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# CHICAGO LAWYER<sup>®</sup>

A PUBLICATION OF THE LAW BULLETIN

VOLUME 30  
NUMBER 2

February ★ 2007

\$4.00

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Women and Minorities:  
Why do they leave the big firms?

Plus: Adoption and reproductive technology law

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**Myers: "It's a rough life. It demands tough hours and lots of weekends, late nights, and not a lot of control over your schedule."**

by Bob Yates

# Women and Minorities: The Retention Challenge for Law Firms

**Auerbach: "Why is this happening? You have those numbers at the bottom, but when you look at what is the path to the future and who's making it to equity partner — that's where the numbers are really, really disparate."**

**T**oday, Chicago's large law firms have figured out how to recruit women and minorities. Women typically comprise around 50 percent of the associates entering the large law firms; minority recruitment continues to lag behind, but they make up around 17 percent of first-year associates.

By the time partnership rolls around, however, most of the women and minorities have left. Women constitute about 20 percent of partners in large law firms in Chicago, and slightly less than 5 percent of partners in Chicago are minorities.

What happened? Where did everyone go? *Chicago Lawyer* sat down with partners and associates at eight law firms to get their take on the continuing disparity between the number of women and minorities who start out at these firms, and the few who make it into the ranks of partner.

This is the first of a two-part series on the problems large law firms have with retaining women and minorities. This month, lawyers from eight firms discuss the issues that women and minorities face, and the emergence of diversity as a major factor in the relationship between large law firms and their clients.

In March, the lawyers will discuss the extent to which law firms "get it" — what they're doing to respond to the continuing drain of women and minority associates and junior

partners from their ranks. But, truth be told, it's not just a matter of gender and race. Nationally, 67 percent of all associates have left large law firms by their fifth year.



**Venu Gupta**, executive director of the Chicago Committee on Minorities in Large Law Firms: What is it about big law firms that has two-thirds of their people leaving? How do you make your workplace so 40 percent of the people you hire want to stay? Law firms want to know what the answer is, because it's important for business and makes for a better work environment, but it's complicated, because it's about relationships.



**Andrea Kramer**, partner, McDermott, Will & Emery: I've been practicing law for nearly 30 years, my law school class was the first class in which 30 percent were women. I always assumed I would see the same progression, and what we have found out 30 years later is that 20 percent of partners are women. If you divide out the firms like ours that have two-tier partners, the number of women capital partners is even less.

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From left to right: **Monika Machen, Sonnenschein, Nath & Rosenthal; Nicole Auerbach, Katten Muchin Rosenman; Darrick Hooker, Jenner & Block.**



**Nicole Auerbach**, partner, Katten Muchin Rosenman: Why is this happening? Clearly, women have the capability of handling these jobs and have the intelligence or whatever the initial criteria was to get their feet into the doorway; they're able to do that. The numbers are there at the early stages.

There seem to be a number of different issues that affect women, with women not making it all the way to equity partnership. At a certain point, I would say, mid- to senior associate and maybe income partner level, around the fifth to eighth years, the numbers start to drop off.

You have those numbers at the bottom, but when you look at what is the path to the future and who's making it to equity partner — that's where the numbers are really, really disparate.

What's typically happening is, women are looking ahead and saying, "Okay, this is a hard job as it is. I want to be able to progress to the top levels," because that's what everyone sort of shoots for. But when you look at the upper levels and you see very few role models — I think that's a problem.

**Linda Myers**, partner, Kirkland & Ellis: I think that the lifestyle inside of a big, private-practice law firm is rough, whether you're white, black, male, female, whatever. It's a rough life. It demands tough hours and lots of weekends, late nights, and not a lot of control over your schedule.

So, I think that it's tough to stay the course, weather through in this life, period, and, as a consequence, we just lose more people because of how difficult the lifestyle is.

**Monika Machen**, associate, Sonnenschein, Nath & Rosenthal: When I come into work, I don't know when I'll



leave — I could leave at six, at seven, at 10 — that uncertainty makes working at a law firm very challenging. You don't know if you'll be home for dinner, to put your kid to bed.

I think that weighs heavily on people — it takes a toll on your relationships, it takes a toll on your family life.

**Tara Kamradt**, partner, Katten Muchin Rosenman: Why do women associates leave? A key reason, I think, is the lack of predictability and control over their schedule. One of the things that happens when you get to partner is that you can have more control, especially if the people you're answering to are your clients. When you have that, that's really valuable.

