

“SO NOW WHAT? A CANDID LOOK AT THE PROGRESS OF WOMEN IN THE PRACTICE OF LAW”

LCA PRESENTATION
Bluffton, South Carolina
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A CURRENT GLANCE AT WOMEN IN THE LAW



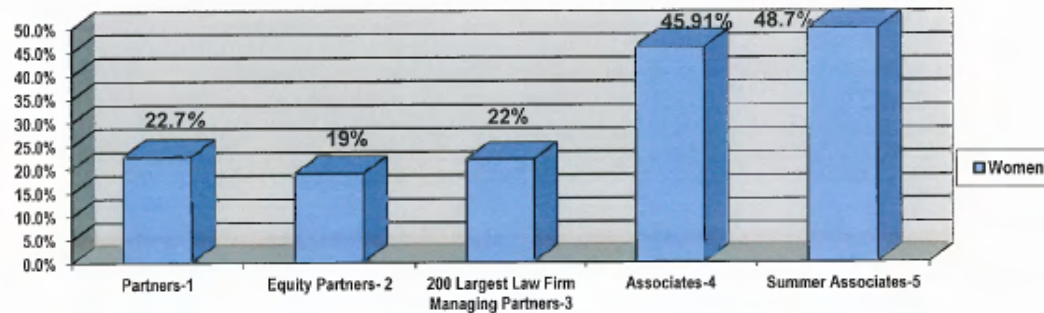
A Current Glance at Women in the Law (April 2019)

Women in the Legal Profession



United States Census Bureau, January 18, 2019. <https://www.census.gov/library/stories/2018/05/women-lawyers.html>

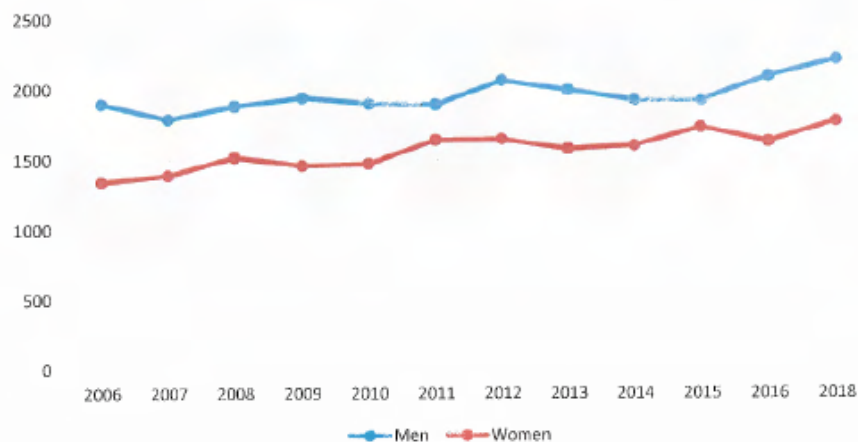
Women in Private Practice



MONEY MATTERS

Compensation

Weekly Salary Men vs. Women Lawyers



Women lawyers' weekly salary as a percentage of male lawyers' salary:

2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2018
70.5%	77.5%	80.5%	74.9%	77.1%	86.6%	79.6%	78.9%	83.0%	89.7%	77.6%	80%

2018 Bureau of Labor Statistics, *Median weekly earnings of full-time wage and salary workers by detailed occupation and sex*. <https://www.bls.gov/cps/cpsaat39.htm>

WOMEN EQUITY PARTNERS COMPENSATION

Globally, male partners are paid 27% more than female partners.

Acritas Research, 2018.

TWO IMPORTANT SURVEYS

- ◉ LCA Women Fellows (approx. 1000)
- ◉ February 2015 (“Glass Slippers”)
 - 15 questions (many open-ended)
 - 123 responses
 - “Sexism” only; no time period
- ◉ October 2019 (“Glass Ceilings”)
 - 12 questions, all multiple choice
 - “Sexism, discrimination or harassment”; last 5 years
 - 343 Responses
 - But, 106 optional written comments

LCA “GLASS SLIPPERS” SURVEY

○ Question 5: “Have you ever experienced any form of sexism in the courtroom?”

- Responses* (Yes/No):
 - Yes - 81 - 67%
 - “Not overt” - 16 - 13%
 - No - 25 - 20%

*122 total responses

LCA “GLASS SLIPPERS” SURVEY, CONT.

