

# WOMEN LAWYERS OF ALL COLORS STEERED TO CONTINGENT POSITIONS IN LAW SCHOOLS AND LAW FIRMS<sup>1</sup>

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Women of all colors have higher education degrees, which traditionally have been tickets to success in the United States. We have been over 50% of college students since 1984<sup>2</sup> and al-

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1. My 1982 article, Marina Angel, *Professionals and Unionization*, 66 MINN. L. REV. 383 (1982) [hereinafter Angel, *Professionals*] focused on higher education and health care professionals' traditional coarchical, collegial organizational style and contrasted it to a competing hierarchical, bureaucratic organizational style. Unfortunately, the latter style is approaching dominance today. In 1988, Marina Angel, *Women In Legal Education: What It's Like to Be Part of a Perpetual First Wave or the Case of the Disappearing Women*, 61 TEMPLE L. REV. 799 (1988) [hereinafter Angel, *Disappearing Women*] documented a substantially lower tenure rate for women than for men. In 2000, two articles, Marina Angel, *The Glass Ceiling for Women in Legal Education: Contract Positions and the Death of Tenure*, 50 J. LEGAL EDUC. 1 (2000) [hereinafter Angel, *Glass Ceiling*] and Marina Angel, *It's Becoming a Glass House*, 50 J. LEGAL EDUC. 454 (2000) [hereinafter Angel, *Glass House*] (analyzing statistics showing that substantially larger numbers of women than men were being hired by law schools in less secure, less prestigious, lower paid, non-tenure track full-time contract and at-will positions, and men were being hired in tenured and tenure track positions). Marina Angel, *The Modern University and Its Law School: Hierarchical, Bureaucratic Structures Replace Coarchical, Collegial Ones; Women Disappear From Tenure Track and Reemerge as Caregivers: Tenure Disappears or Becomes Unrecognizable*, 38 AKRON L. REV. 789 (2005) [hereinafter Angel, *Tenure Disappears or Becomes Unrecognizable*] brought the trends up to date.

My research on women attorneys started in 2001 and continues, MARINA ANGEL, *infra* note 34, PENNSYLVANIA BAR ASSOCIATION, 11TH ANNUAL REPORT CARD 2005: WOMEN IN THE PROFESSION, available at <http://www.pabar.org/pdf/wiprc05.pdf> [hereinafter ANGEL, 2005 PBA REPORT CARD]; Marina Angel, Acceptance Speech for Brent Award from American Bar Association Commission on Women in the Profession (Aug. 8, 2004), [http://www.law.temple.edu/servlet/RetrievePage?site=TempleLaw&page=Faculty\\_Angel](http://www.law.temple.edu/servlet/RetrievePage?site=TempleLaw&page=Faculty_Angel) [hereinafter, Angel, Brent Speech]; and Marina Angel, Presentation to the New York City Women's Bar Association, (May 2005) (on file with the author) [hereinafter Angel, NYC Women's Bar].

2. Angel, *Disappearing Women*, *supra* note 1, at 801; Andrew Hacker, *How the B.A. Gap Widens the Chasm Between Men and Women*, 49 CHRON. OF HIGHER EDUC. 41, June 20, 2003, at B10. A conservative backlash has begun. See Phyllis Rosser, *Too Many Women in College?*, Ms., Fall 2005, at 42, stating that alarming statistics exist showing that girls are going to college much more than boys.

most 50% of law students for several years.<sup>3</sup> Unfortunately, “Women Get a Ticket to Ride After the Gravy Train Has Left the Station.”<sup>4</sup> The workplace has been reconfigured to minimize our numbers in high paying, power positions as tenured professors in law schools and as equity partners in law firms. We are paid for piecework at the office and at home, where we telecommute by computer, phone, and fax.<sup>5</sup> In academia, women are predominantly non tenured track clinicians, legal writing teachers, academic support personnel, and lower level administrators with part time teaching responsibilities.<sup>6</sup> In law firms, women predominate as associates, junior partners, legal specialists, of counsel, and lower level administrators.<sup>7</sup> Women have returned to the piecework system which existed in the garment industry in the late 19th and early 20th centuries.<sup>8</sup>

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3. Women were 41% of law students in 1986. Angel, *Disappearing Women*, *supra* note 1, at 840. Women were 48% of first year students in 2000; rose to 49% in 2001 and 2002; and fell to 48% in 2004. A.B.A., *FIRST YEAR ENROLLMENT IN ABA APPROVED LAW SCHOOLS IN 1947-2004*, <http://www.abanet.org/legaled/statistics/femstats.html> (last visited Dec. 27, 2005).

Nevertheless, the public perception is that our numbers continue to increase. See, e.g., Jonathan D. Glater, *Women are Close to Being Majority of Law Students*, N.Y. TIMES, Mar. 26, 2001, at A1; Katherine S. Mangan, *For the Second Year in a Row, Medical Schools See Rise in Applications; Minority Students Make Big Gains*, 51 CHRON. OF HIGHER EDUC. 11, Nov. 5, 2004, at A31.

4. Ann Douglas, *Crashing the Top*, SALON, Oct. 11, 1999, <http://www.salon.com/books/it/1999/10/11/douglas/index.html> at Index 2 (last visited Oct. 12, 1999).

5. Michelle Travis, *Equality in the Workplace*, 24 BERKELEY J. EMP. & LAB. L. 283, 302 (2003); Dee McAree, *Law Firms Gauge the Outlook for Outsourcing*, THE LEGAL INTELLIGENCER, Oct. 11, 2004, at 10.

6. See Angel, *Tenure Disappears or Becomes Unrecognizable*, *supra* note 1, at 797-98; Angel, *Disappearing Women*, *supra* note 1, at 804. See generally Dionne L. Koller, *Legal Writing and Academic Support: Timing is Everything*, 53 CLEV. ST. L. REV. 51 (2005).

7. ANGEL, 2005 PBA REPORT CARD, *supra* note 1, at 3; reproduced as Appendix A (citing statistics of Pennsylvania law firms).

