



# Sharing Success

The newsletter of the  
Women in the Law Committee

9/27/2018

Volume 8, Issue 2

## Committee Leadership



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Being known for experience and expertise begins with seeking these qualities in the professionals you engage.



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## Leadership Notes

## From the Chair

By Diane Averell

We have work to do.



Recent articles that have hit our inboxes and posted on the WITL Community Page make this point ever so clearly, and ever so urgently. Lara Bazelon's article in the *Atlantic*, "[What It Takes to Be a Trial Lawyer If You're Not a Man](#)," is a jaw-dropping exposé on the bias that female lawyers must overcome while simply trying to do their jobs. It's a gut-wrenching reminder that the sources of the bias often include judges, adversaries, jurors, and even clients, and its impact affects every aspect of courtroom proceedings – from pre-trial motions to closing arguments. The horror stories include everything from sexist comments in open court to a judge calling a female lawyer to the bench and physically striking her hand for requesting a continuance. The range of emotions evoked by these accounts is vast—some (both female and male, alike) expressed outrage and disbelief, while other women who are battle-tested by years of enduring similar attacks expressed some combination of fatigue, frustration and, sadly, some sense of being used to it.

The stellar work of the ABA's initiative "[Achieving Long-Term Careers for Women in Law](#)" was featured at an August 2018 program that discussed its research on unique issues and career dynamics facing women lawyers—including their disproportionately high rate of attrition from law firms. The initiative's research shows that managing partners and women lawyers largely agree that women leave law firms for factors including billable hours, caretaking responsibilities, emphasis on business originations, stress, and interest in pursuing new careers. Gender bias and harassment also factor into the cited reasons for attrition, with women reporting being perceived as less committed to their careers than men, more likely to be denied a salary increase or bonus, and more *unlikely* to have access to sponsors within their firms.

The reported results are not startling to most of us—but instead echo the themes that we have heard time and time again without any concrete proof of improvement. We KNOW what the problems are; the discourse is saturated with content identifying them. Tested strategies towards real solutions, however, are harder to come by.

And so we, the Women in the Law Committee, must not just do more—we must do more *differently*. Our committee has long focused on offering solutions-based presentations

at our yearly seminars every January/February, and in our programming segments at Annual Meeting every October. We do our best to fill the intervening months with solutions-based content in our Sharing Success Newsletters and our Opportunity Calling events, our posts on the Community Page, and our contributions to other DRI publications. The feedback we receive is fantastic, while making it clear our members are anxious and hungry for more.

We hear you. And let's face it: we need the boost from empowering and diverse voices in a format that we can access when our own crazy, individual schedules allow it—whether that's at 5 a.m. or midnight, or in an airport, car, or on the treadmill.

This fall, Women in the Law will commence work on our new series of On-Demand Webcasts and Podcasts entitled, "**Staying Power: Long Term Career Strategies for Women Lawyers.**" We aim to recruit lawyers, executive coaches, academics, and thought leaders who are experts on issues that matter to our members and who can offer tangible strategies and tactics that focus on making your long-term career ambitions achievable. Suffice it to say, women lawyers have to stay in the game long enough to accomplish our goals. Easier said than done when the bias and harassment recounted by the *Atlantic* and ABA articles are as real in 2018 as they were three decades ago, but certainly not impossible when organizations like DRI and its members are willing to commit and invest and act to make change.

Now we need *your* help.

If you have ideas for solutions-focused topics or thought leaders from whom you'd like to hear in our upcoming On-Demand Webcast or Podcast series, please contact me ([dfaverell@pbnlaw.com](mailto:dfaverell@pbnlaw.com)), [Kelly Williams](#), or [Brooke Malcom](#).

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*Diane Fleming Averell is a principal of Porzio Bromberg & Newman PC in Morristown, New Jersey. Her practice focuses on product liability, toxic tort, and mass tort litigation. Over the last decade, she has defended products ranging from over-the-counter and prescription pharmaceuticals to personal care products, cosmetics, industrial chemicals, petroleum products, handheld power equipment, and tobacco products. In 2018, Ms. Averell was recognized as one of NJBiz's Best Fifty Women in Business. Ms. Averell serves as the Chair of DRI's Women in the Law Committee.*

# From the WITL Publications Chair

By Katy Regier



The WITL 2018 fall newsletter provides our readers with articles on diverse topics like nutrition tips, financial planning, business development advice, and a substantive law article on the Toxic Substances Control Act.