- ◉ Question 6: “Have you ever experienced any form of sexism in the (pre-trial stage) from co-counsel or opposing counsel?”
 - Responses* (Yes/No):
 - Yes - 106 - **87%**
 - No - 15 - **12%**

*121 responses

LCA “GLASS SLIPPERS” SURVEY, CONT.

○ Question 7: “Have you ever experienced any form of sexism in your own firm or with a past employer?”

■ Responses* (Yes/No):

- Yes - 86 - **72%**
- No - 33 - **28%**

* 119 responses

LCA “GLASS SLIPPERS” SURVEY, CONT.

◉ Question 8: “Have you ever experienced any form of sexism from a client or potential client?”

■ Responses* (Yes/No):

- Yes - 87 - **71%**
- No - 35 - **29%**

* 122 responses

“GLASS SLIPPERS” SUMMARY

“It is 2015. Our competence has never been more obvious. Let’s stop apologizing for it and become leaders with a voice that sounds like our own so that people will start associating the sound of a woman’s voice with that of a top managing law partner.”

YOU DECIDE: 1958 OR 2018?

“Women’s brains absorb information like pancakes soak up syrup so it’s hard for them to focus, the attendees were told. Men’s brains are more like waffles. They’re better able to focus because the information collects in each little waffle square.”

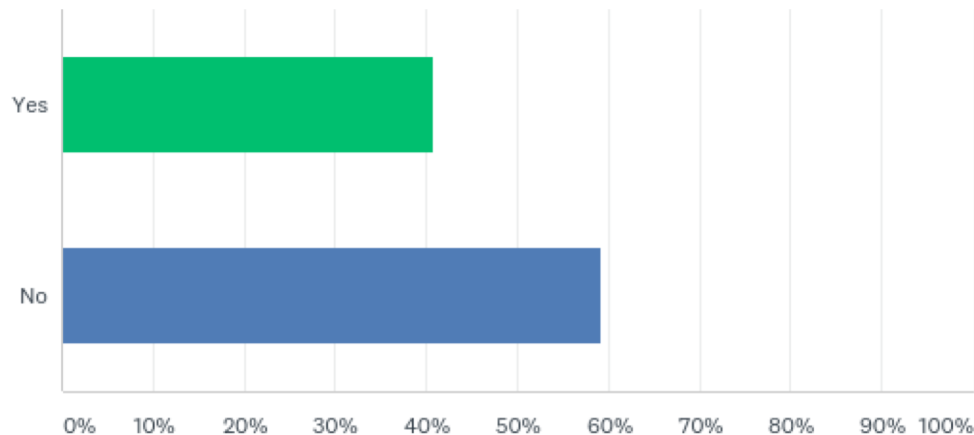
“Women at Ernst & Young Instructed on how to dress, act nicely around men,” Huffington Post. Leadership and empowerment training presentation conducted in **June 2018**.

TIME FLIES, WHEN YOU ARE
HAVING . . . “#ME TOO” AND
POLITICAL “CHANGES”

So, we decided to ask
LCA members again. . .

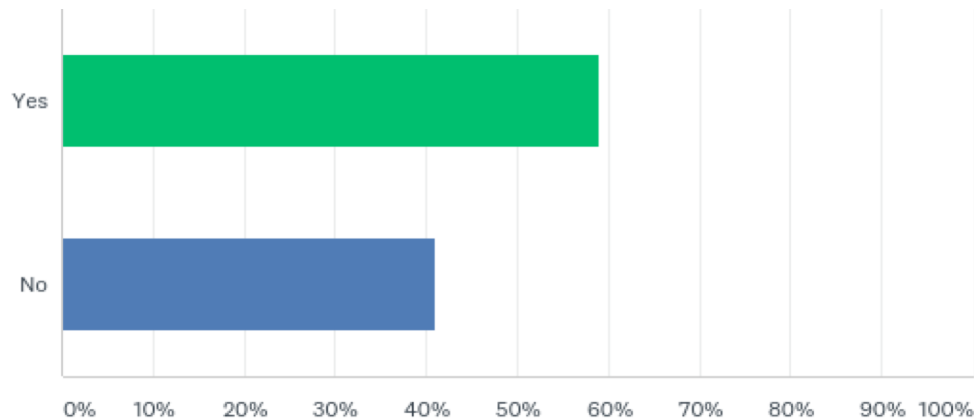
Q6: IN THE LAST FIVE YEARS, HAVE YOU EXPERIENCED ANY FORM OF SEXISM/DISCRIMINATION OR HARASSMENT IN THE COURTROOM?