8. See THE UNITED STATES BUREAU OF LABOR STANDARDS, *GROWTH OF LABOR LAW IN THE UNITED STATES* 265 (1967). The chapter entitled *Industrial Homework* describes “the great problem” of the late 19th and early 20th centuries. The description of the advantages of homework for employers and disadvantages for everyone else, are remarkably applicable to women professionals telecommuting from home today.

Industrial homework was not started to give the homemaker a chance to earn money at home; rather, it was the employer’s device to get his work done more cheaply and under less regulation than in a factory. He assumed little or no responsibility for his employees; he could hire them at his convenience when work was heavy, but simply say, “No work,” when it was slack—a much simpler process for him than trying to get his employees to work overtime on some occasions and laying them off on others.

From the financial angle the system was of great advantage to the employer. He saved in rent, gas, electricity, heat, and water. He paid little for equipment. He paid for completed work only, by the article, and often at extremely low rates. While there were thus distinct advantages to the employer who used homeworkers, all other persons involved suffered. *Id.*

See generally Eileen Boris, *The Regulation of Homework and the Devolution of the Postwar Labor Standards Regime: Beyond Dichotomy*, in *LABOR LAW IN AMERICA:*

In my day, it was seven years for law firm partnership and university tenure. At many large law firms, it is now nine to twelve years to junior or non equity partner (a salaried, at-will position) and another three to five years to equity partner.<sup>9</sup> It is harder to make equity partner and fewer succeed.<sup>10</sup> More money goes to fewer equity partners, and the money gap is growing between top equity partners and all other lawyers in large firms.<sup>11</sup> Billable hours continue to go up, although there is something strange about judging a lawyer's ability by the numbers of hours it takes to complete a task. The continuing growth of billable hours seems to be driven by the total greed of the top few equity partners and their competition to prove that "mine is bigger than yours."<sup>12</sup>

Both men and women want stable personal relationships and children.<sup>13</sup> For male lawyers, they are a career plus; for female lawyers, they are a career breaker.<sup>14</sup> A young woman finishing law school at twenty-five can aspire to junior partnership at thirty-five and equity partnership at forty. If she succeeds, she has probably lost her child bearing years; the rate of birth defects skyrockets after thirty-five.<sup>15</sup> And, with the expectation of 2,000-plus billable hours, she did not have time to find a partner, conceive, give birth, and bond with her child. As our population

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HISTORICAL AND CRITICAL ESSAYS, 260-82 (Christopher L. Tomlins & Andrew J. King ed., 1992).

9. See generally Paula Patton, *Women Lawyers, Their Status, Influence, and Retention in the Legal Profession*, 11 WM. & MARY J. WOMEN & L. 173, 180 (2005).

10. Jonathan D. Glater, *Partnerships More Elusive at Law Firms, Survey Shows*, N.Y. TIMES, Mar. 1, 2005, at C3 (stating that slower pace of equity partnership and increasing hours requirements are making achieving partnership at big law firms more difficult).

11. *Id.*

12. See NALP FOUNDATION FOR L. CAREER RESEARCH AND EDUC., AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS 36 (2004) [hereinafter "AFTER THE JD"], available at [http://www.nalpfoundation.org/webmodules/articles/articlefiles/87-After\\_JD\\_2004\\_web.pdf](http://www.nalpfoundation.org/webmodules/articles/articlefiles/87-After_JD_2004_web.pdf) (showing in Figure 4.1 & Table 4.1 that the mean average hours worked by lawyers at private firms of more than 251 lawyers were 52.15 hours and 32% worked more than 60 hours); see generally W.S. Ricks, *I Quit!*, 15 THE NATIONAL JURIST 18 (Nov. 2005).

13. See Project, *Law Firms and Lawyers with Children: An Empirical Analysis of Family/Work Conflict*, 34 STAN. L. REV. 1263, 1278-79 (1982). A study of Stanford law students found, "[s]tudents of both sexes expect to have both career and family; almost all women (59/60; 98%) expect to have children, as do 91% of men (117/129). However, both sexes expect childcare to remain primarily a woman's responsibility." *Id.* at 1280. "On average, women expect to devote twice as much time to [childcare and related tasks] as men . . . ." *Id.*

14. *Id.* at 837-38; Deborah L. Rhode, *Balanced Lives for Lawyers*, 70 FORDHAM L. REV. 2207, 2215-17 (2002). See generally Jennifer Steinhauer, *The Economic Unit Called Mom*, N.Y. TIMES, May 8, 2005, at D14.

15. See MARCH OF DIMES, PREGNANCY AFTER 35, <http://search.marchofdimes.com/msmres.asp?query+pregnancy+after+35&x=11&y=4> (follow "Quick Reference: Pregnancy After 35" hyperlink); see also Jane E. Brody, *35 and Pregnant? Assessing the Risk Becomes Easier*, N.Y. TIMES, Dec. 27, 2005, at F7.

ages, women have been disproportionately burdened with the additional responsibility of elder care.<sup>16</sup> Women are over 60% of the caregivers, and additionally provide more hours of care and a higher level of care than male caregivers.<sup>17</sup> Even the press has noticed the development<sup>18</sup> and its effect on professional women.<sup>19</sup>

There are reasonable and profitable responses that legal employers, both law firms and law schools, can take to enable their highly trained, well qualified women lawyers to fully participate in their organizations.<sup>20</sup> Instead, reorganized law firms and law schools are making life even harder for women.

Women and men of color were the last hired, and then new organizational structures were developed. Maybe they were developed because of our arrival? Women and men of color are unwilling to sell their souls to the company store. They quickly drop off the partnership track.<sup>21</sup> White males, trapped in their own stereotype of aggressive over-achievers, remain in higher numbers. Nevertheless, studies show that the highest degree of lawyer dissatisfaction exists at large firms.<sup>22</sup> I have taken to telling both my female and male students: go to a large firm for three years; continue to live like a poor student; take the firm's money to pay off your student loans; take the training; and then, find a legal job you like.

