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We're Outta Here

By Malaika Costello-Dougherty

Why Women Are Leaving Big Firms

Genevieve S. Orta is the type of young attorney firms want to hire and keep: sharp, well-spoken, charming, self-assured and looking the part of the capable attorney, in her crisp, tailored clothes. But like many other young female associates, Orta, 38, recently left a large law firm and is now self-employed.

At the Conference on Work/Life Balance and Answers held last year in San Francisco, Orta spoke on a panel of Gen X attorneys about her decision to flee her firm. She said she felt the firm was asking her to neglect her family, and that no amount of money was worth that.

"Is there anything a big firm could have done to keep you?" one man asked from the audience.

Orta replied that before leaving, she had asked for part-time work or a transfer out of litigation. But the firm never responded to either request.

The audience was quiet while Orta began to think out loud, reconstructing the past. "I didn't have any role models. There were no other women at the firm doing it successfully, who could talk me through it," she said. "It's hard for the firms to do, but they have to keep women associates long enough for them to make partner."

The past few years have witnessed the highest levels of associate attrition ever documented, with an average annual attrition rate for both sexes of 19 percent, as recently reported by the NALP Foundation for Law Career Research and Education. Within five years of entering a firm, more than three-quarters of associates leave. Female associates were nearly twice as likely as males to depart to pursue a better work/life balance.

The trend in departures means that by the time female associates come up for partnership consideration—around the time the firm's investment in them starts to pay off—they have already gone missing. In fact, the percentage of female partners has increased only slightly during the past ten years, stuck around 19 percent in California, even though nearly half the firm associates in the state are women.

The Generation Gap

There is a growing disconnect between the last two generations of women lawyers, a development that is most apparent in large firms. Female senior partners from the baby boom say they are frustrated that the younger women don't want to give the same amount of blood to their careers. And many of the younger female attorneys look at the few women at the top and label them drudges who sacrificed too much personal freedom for their jobs.

"We didn't feel entitled to these careers," Joan C. Williams, 55, a law professor at the University of California Hastings College of Law, told a gathering of about 100 professional women last year. She was addressing the kickoff to the Heller Ehrman Opt-In Project in San Francisco, organized to help overcome obstacles to women in the workforce. "Gen X and Gen Y women are really different. They feel entitled."

Echoing that refrain is Beth H. Parker, 51, a partner at Bingham McCutchen who joined the firm in 1982, when McCutchen, with 128 attorneys, had only two female partners. She says

women in her generation were grateful to firms for their jobs and felt privileged they had an opportunity to do what they wanted in their professional lives.

"We were the first layer of women lawyers at every level," she says. "We were the first group to get maternity policies. There was a pattern of hitting obstacles, but we got so used to doing it that we began to like it."

War stories from other women of the pioneering generation have a similar ring. After the speakers at the Opt-In event finished, groups of mostly senior women lawyers huddled at round tables in the W Hotel's gray conference room and informally discussed the sacrifices they made. They recounted staying up into the night to finish briefs after they put kids to bed—managing to be both mothers and lawyers—but not expecting to be treated any differently than the men who came before them.

"The older folks (myself included) who worked so hard as women to make partner and generate business made many sacrifices. We put our clients first—sometimes in front of our friends and family," wrote one of the event's moderators in an internal memo that her firm will analyze at the end of the yearlong project. "The new generation may simply not be willing to do that."

Indeed, not only are many young women lawyers unwilling to make these sacrifices, but they see them as deal breakers.

"What do we want? We want it all. We want a great career and kids," says Orta, the associate who left big-firm life. "And if I cannot have it at one firm, I will move."

This free-agent mindset of the younger generation is part of the reason that women may not be pushing as hard for change at the firms where they work. They speak loudest with their silent departures.

Kari E. Hong, 35, a former associate at Morrison & Foerster who is now a sole practitioner, says that the younger generation hasn't demanded changes—and as a result hasn't carried the ball forward for women in the law.

"Once we make the decision not to put up with it, as opposed to talking to someone, we choose to leave," Hong says. "It may be a generational tendency that it's easier to leave than to be proactive."