We also spotlight our next WITL Champion, Melissa Dorman Matthews, Partner at Hartline Dacus Barger Dreyer LLP and our featured In-house counsel, Loree Shelko, Director of Litigation and Assistant General Counsel at Meritor, Inc.

Please also note the report in this newsletter on the first year of the Pathways Program and that the application process is now open for the next class of participants!

As always, thank you to everyone who gave their time, talent, inspiration and wisdom in contributing articles and other support to this newsletter.

It's hard to believe we are already in the last quarter of this year, but no worries—there's still time to work toward making the 2018 WITL goals of inclusion and growth part of your daily life. Keep lifting as you climb, make solid business plans, build relationships and give some thought to applying for your spot in the WITL Pathways Program.

*We need to give each other the space to grow, to be ourselves, to exercise our diversity. We need to give each other space so that we may both give and receive such beautiful things as ideas, openness, dignity, joy, healing, and inclusion.*  
-Max de Pree



*Kathryn A. (Katy) Regier is an attorney with Sandberg Phoenix & von Gontard P.C. in its Kansas City, Missouri, office. She has a wide range of civil litigation experience including matters involving fires, explosions and carbon monoxide exposure in fatality, serious injury and high-dollar property damages cases. Ms. Regier also consults with companies on warning, training and safety measures. While in law school, she was Articles Editor for the Kansas Law Review and participated in the Judicial Clerkship Clinic at the Kansas Court of Appeals. Ms. Regier is admitted to practice law in Kansas, Missouri and California.*

## Paving Pathways

# Year One of the Women in the Law Committee's DRI Leadership Mentoring Program

By Kelly A. Williams



In 2016, the then chair of the DRI Women in the Law Committee, Heidi Freidman of Thompson Hine LLP in Cleveland, Ohio, and vice chair Diane Averell of Porzio Bromberg, & Newman, P.C. in Morristown, New Jersey, created and instituted the Committee's Pathways to Leadership program. I was a participant in the first class of the Pathways program. I am sharing my experience in this program with the hope it will inspire anyone who is considering advancing in DRI leadership to apply.

### What It Is

Pathways to Leadership is a leadership mentoring program designed to assist Women in the Law Committee members in obtaining leadership positions within DRI. The leadership of the Women in the Law Committee is passionate about DRI and DRI being a tool for advancing the careers of women attorneys. The Pathways program furthers both by developing future leaders for DRI and enhancing women lawyers' legal careers.

### How It Works

A committee member who is interested in participating in the program completes an application. The application asks questions about the applicant's involvement in DRI, including leadership positions, and the applicant's commitment to attend the DRI Women in the Law Seminar, the DRI Annual Meeting and to participate in a monthly call with an assigned DRI coach. After the applications are submitted, members showing a past commitment to DRI and an interest in future leadership positions are selected.

Once selected, the members of the Pathways class are assigned a coach. Coaches are DRI leaders who have volunteered their time to educate and guide members of the class with respect to their leadership goals. I had the amazing good fortune to be paired with past DRI president, John Parker Sweeney of Bradley Arant Boult Cummings LLP in their Washington, D.C. office, a long-time supporter of the DRI Women in the Law Committee. As a participant in the program, it was my job to contact John and initiate our first call, which I did.

Our initial call focused on the program, thoughts for the year ahead and homework: what were my reasons for being a DRI member; what did I hope to gain from being a member. At John's suggestion, the call lasted 30 minutes as did all other calls thereafter. We also set a date and time for our next call. If there is one thing I have learned from all of my years in DRI, it is that the best way to "move the ball," is to pick a time for the next call at the conclusion of a call and to have calls on a monthly basis. That is the approach that John and I took for this program as well. Also, keeping the calls to 30 minutes helped us stick to our commitment. It is difficult for all of us to take time out of our busy schedules for a non-billable, non-urgent call. Knowing it was just 30 minutes helped make the calls happen. If work interfered, which it did, we cancelled the call but also rescheduled the call, at the same time. That way, we always had the next call "on the books." We also set the topic for the next call in advance. Topics included goals for upcoming DRI events I was attending, follow up work after I attended a DRI event and DRI committee work.

