



Lowenstein Sandler's Women's Initiative Network Podcast: Real Talk

Episode 17 - Women Lawyers' Advancement and Compensation: How Far Have We Really Come? Part I

By [Megan Monson](#), [Nicole Fulfree](#), [Rachel Moseson Dikovics](#), Debra Lancaster, Kirsten Branigan

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- Amanda Cipriano:** Welcome to the Lowenstein Sandler Podcast Series: The Women's Initiative Network, Real Talk. I'm Amanda Cipriano, an associate attorney and member of the Women's Initiative Network at Lowenstein Sandler. Before we begin, please take a moment to subscribe to our podcast series at [lowenstein.com/podcasts](https://www.lowenstein.com/podcasts), or find us on iTunes, Spotify, Pandora, Google Podcasts, and SoundCloud. Now let's take a listen.
- Rachel Dikovics:** Welcome to the Women's Initiative Network: Real Talk. I'm Rachel Dikovics, an associate in Lowenstein Sandler's White Collar Criminal Defense practice group.
- Megan Monson:** And I'm Megan Monson, partner in Lowenstein Sandler's Employee Benefits & Executive Compensation practice group.
- Nicole Fulfree:** I'm Nicole Fulfree, counsel in Lowenstein's Bankruptcy and Restructuring Department.
- Rachel Dikovics:** Today we're joined by two special guests, Kirsten Branigan, managing partner of KSBranigan Law P.C., and Debra Lancaster, executive director of the Center for Women and Work at Rutgers University. The center recently published a study titled, Women in Private Law Firms Slow Progress on Equality of Promotion and Compensation. The study examined a range of factors relevant to women's advancement and compensation, and concluded that women's rate of professional advancement is the same today as it was in the early 1990s. And for those of you like me, who still feel like the '90s were pretty recent, it's actually about 30 years ago.
- Megan Monson:** Yeah, that really is a staggering statistic. Kirsten and Debra, thanks so much for joining us today. To set the stage, can you tell us a little bit about your roles and the Center for Women and Work?
- Debra Lancaster:** Thanks for having me. I'm Debra Lancaster, Center for Women and Work at Rutgers University here on the New Brunswick campus. And the center has been engaged in research, education and programming that supports economic and social equity for women workers, their families, and their

communities for over 30 years. We address issues of women's advancement in the workplace. We conduct research on public and workplace policies and provide technical assistance and programs to educators, industry and government leaders.

And because we're here at Rutgers at the Land-Grant Institution, we're particularly focused on issues that directly affect the living standards of New Jersey, women and their families that also do a lot of work in the global space as well. So that's a little bit about us. If you check out our website, recent projects, aside from this, women in the law project that we'll be talking about today that we've engaged in, include a study on the implementation of New Jersey's paid family leave law, research on the working conditions of domestic workers. And we've been doing some ongoing work taking a look at women and their households and the effect of COVID-19. We've been doing that for a while now.

Megan Monson: Thanks so much, Debra. Kirsten?

Kirsten Branigan: Yes, hi. I am so glad to be joining you today. My name is Kirsten Scheurer Branigan. I'm managing partner of KSBranigan Law in Montclair. And our firm is essentially focused on employment law compliance and alternative dispute resolution. We're a women owned law firm and we primarily focus on bias prevention and remediation through training, policies, climate assessments, investigations, equal pay audits, and also provide alternative dispute resolution in the capacity as arbitrators and mediators. One of the things that we are very passionate about in our firm in particular and focus on is helping organizations create safe, bias free, respectful, and culturally competent work environments where the culture is diverse and inclusive and where quality, mindfulness and wellbeing are prioritized. We are excited that recently we decided to focus specifically on certain industries. In addition to all industries, we launched an area focused on law firms as well as schools and helping to build diversity, equity, inclusion within school environments as well as to work on the challenges of advancement and retention of women and underrepresented individuals within the legal profession.

