

# **The Utah Report:**

*The Initiative on the  
Advancement and Retention  
of Women in Law Firms*

**Executive Summary**

**OCTOBER 2010**

*Women Lawyers of Utah*

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## *The Initiative on the Advancement and Retention of Women in Law Firms*

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**OCTOBER 2010**

## *Women Lawyers of Utah*

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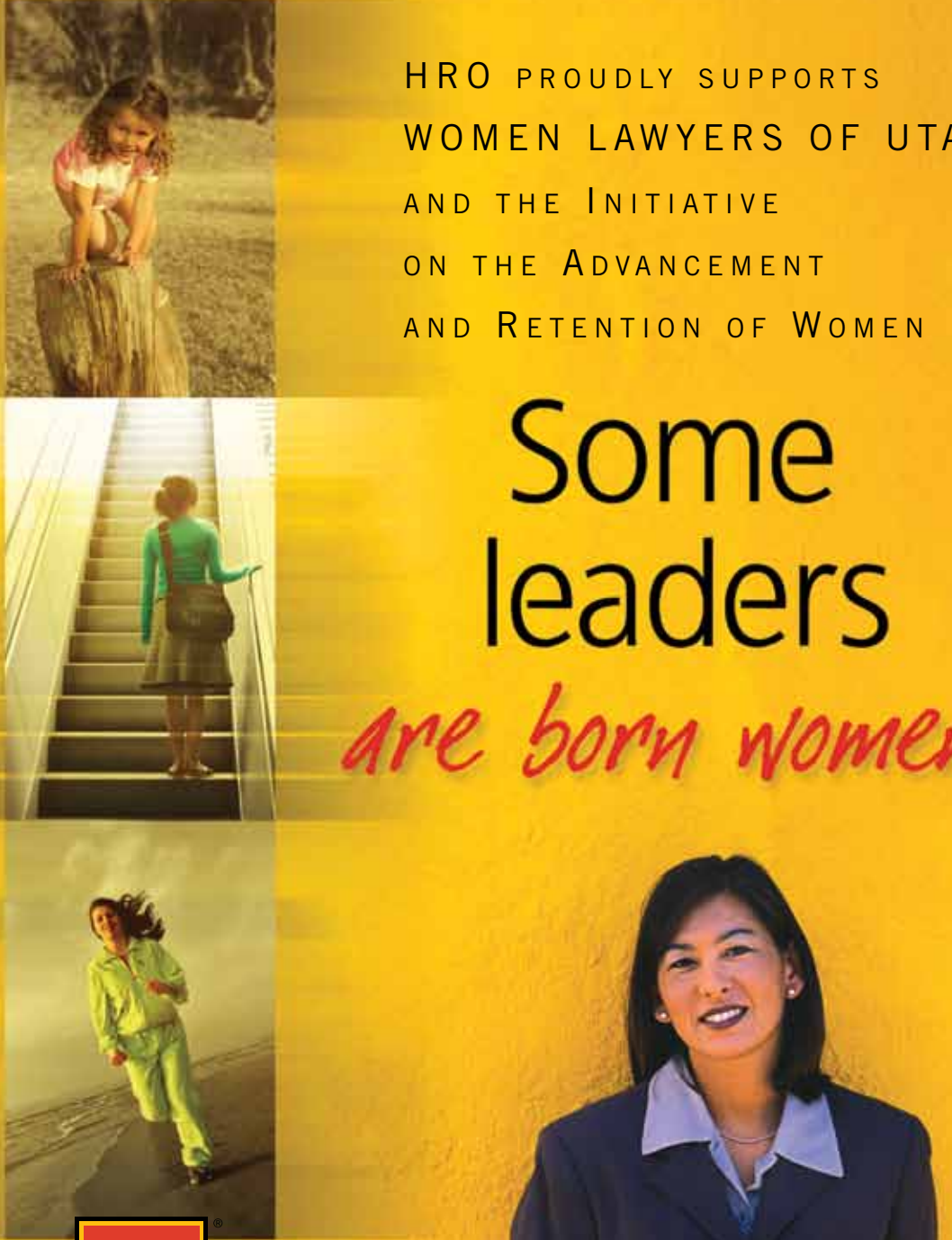
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# EXECUTIVE SUMMARY

Four years ago Women Lawyers of Utah (“WLU”) undertook to answer two basic questions:

1) Do Utah law firms face greater challenges retaining and promoting female attorneys than male attorneys?

