

# Gender Bias and the Compensation Gap

Sep 15 Posted by [Susan Saltonstall Duncan](#) in [Rewards/compensation](#)



Our last post [Why Aren't There More Women Leaders and Why Should Firms Care?](#) addressed many of the reasons that women are not advancing to top levels in their firms. Many of the impediments and biases we summarized also can be found in the discrepancies between male and female compensation for equity partners. According to "[Closing the Gap.](#)" a report by the ABA Presidential Task Force on Gender Equity and the ABA Commission on Women in the Profession, the widening gap between equity and non-equity partners' compensation, an average of 2.5 times, means that the higher barriers for entry into equity partnership for women also have a direct impact on compensation inequities. "The slow progress for women in attaining equity partners parity is as much a compensation issue as it is a leadership concern."

According to [Wharton professor Janice Madden](#), across business segments, women are still making only 62-66% of what men make. In law firms too, [an article in Marketplace](#) reports that the average female partner makes just under \$500K to a male partner's average \$734K. Madden studied two major stock brokerage houses and found that the reason women earned less was because they were given lower value/inferior accounts that generated smaller commissions and were denied support staff, mentors and other resources that would have helped them improve performance.

A [recent study by Harry Keshet](#), PhD. of Keshet Consulting and Angela A. Meyer, PhD. confirms these findings although their numbers are slightly different. They surveyed over 1,700 lawyers of whom 915 were male and 814 were female, 865 were equity partners, 342 were non-equity partners and 463 were associates. Their research indicates the following:

- Overall, male equity partners (MEPs) are more highly compensated than female equity partners (FEPs) with MEPs reporting mean compensation \$166,932 higher than FEPs.
- Among EPS who bill less than 1800 hours, MEPs reported mean compensation \$159,876 higher than FEPs.
- In all but the highest categories of origination (\$2 million or more,) FEPs still consistently receive lower compensation for the same levels of origination.
- When ethnicity is factored in, the gaps are much more significant: white MEPs receive a mean compensation of \$658,140 compared to white FEPs mean of \$521,900. Non-white MEPs reported mean compensation of \$643,108 compared to \$407,620 mean compensation for non-white female equity partners.

"Closing the Gap" identifies several major impediments to pay equity for women and we have added a few more:

1. The process for defining and attributing credit for client origination and management is confusing at best and often contentious at worst. While most firms allocate credit to partners as: originating partner, billing partner or responsible partner, these titles and how credit is split up and then measured is murky and often mired in history and personal politics.
2. Many firms still award lifetime credit for origination where partners treat clients like "their own personal property." This means that a partner who originally brought a client to the firm ten or twenty years ago, but who may not have actually serviced that client for many years, still gets 100% of the origination credit. Other firms are using different methods whereby origination credit is eliminated after five years, and clients then become clients of the firm for origination purposes. Other games are played with the billing and responsible partner designations, often creating turf wars and grabby behaviors where partners refuse to share credit.
3. It is difficult to prove and measure exactly why a client comes to a firm and why they stay. Not surprisingly, most partners want to claim credit for this whether it is true or not. We used to say that the test for this would be if a specific partner left the firm, would the client go or stay. That approach is not sophisticated enough for today's culture where clients usually have multiple touchpoints and rely on many partners in a firm.
4. The power of personal relationships has a disproportionately negative effect on women. While both men and women fight over credit, senior partners are more apt to hand off client relationships to other men and/or to acquiesce to a male partner's request or demand that he share credit.
5. To hold on to financial credit, originating and billing partners often delegate new matters to senior associates. In the case where rainmakers bring up women as their deputy or second chair on matters and client relationships, they may actually discourage them from originating their own business and instead, encourage them/demand that they service their clients. Once they are promoted to partner, they may be seen as competing for credit but in many cases, women continue to play the critical client management and service role and forgo compensation credit for origination or billing.
6. While partner bonus pools have increased steadily in recent years, these often are distributed arbitrarily and allow unconscious biases to thrive.
7. Most compensation committees operate behind an opaque veil and most firms continue to use a closed compensation system. Firms' compensation criteria often include many subjective factors that cannot be accurately measured or proven. Again, this allows unconscious gender biases to be applied without detection.
8. [NAFE and Flex Time Lawyers Report](#) notes that only 18% of compensation committees are comprised of women, and that is in the top 50 best performing firms for women, so we can assume that number is much lower at the average firm. In fact, in 2010, a study by the Project for Attorney Retention and the Minority Corporate Counsel Association found that one fifth of the law firms had no women on their comp committees. To be effective, any management committee must have a critical mass of three or more women to actually effect change in how decisions are considered.