Nicole Fulfree: Sounds like both of you have a lot of the same passions the three of us do, so we should have a ton to talk about today. Debra, Kirsten, can you tell us a little bit more about what kind of data the study utilized, how it was gathered, and why the data you looked at is so important to understanding women's advancement in compensation?

Debra Lancaster: Sure, I'll start with that. What we did for this report in this brief was really wanted to try and take stock of what is available out there already. So for this report, our analysis relied upon secondary data analysis that's publicly available. And then we used a number of sources ranging from the current population survey, which is produced by the Bureau of the Census and the Bureau of Labor Statistics data, from the Law School Admissions Council, the American Bar Association, and the National Association of Law Placement along with the National Association of Women Lawyers.

So there's a lot of decent publicly available data out there, and that's what we really relied upon to take a look at women's advancement, particularly in law

firms. And our goal with this report was really to kind of do a scan of the literature and a scan of that data and see where we're at. And in terms of why the data's important, I mean it's really helpful to use publicly available data because it's usually been used before and can be shared and replicated and checked by others, although there's other private sources of data that I think have yielded similar kinds of stories about women's advancement.

Kirsten Branigan: So we were excited when we heard about this report from the Center for Women and Work, those of us practicing here in New Jersey and involved in organizations such as the New Jersey Women Lawyers Association when Debra had reached out and asked if there were women who'd been practicing for a number of years who'd be willing to comment and contribute to insights into the data. We wound up having a process of back and forth with Debra and Professor Yana Rodgers at the center who worked on the report. And we provided some insights, some additional studies that are out there that have been very unique studies focused at the national level, but looking at areas like not just numbers of women and associate and council and partnership roles, but also women that have been at their firms for 15 plus years and have decided to leave. And that's a unique demographic that typically doesn't get as looked at.

And as you know, a lot of the focus often in these studies are about hiring and then being made partner, and it leaves out another layer of more experienced women who actually do leave their law firms for a variety of reasons. So we were back and forth with the center about information like that. And some of the women who worked on this are very knowledgeable and connected even with the National Association of Women Lawyers and other efforts at a nationwide level and were able to provide some great insight into what the center was pulling together. And just in speaking of New Jersey women lawyers, I do have to give a plug to one of your partners over there, Lynda Bennett. A group of us took on a challenge of revitalizing this organization about 15 years ago that was on the brink of disbanding, and I think literally had about \$2,000 in the bank and decided to figure out a way to kind of mobilize women throughout the state and build a movement here in New Jersey.

And I still to this day remember the response from Lynda Bennett who I did not know at the time and was just reaching out to women throughout the state and that remember her email saying something to the effect of, looking forward to working with you to compel radical change here in New Jersey. And that sums up Lynda, and obviously I know she's had a great impact on your women's initiative at your firm, and it's just great to be part of this particular podcast talking about this issue because I know how much work your firm has done in this space and how much Lynda has led the charge on that both within the firm and for women throughout the state in the revitalization of New Jersey Women Lawyers Association. So I wanted to make sure I gave that well-deserved shout out to our friend, Lynda Bennett.

Debra Lancaster: And I just want to jump in and say how delighted we are to have been able to work with the attorneys that provided commentary because I don't think... The report would've absolutely been weaker without that insight. And also, I think just as importantly, the last thing we want to do at Rutgers, at least at the Center for Women and Work, is do research and have it sit on a shelf. So

we are just delighted to be talking about the work today and to have so many attorneys interested in what this report says. And I think you all can do a better job at making meaning out of it than we can because you have the lived experience and expertise being in the profession and in the practice. So we're delighted that this has all been connected.

And I should also just disclose that this report, we had a donor come to us who's a Rutgers alum who's a managing partner at a law firm and kind of wants to stay in the background. And he just has been really concerned over the past few decades that he's been in the field about losing so many valued female colleagues. And so that was kind of the initial inspiration for us even taking a look into this area of work is that an ally came to us and said, "Look, this is unacceptable. I want to do something and this is what I want to do." And so we honored this spirit of what he was interested in and then have kind of reached out to Kirsten and to others to try and help us figure out what we do with this, how to turn it into an opportunity where it can start some more conversations. So just wanted to share that. I probably should have shared that in the beginning when I introduced myself.