2) If so, what concrete, unbiased actions can Utah law firms and Utah attorneys take to meet these challenges?

WLU’s effort has become known as the Initiative on the Advancement and Retention of Women Attorneys. To answer the first question and, if it was answered in the affirmative, to isolate the causes, WLU worked with professionals on preparing a survey of attorneys admitted to the Utah Bar between 1985 and 2005. Following the survey, WLU held symposia in May and June 2009 – the first to explore the challenge further with the help of industry experts; the second to begin developing best practices.

The Initiative on the Advancement and Retention of Women Attorneys has confirmed what many have feared and experienced for years: Utah firms have difficulty retaining and advancing female attorneys. Although some may attribute female attorney departures to either unexplainable mystery or solely to family responsibilities, the survey responses and national research demonstrate otherwise.

First, the survey results show a startling amount of sexual harassment and sex discrimination occurs in Utah law firms. Second, gender bias has a

consistent, negative impact on the advancement of female attorneys. Other issues identified include a sense of isolation for, an unequal investment in, and a lack of recognition of female attorneys. Fortunately, our legal community can improve the situation. To this end, the Initiative Report includes a set of best practices for both firms and attorneys. These best practices provide practical solutions, never losing sight of the nature of law firms: firms are businesses that exist to make money. Below is an overview of the main reasons women leave law firms and key best practices for reversing this trend and advancing female attorneys.

## THE LANDSCAPE

In Utah, 77% of attorneys are male and 23% are female. Nationally 69% of attorneys are male and 31% are female. Looking at Utah law firms in particular, 47% of male attorneys work in law firms as opposed to only 30% of female attorneys. Female law firm partners are even rarer in Utah: only 11% of law firm partners are women. Nationally, this statistic is higher – 19%. Minority female partners in Utah are nearly nonexistent at 0.4%. Nationally, the number is not much better at 2%.

## LOSING ATTORNEYS NEGATIVELY AFFECTS FIRMS’ BOTTOM LINES

Utah firms and attorneys should care about retaining and advancing female attorneys because attrition negatively affects their bottom line. The loss of a single associate can cost a law firm between \$200,000 and \$500,000, including the cost of training and the hours the replacement attorney will need to learn about the matters the departing attorney left behind and for which the

clients will not pay. This number does not include the immeasurable cost of the negative impression associate attrition leaves on clients. Losing associates also adversely impacts law firm morale, which can lead to reduced productivity. As the Initiative shows, attrition rates are higher among female attorneys. This attrition adversely impacts all female attorneys. Partners may also feel frustrated with the hours invested in the departing associate and harbor an attitude affecting other women in the firm, resulting in a trail of frustration. Moreover, companies are more diverse in gender and ethnicity than law firms and tend to desire greater diversity among their attorneys. Retaining female attorneys is in everyone’s best interest.

## SEXUAL HARASSMENT AND SEXUAL DISCRIMINATION

Perhaps the most surprising survey results involved the amount of sexual harassment and discrimination occurring in Utah firms. Approximately 10% of women in firms reported they had been sexually harassed at work. Several respondents reported sexual harassment caused them to leave firm jobs. Only 1% of males reported any kind of harassment. Additionally, approximately 10% of female law firm attorneys reported they experienced sex discrimination. By contrast, less than 1% of male law firm attorneys reported any kind of discrimination. Sex discrimination is a large deterrent to continuing with the employer.

We congratulate the Women Lawyers of Utah for generating its groundbreaking *Initiative on the Advancement and Retention of Women.*

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Female attorneys associated with the firm have risen from 6.8% to 10.6% since 2006.

To combat sex discrimination and sexual harassment, firms should train attorneys and staff yearly about how to identify and avoid sexual harassment and sex discrimination, have and follow policies prohibiting sexual harassment and sex discrimination, and open avenues for reporting sexual harassment and sex discrimination. Most importantly, attorneys need to take responsibility themselves in identifying inappropriate behavior and intervening when they see that behavior starting.

### UNDERLYING GENDER BIAS

Survey respondents reported numerous incidents of gender bias. Gender bias occurs when certain presumptions and expectations are placed on one gender and not another. Some examples of gender bias include: 1) men enjoy a presumption of competence while women are only deemed

competent if they can prove their competence; 2) people evaluate men based on their potential, while they evaluate women on their achievements; and 3) people tend to notice and remember women's mistakes more than men's mistakes.

