue regarding these issues in 2016 with “Staying the Game: A Call to Action,” which began in February with a kickoff CLE with keynote speaker Gindi Eckel Vincent, author of *Learning to Lead: What Really Works for Women in the Law* (ABA 2014). The 2016 program will again include Sustained Dialogue groups throughout the year. In response to input from our speakers and the Sustained Dialogue group participants, we will also be adding a Business Development Boot Camp series of CLE programs.

The authors welcome input from readers regarding what law firms, organizations, law schools, and lawyers can do to help female lawyers stay in the game and on the path to leadership. We can be reached at kyanes@kmf-law.com and ejackson@tsghlaw.com. ☺



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