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Mentorship Is Key To Fixing Drop-Off Of Women In Law

By **James Meadows** (October 19, 2020)

Mentorship is what distinguishes the practice of law from the performance of a job. Yes, mentorship takes place within the business world at large — and certainly all forms of occupation would benefit from a mentorship model — but mentorship has always been at the foundation of the legal profession.

Law schools teach students about the law, and how to find and present it, but law firms and more senior, often male, attorneys have traditionally undertaken the responsibility of integrating newer lawyers into both the practice of law and the business of law.



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Now it's up to those same men to recognize the crisis that female attorneys are facing as the pandemic amplifies an already unequal system and to offer their knowledge, experience and counsel to build a better future for women in the law.

The sustainability of the law firm model has always depended upon mentorship, and law firms that fail to equip their associates to succeed their mentors do not survive. That model has suffered in recent years for several reasons.

First, law firm leaders have chosen to focus on the amorphous business of law, focusing more on current numbers than on the sustainability of the profession. As a result, partners who want to move up the points sheet, or even just survive, have had to promote their personal case, often at the expense of the next generation.

Second, the rise of the lateral partner has provided a quick fix to flagging profits. Rather than focusing on making a long-term investment in internal assets, the answer has become searching for a lateral with a book of business. This short-term thinking reinforces the gender inequality that already exists in firms by rewarding those who have benefitted from it, keeping partnerships and equity overwhelmingly male.

The primary negative impact resulting from this focus on the so-called business of law is retention. If it is easy to identify a lateral candidate, it is just as easy for someone to leave. Zig Ziglar once said, "You don't build a business — you build people — and then people build the business." The practice of building people has gotten lost in the shuffle, and it is especially affecting female attorneys.

As diversity and inclusion have become more important in our society, law firms have stepped up their initial hiring to achieve better numbers,[1] hiring associates to meet the demographics sought by their clients.

Where they have stopped short is in mentoring those women and attorneys of color so as to give them a path to advancement within the firm and, ultimately, enabling them to take over the business. The fear is that if you turn over project/matter management, and ultimately client management, to these attorneys, they will have the book of business necessary to go elsewhere. Combine this with the impact on the hit to the presumed mentor's numbers, and the case against mentorship is made.

So what is the argument for mentoring diverse attorneys? First let us talk about what

women in the law are facing as they try and advance to partner and equity partner.

According to a National Women's Law Center study released in response to the Oct. 2 Bureau of Labor Statistics monthly jobs report, over 1.1 million workers ages 20 and over dropped out of the labor force in August and September, meaning they are no longer working or looking for work. Of the workers who left the labor force, 865,000 (80.0%) were women, including 324,000 Latinas and 58,000 Black women.

The same result has been witnessed in the legal profession. Through policies developed several decades ago, valuable female attorneys were allowed to pause the partnership track to move into part-time positions — usually involving nearly the same billable hours, albeit with less time in the office, but for half the pay — to attend to their responsibilities to family and children.

With women making far less than their male counterparts on average, for many families struggling with full-time childcare, and now homeschooling, it has been financially better for the woman to leave her job since she makes less and has less upward career momentum. As a result, many female attorneys never returned to the practice,[2] and those who did suffered in their path to partnership.

Not much has changed, and, in fact, the problem has gotten worse. We have entered the first women's recession, as a significant number of women are leaving or have lost their jobs because of COVID-19. Those who quit are often doing so because their company culture hasn't adequately accounted for the additional caring duties that still fall predominantly to women, who bear the brunt of the impact from children interrupting Zoom conference calls and other job activities.

The current women's recession and its amplification of systemic gender issues have erased decades of progress for women in the workplace and may have an even longer effect on the future of gender equality, which makes it even more important for male leaders to help find solutions.

So, where are we today, even prepandemic? Women made up only 19.5% of equity partners in 2018,[3] and the average male partner compensation at Am Law 200 firms was 53% more than the average woman partner.[4] After decades of diversity efforts, that is not where we need to be.

The good news is that the solution to fixing gender disparity is baked into the profession itself — mentorship is a fundamental part of every attorney's legal career, and positive mentorship is often a determiner of success.

But the practice of mentorship can't fix gender equality until those already at the top, or tapped to get there — which, in law, almost always means white men — reach outside the status quo to find their mentees, effectively redefining who has leadership potential. When that happens, it benefits female attorneys and the firm as a whole, changing policies and the culture in ways that boost profitability and retention.

Mentorship generally occurs within two time frames of an attorney's career: at the junior associate level, when mentorship involves learning how to practice law, and at a more senior level, as the associate approaches partnership and needs to acquire the skills required to succeed in the business of law, which generally involves business development.

The best way to teach business development is to start with handing over matter/project-

management responsibility, followed by client-management responsibility, neither of which will occur without mentors willing to invest in their mentees and provide on-the-job support and training. In fact, 67% of female attorneys have said that they had experienced a lack of access to business development opportunities.[5] This is a clear indication that mentorship of women is not occurring at adequate levels within law firms.