If women don't get to the point where they're able to develop that independence, it can be very frustrating. For example, if an associate gets a phone call from a partner at 5:00 p.m. the Sunday she ran the marathon, saying, "I need you to come in and work all night because a client needs something," if that woman has another choice, she might say, "I love what I do, but I'd rather work eight to six."

And this, honestly, is not limited to women, it's just that in a two-income family, even without kids, in our experience it's more likely that the woman takes the less demanding job.



**Deni Caplan**, partner, Goldberg Kohn: I think one of the big barriers is women's view of the importance of career versus their overall life/work balance. I think that women are not necessarily socialized to reach for

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the brass ring and, because of that, they're perceived as being less ambitious, which is not true.

Women who have made the decision to go for a post-college degree are ambitious, so it's not a lack of ambition, it's that the ambition is not so singularly focused.



**Terri Mascherin**, partner,

Jenner & Block: Women have more freedom to choose to do something different or to have no career outside the home, so it becomes an easier choice perhaps for a woman to say, "I'm not going to try for the brass ring of partnership at one law firm. I can do something else and it's okay for me, society is not going to look down on me." A man making that

same choice may have a different calculus he has to make.

**Kamradt**, Katten Muchin: Women need feedback and confirmation in terms of being recommended to a client, or held up internally to another partner — "This person is fabulous, she's great."

I see that happening more frequently with male associates coming up through the ranks — some people call it the old boys' network — but what I see is that subconsciously a male partner may identify a male associate who reminds him of himself, or his son, or another attorney that he's worked with, that the associate just has the qualities that are key.

Once someone gets labeled early on as a business-getter, as having potential for success, then it can become a self-fulfilling prophecy.

It's during those years, maybe mid-level associate to junior partner — which are generally the child-bearing years for women and when this is really important. People might think if a woman is pregnant, since she'll be going on maternity leave, it doesn't make sense to introduce them to a big client because they're not going to be available.

What they don't understand is that implying that becoming a mother means you can't perform with the same commitment as before is both difficult to hear and not always accurate.



**Jean Kuelper**, partner,

McAndrews, Held & Malloy: I've seen women relegated to positions in lawsuits which are lower than their level just because of the perception that they won't put in the hours necessary to do what it takes to win.

When you've got a battle of two companies, it's an all-out battle, an all-out war - the hours lawyers put in are just extraordinary. There's this

false perception that women with children cannot or will not do it. That's completely false, but there is a perception of that.

**Kramer**, McDermott: Women tend to get higher grades in school, then they come to a law firm and they don't do as well, and it has nothing to do with their talent, it has to do with environment.

Part of it is that men and women don't communicate in the same ways. One of the things we're trying to do at the

firm is, we're trying to open it up both ways — get the women to understand that the way men communicate isn't the right way, but it's different, and they need to be able to hear what's being said, as opposed to internalizing it and taking a negative reaction away from some of it. And the men need to understand that women communicate differently.

If you're not sensitive to that, there can be misunderstandings. Women tend to ask a lot of questions, they tend to want to have all the pieces laid out.

So a young woman might go into a senior partner's office and say, "I don't understand the assignment." Well, she understands it perfectly well, but she's not going to go in and say, "There are three pieces missing, do you have the answers to those three pieces, or do you want me to call the client?" That's very confrontational, and women generally aren't going to do that, so instead, she says, "I don't understand the assignment," and he's saying, "What an idiot."

**Mascherin**, Jenner & Block: For minority lawyers, I think it's hard to stay in a place where you stand out, where there's not a community. I think it's difficult when you come into an environment like this — it still is a highly competitive environment from the get-go — and you don't see role models and mentors you can identify with, and you feel as if, "I'm here to make my way as the woman, the Hispanic lawyer, the Asian lawyer, and I stand out." I would imagine that's a lot more pressure. That's my own experience.

When I came out of law school and looked at firms, I had no interest in going somewhere where I was going to have to fight that battle on top of whatever else I had to prove to make partner at a big law firm. I didn't want to be the one to have to prove that a woman is good enough.

**Darrick Hooker**, associate, Jenner & Block: I come from a very socio-economically disadvantaged background. I'm the youngest of eight. Despite our financial situation, my parents were able to find the resources to enable four of us to go to college. I am the first to attain a doctorate. That's not an uncommon experience among most minority associates at large law firms. Not only are you an associate at a large law firm, you also are conscious on some level that you are representing your people. Sometimes juggling both realities can be a challenge. That's why I think mentors are very important.