According to Ida Abbott, 59, an Oakland-based consultant on professional development who practiced at Heller Ehrman for 15 years, some of the women lawyers in the younger generation miss out on being catalysts for change when they abandon law firms. "Instead of continuing the battle my generation started so that women could thrive out of law school, they see that the battle isn't won and things aren't fair," she says. "They could redefine a man's idea of what it is to be successful and persuade law firms it's in their interest to look at careers differently. But if the only thing they know is to leave, then nothing will change."

Some gender pioneers say they also felt an obligation to help pave the way for the women who would later come through the doors they opened, a responsibility they don't see the younger women continuing. They remember entering the legal profession for idealistic reasons and being thrilled that they were the first generation of women able to make their way into traditionally male law firms in significant numbers. They question where the female associates now fleeing the firms will find themselves in the future.

For many of those associates, it will be anywhere but a big firm. Like many other young female lawyers who went to law school but had little love for the law, one junior associate in the process of leaving a large firm questioned why she took the job in the first place.

"I was good at reading and writing and speaking, so I became a lawyer," she says. "When I started to work at a firm, I wanted to repay my debts. What I learned there is how to skim documents quickly and how to bill time. I went to law school for three years to become the equivalent of a word processor. Now I know I shouldn't have climbed the mountain just because it was there. I should have first figured out which mountain I wanted to climb."

Another point of disconnect may be that the generations now making their way through law firms—the Gen Xers born in the mid-1960s and '70s and the Gen Yers born in the 1980s—have a different view of work than the women who came before them.

"The employment contract has changed," says law professor Williams. "This generation may have seen their parents work their whole lives and get laid off. They think, 'I'm not interested in that.' They say, 'Partnership is like a pie-eating contest—and the prize is more pie.' "

Kari Hong agrees: "A big part of what's changed has been the great job market. We can leave in a way other women couldn't."

The Work/Life Imbalance

A different view of life has also emerged, creating a divide that has set off perhaps the most contentious battles between the generations: The older women sacrificed parts of their lives for work; the younger ones resent work interfering with their lives.

"Younger women sometimes ask us baby boomers, 'Why did we inherit this work/life balance problem? Why didn't you solve it?' Williams told the crowd at the Opt-In event. "And I say to them, 'Honey, you don't realize this: If we had rocked the boat, we'd be out on our ears so fast our heads would spin.' "

Patricia K. Gillette, 55, a shareholder at Heller Ehrman, echoed the idea of sacrifice at the recent Work/Life Balance conference. She discussed graduating from law school in 1976 and then overachieving in both her professional and personal lives. "There has to be a better way," she reflected. "We made sacrifices, we have fewer friends, we got no pedicures until age 40. We have a different lifestyle and way of interacting."

Some say that the younger generation of women is taking a closer look at the apparent success of their elders—and concluding that the sacrifice isn't worth it.

The junior associate leaving her big firm observes: "I thought I could do it all. Why not? So many have done it before me. Then at a closer look I see, no, they haven't. They cut corners; they just weren't professional corners."

Another woman, a fourth-year associate currently at a midsize firm in Southern California, notes: "Two of the three most senior women were never married, and they never had kids. They want to see women succeed, but they're not helpful about how to balance work and family, or how to do well and also have a life. They don't have experience in how to do that."

What she knows of big-firm life gives the departing junior associate little hope for the future. "I haven't seen anyone really make it work. Generally, the kids are raised by nannies. The mothers work incredibly long hours; that's not how I want to do it," she says. "I'm glad they made it possible for more women to be in the legal field. That was their choice, to make those sacrifices. Now it's time for us to make our choice."

And, increasingly, young female attorneys are choosing to leave.

At the Work/Life Balance conference, Genevieve Orta described her feeling of guilt at being the last one to pick up her child from day care, after dark, with her BlackBerry buzzing and a box of documents in her car, when she hadn't yet thought about dinner. "My family wasn't functioning," she said. Orta now practices law with Melinda MacDonald, a young woman she dubs another "attorney-mom." "I gave up a big, senior-associate salary. I sacrificed money for some sort of normalcy."

Indeed, women may need to cut their losses, San Francisco deputy city attorney Joanne Hoeper, 53, told a young audience at a "Mentoring Advice for Women Lawyers" panel last June. Hoeper, who worked at Morrison & Foerster before joining the city attorney's office, where she is now chief trial deputy, stressed the importance of not taking at face value a firm's promise to support a balance of family and work. "Look around the firm and see how many women are doing it, as opposed to saying other people should," she said. "How many of the senior women have children? Unless you're seeing a significant number of women doing it, the firm is telling you something."