○ Answered: 343 Skipped: 3



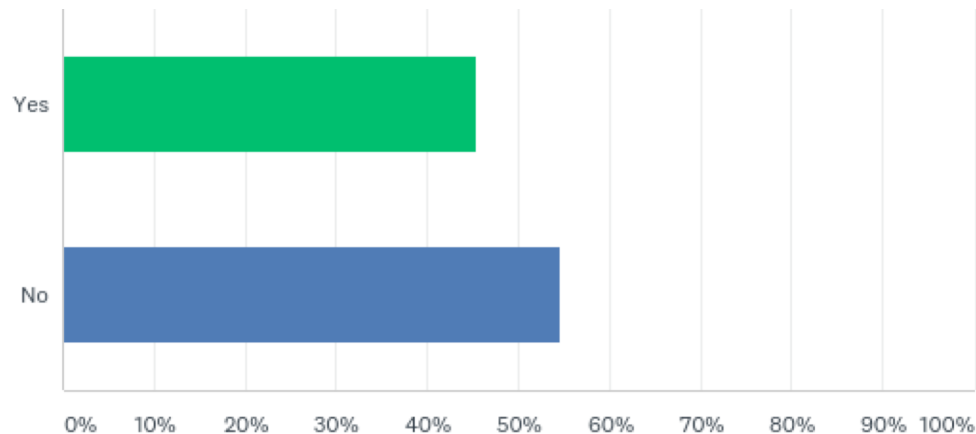
Q7: IN THE LAST FIVE YEARS, HAVE YOU EXPERIENCED ANY FORM OF SEXISM/DISCRIMINATION OR HARASSMENT IN THE PRETRIAL STATE FROM CO-COUNSEL OR OPPOSING COUNSEL?

○ Answered: 342 Skipped: 4



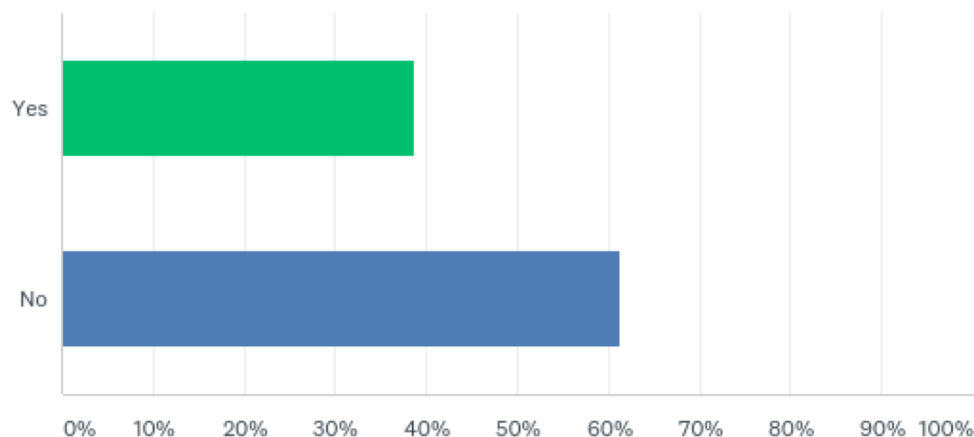
Q8: IN THE LAST FIVE YEARS, HAVE YOU EXPERIENCED ANY FORM OF SEXISM/DISCRIMINATION OR HARASSMENT IN YOUR OWN FIRM/BUSINESS?