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16. See SHEEL M. PANDYA, AARP PUBLIC POLICY INST., CAREGIVING IN THE UNITED STATES 8 (2004) (providing statistics that women provide more hours of care and a higher level of care than male caregivers).

17. *Id.*

18. See Michael Vitez, *Family Ties*, THE PHILA. INQUIRER, Dec. 25, 2005, at A1, in describing the care provided by women in a multigenerational family unit.

19. See Jane Gross, *Daughter Track*, N.Y. TIMES, Dec. 25, 2005, §4, at 3, stating that successful career women are leaving the workforce early to care for elderly parents.

20. Rhode, *supra* note 14, at 2217-20. See generally Joan Williams & Cynthia Thomas Calvert, *Balanced Hours: Effective Part-time Policies for Washington Law Firms*, THE PROJECT FOR ATTORNEY RETENTION, PROGRAM ON GENDER, WORK & FAMILY AMERICAN UNIVERSITY, WASHINGTON COLLEGE OF LAW, Aug. 2001, available at <http://www.pardc.org/LawFirm/>.

21. See AFTER THE JD, *supra* note 12, at 58 stating that although women are more satisfied with the substance of their work, their rating of job setting, social work index, and power track is lower; they are more likely to report sex and race discrimination. *Id.* at 64-65. While black survey respondents expressed the highest levels of satisfaction with substance of their work, they expressed lower levels of social satisfaction and the lowest level regarding the "power track." See generally Donald B. Hilliker & Catherine F. Chaskin, *Firms Must React Now to the Changing Legal Work Force*, 4 LAW, HIRING & TRAINING REP. 1, 2 (1993).

22. See AFTER THE JD, *supra* note 12, at 48 for stating that lawyers at firms with more than 251 attorneys are likely to want to work fewer hours, have a decreased pressure to bill, and have a greater opportunity to influence their work projects. See generally Kathleen E. Hull, *The Paradox of the Contented Female Lawyer*, 33 LAW & SOC'Y REV. 687, 689 (1999).

Where do women go after they drop off the partnership track? Most of them need to earn a living. For those who stay at firms, new categories of lawyers have been created: permanent associates, permanent non equity partners, legal specialists, and contract lawyers called associates.<sup>23</sup> The old category of counsel has been expanded beyond recognition. All of these positions provide no job security, no real power, and often no fringe benefits. They require slightly shorter hours, forty plus billable hours a week (more than the normal work week for most people) instead of sixty plus. However, the pay is not equitable; 60% of the pay for two thirds of a normal work schedule. Some women become low-level firm administrators in charge of recruiting, associate development, or diversity at pay that is even lower than the other categories.

Some women go to the nearest law school dean and ask about teaching, and they are steered to non tenure track positions with nice sounding titles: associate or assistant dean or director of a program.<sup>24</sup> However, these low-level administrators often teach half-time and they have no job security, little to no power, and often no fringe benefits. They may be hired as full time faculty with assistant, associate, or full professor titles, but they are actually on contract rather than tenure track and work as legal writing teachers, clinicians, and academic support personnel.<sup>25</sup>

The number and percentage of women on tenure track is falling!<sup>26</sup> Entry-level tenure track assistant professor positions are open to those who have at least one or two substantial tradi-

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23. Audrey Wolfson Latourette, *Sex Discrimination in the Legal Profession: Historical and Contemporary Perspectives*, 39 VAL. U. L. REV. 859, 896 (2005). A contract lawyer at a Philadelphia firm reported to me that she was required to sign an agreement that she would not divulge her contract status to clients or others and that she would refer to herself, and would be referred to, as an associate. Angel, NYC Women's Bar, *supra* note 1, at 5-6.

24. Angel, *Glass Ceiling*, *supra* note 1, at 4-9.

25. *Id.*

26. In the early 1990s, there were very few contract teachers. In 1991-92, women were 48.7% of all the new faculty hires. We reached a high of 55% in 1993-94 and fell to 47.9% in 2004-05. RICHARD A. WHITE, AALS STATISTICAL REPORT ON LAW SCHOOL FACULTY AND CANDIDATES FOR LAW FACULTY POSITIONS, Statistical Tables (2004-05) at Table 8A, Last 14 Years: New Women Faculty in the Directory of Law School Teachers, at 77, available at <http://www.aals.org/documents/>, then proceed to the Reports\_tables\_0405.pdf link (last visited Apr. 6, 2006).

Similarly, there were 92 new minority faculty (25.6%) in 1991-92. *Id.* at Table 8B, Last 14 Years: New Minority Faculty in Directory of Law School Teachers, at 78. Minorities reached a high of 98 (25.6%) in 1995-96 and have fallen to 70 (22.9%) in 2004-05. *Id.* The percentages of women and minorities are falling even in the newly reorganized structure of legal education. See generally Angel, *Tenure Disappears or Becomes Unrecognizable*, *supra* note 1, at 800-01; Angel, Brent Speech, *supra* note 1.

tional articles published after law school in major law reviews.<sup>27</sup> Lateral hires from law firms also must have such articles produced during their time at a firm. Young men without care-giving responsibilities, and often with a spouse to take care of the small details of life, have managed to work 2000-plus billable hours and still produce major traditional law review articles.<sup>28</sup> Women with care-giving responsibilities, and usually without the assistance of a "wife" to take care of the small details of life, have not managed to produce the required articles.<sup>29</sup> My own law school hired six men in the last two years on tenure track: four white, one black, and one Asian. Four were hired as tenure track assistant professors and two were hired with instant tenure as full professors. During the same time period, one white woman was hired as a tenure track assistant professor and one black woman as a contract legal writing teacher.

