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DIVERSITY

Breaking the Courtroom Glass Ceiling

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Special to the Legal

For the last 20 years, approximately half of all law school graduates have been women. Yet, as has been widely reported, women only make up slightly more than 20 percent of the partnership at major law firms, with even fewer women becoming equity partners.

Female lawyers have also struggled to break into the ranks of trial lawyers. In 2015, the American Bar Foundation conducted a study looking at the participation of women lawyers as lead and trial counsel in litigation. They found that men are three times more likely than women to appear as trial attorneys in civil cases and, in class actions, nearly 90 percent of lead counsel are men.

While these numbers paint a bleak picture for women, there are reasons to be optimistic that women will gain greater



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representation at counsel table. Clients, especially large public companies, are pushing to have more diverse legal teams, including in the courtroom. For example, Facebook recently announced that it would require that women and ethnic minorities account for at least 33 percent of the law firm teams working on its matters. Facebook also will require that these firms create measurable leadership opportunities for women and minorities, including by appearing on behalf of the company in court. Moreover, research into juror perceptions has found that jurors have more favorable perceptions of female trial attorneys as compared to men overall. Importantly, both male and female jurors view

women lawyers as more likeable and honest than their male counterparts, both of which are critical attributes for any successful trial lawyer.

So, how should a young female lawyer avoid becoming a statistic? First, take charge of your career and ask for opportunities. Too often junior lawyers wait to be asked to take on a larger role in their cases. It may be because they don't feel qualified or because they are waiting for someone to notice their hard work and decide to reward it. But you cannot assume that others will know what you want to do or will find ways to create opportunities for you. My first chance to argue a motion in court did not come until I sat down and told the partner I was working with that I wanted to be a trial lawyer. Once I did, that partner became my strongest advocate and someone who continues to push for me to get new and challenging experiences in court. While it can be difficult to ask for increased

responsibility, having the confidence to do so is critical. You may not always get the opportunities you ask for, but at least people you work with will know that you want them.

Second, create opportunities for yourself. Seek out more senior lawyers who have the type of cases you are interested in and ask to work with them. Look for cases that are staffed more leanly where you may have an opportunity to take on a larger role. Also, recognize that although you may not initially have an in-court role in a case, each of the assignments you get is an opportunity to build your reputation and impress the other members of your team. You are more likely to get to argue a motion if you are the person who researched and prepared a high-quality brief. Similarly, having a deep understanding of the facts of a case is critical at trial. If you take the time to become completely familiar with the details of a case, you will become an invaluable member of the team and are more likely going to be given an in-court role during trial.

If you are not able to create these opportunities in billable matters, look for pro bono cases that will allow you to get in-court experience. Pro bono cases are an excellent way to get the chance to take your first deposition, examine your first witness at trial, or even deliver an opening statement or closing argument. Once you have these



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experiences under your belt, you have a better chance of being able to do them again in billable matters.

Third, to the extent possible, develop relationships with the clients for whom you work. It will be easier for a client to allow you to argue a motion or examine a witness if the client knows who you are and has confidence in your abilities. If you know of a client meeting that is taking place, ask the senior lawyer on the team if you can attend, even if you are not able to bill for that time. Come up with an idea for a CLE program that you think would be interesting and useful to the client's in-house counsel and talk to the relationship partner about presenting it. The in-house lawyers need CLE credit and it is a great opportunity to impress them with your presentation skills.

Finally, take every chance you can get to hone important trial skills. Look for opportunities to

make presentations, either within your firm or to groups of which you are a member. Public speaking is not only great practice for appearing in court but also a chance for you to raise your profile and create opportunities for yourself. If you have the option of recording one of your presentations, take it. It can be uncomfortable to watch yourself but it is an excellent way to see what you do that works and to identify areas where you can improve. Another way to learn is to go to court and watch the hearings and trials that are taking place. It will help you gain confidence and you can incorporate techniques that work for other lawyers into your practice and make sure that you avoid making their mistakes.

While it can be difficult for women to get in court experience, the tide appears to be turning as client recognize the importance of and increasingly demand diverse trial teams. Female lawyers need to speak up to take advantage of these opportunities and advocate for themselves to ensure they get a seat at counsel table. •