

# Lawyer Insights

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## Growing the Ranks of Women Partners From the Outside

Women make up 45 percent of associates but one-fifth of partners.

*By Kathleen J. Wu*

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Just over 20 years ago, in December 1997, I wrote the first of what would be close to 100 columns for Texas Lawyer, primarily on the subject of gender bias in the legal profession. Over the last two decades, I've watched as the legal profession has struggled to embrace the diversity that has transformed the rest of the country.

The law is still dominated by men. And I don't think that's going to radically change anytime soon. But, as I like to remind myself, I wasn't even allowed to wear pants at my first job out of law school. So, progress may be slow, but it has occurred.

According to NALP's annual survey, in 1997, women made up 14.21 percent of partners, 40.11 percent of associates, and 43.95 percent of summer associates. In 2017, those numbers were 22.7, 45.48 and 49.87, respectively. Not a huge jump in any category, but there was definitely progress.

What those numbers show us is that women – who last year made up 45 percent of law firm associates but only about one-fifth of law firm partners – are still lagging significantly in the partnership ranks.

So, lots of women are leaving big firms. And, oddly enough, that may be what ultimately changes our profession for the better.

Some of those women are leaving the profession altogether, some take time off to care for young children, and some go to in-house legal departments. Of those that go in-house, it turns out that a greater number of them are becoming general counsel.

According to a recent study by Russell Reynolds Associates, the last few years have seen a sharp increase in the number of women appointed to general counsel jobs in the Fortune 500. In 2012, women were hired to fill 24 percent of open GC jobs. In 2016, 35 percent of those jobs went to women – an increase of nearly 50 percent in 5 years.

One of the things driving that acceleration is the fact that a greater number of GC jobs are being filled by candidates with previous in-house experience, rather than from law firms. In the past, according to the study's authors, about a third of external GC appointments came from the top partner ranks at law firms, a fact that depressed the pool of female candidates for those posts. Since 2014, however, more of those hires have come from in-house legal departments.

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Granted, having more women in general counsel positions doesn't guarantee the company will hire more women as outside counsel. After all, I've been hired by plenty of male clients and not hired by plenty of female clients.

But it's probably safe to assume that having someone in a position to hire outside counsel who is attuned to gender bias will be a net gain for those negatively affected by it.

Anecdotally, at least, that seems to be happening.

HP said it would begin withholding a portion of legal fees from law firms that don't meet diversity criteria. And Facebook announced it would be requiring outside counsel to have at least one-third of its outside counsel be women or ethnic minorities. There are other examples. (In related news, the New York State Common Retirement Fund announced it intends to oppose the re-election of all directors at hundreds of U.S. corporate boards without any women on them. So, the people with the money are clearly becoming impatient with the pace of diversity progress.)

Of course, if left to their own devices, male clients are less likely than female clients to choose female lead partners, as American Lawyer's Vivia Chen noted. Male clients picked a female lawyer to lead their legal team 17 percent of the time; that figure for women clients was 25 percent. Granted, 25 percent doesn't seem that great until you remember that women only make up 22 percent of law firm partners – so women clients are actually choosing women partners at a disproportionately high rate.

Success in private practice still hinges on the ability to develop business. And, even in 2018, business relationships are still affinity-based, for better or worse. In general, we tend to hire people who are either like us or are people we like – usually both.

So, what's the secret to getting more women into the partnership ranks? Ironically, it may look like this:

- Women keep leaving firms; Many of them go in-house;
- More of those women elevate to general counsel or other jobs in a position to hire outside counsel;
- Those women clients hire a greater number of women partners to lead their work;
- Those women partners become power brokers at their own firms and help other women reach partner.

As they say in the movies, it's just so crazy it just might work. And if the end result is moving the needle on gender equity in the legal profession, I'll take it.

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