The Philadelphia Bar Association's 2005 survey of the city of Philadelphia bar shows that the typical Philadelphia lawyer is white, male, forty-nine, a partner in his firm, and married with a full time working wife.<sup>30</sup> In 1990, women were 25% of the lawyers in Philadelphia; in 1995, 30% with a projection of future parity; and in 2000, 34%.<sup>31</sup> In 2005, the number of women lawyers dropped back to 33%.<sup>32</sup> The number of women in practice is going down despite the increase in the number of women law school graduates. Women are 45% of the lawyers in Philadelphia under thirty-five,<sup>33</sup> but women over that age are dropping out of large firms and other areas of practice. Many are leaving the profession altogether. Unless things change drastically, there will never be gender parity in numbers, status, and income.

My annual surveys for the Pennsylvania Bar Association (PBA) began in 2001 and consistently showed women massively overrepresented in the lowest paying, least secure legal jobs and underrepresented in the highest paying, most secure positions.<sup>34</sup>

27. This is now the minimal requirement at Temple Law School.

28. See Angel, *Disappearing Women*, *supra* note 1, at n. 234-48 and accompanying text.

29. *Id.*

30. See Daniel A. Cirucci, *Survey: Lawyers Gain Experience, Prosperity*, PHILA. BAR REP., Oct. 2005, at 1 (stating that the "typical" Philadelphia lawyer is "white, male, and married").

31. *Id.*

32. *Id.*

33. *Id.*

34. See PENNSYLVANIA BAR ASSOCIATION: WOMEN IN THE PROFESSION 2002 REPORT CARD, available at <http://www.pabar.org/pdf/02reportcard.pdf>; MARINA ANGEL, PENNSYLVANIA BAR ASSOCIATION, 9TH ANNUAL REPORT CARD 2003: WOMEN IN THE PROFESSION, available at <http://www.pabar.org/pdf/03reportcard.pdf>; MARINA ANGEL, PENNSYLVANIA BAR ASSOCIATION, 10TH ANNUAL REPORT CARD 2004: WOMEN IN THE PROFESSION, available at <http://www.pabar.org/pdf/wipreportcard2004.pdf>; ANGEL, 2005 PBA REPORT CARD, *supra* note 1, showing that despite

In 2005, women were 16% of managing partners, 17% of equity partners, 18% of partners, 44% of associates, 79% of part time lawyers, and 22% of others.<sup>35</sup> Similar statistics exist for large firms throughout the United States.<sup>36</sup> In 2003, the NALP statistics showed that women were 17% of all partners and 43% of all associates.<sup>37</sup>

The PBA survey shows similar results for district attorney<sup>38</sup> and public defender offices,<sup>39</sup> although women are slightly better represented in the higher echelons of public defender offices. One significant variation from large firms is that men are over-represented in part time positions in both district attorney and public defender offices. In 2005, men were 75% of part time lawyers in district attorneys offices<sup>40</sup> and 80% of part time public defenders.<sup>41</sup> The explanation is that these are desirable positions; they allow an individual to have the secure salary and prestige of a high profile public position and yet practice law on the side to supplement income.

A similar pattern exists in academia. The American Association of Law Schools (AALS) statistics for the 2004-2005 academic year show that women are 25% of tenured full professors but 59% of all contract full professors.<sup>42</sup> Women are also a majority of contract associate professors (62%), contract assistant professors (65%), and contract lecturers and instructors (68%).<sup>43</sup> As for administrators, women are 19% of deans, 35% of associate deans with professional titles, 54% of associates without professional titles, and 68% of assistant deans without professional titles.<sup>44</sup> Women are 44% of those on tenure track.<sup>45</sup> However, women traditionally disappear from tenure track in substantially higher numbers and percentages than men.<sup>46</sup> The continued exist-

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that the numbers and identities of the responders have changed over the years, the general picture of women lawyers in Pennsylvania has remained constant.

35. See ANGEL, 2005 PBA REPORT CARD, *supra* note 1, at 3. All firm statistics for the 11th Annual Report Card 2005 are presented in tabular form in Appendix A.

36. See NALP, *Women & Attorneys of Color at Law Firms* (2003-2004), <http://www.nalp.org/content/index.php?pid=152> (last visited Apr. 3, 2006).

37. *Id.*

38. See Appendix B, District Attorney Statistics.

39. See Appendix C, Public Defender Statistics.

40. See Appendix B, District Attorney Statistics.

41. See Appendix C, Public Defender Statistics.

42. See WHITE, *supra* note 26, at Table 3, Job Security Status, at 29-31. I summarized the 2004-2005 data as an appendix which was displayed at the 2006 AALS Annual Convention.

43. *Id.*

44. *Id.*

45. *Id.*

46. See Angel, *Disappearing Women*, *supra* note 1, at 840. See generally Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537, 538, 548-52 (1988).

tence of tenure is under attack.<sup>47</sup> Similar to large firms, tenure requirements have been stiffened<sup>48</sup> and tenure periods lengthened.<sup>49</sup> The experience at my own school may be particularly discriminatory. From 1970 to 1987, the time period I surveyed in *Disappearing Women*, 75% of all men who came to Temple Law School with the expectation of tenure achieved tenure but only 35% of the women did, the worst record of the five schools I surveyed in depth.<sup>50</sup> From the time I arrived at Temple in January of 1979 to 1987, nineteen men, seventeen white and two black, were tenured.<sup>51</sup> Every man who was hired during that period was tenured, but only three out of the seven women were. The school's hiring record during the last two years will lead to even worse results in the future.<sup>52</sup>

College textbooks teach young women and men that both the civil rights struggle and the women's struggle for equality took place in the 1950s and 1960s and were won with the passage of the 1964 Civil Rights Act.<sup>53</sup> Thereafter, equality reigned. We

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47. According to a survey of presidents of four year colleges conducted by *The Chronicle of Higher Education*, 53% believed that tenure should be replaced by a contract system. Piper Fogg, *Presidents Favor Scrapping Tenure*, 52 CHRON. OF HIGHER EDUC. 11, Nov. 4, 2005, at A31. See Angel, *Glass House*, *supra* note 1, at 455-56. Sometime in March 2006, communication was sent to the United States Department of Education calling for the removal of the American Bar Association (ABA) as the accrediting body for law schools on the ground that it required tenure for faculty and at least long term contract for those teaching clinics, legal writing, and other skills courses. The document had the names of four offices and was purportedly submitted on behalf of an independent group calling itself the American Law Deans Association (ALDA). The ABA and the AALS were not copied on the document and no vote of ALDA's membership was taken nor were the members notified this document had been sent (document on file with the Chicana/o Latina/o Law Review).

