

COMMENTARY

Insights From My Career as a Woman Lawyer Thus Far

BY REBECCA ROSENBERGER SMOLEN

Special to the Legal

With the recent headlines about alleged discriminatory pay practices brought by an accomplished female partner at Chadbourne & Parke on the one hand, and Donald Trump's comments that Hillary Clinton doesn't "look presidential" on the other, I've started to have flashbacks about some of my experiences as a woman lawyer in a historically male-dominated profession. While women have come a long way in the profession (and society) since I started practicing law in 1993, these headlines are an important reminder to all of us that we aren't at the finish line yet.

At the beginning of my career, most of the lawyers who hired me had just turned 50 or were about to turn 50. None of those lawyers were women, and like many lawyers of my generation, I never had the opportunity to regularly work on matters generated or managed by a woman lawyer. As I approach my 50th birthday next year, it has been gratifying to recognize that, despite obstacles along the way, and no consistent female role models in my midst (other than Katie Couric, and her female successors, on the "Today Show"), when I take stock of the matters with which I have



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been entrusted, and the revenue I have been able to generate, it appears that, somehow, I am getting to the same place as were those lawyers who hired me at the beginning of my career. Of course, this required a lot of hard work and help along the way. Because of a dearth of female role models, it wasn't always clear that it was possible for me, as a woman lawyer, to get to this point.

In the late 1990s, as a fifth- and sixth-year lawyer, I had the opportunity to work on a few matters with an attorney who was in his 90s. Looking back, he is the only senior lawyer who was candid with me about the prospects for many women lawyers. He told me one day over lunch, "I feel bad for you women [or maybe he said, "girls"], you have to work twice as hard, and be twice as good, to get half the credit." I confidently retorted, as I then firmly believed, "perhaps that was how it used to be, but it's not that way anymore."

At that point in my life, I had never observed men routinely doing better, or being treated differently, than women. As a child, I routinely hung out with neighborhood boys, riding bikes, climbing trees, skateboarding, and would even sometimes beat boys my age in races sprinting down driveways. Three of the top four students in

my graduating high school class were women (including the valedictorian and salutatorian). During my college years in a co-ed dorm, my friendships were just as close with my male as my female floor-mates. I presumed that the struggle by women for parity was over (fought by my mother's generation), we would be "given" the same opportunities as the guys, and it was clear that we were equals. As statistics for women lawyers have borne out, apparently I was mistaken.

Despite the disappointing statistics, I remain confident that change is afoot. At the end of the day, the legal profession is driven by what clients want. Clients want capable

and dedicated lawyers on their teams. In my practice area, I have been fortunate to work with many extremely financially successful men and women. I have never had the experience of a client rejecting my services because I was a woman. When I was younger, I needed the endorsement of the senior male lawyer I was working for (as was the case for my male colleagues), but, as I've aged, and followed the examples of the men I worked for and with, that gradually became unnecessary.

During my career, I have observed (both from my own experience and that of female lawyer acquaintances) that many senior male attorneys, who have controlled the work flow and important client relationships in law firms, often (but not always) display more confidence in, and affinity for, the junior male attorneys than the junior female attorneys. As one male associate put it back in the late '90s during a group lunch of law associates, while

None of us can rely on only ourselves or on just one other lawyer to succeed. We all need helping hands coming at us in every direction.

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Bribery

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a penalty of approximately \$3 million. The company is required to cooperate with the SEC and report its FCPA compliance efforts while notifying certain former employees that AB InBev does not prohibit employees alerting the authorities about violations of the law.

The SEC announcement came the same day as shareholders of rival brewer, SABMiller, met in London to approve an acquisition of the company by AB InBev.

The Wall Street Journal reported that SABMiller is valued at \$100 billion and the acquisition is one of the largest corporate takeovers to date.

The securities regulator has recently placed an emphasis on whistleblower actions. The SEC has paid more than

\$107 million to 33 whistleblowers since its whistleblower program began, Andrew Ceresney, the agency's enforcement division head, said Wednesday in remarks touting the efforts. In that speech, Ceresney noted that the SEC has filed amicus briefs in support of its view that whistleblowers are entitled to protection against retaliation even without contacting securities regulators.

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Litigation

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excessive litigation, has not taken center stage this time around. Nevertheless, it remains an important consideration in the selection of the next president of the United States.

To date, Trump has not stated any concrete position on the topic of tort reform. However, Trump is no stranger to litigation, whether it be as a plaintiff or a defendant, thereby evidencing his belief in the civil justice system as a means to secure

justice and remedies. Thus, although tort reform is a favored topic of conservative Republicans, it may be a difficult topic for Trump to push given his own penchant for litigation.

Commentators have noted that, historically Clinton has opposed tort reform efforts. In the past, she has even been in favor of expanding tort law to allow victims of gun violence to sue the gun industry for selling guns to criminals.

Accordingly, it appears that the topic of tort reform will remain off the radar this campaign season and questions remain as to whether it will come to the forefront during

the term of the next president, regardless of who is elected.