Additional biases include: the glass ceiling bias and the maternal wall bias. The glass ceiling bias prevents women from rising to the highest ranks of firms. The maternal wall bias reflects the misconception that mothers are less committed to the firm and are presumed less competent than others, resulting in less challenging work and the view that they are more "housewife" than "businesswoman."

Female survey respondents reported several experiences of underlying gender bias, including

receiving less pay, but doing more work than male counterparts; having to undertake secretarial duties; receiving less desirable assignments; being passed over for promotion; and dealing with staff that are less responsive to female attorneys than they are to male attorneys (or even junior male attorneys). Women also reported unfair treatment for taking maternity leave, being pregnant, having the potential to be pregnant, and being perceived as putting family before work.

To decrease incidences of underlying gender bias, top management must communicate a commitment to a clearly defined and articulated evaluation and assignment system free from gender bias. Partners should address perceived unfair treatment and uncomfortable environments on a personal level with offending attorneys explicitly before the

behavior demoralizes the firm, or worse, becomes harassment or discrimination. Everyone should understand the shared core values and avoid discriminating against female attorneys because they have children.

### ISOLATION FROM CASE COMMUNICATIONS AND INFORMAL FIRM SOCIAL ACTIVITIES

Women reported being excluded from communications relating to their cases or matters and in informal socializing and firm related activities, leading to a general sense of isolation in their firms and impeding their ability to contribute.

Many women expressed concerns that male partners would not travel for work with, go to lunch with, or mentor female attorneys. This lack

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of interaction not only impedes advancement but also leads to isolation, causing women to feel they are not part of the team, making leaving one's firm easier and more likely for women.

Firms can help include women in formal and informal communications and social activities by encouraging partners to go to lunch with female attorneys. If possible, firms should subsidize lunches between partners and associates, yet require balance between male and female attorneys over time. Firms should also respond to concerns about impropriety by suggesting attorneys invite multiple attorneys to participate in the social activity. Traveling attorneys should reserve meeting rooms or hotel suites with a room separate from the bedroom for business meetings between attorneys. Firms should invite significant others/spouses to

firm social events to encourage significant others/spouses to feel comfortable with attorneys' work relationships.

### MENTORING

The feeling of isolation is exacerbated by a lack of mentoring relationships for women in Utah firms. Women consistently listed mentoring as either key to their success or the lack of mentoring as a reason to change firms. Among all attorneys surveyed, 87% reported they never had the opportunity to have a mentor, and 79% of those respondents reported they wish they had a mentor. Because more than 72% of attorneys at firms are men, and more than 89% of firm partners are men, mentoring responsibility falls more heavily on men.

Mentors fill a variety of roles including legal training, coaching, and championing, and one can have multiple mentors. While we all generally understand the training aspects of a mentor, the coaching aspects help attorneys to improve their performance and understand firm and legal field dynamics. To achieve long term success in a firm, attorneys need champions who advocate for them when the time comes for determining compensation, assignments, and partnership. Due to underlying gender bias, women are less likely to have a coach or champion to help them navigate through the firm and to educate other partners about the female attorney's strengths and potential. This lack of mentoring makes women even less likely to advance and more likely to leave.

Firms can overcome this lack of mentoring by providing billable credit, bonuses, or other incentives for mentoring activities; encouraging associates to choose coaches from a pool of partners who will help them navigate the partnership waters in the couple of years prior to that decision being made; and encouraging partners to choose to champion women associates.

### ALTERNATIVE SCHEDULES

There is a high interest level in the availability of alternative schedules in Utah firms. An "alternative schedule" includes a variety of work arrangements, including nontraditional hours (arrive early, leave early, etc.), telecommuting, condensed work weeks (same hours completed in less days), extended work weeks (same hours completed in

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more days), pay level determined by number of hours, part-time, and job sharing, to name a few.

Utah law firms offer alternative schedules more frequently than other legal workplaces in the state (74% for firms compared to 70% for academia at the high end and 38% for in-house positions on the low end). A surprisingly high number of respondents – 27% of those at law firms – work an alternative schedule. Of those working alternative schedules at firms, 51% are female and 49% are male. However, over half of respondents (male and female) reported they would not feel comfortable asking to work an alternative schedule, stating their firms frown upon such schedules. Some feared the repercussions of working an alternative schedule: not being considered for promotion, partnership, a tarnished reputation at the firm, and even termination.