48. See Angel, *Tenure Disappears or Becomes Unrecognizable*, *supra* note 1, at 794.

49. *Id.*

50. See Angel, *Disappearing Women*, *supra* note 1, at 827.

51. *Id.* at 826.

52. See Angel, *Tenure Disappears or Becomes Unrecognizable*, *supra* note 1, at n.71, stating that 2004 Temple hires included four tenure track white males and one black female contract legal writing professor and Angel, *Tenure Disappears or Becomes Unrecognizable*, *supra* note 1, at 800-01, stating that percentages of women and minorities are falling in legal education. See generally Angel, Brent Speech (last visited Dec. 2005).

53. In WHO BUILT AMERICA? VOLUME TWO: 1877-1991, a leading college text, the authors, Nelson Lichtenstein, Susan Strasser, and Roy Rosenzweig state, "The 1964 Civil Rights Act ended segregation in all public accommodations, including theaters, restaurants, and swimming pools." NELSON LICHTENSTEIN ET AL., WHO BUILT AMERICA? VOLUME TWO: 1877-1991 621 (2000).

As for schools, "[i]n the South, conservatives no longer feared that federal dollars would be used to advance racial integration, because desegregation of the schools was rapidly becoming an accomplished fact." *Id.* at 622. According to the authors, women's struggle for equality was successful. But most polls in the early 1970s recorded a steady shift in public opinion towards feminist on such issues as pay equity, child care, and abortion. By 1976, the conservative READER'S DIGEST conceded: "Women's Liberation has changed the lives of many Americans and the

of the 1960s know better. My women students, however, believe this mythology. If they cannot simultaneously work 2000-plus billable hours, have a reasonable personal life, and produce a top notch law review article or two, they believe they have “failed” on a personal level. They do not see what is happening to them as systemic discrimination.

Law degrees with honors and clerkships used to be the credentials for success at both law firms and law schools. Women now have these credentials. But guess what, the rules of the game have been changed to our disadvantage. Law firms want 2000-plus billable hours and law schools will not hire you on tenure track as an assistant professor without top notch articles published since law school. Women with traditional care responsibilities do not have the time to meet these new requirements for top level positions. Women and men of color, the last hired, have been dropping out of large firms in overwhelming numbers.<sup>54</sup> The numbers are so overwhelming that the firms have realized they have “retention” and “diversity problems.”<sup>55</sup>

I am old enough to no longer believe that law firms and law schools will change their behavior once they understand that it is unfair and discriminating. Arguments have to appeal to their self-interest. When word gets around about their policies, they will no longer be able to recruit the best and brightest and, even

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ways they look at family, job, and sexual equality.” Even those who rejected feminism embraced the transformations it had wrought. *Id.* at 665-66.

54. See Angel, *Disappearing Women*, *supra* note 1, at 830-32.

55. The Association of the Bar of the City of New York recognized a serious diversity problem in New York in January of 2004. E. Leo Milonas, *A New Statement of Diversity Principles*, 44TH STREET NOTES, Jan. 2004, at 1. The Association started a new office of diversity in October of that year. *Office for Diversity Launched*, 44TH STREET NOTES, Oct. 2004, at 1. They published their First Annual Diversity Benchmark Study in Sept. of 2005. *City Bar Releases First Annual Diversity Benchmarking Study*, 44TH STREET NOTES, Sept. 2005, at 28. Some Philadelphia Bar Association leaders have recognized a diversity recruitment and retention problem regarding minority lawyers and women lawyers. See Jeff Blumenthal, *Minority Recruitment: Progress Slow*, THE LEGAL INTELLIGENCER, Aug. 16, 2004, at 1, which examines the challenge issued to Philadelphia’s law firms to increase minority recruitment and retention and the progress over the previous eleven years; Alex Dubilet, *Percentage of Women Minority Partners Rises, But Numbers Still Low, Recruitment Study Says*, THE LEGAL INTELLIGENCER, Aug. 16, 2004, at 1, examining the number of women partners in Philadelphia law firms, concluding that although the number has increased, the numbers are still “abysmally low”; Jeff Blumenthal, *Philadelphia. Firms Perform Weakly on Diversity Scorecard*, THE LEGAL INTELLIGENCER, July 7, 2005, at 1, stating that most large Philadelphia firms lag behind the national average in terms of percentage of minority lawyers and minority partners; Porus Cooper, *Gender Gap at Law Firms*, PHILA. INQUIRER, July 4, 2005, at C1, examining the results of the Pennsylvania’s Bar Association’s Annual Survey showing that women dominate part-time ranks at firms but overall female percentages have remained constant over previous six years; Tony Gnoffo, *Fewer Female Lawyers in Philadelphia?*, PHILA. INQUIRER, Sept. 30, 2005, at D1, examining the Philadelphia Bar survey. However, little affirmative action has been taken. *How to Make Your Diversity Program More Effective*, LAW OFFICE MGMT. & ADMIN. REP., May 2002, at 4.

those they do get, will leave. Firms have learned that training and re-training is expensive.<sup>56</sup> For law firms and law schools, high turnover is expensive and results in a decrease in the quality of the work, whether it is servicing clients at a law firm or engaging in research, teaching, and service at a law school. Mistakes will be made and important matters will fall through the cracks.

It is claimed that clients of large firms and students at law schools expect their lawyers or teachers to be available twenty-four hours a day, seven days a week. More reasonable expectations can be created. Clients and students should be told, "This is the best person we have, and because of that, she is very busy." They will adjust their expectations.