When you don't have doctors, lawyers, or other professionals in your family, you don't have the privilege of communicating with people in your family with similar backgrounds to discuss issues. My parents encouraged me to become an attorney, but neither they nor I knew what it took or what being a lawyer encompassed.

**Machen**, Sonnenschein: As you grow more senior, you see very few people who look like you, who have your background. You don't have role models — there are very, very few successful women minority partners who are leaders of the firm, who are equity partners.

Part of the problem is, even if you're doing great as an associate, when you look down the road, and nobody looks like you, you think, "Maybe it's not going to happen for me, it's too tough a road." That plays into mentality, "Is this the right environment, should I go elsewhere?" You want to be able to find people like you who've succeeded.

But I'm very fortunate to have fallen into a good group in a good firm. My experience is very different from what I

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hear on the street that diverse attorneys are experiencing — our practice group is very small, and that’s worked to my great advantage. It’s such a small group and there’s so much work to go around that I can’t help but get good work.

### Law firm environment

**Gupta**, Chicago Committee: Time demands are at the heart of the discontent — that’s true for all people — but, for people of color, that discontent includes not feeling valued, included, or being on the inside. It’s such a hard life that, if you’re not getting feedback, positive reinforcement, a personal investment from those you work with, it makes it hard to envision yourself staying and being successful, especially if there are other things tempting you away, whether that’s being a parent, or going to work for a client. It’s not that complicated — the warm, fuzzy stuff is not that hard. If I’m a fourth-year associate and the managing partner asks me to lunch, I’m pretty excited about my contributions to the firm, and possibly my trajectory at the firm.



**Stuart Garbutt**, partner, Meckler, Bulger & Tilson: You really have to be comfortable in the environment where you work to be willing to put in those kinds of long hours and to make those sacrifices. If there are ethnic and cultural issues in addition, then it’s all that much more difficult. To have to sacrifice to succeed in an environment where you’re not sure you fit in, or if it is a

long-term situation for you — we’ve got to find ways to address those issues.



**E. Lynn Grayson**, partner, Jenner & Block: No two ways about it — I love to practice law and I love being an environmental attorney, but practice at this level in a big law firm it can be a hard row to hoe, and you really need to like what you do to be in it for the long haul. And in order to do that, people really need to feel they’re welcome here.

They need to feel like they’re respected, their value is seen, their contribution is appreciated — if that’s the case, they’re going to stay — men, women, minorities, it doesn’t matter. The gold ring in this business is partnership, but all along the way it’s recognition and appreciation and respect for the work you do as an attorney, and you need to get it, and we have to be really good in making sure that people get it.

**Hooker**, Jenner & Block: Coming into an environment that’s more diverse is comfortable to me. My previous law firm was predominantly white; I was one of two minorities in the firm. In this environment, it was difficult to maintain my individuality and also become a part of the team. As time progressed, I learned to be myself, and this was in part due to some of the attorneys at my old law firm.

At Jenner & Block, becoming a member of the team has proven to be even easier. This is because of the increasingly diverse environment that Jenner possesses. As an associate,

minority or otherwise, you are given more opportunities to work on important matters and display your talents. That’s a welcoming environment for me, an environment where I can see myself thriving and excelling.



**Heba Hamouda**, associate, Sonnenschein, Nath & Rosenthal: One of the reasons I came to this firm was diversity. It’s hard to put a finger on, it’s a vibe you get looking around. On my first day as a summer associate, I looked around and in our summer associate class of 18, there were four men, minorities, people from all walks of life. Having worked here for one

and a half years, I’ve never been made to feel that it was even an issue in my personal career development. I’m a woman, a minority, and a Muslim, and I have never felt ostracized or anything of that sort.



**E. Lynette Stafford**, associate, Meckler, Bulger & Tilson: One issue that minority attorneys repeatedly speak with me about is that they’re not getting the truth — nobody’s willing to talk to them, to be real with them. The partners I work with here are real with me — I had one of them ask me, “What were you thinking when you wrote this?”

I want that; I want you to give me real true feedback and I receive and accept that from everybody here. I don’t need you to take me out to lunch. What I need is for you to be honest with me and to know that you’re interested in my development.