Given the popularity of alternative schedules, firms would do well to build flexibility into the workplace. Relatively inexpensive technology exists to make working outside of the office feasible. Many alternative schedules have no impact on the hours worked and, in turn, do not affect the firm’s finances. By allowing alternative schedules, firms may increase their ability to retain attorneys, particularly women, and increase employee satisfaction at little or no cost to the firm. Best practices include that firms should make alternative schedules available to men and women regardless of the reason; make sure attorneys feel comfortable asking for an alternative schedule; and verify that attorneys choosing an alternative schedule do not suffer retaliation.

## ASSIGNMENTS

Underlying gender bias negatively affects the distribution and quality of assignments provided to women in Utah firms. Assigning partners sometimes assume women who work alternative schedules or come from a dual-income household or are mothers are not as dedicated, produce poorer quality work, and are less deserving of higher-profile assignments.

Best practices to overcome the disparity in assignments between males and females include: communicating with attorneys working alternative schedules regarding whether they think they receive enough projects and quality projects; reviewing billable hours to determine who needs more work and apportioning assignments accordingly;

developing policies for case assignment and distribution (for specific suggestions regarding such policies, see The Utah Report); and encouraging shareholders to assign work to female attorneys to address disparities resulting from underlying gender bias.

## CLIENT DEVELOPMENT

More men than women in Utah law firms receive advice on how to develop clients. Without the ability to generate business, no lawyer will excel in a law firm. Thus, in considering how to improve the advancement and retention of women in law firms, attorneys and firms should emphasize client development.

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Best practices for firms include explicitly educating attorneys about the business side of practice (because women tend to have fewer informal relationships at firms than men, communicating this information to women is critical); introducing female attorneys to clients and encouraging them to have client contact; educating female attorneys about maintaining existing client relationships; encouraging female attorneys to network with law school classmates and community members; and rewarding participation in Bar committees and community organizations to increase visibility in the legal community.

### PROMOTIONS AND PARTNERSHIP

Female attorneys in Utah are less optimistic about their chances for promotion than male

attorneys. 57% of women surveyed said they were satisfied with their chances for promotion, whereas 68% of men expressed satisfaction with chances for promotion. Women said they were not promoted for several reasons, including working an alternative schedule, insufficient work to meet productivity requirements, and the perception they are not aggressive enough.

Suggested best practices for attorney promotion include creating a written policy setting forth the process and timelines for promotion and partnership; training evaluators on appropriate and helpful evaluations; applying objective, specific measurable criteria; and ensuring advancement opportunities for attorneys on alternative schedules are at least proportional to hours worked.

### COMPENSATION

Among attorneys nationally graduating in 2000, female attorneys suffer from gender disparity in compensation and earn \$0.95 to every \$1.00 male attorneys earn. In Utah, the survey reflects a much larger and shocking disparity. In all age groups surveyed, the largest group of female lawyers in Utah earned less than \$40,000 a year. In contrast, the largest group of men made more than \$175,000 a year. Among law firm attorneys working 40 hours a week or more the majority of female attorneys earn incomes below \$125,000 and the majority of male attorneys earn incomes above \$125,000 a year. Several female attorneys expressed concern about being paid less than male attorneys. Male attorneys also recognized the disparity. If women are paid less, they will feel less valued and may

leave the firm not necessarily for more money, but for more fairness in the distribution of money.

In this period of economic reconfiguration, firms should review their compensation plans for equality across gender. Additionally, proportionality is fundamental to the success of a reduced schedule program, particularly in the areas of salary, bonuses, and benefits.

### CONCLUSION

This Initiative provides Utah's first statewide foray into addressing the modern issues facing law firms in advancing and promoting women. The Utah Report provides practical and specific steps firms and attorneys can take to improve firm practice generally and the experience of women specifically. The Initiative has generated a community-wide conversation about these issues, which is an encouraging first step. However, conversation alone is not enough. Now is the time to act. Review the entire report, which goes into far greater detail regarding the survey results and suggested solutions. Then undertake earnest efforts to understand the issues and to implement the suggested best practices. With conscious effort we can make the practice of law fairer, less stressful, and more conducive to a happy personal life.

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