Megan Monson: And I think that's great context. And in particular, really the way that we find change starts to get prompted is when there are these data points that people can concretely look at. And so kind of having these survey and having these discussions is really what we're hoping will kind of be the precipice to change those stats going forward.

Kirsten Branigan: Just also, to piggyback on what Debra said, I wanted to make mention that the New Jersey State Bar Women in the Profession Section, also did contribute some very meaningful comments as well, the current leadership over there. And so I wanted to make mention of that. And just the fact that when Debra first contacted us on this project and said that it was a male attorney who was interested in funding this, it was definitely a moment of great appreciation that we oftentimes overlook our male allies in this cause and that many of them are quite supportive and wanted to... Don't know necessarily know what to do or how to improve it. And the fact that this donor sought fit to fund this study and spotlight this issue is definitely to his credit.

And hopefully that's a good sign of more allyship to come because there are many male allies out there and many mentors and sponsors that I've had throughout my profession that I'm sure many women on this call have had. And certainly, a lot of young men coming up through the profession that are aligned with true equality within the legal profession and some of the other factors that we're very focused on in creating flexibility in other areas to improve the practice.

Rachel Dikovics: Thanks, Kirsten and Debra. I think that the fact that we need men to participate in these conversations and be supportive of women's advancement is really exemplified by some of the findings of the study. And so let's take it off the shelf and jump into some of the findings. So for example, the study found that by 2020, women had achieved and in some cases actually surpassed gender parity among bar exam takers and passers. So in fact, from 2018 through 2020, non-white women significantly outnumbered non-white men taking the bar and in most cases outperformed

them on the exam. So how do figures like that translate to the composition of actual associate classes and law firms?

Debra Lancaster: Yeah, well for sure large number of women have entered the legal field over the past four decades. And private law firms have seen more than half of their applications coming from women and firms have been absolutely, they've been successful in hiring new cohorts that are gender balanced. And this is really positive in what we want to see and quite frankly, what I'm sure you all expect. And so I think that it does translate certainly early right out of the box, after you pass the bar exam, there does seem to be some gender balance heading into those law firms.

Megan Monson: While it starts out as a balanced class, what happens to those figures when we look at partnership compensation as opposed to those early on associate classes?

Debra Lancaster: Actually, a lot of things happen kind of within the first few years that all of a sudden, you see quite a bit of imbalance. So in US law firms in 2021, which is pretty recent, women made up close to half of all associates, but held just over 25% of all partnerships. And then within that, women account for just 22% of equity partners and just over 32% of non-equity partners. And here's a little bit of the discouraging thing is that these numbers have been similar since at least 2009. So I'd say that law firms are somewhat stagnant in this regard. I think other people would say, well, women aren't making progress. I would probably put most of that burden on the law firms and that the figures, and this won't be a surprise for all people of color and particularly for women, are even lower than that.

So it starts out well, women start out even ahead in some areas, they're outperforming others in terms of passing the bar, in terms of even the graduating classes. But then quickly within law firms, you see a pretty significant gender imbalance. It is kind of stuck at this point.

Nicole Fulfree: And this was so interesting to me because I feel personally at least that the recent buzz around the law firm world at least, is that we're making so much progress recently. And what this kind of is showing me is that that's really a misconception, and that's one of the reasons this is so important for people to be aware of. Debra, did the study identify any reasons for this gap between relative gender parity among associates and the fact that'll only 22% of equity partners and 32.5% of non-equity partners are women?

Debra Lancaster: So, I'll give you what the report found, and I think that some of you probably have some observations that you've made that you can decide whether or not these align with what the research finds. But practices around the partnership track serve as a key roadblock for women. There's multiple explanations, right? And so there's individual experiences and then there's research that looks kind of at aggregate numbers. But partnership practices or that kind of track has been identified as a key roadblock. Partnership becomes a roadblock, these kinds of practices. There's a number of issues and culturally, we're still in a place overall where women take on a disproportionate amount of unpaid care work and labor in the home, and quite frankly in the workplace as well. So caring for one's family and serving

on a DEI committee for example, and other types of committees are very different forms of labor, but both are done more often by women and both tend to be undervalued.