**Anna Wermuth**, partner, Meckler, Bulger & Tilson: As a mother, I can imagine why a lot of women don’t stay at law firms, but my personal experience is that it can work. I came in at the bottom and worked my way up.

To a large degree, I credit my firm with my retention because I was a mother when I came to the practice, and from the minute I walked in the door, the fact that I had a toddler was never an issue. The fact that I wanted to be home for dinnertime and bathtime literally was never an issue, it was always considered appropriate.

What I found here is that if you’re a solid contributor, doing good work, if you make a commitment to the firm, the firm makes the commitment back to you regardless of what your circumstances may otherwise require of you.

**Kuelper**, McAndrews, Held & Malloy: The key to whether women can do it or not is whether the environment they work in is flexible enough. I raised three children, working full-time, and was a single mother when they were relatively young.

Early on, the men I was working with realized that the more flexibility I was given to do certain things at home, [the better]. It wouldn’t bother them if I worked at home on

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a regular basis, or once in a while, or not. Just because I wasn't in the office didn't mean I wasn't working, and, actually, I got more done at home.

So I think one of the keys to succeeding is also a recognition that we all work better when extraneous stress is reduced. The more flexibility you're given, it reduces enormous, enormous amounts of stress.



**Sandra Frantzen**, partner, McAndrews, Held & Malloy: I have two small children, and somehow I've managed to do a fine job. The work needs to be done, but that doesn't mean you have to stay here until nine every night. I have a lot of control over my schedule at this firm — if I have to stay, do I? Yes, but I also make sure that I go to the things that I have going on with my children.

It's a matter of autonomy. If I have to write a brief or have a meeting with opposing counsel, I can figure out when I need to do it. I don't need boundaries set on me — "You have to be here every night to 9 p.m. in order to do it," when I can accomplish it by 2 a.m. on one day. I think that to have productive workers who can really do an effective job, you have to treat them as people. This isn't a law factory, this is a law firm.

#### Value of diversity

**Gupta**, Chicago Committee: Why is it important to a law firm to have women or minorities? The bottom-line reason is that if you have a room full of people from one background, you'd feel really good, people would be echoing what you're saying, but, ultimately, homogeneity of perspective is not what's best for the client.

Also, people of color are growing in number and their economic power is growing. If law firms don't actively try to retain lawyers of color, they will miss out on talent and business — general counsel have made that clear. And there's a social good aspect: We're lawyers, our job is to represent and advocate, and we have a responsibility to reflect society.

And I would be curious about how many in this generation graduating from law school would want to work in a firm with only white attorneys? When people in my age group and younger are running Chicago's large, prestigious firms, my hope is that it would be a no-brainer.



**Alais Griffin**, associate, Goldberg Kohn: Without saying that all women have a certain perspective, or all African-Americans have a certain perspective, people bring different perspectives no matter what their backgrounds are.

Many clients believe that law firms should be more representative of the diversity we have in this country, and we agree. I don't think that anybody here wants diversity for diversity's sake — but it's important to the firm culture that we have lots of different perspectives.

There are a lot of different ways diversity can be very important in understanding how most effectively to present

your case. It's not just a business perspective, it's also what people are used to as they grow up and go through college and law school, what they want to see in their working environment, who they're spending their time with. I don't spend all my time with half-Japanese women. I spend time with a large mix of people, and I think I'm a much richer person because of that, and I expect to see it in my work and I expect to see that in my profession.



**Robert Fernandez**, partner, Sonnenschein, Nath & Rosenthal: So many of our clients are becoming diverse, we have to be diverse to better relate to what's going on. It makes sense for law firms to mirror what's going on in the workforce.

My class at Northwestern was made up of everyone from a music major to a NASA engineer — everyone brought a unique perspective. That holds true with a group of lawyers. Everyone comes in with different perspectives; this is a creative academic profession, not everyone has the same viewpoint, not everyone comes from the same background.



**Oscar Alcantara**, partner, Goldberg Kohn: Why is diversity important? I think ultimately this whole problem will not be solved until we can answer that question by saying that diversity is a good in and of itself, without having to support it with some external reason.

It's been a long time since I read *Bakke*, but I think what underlies that decision is the finding that what the admissions office of UC Davis had in mind was that diversity was a good, period, not because it led to some other end. And when that's the answer to your question, then we won't have a problem. And I don't think we're there yet, but for me that is, or should be, the answer. Why is it important? It's because it is a good in and of itself.