Successful men are married with children.<sup>57</sup> Successful women tend to be unmarried without children.<sup>58</sup> Discriminatory organizational structures keep women out of positions of power, prestige, and money, and destroy any possibility of diversity at the top of the legal hierarchy. Women who want the family life that successful men enjoy are channeled into piecemeal legal positions or drop out of the profession entirely. The legal profession cannot long continue on its current path which results in the loss of the full participation of the women who comprise almost half of all law school graduates and the growing dissatisfaction of increasing numbers of men.

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56. See generally, Jill Schachner Chanen, *The Amazing RACE*, A.B.A. J., Aug. 2005, at 46.

57. See Angel, *Disappearing Women*, *supra* note 1, at 837-38.

58. *Id.*

Appendix A: Pennsylvania Private Law Firm Statistics\*

Total Lawyers	F	%F	Managing Partners	Total Partners	F	%F	Total Partners Equity	F	%F	Lawyer-Admin	F	%F	Total Assoc.	F	%F	Total Other	F	%F	Total PT	F	%F	PT	
309	94	30.4%	1M	118	20	16.9%	83	14	16.9%	32	9	28.1%	164	67	40.9%	27	7	25.9%	14	14	100.0%	14	100.0%
281	94	33.5%	1M	132	21	15.9%	78	8	10.3%	48	6	12.5%	135	69	51.1%	14	4	28.6%	28	26	92.9%	26	92.9%
264	79	29.9%	1M	139	28	20.1%	97	19	19.6%	32	7	21.9%	122	54	44.3%	5	3	60.0%	20	12	60.0%	20	60.0%
261	71	27.2%	1M	128	13	10.2%	104	9	8.7%	26	5	19.2%	120	48	40.0%	11	4	36.4%	5	5	100.0%	5	100.0%
240	89	37.1%	1F	110	25	22.7%	100	21	21.0%	27	6	22.2%	111	60	54.1%	19	6	31.4%	11	16	84.2%	11	84.2%
223	72	32.3%	1M	84	16	19.0%	73	15	20.5%	3	3	18.8%	121	50	41.3%	18	4	22.2%	9	9	81.8%	9	81.8%
220	57	25.9%	1M	98	17	17.3%	76	12	15.8%	52	7	13.5%	94	40	42.6%	28	0	0.0%	13	11	84.6%	11	84.6%
201	54	26.9%	1M	106	20	18.9%	64	9	14.1%	18	2	11.1%	96	31	32.3%	28	0	0.0%	7	7	100.0%	7	100.0%
187	58	31.0%	1M	73	18	24.7%	67	15	22.4%	32	6	18.8%	61	34	55.7%	23	3	13.0%	8	7	87.5%	7	87.5%
179	60	33.5%	1F	73	15	20.5%	50	10	20.0%	31	9	29.0%	45	15	33.3%	11	5	45.5%	6	5	83.3%	5	83.3%
143	25	17.5%	1M	80	5	6.3%	0	0	0.0%	22	2	9.1%	45	15	33.3%	22	5	22.7%	5	5	100.0%	5	100.0%
130	42	32.3%	1M	57	13	22.8%	57	13	22.8%	16	5	31.3%	57	26	45.6%	19	3	15.8%	14	5	35.7%	5	35.7%
116	33	28.4%	1M	65	8	12.3%	0	0	0.0%	20	3	15.0%	49	24	49.0%	19	3	15.8%	14	5	35.7%	5	35.7%
114	44	38.6%	1M	60	11	18.3%	59	11	18.6%	15	3	20.0%	49	22	44.9%	5	0	0.0%	8	7	87.5%	7	87.5%
105	30	28.6%	1M	61	9	14.8%	0	0	0.0%	5	3	60.0%	40	20	50.0%	4	1	25.0%	3	2	66.7%	2	66.7%
81	18	22.2%	1F	27	7	25.9%	19	5	26.3%	5	3	60.0%	44	8	18.2%	10	3	30.0%	2	2	100.0%	2	100.0%
64	19	29.7%	1M	33	7	21.2%	0	0	0.0%	6	1	16.7%	26	12	46.2%	5	0	0.0%	3	1	33.3%	1	33.3%
59	22	37.3%	1M	23	7	30.4%	0	0	0.0%	5	1	20.0%	32	15	46.9%	4	0	0.0%	7	2	28.6%	2	28.6%
57	20	35.1%	1F	19	4	21.1%	0	0	0.0%	6	2	33.3%	31	13	41.9%	7	3	42.9%	2	2	100.0%	2	100.0%
50	17	34.0%	1M	27	3	11.1%	0	0	0.0%	10	2	20.0%	21	13	61.9%	2	1	50.0%	4	4	100.0%	4	100.0%
48	13	27.1%	1M	22	6	27.3%	12	3	25.0%	5	0	0.0%	14	4	28.6%	0	0	0.0%	2	2	100.0%	2	100.0%
47	21	44.7%	1M	17	3	17.6%	17	3	17.6%	4	2	50.0%	27	17	63.0%	3	1	33.3%	7	7	100.0%	7	100.0%
45	16	35.6%	1M	11	1	9.1%	8	0	0.0%	142	51	35.9%	30	13	43.3%	4	2	50.0%	3	3	100.0%	3	100.0%
41	24	58.5%	1F	18	11	61.1%	7	5	71.4%	5	5	100.0%	21	12	57.1%	2	1	50.0%	7	7	100.0%	7	100.0%
38	3	7.9%	1M	22	0	0.0%	19	0	0.0%	8	0	0.0%	14	3	21.4%	2	0	0.0%	2	0	0.0%	2	0.0%
36	8	22.2%	1M	10	1	10.0%	6	0	0.0%	11	2	18.2%	20	7	35.0%	0	0	0.0%	2	2	100.0%	2	100.0%
34	8	23.5%	1M	20	5	25.0%	4	0	0.0%	1	1	100.0%	8	3	37.5%	2	0	0.0%	3	2	66.7%	2	66.7%
33	10	30.3%	1M	21	6	28.6%	21	6	28.6%	9	1	11.1%	12	4	33.3%	0	0	0.0%	0	0	0.0%	0	0.0%
33	13	39.4%	1M	17	4	23.5%	17	4	23.5%	8	3	37.5%	15	9	60.0%	1	0	0.0%	4	3	75.0%	3	75.0%
32	10	31.3%	1M	19	6	31.6%	0	0	0.0%	5	1	20.0%	10	4	40.0%	3	0	0.0%	4	1	25.0%	4	25.0%
31	6	19.4%	1M	9	1	11.1%	7	0	0.0%	6	1	16.7%	17	4	23.5%	5	1	20.0%	2	1	50.0%	2	50.0%
30	8	26.7%	1M	15	2	13.3%	9	0	0.0%	1	0	0.0%	12	6	50.0%	3	0	0.0%	6	3	50.0%	3	50.0%
29	3	10.3%	1M	14	0	0.0%	0	0	0.0%	1	1	100.0%	11	2	18.2%	4	1	25.0%	0	0	0.0%	0	0.0%
28	5	17.9%	1M	18	1	5.6%	12	0	0.0%	8	0	0.0%	7	3	42.9%	3	1	33.3%	1	1	100.0%	1	100.0%
28	10	35.7%	1M	11	1	9.1%	8	1	12.5%	3	0	0.0%	15	9	60.0%	2	0	0.0%	4	2	50.0%	2	50.0%
3817	1156	30.3%	6F/31M	1757	315	17.9%	1074	183	17.0%	645	155	24.0%	1692	751	44.4%	299	66	22.1%	230	181	78.7%	181	78.7%