So I think it's a complicated story, but I think probably should have started with care work and kind of our cultural expectations of women and roles that we expect them to play and also roles that they may want to play. People may want to bear children and be home with them for a period of time. And that work-life balance in law firms, I'm sure is a challenge and you all can tell me better, but both not just for women but also for men. And so those are some reasons Kirsten may have some commentary she wants to bring to this conversation because we're just looking at the research. I haven't worked in a law firm myself, but these are the types of explanations that emerge about why women aren't making partner at the same rates.

Kirsten Branigan:

So Debra, thank you. I think the report really hits the nail on the head in a lot of respects of what goes on in private law firms. And I look back during my past 25 years and it's shocking. It's shocking to see that the numbers really haven't shifted all that much. It's shocking, but not surprising I guess, in a way. But there is that visibility bias. I know that, I don't know if it was Nicole that mentioned the fact that you look around and people think we're making all this progress, and that seems to be the buzz. And I think it is because we look around and we see all these women. We see them and then we lose them. They don't advance. And sometimes it is what you said, Debra, people may want to be home with their children for a period of time, and that's okay.

And law firms can and should make it easier to come back into the profession and retain, get that talent back. But a lot of women also leave an out of the practice because the structure of law firms are still very quintessentially male dominated. And women, I think for, generations have been coming into these structures and trying to fit in as best they can. But then when things happen, when they may need time off, whether it's for childcare or caregiving, I think the fact that women are primarily still responsible for many of those duties in their homes, those disparities just continue to perpetuate. And the law firm structure that you had mentioned where work is not as valued, I see it a lot. I know a lot of colleagues in situations where they are in these critically important roles of the glue that holds the law firm together and keeps the culture positive and retains talent.

And because it doesn't fall into the bucket of originating business or billable hours, it's not necessarily valued. But it's an extremely valuable service that the often female attorneys are providing in their law firms. And they go undervalued and uncompensated. And it's not to say it's exclusively women, but there are situations where it is predominantly women and certainly within my own network of women lawyers that I know throughout the state have experienced that, or that they're working on certain matters and they're not getting the credit for them. And the credit is only given to the originating attorney, but not the person who's doing the work and also keeping the client satisfied and maintaining that relationship.

So it's a very multi-layered dynamic within law firms and law firms structure when it comes to compensation specifically, which I think we may talk about

separately. But there's a lot of the dynamics that are going on and there have been improvements over the years, no doubt. The amount of firms that I know that have women's initiatives and part-time policies and part-time partnership and all sorts of things that really were very, very slow to come when I was at that about 10th year level of my practice that we now do see more routinely. So there is progress, but it is very slow.

And as far as the level of equity partnership, it's unacceptable because when I was out of law school in the mid '90s, everybody that was talking about this issue said, well, once this pipeline of this generation is here, we're going to see these numbers improve. And a lot of people say, well, it's personal choice. People are deciding to have kids and just leaving the practice. And I know a lot of colleagues that might be true, but a lot of them left because it was so just completely impossible to continue to practice. And that, the law firms have to take accountability for. It's not just a personal choice and not to mention that if people say it in that fashion. Well, I've heard that throughout my career, "It was her choice to have kids. It was her choice." And let's face it, is it really our choice? If we could share the responsibility to bear children with our male colleagues, I think a lot of us maybe would.

Nicole Fulfree: Yeah. And it takes two to tango!

Kirsten Branigan: That's right. It does take two to tango. So this is the kind of response that you hear sometimes about choice. And women certainly shouldn't have to choose between being lawyers and being successful in their parenting responsibilities. And I know that my generation and the generations behind me have been raised to believe that they can have it all and they can be treated equally and they can pursue motherhood and a profession. And so there really is no reason why that can't be done. And the law practices just need to accept that reality. And the generations that are behind my generation, which is Gen X, I think are even more vocal on these issues. So I think the law firms are going to have to adjust if they want to keep good talent going forward.