#### Corporate pressure

**Gupta**, Chicago Committee: About five years ago a few law firms had made obtaining a diverse environment a priority. Clients, such as Walmart and Sara Lee, started demanding diversity of their outside counsel in a variety of ways. Walmart did it in 2002, and Rick Palmore's [general counsel of Sara Lee] call to action in 2004 [asking general counsel to pledge to "end or limit" their relationships with law firms who demonstrated a lack of interest in diversity] — drove home the "business case" for diversity to many law firms who were skeptical of the bottom-line benefit of pursuing diversity.

Around the same time, *Grutter v. Bollinger* [the Michigan Law School affirmative action case] was in the courts. The case forced the courts and the public to examine the significance of diversity — schools, in industries, in the military. Over and over, briefs were submitted to the Supreme Court explaining the tangible and intangible benefits of maintaining diverse institutions, and the Court found that "diversity" is a compelling state interest. My hope is that law firms will embrace the idea that

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diversity is a compelling firm interest as well.

**Kramer, McDermott:** In the last handful of years, it's really the first time that firms are really making an effort to address the issues, and primarily it's because the clients started to demand it. Corporate America is now treating lawyers as it treats all its other vendors — and the requirements are that you have a diverse vendor pool.

With the general counsel's office now being held to diversity standards, what we're seeing is that, instead of saying, "Gee, do you have a diverse pool?" they're actually saying, "We'll give you this case if you can demonstrate to us that you have a senior woman or racial or ethnic minority who's going to be involved in our project, or, not even involved, but leading the project."



**Lydia Kelley**, partner, McDermott, Will & Emery: I'm working on a large transaction right now where this is the case. Clients have said that when you have a bet-the-company case, or a huge transaction, particularly in litigation matters, where you may be dealing with a jury, you want to have different perspectives. Let's see what a woman attorney has to say, or a

minority attorney may come up with — a different angle, different life experiences, different backgrounds, different thought processes.

**Myers, Kirkland:** When you have people coming from different walks of life and different perspectives, a variety of approaches come together for better thinking analytically, and a better product. If everybody's from the same walk of life, they're going to come to the same conclusions. Part of what we do is turn things over, we look at the underbelly, we look from all angles — that's the way to get a better product.

**Mascherin, Jenner & Block:** There is greater diversity in in-house departments in major corporations, top to bottom, than there is at major law firms. If one accepts the premise that anybody is most comfortable working with someone similar to them, then it's only natural that when clients become more diverse, they expect outside counsel to have people like them whom they feel very comfortable to call on.

I see it with a large client with whom I do lot of work. They have many women in their legal department and I

think I get more calls because we're comfortable dealing with each other.

**Garbutt, Meckler, Bulger:** Clients expect us to be diverse. I think you'd be embarrassed as a lily-white law firm trying to interface with a lot of your clients. They'd look at you and say, "What's going on? You're all white males, you don't have any ethnic or gender diversity."

Some corporate clients may just pay lip service to diversity, but they all have some diversity commitment, and some of them take it very seriously. There's no question they believe it and expect firms like us to be responsive to diversity.



**Barry Fields**, partner, Kirkland & Ellis: What has happened over time is that corporations and other organizations have become more outspoken about the level of diversity that exists in law firms. There are a variety of factors that drive this.

One is that many of them have a diverse workforce already, and they believe that that level of diversity has helped them achieve good things

economically, so they believe the same can be true of law firms.

Secondly, we've seen that legal departments at various clients have become more diverse and so they expect that certain service providers will be able to increase the level of diversity in their ranks.

It's been a natural evolution from very generic requests to law firms to increase diversity, and the question that arose was, what will happen to those law firms that don't achieve the level of diversity that you're seeking? What has happened over the last five to seven years is that corporations have been willing to step up to plate and say, "There will be economic consequences to your decision not to increase your level of diversity."

**Myers, Kirkland:** The basic idea is that corporations are holding their professional providers accountable for diversity standards and, if those providers don't hit the mark, they don't get new business and their existing business could be pared back. Conversely, if the professional providers achieve the benchmark, they get more business.

When you have that kind of incentive, even if you don't believe improving diversity is the "right thing" to do in and of itself, it's compelling. Real dollars are tied to diversity achievements and so you are going to react.★