



BURFORD QUARTERLY

*A review of litigation
and arbitration finance*

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Recent rulings

Judgment enforcement
research update

Year-end planning

Arbitration finance





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Changing the economics for women in law

Faith E. Gay is Co-Chair of Quinn Emanuel's National Trial Practice and Co-Chair of the New York White Collar Practice. She has been repeatedly recognized as one of the leading trial, appellate and white collar lawyers in the US; Law360 named her one of the Top Trial Lawyers in America.

Women represent just 18 percent of equity partners at large law firms. What do you see as the major reasons for this gender gap?

Client relationships, substantive prowess and cost efficiency are the holy grail in modern law practice. Women are still behind the curve on client relationships.

Put simply, women have to control business for the number of female equity partners to grow. It doesn't matter all that much whether women have titles or big offices or are heads of committees. In fact, those things can be a distraction. What matters is: the number of women with key client relationships; the number of women in-house controlling business; the number of women leading and founding businesses; the number of women in key government posts. All of these numbers must keep growing for the number of female equity partners to grow. This does not mean that women only get business from other women—that is utterly untrue—but there has to be demonstrable proof that women at the top are not the exception and thus that there is no perceived business risk to a partnership that promotes and compensates men and women equally. (Perhaps the coming presidential election will speed this transformation in attitude and outlook...)

Are there specific challenges faced by women seeking roles as senior litigators in complex commercial cases?

Again, the only obstacle is one of perception: is the client more comfortable trusting a woman or a man to lead a key case? Sophisticated clients have long known that in certain types of cases (products liability), it can help to have a woman in a leadership role. And they are now figuring out that the same holds true across the board, including white collar and complex commercial matters. Of course, there are still a few judges who have trouble accepting a woman in a leading role, but those numbers are fewer and fewer as women have made huge inroads on state and federal benches, as well as in key government litigating positions.

Notwithstanding some recent high-profile promotions of women to lead top firms, the Center on Women in the Legal Profession has cited the “glacial pace” of change in women’s representation at senior levels, which have risen just 2 percent in the last decade. What tools, if any, can law firms use to fast-track the pace of change?

Women tend to do better in modern, more flexible firms where historical clients aren't passed down from man to man and where there is not a set career path, a set formula for obtaining partnership or for evaluating contributions to the partnership (as women's career paths and skill sets tend to be less routinized than

men's). Firms need to think twice about putting women in leadership positions that have been thought of as “women's work”: recruiting, internal training, pro bono. While those are incredibly important and satisfying roles, firms should not disproportionately distract women from the key work of the firm: obtaining and strengthening client relationships. Finally, firms need to make it an ironclad priority to provide explicit business mentoring from first year through junior partnership for every attorney whether male or female. Otherwise, firms are wasting very expensive assets.

What can clients do to increase the number of women in senior roles at firms? Do you see a benefit for clients when firms promote women?

Big clients have big power. They can and do insist that women work on their matters. They can turn away from firms who do not promote women to every level of the partnership. They can ask for and get almost any data they want on staffing and firm architecture. They should exercise those rights. It is always a plus for trial lawyers to reflect the population at large. The successful firm of the future will look more and more like the world's population.

From your vantage point, are there economic obstacles to women taking on roles as rainmakers at top firms? Might removing these economic obstacles help women lawyers win new business and rise in stature at their firms?

I have never seen a firm lose business because women were among its chief rainmakers—just the opposite. And keep in mind: most top-level female rainmakers were not handed clients but developed the relationships themselves. That skill is perhaps the most valued and rarest in our business.

Do you see a role for litigation finance in helping women litigators by securing capital to win new clients for their firms? Can you imagine a law firm dedicating a pool of capital for women lawyers to pitch new business?

I generally shy away from any kind of segregation. But I can easily imagine making outreach to women partners a specific goal of litigation finance. Women like men will have their own distinctive thoughts about accretive cases and their own unique access to revenue streams.



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