◉ Answered: 341 Skipped: 5



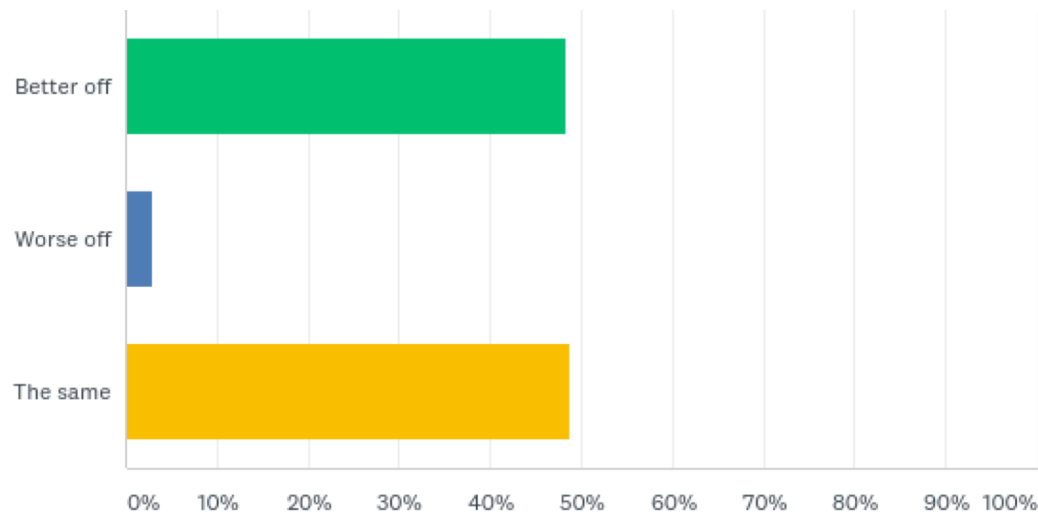
Q9: IN THE LAST FIVE YEARS, HAVE YOU EXPERIENCED ANY FORM OF SEXISM/DISCRIMINATION OR HARASSMENT FROM A CLIENT OR POTENTIAL CLIENT?

○ Answered: 341 Skipped: 5



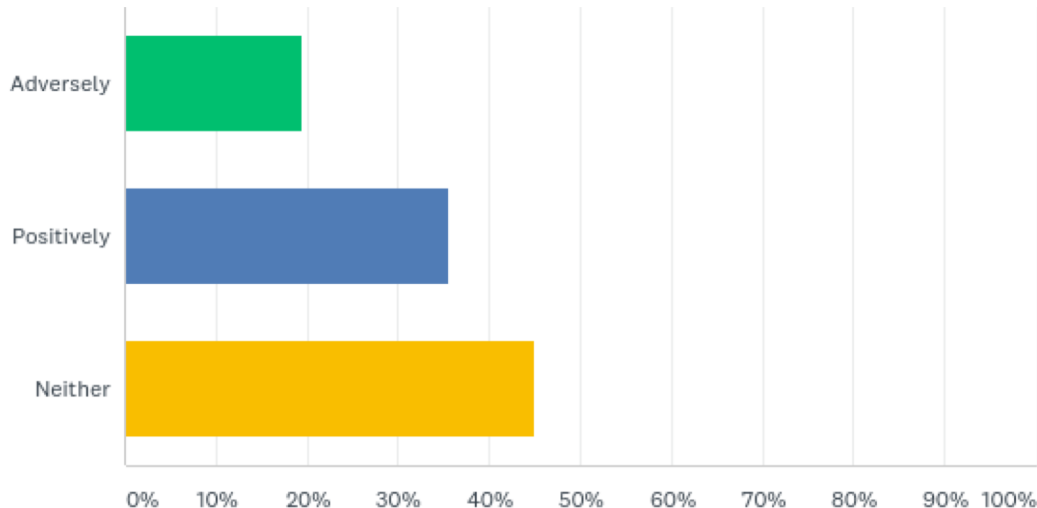
Q10: IN THE LAST FIVE YEARS GENERALLY, DO YOU BELIEVE THAT WOMEN LAWYERS ARE:

○ Answered: 343 Skipped: 3



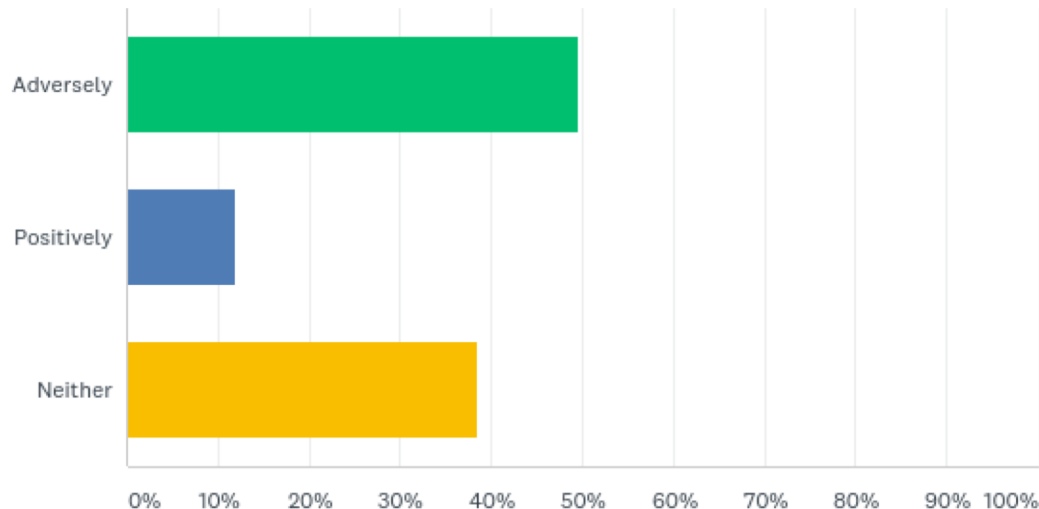
Q11: HOW DO YOU THINK THE “ME-TOO” MOVEMENT HAS IMPACTED WOMEN LAWYERS?