\*For 2005, counting only Pennsylvania offices of responding law firms, women are: 30% of all lawyers, 16% of managing partners, 24% of practice group chairs and other lawyer-administrators, 17% of equity partners, 18% of all partners, 44% of associates, 79% of part-timers.  
 \*\*Source: MARINA ANGEL, 2005 PBA REPORT CARD, available at <http://www.pabar.org/pdf/wiprc05.pdf>.

## Appendix B: Pennsylvania District Attorney Statistics\*

Total Lawyers	F	%F	DA	1st Asst.	Total Admin	F Admin	% F Admin	Total PT	F PT	% F PT
99	38	38.38%	M	M	20	6	30.00%	0	0	0.00%
41	13	31.71%	M	F	15	7	46.67%	3	1	33.33%
33	11	33.33%	M	M	6	1	16.67%	0	0	0.00%
29	11	37.93%	F	M	5	3	60.00%	0	0	0.00%
29	12	41.38%	M	F	9	5	55.56%	0	0	0.00%
27	11	40.74%	M	M	7	4	57.14%	6	3	50.00%
24	10	41.67%	M	F	9	3	33.33%	3	1	33.33%
23	8	34.78%	M	M	7	2	28.57%	0	0	0.00%
23	8	34.78%	M	M	3	1	33.33%	0	0	0.00%
22	7	31.82%	M	F	3	1	33.33%	7	2	28.57%
17	8	47.06%	M	F	7	4	57.14%	11	4	36.36%
12	3	25.00%	M	M	5	2	40.00%	7	2	28.57%
12	2	16.67%	M	F	2	1	50.00%	6	1	16.67%
12	2	16.67%	M	M	2	0	0.00%	6	2	33.33%
11	3	27.27%	M	M	2	0	0.00%	7	1	14.29%
10	1	10.00%	M	M	4	0	0.00%	0	0	0.00%
9	4	44.44%	F	M	2	1	50.00%	7	3	42.86%
9	3	33.33%	M	F	3	1	33.33%	3	0	0.00%
8	4	50.00%	F	F	2	2	100.00%	4	2	50.00%
7	1	14.29%	M	M	1	0	0.00%	6	1	16.67%
7	2	28.57%	M	M	2	0	0.00%	0	0	0.00%
7	1	14.29%	M	F	0	0	0.00%	3	0	0.00%
7	3	42.86%	M	M	3	2	66.67%	1	0	0.00%
7	0	0.00%	M	M	2	0	0.00%	1	0	0.00%
6	2	33.33%	M	F	2	1	50.00%	6	2	33.33%
6	2	33.33%	M	M	1	0	0.00%	6	0	0.00%
5	1	20.00%	M	M	1	0	0.00%	1	0	0.00%
5	1	20.00%	M	M	0	0	0.00%	4	1	25.00%
4	1	25.00%	M	M	2	0	0.00%	2	1	50.00%
4	2	50.00%	F	F	2	2	100.00%	3	2	66.67%
4	2	50.00%	M	F	2	1	50.00%	2	1	50.00%
4	3	75.00%	F	M	1	1	100.00%	0	0	0.00%
3	0	0.00%	M	M	1	0	0.00%	2	0	0.00%
3	0	0.00%	M	M	1	0	0.00%	1	0	0.00%
3	1	33.33%	M	M	0	0	0.00%	3	0	0.00%
3	0	0.00%	M	M	2	0	0.00%	2	0	0.00%
3	1	33.33%	M	F	3	1	33.33%	3	1	33.33%
3	2	66.67%	M	F	2	1	50.00%	1	0	0.00%
3	0	0.00%	M	M	0	0	0.00%	3	0	0.00%
2	1	50.00%	M	F	12	1	8.33%	0	0	0.00%
2	0	0.00%	M	M	1	0	0.00%	0	0	0.00%
2	0	0.00%	M	M	1	0	0.00%	2	0	0.00%
2	1	50.00%	M	F	2	1	50.00%	1	0	0.00%
2	0	0.00%	M	M	1	0	0.00%	1	0	0.00%
2	0	0.00%	M	M	2	0	0.00%	1	0	0.00%
1	1	100.00%	F	M	1	1	100.00%	0	0	0.00%
1	0	0.00%	M	M	1	0	0.00%	1	0	0.00%
6F/41M 16F/27M										
558	187	33.51%	12.7%	37%	162	56	34.57%	126	31	24.60%

"For 2005, women are: 35.5% of all lawyers in District Attorneys' Offices, 6 women are 12.7% of District Attorneys, 16 women are 37% of First Assistant District Attorneys, 24.6% of Part-Timers, but these are desirable positions because they are usually supplement income for private practice."