Nicole Fulfree: Yeah. One of the things that I think that you pointed out, Debra, it was the inflexibility with the partner track scheduling. And I think that's really important because it's kind of just the timing, you mentioned the 6-to-10-year period. It's just such that the pinnacle of your career is at the same time of the pinnacle of your family life, a lot of times. And even in more progressive firms, like for example, Lowenstein is pretty flexible with the partner track schedule. That being said, I think a lot of women or people in general have the fear that it's either up or out. And if you don't go in your primetime, then you'll be stale or a lame duck and that you'll never make it.

And so even if the firm is progressive or more flexible, I think the expectation is kind of still there, the fear is still there. And I think we've talked about it a lot of times on this podcast before that I think there's still society's expectation for women that women are supposed to work like they don't have kids, and they're supposed to parent like they don't have a job, and that pressure is real.

Kirsten Branigan:

It absolutely is real, Nicole, and I'm glad that you said that because most people that go to law school are type A, overachieving, very focused, very hardworking. And when you hit that maternal wall where you all of a sudden feel like you can't do everything at 1000%, and it really is quite impossible to do everything at 1000% once you're taking care of small children and taking care of your clients and dealing with your firm committees and business development and all of those things, and it really becomes a crisis. And it's a crisis for a lot of women and one in which they do decide to simply opt out because it is too difficult. And we have to work harder in law firms to make that, understand that that's going to be a challenging time and area.

But it's not that difficult stage lasts forever. And I think that unfortunately, a lot of law firms look at it very shortsighted, and it's, "What have you done for me lately?" And aren't looking at the true value of a little flexibility goes a really long way in terms of having dedicated, valued, loyal attorneys that you've spent years and years investing in and training. And unfortunately, that shortsightedness happens and then all of a sudden, these very experienced women leave law firms and leave all that training with them, and the clients aren't happy because there's a disruption in service and there's money lost that doesn't get quantified because most law firms don't factor in the retention and the attrition to the cost of, they just look at those buckets of the originations and the billables and the short term goals and don't look at, well, how much have we lost by investing 10 years in this attorney who's now walked out the door because maybe we could have been a little bit more flexible or maybe if we invested in this more.

And that's really where the law firms need to focus. And I know we're going to talk a little bit about strategies going forward, but there are a lot of things that law firms can do, and they're not difficult. And sometimes it is just a matter of treating people with value and not making them feel like they're no longer of value. And there's so many anecdotes in all of these stories, whether it's women coming back from maternity leave and not getting good client work anymore and feeling like they're not valued or getting really bad compensation bonuses because they went out on maternity leave. And again, not to say that there are going to be differences in compensation. The way law firm compensation works right now, oftentimes, if you're out you, you're not going to get, you're going to be at a loss to begin with because you might not be bringing in business or you might not be doing other things.

But then when you couple that with a slap in the face of an additional penalty for somebody who's been working for the firm for a long time, it really does become, I think just too much to bear. And that's why a lot of women do leave. So I think the simplistic version that law firms put out there of, "It was her choice, she wanted to be home with the kids," it's a lot more complex than that. It's, "She wanted to be treated with value and respected and feel like she's got a career here, even if she does need a little flexibility for a little while." And that's really where a lot of the firms fall down.

Rachel Dikovics:

And I think that it's important to consider that for approximately 50% of attorneys in law firms, it's more likely than not that at some point they will be taking maternity leave. Most women have children at some point. And policies that impact women who are taking time off for maternity leave or

even to raise their children negatively, just don't make sense when there's such a large proportion of women who make up law firms.

Thanks for joining us for part one of our episode about the Center for Women and Work Study on Women in Private Law Firms Slow Progress on Equality of Promotion and Compensation. We hope you enjoyed the first part of our discussion and that you'll join us next time to talk some more.

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