And the work environment at law firms actually seems to be getting worse, Hoeper said, requiring more billable hours but offering less support. She described the pace of government work as similar to that of law firms in the 1970s, when hours were reasonable and the environment more collegial. When the panel discussion ended, a crowd of female associates circled Hoeper, seeking more advice.

The Myth of Mentoring

Many people assumed that as more women entered the legal profession, they would form mentoring relationships with younger women to pass along the keys to success—that the older generation would lend a helping hand to the next to ensure women made it to the top. But that hasn't happened.

NALP Foundation CEO and President Paula A. Patton points to the lack of mentoring relationships between women and says it has a huge impact on the failure to retain women at firms. In recent focus groups, the organization interviewed many young female associates who said they frequently looked to older women as mentors and role models. But if the senior women partners weren't willing to take the time and energy to help them, the associates assumed that they had been deselected from the firm and left. Patton says firms seem oblivious about the message they are sending to female associates who do not get mentored.

Also, many firms that give lip service to providing mentors but don't deliver may pay the price. For example, the departing junior associate who was assigned a formal female mentor when she began work at a big firm now says, "I didn't feel my mentor was anyone more than someone to check up on my billable hours and tell me if they were too low." She laughs dryly as she describes how her firm scheduled a mentoring group in a small conference room and held a lottery to select who could attend. "They said they wanted to know what to do about the retention problem," she said. "We suggested different tiers of hours with pay differences. The partners wouldn't entertain it. It was a talk without substance."

A first-year female associate at a major firm said that although she has been assigned a formal mentor—and gone to a beauty salon with her mentoring group as a planned event—she has never had the opportunity to work with any senior women.

Hong says she noticed that younger female attorneys didn't know how to seek out senior women for mentoring relationships. "There's a lot of finger pointing. 'They didn't come to us,' [say the senior partners]. 'Well, we didn't go because we weren't invited,' [say the associates]. It's like a first date that never got set up," she says.

Beth Parker, the partner at Bingham McCutchen, says that associates need to approach her to establish mentoring relationships. "The hardest part is putting my effort into working with women, training them, developing a friendship—and then seeing them leave," she says. "I wonder the next time whether it's worth investing in people who will not stick around."

The Wake-Up Call

In the past, firms expected attrition as part of their pyramid structures, but with attrition now at the highest levels ever, firms are starting to realize that losing associates is both expensive and bad for business.

Meanwhile, the talent market is becoming increasingly competitive because the number of law school graduates is static while law firms' hiring needs are increasing. And now that about half of all law school graduates are female, firms that don't hire and retain women will likely find themselves short on talent.

Accounting firms, which faced a similar problem in the early 1990s, could provide a case study for law firms on how to retain women. Back then, the accounting firms hired more than 50 percent women but found most left before becoming partners. So the accountants did the math and took action.

For example, in 1993 Deloitte implemented the very public Initiative for the Retention and Advancement of Women that attempted to change the institutional culture to emphasize valuable work rather than mere face time. Because accounting firms are generally top-down in management, then-Deloitte Chairman and CEO J. Michael Cook's commitment to retaining women became part of the firm's structure: Part-time employees there could become partners, and nearly all employees could rely on flexible schedules—including changing their start times or telecommuting. At the program's inception the number of women partners, principals, and directors was about 7 percent; 13 years later, it's closer to 20 percent.

Wendy Schmidt, 51, a principal at Deloitte Financial Advisory Services and a former big-firm attorney, delivered the business case to law firms at the American Bar Association's Women in the Law Leadership Academy in Chicago last spring. The biggest lesson relates to the bottom line: Retention increases revenue. Schmidt says retaining people helps firms make more money because clients value consistency and will pay more for lawyers they know and trust. This means firms cannot afford to keep losing women attorneys, Schmidt warns.

Hastings law professor Williams says that the blame should be placed more on the law firms than the women within them. "I think we are all in a tough situation, and the message is, you shouldn't be fighting with each other," she says. "We should be changing the workplace

arrangements."

What Hope Lies Ahead

If law firms want to get the best and brightest young women to join them and stay, they will likely need to change radically and adopt different definitions of sacrifice and partnership.