"\*Source: MARINA ANGEL, 2005 PBA REPORT CARD, available at <http://www.pabar.org/pdf/wiprc05.pdf>."

Appendix C: Pennsylvania Public Defenders Statistics\*

Total Lawyers	F	%F	PD	1st Asst.	Total Admin	F Admin	% F Admin	PT	F PT	%F PT
220	133	60.45%	F	M	22	7	31.82%	0	0	0.00%
79	36	45.57%	M		7	2	28.57%	21	10	47.62%
34	12	35.29%	F	F	10	5	50.00%	17	3	17.65%
28	12	42.86%	M	M	2	0	0.00%	4	3	75.00%
22	7	31.82%	M	M	2	0	0.00%	5	2	40.00%
22	3	13.64%	M	2M	1	0	0.00%	18	2	11.11%
21	7	33.33%	M	F	2	1	50.00%	0	0	0.00%
20	9	45.00%	M	F	6	3	50.00%	0	0	0.00%
20	7	35.00%	F	M	2	1	50.00%	13	5	38.46%
18	4	22.22%	F	M	7	3	42.86%	9	2	22.22%
17	2	11.76%	M	M	3	0	0.00%	15	1	6.67%
17	6	35.29%	M	1F, 2M	4	2	50.00%	0	0	0.00%
15	5	33.33%	M	F	5	1	20.00%	1	1	100.00%
13	1	7.69%	M	M	2	0	0.00%	8	0	0.00%
13	2	15.38%	M	M	2	0	0.00%	8	2	25.00%
12	0	0.00%	M	2M	1	0	0.00%	7	0	0.00%
10	3	30.00%	F		1	1	100.00%	7	0	0.00%
10	1	10.00%	M	M	2	0	0.00%	7	1	14.29%
9	4	44.44%	M	F	4	2	50.00%	3	0	0.00%
9	2	22.22%	M		1	0	0.00%	8	2	25.00%
8	3	37.50%	M	M	1	0	0.00%	4	1	25.00%
7	0	0.00%	M	M	1	0	0.00%	6	0	0.00%
7	2	28.57%	M	F	2	1	50.00%	6	2	33.33%
7	1	14.29%	M	M	2	0	0.00%	2	0	0.00%
6	1	16.67%	M	F	2	1	50.00%	0	0	0.00%
6	1	16.67%	M	F	1	0	0.00%	4	0	0.00%
6	1	16.67%	M	F	2	1	50.00%	1	1	100.00%
6	2	33.33%	M	F	2	1	50.00%	2	0	0.00%
5	0	0.00%	M	M	2	0	0.00%	5	0	0.00%
5	0	0.00%	M	M	2	0	0.00%	3	0	0.00%
5	0	0.00%	M	M	1	0	0.00%	5	0	0.00%
5	1	20.00%	M		1	0	0.00%	2	1	50.00%
5	1	20.00%	M	F	2	1	50.00%	1	0	0.00%
5	1	20.00%	M	M	0	0	0.00%	3	1	33.33%
5	0	0.00%	M		1	0	0.00%	5	0	0.00%
4	1	25.00%	M		1	0	0.00%	2	0	0.00%
4	2	50.00%	M		1	0	0.00%	4	2	50.00%
4	0	0.00%	M	M	4	0	0.00%	4	0	0.00%
4	1	25.00%	M	M	0	0	0.00%	4	1	25.00%
3	0	0.00%	M	M	2	0	0.00%	2	0	0.00%
3	0	0.00%	M	M	3	0	0.00%	3	0	0.00%
3	2	66.67%	M	F	3	2	66.67%	3	2	66.67%
3	0	0.00%	M	M	3	0	0.00%	2	0	0.00%
3	0	0.00%	M	M	2	0	0.00%	3	0	0.00%
3	1	33.33%	M	F	2	1	50.00%	2	1	50.00%
3	0	0.00%	F		1	0	0.00%	0	0	0.00%
2	0	0.00%	M	M	2	0	0.00%	2	0	0.00%
2	1	50.00%	F	M	1	1	100.00%	0	0	0.00%
2	1	50.00%	M		1	0	0.00%	2	1	50.00%
2	0	0.00%	M	M	2	0	0.00%	0	0	0.00%
2	1	50.00%	F	M	1	1	100.00%	1	0	0.00%
2	0	0.00%	M	M	1	0	0.00%	2	0	0.00%
2	0	0.00%	M	M	2	0	0.00%	0	0	0.00%
1	0	0.00%	M		1	0	0.00%	1	0	0.00%
1	0	0.00%	M		1	0	0.00%	0	0	0.00%
1	1	100.00%	F		1	1	100.00%	1	1	100.00%
1	1	100.00%	F		1	1	100.00%	1	1	100.00%
1	0	0.00%	M		1	0	0.00%	1	0	0.00%
1	0	0.00%	M		1	0	0.00%	0	0	0.00%
1	0	0.00%	M		1	0	0.00%	0	0	0.00%
1	0	0.00%	M		1	0	0.00%	0	0	0.00%
756	282	37.30%	10F/51M	14F/34M	148	40	27.03%	240	49	20.42%
			16.40%	29%						

"For 2005, women are: 37.3% of all lawyers in the Public Defenders' Office, 10 women are 16.4% of Public Defenders, 14 women are 29% of First Assistant Public Defenders, 20.4% of Part-Timers, but these are desirable positions because they usually supplement income from private practice."

"\*Source: See, MARINA ANGEL, 2005 PBA REPORT CARD, available at <http://www.pabar.org/pdf/wiprc05.pdf>."