9. Disputes over origination credit are frequent among all partners, but have a significant impact on women who more often have to fight for credit and feel pressured to cave in or even bullied. Harry Keshet's research indicates that while participating in RFPs and on pitch teams correlates with origination, women do not often gain the same credit afterward as men do. According to Keshet, "Over half of the women who participated in RFPs are not included in the client work resulting from the RFPs." This seems to confirm an all-too-frequent practice at firms who, trying to meet the demands of clients for diversity on their teams, they bring a "token" woman or non-white lawyers to pitch meetings but don't then give them a responsible role in the work that results. Many clients are seeing through this, fortunately, and actually requiring that women and minorities be given management roles on cases. Some are firing their law firms for failure to do so.

Added to these challenges are the gender stereotypes that are attached to communications. Andrea Kramer, a partner at McDermott Will, wrote an extremely illustrative article called [Professional Advancement and Gender Stereotypes: The "Rules" for Better Gender Communications](#). Now on the firm's management committee, she previously had served on her firm's Compensation Committee. In that role, she reviewed several hundred partner self-evaluations and because she noticed such a stark difference in how men and women talked about themselves, she read them without the partner's name and every time was able to accurately assess whether it was written by a man or woman. Apparently, she found that these evaluations along with many other forms of communication and interaction between men and women in the firm played directly into the common gender stereotypes of the "double bind:"

Men	Women
He's assertive	She's pushy
He's a good networker	She's chatty and gossipy
He's decisive	She's impulsive
He knows his worth	She's a self-promoter
He is incisive	She's abrasive
He is "in demand" and busy	She has trouble with deadlines
He is thoughtful	She's tentative or hesitant
He is a Go-Getter	She's too aggressive

## 10 Important Steps Women and their Firms Can Take:

- Carefully assess the origination of new work for all partners at certain levels to measure:
  - What percentage came via *direct inheritance* of a client from a more senior lawyer?
  - What percentage came through *sharing* credit with another lawyer?
  - What percentage came from the development of *new work* from an *existing* client?
  - What percentage came from the development of *new business* from a *new* client?
- Make the compensation criteria and process more transparent, including how appeals and disputes will be handled and by whom.

3. Invite clients to play a role in awarding compensation credit. Beth Kaufman, president of NAWL (the National Association of Women Lawyers) [reports that some clients](#) are insisting that firms give women responsibility and compensation credit for a certain percentage of their work.
4. Put (more) women on the compensation committee and be sure they represent a critical mass or they will not be heard.
5. Train the compensation committee to recognize unconscious gender bias.
6. Make sure more women participate in proposals and pitches and *not* as the token diverse lawyer. They must be given an active role in the pitch/presentation and be given credit if the new business comes in. If you don't have enough women in your firm who serve as substantive experts and rainmakers in specific areas, start developing them!
7. Train women to write more effective self-evaluations around annual review and comp time, and also to approach other important interactions with a better handle on the effects of gender communication differences.
8. As discussed in our prior post [Succession Part 1: Holding onto Clients When Senior Rainmakers Retire](#), institute a formal succession planning process and make sure that women are at the top of consideration for "inheriting" relationships.
9. Review and modify the way origination and billing credit is allocated and the way disputes are addressed so that they can be resolved quickly and equitably.
10. Hold yourselves accountable -- start monitoring, measuring and publishing results on pitch involvement, resulting roles, credit allocation for new work, number of women serving as first chairs of important cases or deals, number of women on the compensation committee and in other key leadership roles, etc.

Tags: [Advancement](#), [Communication](#), [Compensation](#), [Cross-Selling](#), [Diversity](#), [Law firm management](#), [Long-Term Retention](#), [Women](#)

- [PRINT](#)