Working models are beginning to spring up. Nancy J. Geenen, managing partner at Foley & Lardner in San Francisco, says that several years ago her firm recognized the generation gap and began thinking of strategies to retain women. It gave strong support to women's affinity groups and a mentoring program. It also began quarterly in-person office meetings with female attorneys in the firm. And it put in place initiatives that included emphasizing business-development skills and allowing women who use flexible time schedules to make partner: Six of them have been elevated in the past five years.

Geenen says these measures are responsible for closing the firm's attrition gap between women and men. At the end of January 2005, the women's attrition rate at Foley & Lardner was 19.1 percent, as opposed to 9.9 percent for men. But by the end of October 2006, the women's attrition rate was 6.7 percent, dropping even below the 7.8 percent figure for men.

"It takes the baby boomers saying we don't have all the answers," says Arin N. Reeves, founder of the Athens Group based in Chicago, which studies generational issues in law firms. "You can't hold on to the way it's always been. If you want to hire people of the younger generation, you'll have to change the institution."

What Happened to the "Men" in "Mentoring"?

Some claim it's the fear of sexual harassment charges—which came to heightened awareness about 15 years ago—that has made mentoring a tough role for many male attorneys.

In a recent *Fordham Urban Law Journal* essay about gender issues and mentoring in law firms, Elizabeth McManus writes, "The prevalence of sexual harassment training often outweighs the time and energy invested in teaching lawyers about the importance of mentoring." Noting the multimillion-dollar sexual harassment judgment against Baker & McKenzie that later settled, she adds, "The legal profession has an acute awareness of the ramifications and high costs of sexual harassment litigation, which causes law firm partners to be understandably risk averse."

McManus cites this as the reason male senior attorneys more often opt to work with young male associates. In combination with the failure of many mentoring relationships between women, this creates an environment in which female associates are not adequately mentored.

Robert N. Schiff, 60, a partner at Haight, Brown & Bonesteel in San Francisco, says that though he has thought about the possibility of sexual harassment claims while mentoring women, he believes it's just a matter of conducting yourself in a responsible way and not viewing mentoring as a license to become involved in someone's personal life. He mostly blames the changes in the profession for the general lack of informal mentoring.

"When billable hours were 1,600 to 1,700, we would knock off at 5:30 and go have a drink and learn by hearing war stories. It was a fabulous education," he says. "Now, at 7 p.m. I am just heading home. The way we work has changed informal mentoring as part of the profession. I really miss it."

Schiff recalls that when he was a young lawyer, he worked under a name partner who met with him for a half hour each day, teaching him lawyering skills along with making sure he was paid right and helping him navigate office politics.

"It's hard to learn the business if someone doesn't take the time to teach you that way," Schiff says. "You can't get it out of textbooks."

Generation Generalizations: Shaping Work Through the Ages

Baby Boomers

Born: 1946 to 1964

How many: 78 million

What they grew up with: The civil rights movement; assassinations of John F. Kennedy,

Robert Kennedy, and Martin Luther King; Vietnam War; TV in every home; sex, drugs, and rock 'n' roll; Woodstock; *Roe v. Wade*; Watergate

Values and characteristics: Love/hate relationship with authority; optimism, personal gratification; team players; strong work ethic

Work ethic: Driven

Presence in typical law firm: 45% to 60%

Roles in firm: Partners and leadership

Gen X

Born: 1965 to 1980

How many: 59 million

What they grew up with: HIV/AIDS epidemic; hippie parents; latch-key kids; corporate downsizing and restructuring; fall of Berlin Wall; first personal computers

Values and characteristics: Not impressed by authority; distrust of institutions; want personal space; informality; self-reliance

Work ethic: Balanced

Presence in typical law firm: 40% to 50%

Roles in firm: Associates, junior partners

Gen Y

Born: 1981 to 1995

How many: 60 million

What they grew up with: Oklahoma City bombing; 9/11 terrorist attacks; the Internet boom; ubiquitous technology; economic prosperity

Values and characteristics: Receptive to authority; civic duty; patriotism; diversity; self-confidence; achievement; challenges

Work ethic: Selective

Presence in typical law firm: Less than 5%

Roles in firm: Summer associates, first- and second-year associates

Sources: U.S. Census Bureau; NALP Foundation

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