BE HEARD WITH YOUR VOTE

Whatever one's position may be on the above topics, the most important thing is to exercise one's constitutionally protected right to vote. The Democratic and Republican candidates have strong and divergent views on the issues of the day, perhaps the most compelling of which to litigators is the future of the federal bench. A visit to the voting booth on Election Day will allow Pennsylvania litigators to be heard on this all-important topic. •

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chuckling, "when a woman has a child, she is given less work and the senior lawyers expect her to leave; when a man has a child, he is given a raise." It appears that the senior male lawyers who favored the junior male lawyers thought they were best serving their clients' interests. However, that is simply not always the case.

As time goes by, I have to believe there are fewer and fewer senior lawyers who operate with that discriminatory and erroneous bias. I, and the many other women lawyers in our country from my generation, and prior generations, could not have obtained the training and experience we needed to become capable lawyers, with sustainable careers, if all of the senior male lawyers operated that way.

When considering the prospect of future parity for women lawyers, it's interesting to consider that since the early 1990s several of the prominent Philadelphia law firms that were founded by Jewish lawyers have wound down or merged out of existence. Examples include Cohen Shapiro Polisher Shiekman & Cohen; Mesirov Gelman Jaffe Cramer & Jamieson; Sherr, Joffe & Zuckerman; and Wolf Block Schorr & Solis-Cohen. It seems to me that this is, at least in part, the result of integration and evolution. These non-diverse firms were founded out of necessity by lawyers who couldn't get a fair shake in the firms controlled by non-Jewish lawyers due to the anti-Semitism persisting during a good part of the 20th century. Now that such prejudices have largely dissipated, Jewish and non-Jewish lawyers work side by side at nearly every firm in town.

We can also gain valuable insight from Broadway's smash hit "Hamilton." One of the show's key takeaways, entrenched not only in its storyline, but also in its musical score and casting choices, is how our country's diversity of viewpoints and cultures, coupled with the energy and drive of its newcomers, have made us strong and viable despite obstacles faced. As memorably

stated in one scene by Alexander Hamilton and Marquis de Lafayette, "Immigrants, we get the job done." Women lawyers can be viewed as part of the current wave of "immigrants" to the legal profession. While it may be taking time for us to be completely accepted, we are becoming part of the fabric of the legal marketplace across the country, and are here to stay. As with other waves of immigrants, we bring a slightly different set of viewpoints and capabilities, as well as the drive to prove and establish ourselves within the existing culture.

Sadly, I have come to learn that, in many instances, the lawyer I worked with when he was in his nineties was right about women needing to work harder and be better than their male colleagues to get half the credit. I disagree with some senior women who have said the same thing he did, but added, "that's easy," as a put-down to men. However, on the positive side, needing to sometimes work harder and be better than male colleagues to survive, over time, can inure to the benefit of a woman lawyer in terms of her long-term career prospects. As they say, "if it doesn't kill you, it makes you stronger."

When faced with the question about how women can balance careers with raising children, my retort has always been that if in past generations so many men have found time for golf and other non-family oriented social activities and hobbies, while being successful at their careers (Exhibit A—"Mad Men"), of course women can find time for both a successful and rewarding family and career. The other side of the equation is that men need to take a fair share of the domestic responsibilities (not the same as "helping") when their wives have careers.

In the early 2000s, I participated in a well-attended conference at Barnard College entitled "Who Will Do Women's Work Now?" My favorite solution was provided by the childless former attorney general, Janet Reno. In her view, we should have a "parents' schedule" and a "golfer's schedule," and with the improved productivity from technology we should all be working less hours. She theorized that parents could work

from 10 to 4, and golfers could work from 8 to 2, which she noted could also help solve some of the traffic congestion problems.

Judge Marjorie Rendell once commented that the "glass ceiling" really is just "a thick layer of men." She noted that for progress to be made, men in that thick layer need to reach down and lend a helping hand to pull up the women below them. Of course, women also need to latch on to those outstretched hands and do their part to advance to the next level.

I've learned that helping hands do not just come from the top, and they do not just pull you "up." The same way it takes a village to raise a child, it also takes a village to raise a lawyer. Every successful lawyer, male or female, has had innumerable helping hands, and valuable allies, along the way. None of us can rely on only ourselves or on just one other lawyer to succeed. We all need helping hands coming at us in every direction—at home, at work and in the community. Whether in the form of domestic help (cleaning, child care, meals) or professional help (assistants, colleagues, mentors, sponsors, referral sources), it all makes a difference.

In conclusion, I firmly believe that for women lawyers to succeed, we simply need to do the same things as our male colleagues to cultivate the skill sets and relationships that lead to those helping hands. We need to have thick skin and find a way to go over, under, around or through any of the remaining relics of the past who can't yet see that, and seek out the many others who can.

The ranks of such relics in our midst are undoubtedly diminishing year after year. However, we all need to be mindful that they are not completely extinct yet. It was only seven years ago, in the fall of 2009 (in the aftermath of the 2008 financial crisis), that I was dismayed to hear a prominent senior male lawyer, speaking to a large group of local executives and professionals, conclude his optimistic remarks about our community's prospects for economic recovery by noting "brothers, we are all in this together." He had it half right. •

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