○ Answered: 344 Skipped: 2



Q12: HOW DO YOU THINK THE CURRENT “POLITICAL CLIMATE” HAS IMPACTED WOMEN LAWYERS?

○ Answered: 343 Skipped: 3



IMPACT OF “#ME TOO” ON EMPLOYMENT LAW

- ◉ Unfortunately, partners are now avoiding being alone with women lawyers, traveling with them on business, going out for dinner or drinks, etc. There's a real climate of fear that they will be accused. So they avoid the risk.
- ◉ While I fully support the "Me Too" movement, I can see that it has had an unfortunate retaliatory effect for women in the law in terms of searching for mentorship.
- ◉ I believe it has caused many males to be uneasy working one-on-one or engaging in business development one-on-one with females. It is simply easier to not put themselves in a position to be in a car, office or anywhere else they can be accused of inappropriate behavior.

IMPACT OF “#ME TOO” ON EMPLOYMENT LAW, CONT.

- ◉ As the wife of a law firm partner, I'm not really sure I want my husband to mentor some of the younger women I see because they seem too quickly to blame discriminatory/harassment for objectively poor work performance. Bad reviews are not always about discrimination or harassment. Often, they are just about bad work.

IMPACT OF “#ME TOO” ON EMPLOYMENT LAW, CONT.

- ◉ There seems to be backlash now. I am not one to feel that all women should be believed, any more than all men should be believed. I do feel that claims must be taken seriously and handled with respect. But this movement isn't helping us.
- ◉ Some male lawyers are so afraid of #metoo that they don't want to have anything to do with promoting or sponsoring female lawyers - which is clearly a huge backwards step.
- ◉ I have seen much! I was assaulted in chambers by a judge in my early days when I was 29 - never spoke much of it until the me-too movement. I have lots to say but we at least have enough women in the judiciary to solve that issue. Wish the survey luck.

IMPACT OF “#ME TOO” ON EMPLOYMENT LAW, CONT.

- ◉ #MeToo needed to happen but it now makes people treat us differently out of fear of being sued. It's ridiculous. Likewise, I find myself suspicious of other women when it seems as if they are trying to "set someone up". Very sad.
- ◉ I am an employment (plaintiff side) litigator. In my observation, both across the board and specific to the legal field, "me too" has brought issues to the forefront and increased visibility, but has also resulted in a closing of ranks on the male side AND, conversely, knee-jerk, "window dressing" responses by employers, including law firms. It is important that the conversation has been started, but there is a long, long way to go.

IMPACT OF “#ME TOO” ON EMPLOYMENT LAW, CONT.

- ◉ I think too many people country wide, including women, are caught up in a victim mentality and are looking for ways to be offended or slighted.
- ◉ I don't think the #MeToo movement has had any impact on the practice of law yet. The same offenders are still in their positions making millions of dollars.

RECENT “PROGRESS” IN THE PROMOTION/RETENTION OF WOMEN IN PRIVATE PRACTICE

- It's very discouraging that we are not further ahead in equality in pay or leadership. Our profession is lagging behind greatly as a primarily male-dominated industry.
- Law firms run by middle-aged males have not changed in my experience. I left my last firm (I was a partner) because the managing partner was abusive to women. He knows there's really no recourse. Always discounting the female lawyer's bonuses; giving male partners larger bonuses outside the "formula".

RECENT “PROGRESS” IN THE PROMOTION/RETENTION OF WOMEN IN PRIVATE PRACTICE, CONT.

