

True Equity Requires Transparent, Accountable Compensation Systems

by Debra Pickett



As their corporate clients have become more sophisticated at monitoring progress on diversity and equity, some law firms have been forced to reform their policies around recruitment, retention, promotion and work distribution.

Industry groups such as Diversity Lab, with its Mansfield Rule certification, have developed powerful incentives that reward transparency on diversity and inclusion (D&I) metrics. If law firms fail to make progress toward benchmarks, they could lose valuable business.

But details around one measure of true equity—maybe the only one that actually matters — are as opaque as ever: compensation.

The recently released [biennial study on partner compensation](#) conducted by Major, Lindsey & Africa illustrates the persistent pay disparity: In the past 10 years, male equity partners have seen a 42% increase in overall compensation; for female equity partners, the figure is just 22%. The gender pay gap goes away when the legal researchers account for originations and billing rate, according to the study.

Law leaders who want to dodge responsibility for pay equity may argue this means pay is essentially gender neutral: It's not as if the executive committee sits in a conference room scheming about how to put more money in the blue pile than the pink pile, it's just that men seem to originate more and bigger business, for totally mysterious reasons.

But in 2020, this explanation no longer flies. The origination-credit system embodies all the structural inequalities that distribute power inside law firms (and across our society). Originating new business depends on access to a network of prospective clients. White men have the most access to that network, often through informal mentorship relationships they form early in their careers with more senior white male partners.

Women and minority partners must work much harder and more creatively to connect with what comes "naturally" to these colleagues. And parenthood, while a condition both men and women enter into, still takes women out of the game in more significant ways and during crucial years for building the book of business that will ultimately determine their compensation for decades.

Yes, these lawyers must find new paths to their prospects, but individual actions alone will not be enough to overcome the structural problems that got us here.

Yet the situation is far from hopeless. All three players who have moved the needle on D&I so far—corporate clients demanding diverse legal teams, law leaders who understand the business imperative, and legal industry groups—can take action.

Law Firms Must Stop Hiding Behind the Rainmaker Excuse. “We can’t have pay transparency because we have to keep our rainmakers happy.” This thinking presumes that rainmakers are a rare breed of born superstars, instead of attorneys whose skills and promise were nurtured by systems designed to help them advance. While we must credit these wildly successful lawyers for their hard work and long hours, it’s also true that most firms include partners with extraordinary potential to become major drivers of new business, if only they received the same level of institutional support for their careers.

A defensive compensation system functioning mostly to prevent attrition of superstars is not aligned with a healthy strategic vision for the firm. Firms can’t grow into new practice areas, effectively cross-sell or bring in younger or less well-networked partners on key cases—all which are crucial to growth—if the compensation system penalizes partners financially for these actions.

Firms must think carefully about what behaviors their current system rewards, and whether they can continue to put pay equity—and the blow-back they may get about it from clients—behind the interests of their rainmakers.

Certification Programs Should Focus on Compensation. Many trusted legal industry groups collect data on firm diversity and inclusion metrics and issue rankings and awards to highlight firms that are making strides, but so far those evaluations have focused mainly on positions and not on compensation.

As women in law firm leadership know all too well, a partner may have impressive titles and be the chair of a key committee, but that doesn’t necessarily mean she is being compensated at the same level as a male peer. In fact, many times those lofty titles are doled out as a substitute for more money.

Industry groups must urge firms to make compensation systems public—and holding them accountable for what those systems reveal.

GCs Can Reform Compensation Process as They Did for RFPs. Firms made little progress on elevating women and minorities until their clients demanded it. For instance, many general counsel now track whether partners involved in pitching business are eventually staffed on matters. Because the bottom line is at stake, firms find ways to comply with these demands.

General counsel are in a position to demand the same kind of transparency when it comes to compensation for outside teams. If law firms are designating more women as “relationship partners” in response to client demand for greater diversity, clients should also question whether those female partners are being compensated at the same level as their male counterparts. If the pay gap persists, then what we have is tokenism instead of authentic progress on equity.

Now more than ever before, firms are responding to the market’s demand for increased transparency and equity. But that progress is superficial if it doesn’t overhaul the biased compensation system and move firms closer to equitable pay.

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