Two phenomena have dictated what many female attorneys experience with respect to the second stage of mentorship: (1) timing creating the conflict between career and family; and (2) the receptiveness of senior lawyers and firm leaders to mentor these women, albeit perhaps on a different timeline. Without deliberately choosing to be inclusive, mentors most often pick mentees who are like them, maintaining the status quo of white and male leadership.[6] This is the cycle that needs to be broken.

Power is so imbalanced at most law firms, and has been for so long, that to create better equality means that those at the top need to recognize their responsibility to make the changes necessary for women to be able to succeed and advance.

Most diversity efforts take a bottom-up approach to improving equality. But this approach has not resulted in a great improvement in the number of women partners or equity partners because it fails to support women as they progress in their careers.

Mentorship, on the other hand, takes a top-down approach to creating equality, giving women access to decision makers as they approach partnership. That relationship can change the perspectives of both the mentor and mentee, and help create a path to leadership for women through the benefits of mentorship alone.

Law firms, and law firm leaders, benefit as well. The personal nature of mentorship can help leadership better understand the pressures that women are under, and that they are fully capable of contributing valuable work alongside their parenting duties. This understanding can lead to better policies that help female attorneys balance their responsibilities, enabling them to stay in the profession. And when firm management takes the needs of their partners, associates and staff into consideration it creates a more positive firm culture for everyone.

Another consideration is that many clients, especially in the current climate, are actively seeking diverse legal teams, with some pledging to only hire firms that can meet certain diversity benchmarks. They often want firms that reflect their own diversity, which can improve communication and collaboration between client and attorney. Research shows that companies that promote diversity and inclusion are more innovative, and that innovation leads to better profitability.[7]

It is not too difficult to realize that experienced women leaving the legal profession means both a financial and intellectual drain to the law firm and to the profession, or that the gender imbalance at most firms limits the problem-solving abilities that they can offer their clients.

For example, through my mentorship of women, I, and the firms of which I have been a part, have had the opportunity to observe gender-communication disparities, which have allowed me to encounter new ideas and perspectives that I would not necessarily have received from white male counterparts.

It also enabled me to manage group dynamics based on a better understanding of the individuals involved, whether the group exists within the law firm, or includes vendors or

clients. Female and male styles of conversation are equally valid, so it only makes sense that an understanding of both perspectives will benefit all of us. So the preference for equality is a shrewd business move that also has a social benefit.

Change needs to happen at both the institutional and individual levels. At the law-firm level, and this point goes beyond the scope of this article, origination credit is at the center of much that is wrong with law firm culture, up to and including the loss of the spirit of true partnership. Successful male mentors are often reluctant to mentor women who they fear will steal their clients — in particular those expressing a preference for diversity — or receive credit within the firm that reduces the credit enjoyed by the potential mentor.

Since origination credit is unlikely to go away, law firm accounting systems need to be adjusted to inject more variables into the origination number, not necessarily who landed the client years in the past — which disproportionately advantages men. And it needs to be called origination, not some lesser concept of file- management credit or some other title that everyone knows does not equal origination.

I have found that the best systems track origination credit at both the client level and the matter level, and allow for a split among two or more attorneys at both levels. In an objective compensation system, such a split goes right to the attorney's bottom line, and rewards the female attorney for her efforts in transitioning up the ladder into the business of law. Even in a more subjective system, having the origination reports in hand will ensure that the right answer is reached and that more female attorneys get the benefit of their labor — financially and in terms of advancement opportunities.

At the individual level, attorneys need to be comfortable giving origination credit to their mentees as they prove themselves ready to assume the attendant responsibilities. It is not a gift; rather, it is a savvy business decision.

And the pie is not finite. Within my practice, I share origination credit with many of my colleagues, especially women and attorneys of color. Not only do they learn on the job what it is like to manage the client — for which they are then compensated for the additional responsibilities — but they provide greater points of connection to the client to enhance the likelihood that the client will send us more business, and it frees me up to pursue other business development opportunities. I can say with confidence that I make far more money through my mentorship of women than I lose through giving up credit.

Preserving the status quo is detrimental to female attorneys, the firm's bottom line and the health of the legal profession. With the wide-ranging influence the law has on our society, the profession can't be effective if significant portions of that society are excluded from leadership positions.

If you are a law firm leader, or tapped to get there, and at least 45% of the individuals you are mentoring, measured over any period you might choose, are not women within the full range of their path to partnership, you are doing yourself, your law firm and the profession a disservice. But it is never too late to take up the challenge. We will all be better off as a result.

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[1] Women make up 45% of associates hired, "...but their ranks thin dramatically as the years go by." (ABA, Broken Rungs on the Career Ladder, January 2020).

[2] Female attorneys cited work/life balance (46%), work stress (54%), billable hours (50%) and caretaking responsibilities (58%) as the most important reasons for leaving the law. (ABA, Walking Out the Door, November 2019).

[3] ABA, Broken Rungs on the Career Ladder, January 2020.

[4] Major, Lindsey & Africa, 2018 Partner Compensation Survey, December 2018.

[5] ABA, Walking Out the Door, November 2019.

[6] Pedigrees: How Elite Students Get Elite Jobs, Lauren A. Rivera, Princeton University Press, 2016.

[7] Harvard Business Review, How and Where Diversity Drives Financial Performance, January 2018.

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