- ◉ While firms and clients say the right things and create "initiatives" for the advancement of women, the follow through isn't where it needs to be. Women still do not receive "opportunities" whether they be in practice or leadership at the same rate as men. Their career trajectories stall or slow down resulting in fewer equity partners, general counsel's, firm leaders. It is also reflected at the highest levels of compensation for attorneys - women are not equally represented.

RECENT “PROGRESS” IN THE PROMOTION/RETENTION OF WOMEN IN PRIVATE PRACTICE, CONT.

- ◉ I believe the attention to me too and implicit bias is raising awareness, as has the demand by GCs that outside counsel teams reflect diversity. But there is still abundant discrimination in private firms in terms of distribution of non-billable work, case assignment where there are shared clients, and origination credit.

RECENT “PROGRESS” IN THE PROMOTION/RETENTION OF WOMEN IN PRIVATE PRACTICE, CONT.

- ◉ (Until) men no longer occupy the vast majority of seats at the management level, not a whole lot will change. My former firm tried to educate the men who walked away annoyed and insulted. I was significantly discriminated against last year after only working 8 months due to a maternity leave. In this year I produced more than 65%-70% of my partners in 8 months than they produced in 12 - yet was paid substantially less and essentially told it was because I was a woman and had a baby!
- ◉ Women are still leaving the profession in droves because of unequal pay and issues involving lack of respect and fairness.

RECENT “PROGRESS” IN THE PROMOTION/RETENTION OF WOMEN IN PRIVATE PRACTICE, CONT.

- ◉ Even in the most "enlightened" settings, my experience/ speaking with friends confirms that female partners make significantly less than their male counterparts, are still given the "soft" HR-type leadership roles, etc. In litigation in particular, men can get away with being aggressive, abusive, rude, and hostile, often dismissed with "but that's what makes him a great trial lawyer." And while no one should act abusively to anyone, when women display even a minute fraction of the same behavior, they are vilified for it. None of that has changed in the last five years.
- ◉ Discrimination against women remains a huge issue in the legal field. Much of it is subtle; an undertone of "she's a female so she is not as capable or valuable." Men continue to believe women are not as capable in the courtroom as they are - women can stay in the office and write briefs and second chair at trial.

A WORD ABOUT “WOMEN’S INITIATIVES”

- ◉ Many firms have them, but . . .
- ◉ According to recent studies, there is little evidence that these initiatives have led to substantial increases in the representation of women at the highest levels of the law firm.

ARE THE “GOOD OLE BOYS” BACK IN FORCE?

- ◉ The horror that is the current political climate has raised awareness and those of us who thought we did not have to fight as hard. The horror has united us.
- ◉ Some of the more overt signs of sexism have gone underground, but it is still very much present. To some extent younger men seem to believe that equality means that they can act and speak inappropriately and a woman who does not wish to engage is a "prude" or "uptight" or otherwise not really acting like an equal.

ARE THE “GOOD OLE BOYS” BACK IN FORCE? CONT.

- ◉ Private practice, especially in the civil litigation field, is still very much an “old boys club”.
- ◉ Sexism (like racism) continues and is now more open in some respects because of the current political climate. Just like ethics come from the top down in most corporations, the US President has set a very low standard and encourages racism and sexism. This finds its way into the judicial system from time to time and I am afraid it will become a more serious problem in the future.

ARE THE “GOOD OLE BOYS” BACK IN FORCE? CONT.

- Pennsylvania Judges had a scandal where it was discovered that they were viewing pornography at work. Thinking about the potential for that happening before argument, hearing or trial was particularly disheartening.
- The political climate is definitely affecting women in all professions. It reminds me of the days when women could not enter men's clubs.

ALWAYS REMEMBER:

- ◉ The importance of being in the room where it happens; and
- ◉ “If you’re not at the table, you’re on the menu.”

WHAT YOU CAN DO: HELPFUL SUGGESTIONS FOR CONTINUED/“JUMPSTARTED” PROGRESS

- ◉ Women lawyers supporting women lawyers is the best path forward.
- ◉ Improvements will come when law firms, their major corporate clients, hire/retain women lawyers and acknowledge and honor the value they add to a matter; plus, when judges will aggressively reprimand/sanction adverse counsel for uncivil, dishonest, and/or sexist behavior toward women counsel. So far, it has been a lot of lip service only.
- ◉ Order the “Gender Equity in Partner Compensation Toolkit” from the ABA’s Commission on Women in the Profession.