Another informal goal of the Pathways participants was to meet as a class at the DRI Annual Meeting. Thanks to Sandy Wunderlich, who volunteered to be our fearless class leader, we met for lunch as a group during the 2017 DRI Annual Meeting. Needless to say, meeting with this group of amazing women was a pleasure and inspiration. We hope that this class and future classes continue the tradition of meeting at the DRI Annual Meeting in the future.

### Final Thoughts

As my Pathways experience comes to an end, I am very grateful for this opportunity. I am also passionate that our Committee continues to provide this opportunity to others. I will be the first to admit that it was not always easy to make the time for the calls and this program. The temptation was to skip the calls and not put in the effort for something that is a long term benefit. However, as most things in life, the more I put into it, the more I got out of it. After every call, I was energized not only to move forward in DRI but also in my career in general. Thus, the effort was truly worth it and a benefit to me. The WITL Committee

has begun the application process for the next Pathways class, and I hope that those of you reading this consider applying. We want applicants. We want future DRI leaders. Join the program!

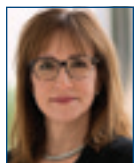
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*Kelly A. Williams is a business litigator at Houston Harbaugh, P.C. in Pittsburgh, Pennsylvania. Ms. Williams focuses on representing companies in various commercial matters including breach of contract, unfair competition, commercial disparagement, insurance coverage disputes,*

*intellectual property litigation, such as trademark and copyright infringement, as well as trade secret disputes, and employment matters. In addition, she has experience representing companies in suits involving product liability and premises liability. Ms. Williams is actively involved in DRI's Women in the Law Committee and currently serves as vice-chair of the Committee. Ms. Williams is also a member of DRI's Commercial Litigation, Intellectual Property Litigation, Product Liability and Data Management and Security Committees.*

## Women in the Law Champion

### Melissa Dorman Matthews



*We are pleased to feature Melissa Dorman Matthews in our Champions column for the fall newsletter. This recurring WITL newsletter feature shines a spotlight on an attorney who champions women attorneys through not only words, but actions. Melissa does that and more through her leadership role at her firm, Hartline Dacus Barger Dreyer LLP, and involvement in DRI, particularly in the WITL Committee! Melissa routinely brings her associates to the WITL seminar and they speak highly of her as a role model and leader in the firm. Melissa's words and actions have made a real difference in her firm and in DRI toward the advancement of women in the legal profession.*

#### **Describe your role at your law firm with respect to working with and being a champion for women attorneys:**

I am a partner in a mid-sized firm where most of the partners are male. I recognized early in my career that business development is different, and therefore difficult, for women attorneys, because we don't have advocates in the partner ranks. If we want to increase the number of women partners, we must do two things: equip them with business development tools and opportunities early in their careers, and make the firm a place that supports them when they have children. I want my firm to be a place where women attorneys can thrive professionally and shape the future of the practice of law.

#### **What programs or efforts have been put in place at your firm to help advance women attorneys?**

I am fortunate to have a voice in my firm's management, even though I'm not on the management committee. Our leaders value my opinion and recognize that women attorneys do not develop business the same way male attorneys do. They also understand that retention of women attorneys is important, and are willing to embrace flexibility in work arrangements in order to keep women attorneys in the firm while allowing them the time they need to devote to their families. We routinely send four or more women to the DRI WITL conference, and we encourage our associates to be active in the DRI Young Lawyers Committee. I also encouraged my firm to invest in a business development coach, Stewart Hirsch, who has been excellent in offering valuable advice and suggestions for women attorneys in our firm make the most of our business development efforts.

#### **What about programs outside your firm that you have helped put in place to advance and connect women attorneys?**

I am a past chair of the Women and the Law Section of the State Bar of Texas, and I support mentoring activities with the Women in Law student organization at Southern Methodist University in Dallas.

## Why take time from your own legal career to be a mentor, partner, and champion as far as other women attorneys' careers? Why does it matter to you personally?:

I have to keep this momentum going. I feel like we are just getting started in our efforts to promote and retain women in law. We can thank pioneers like Sarah T. Hughes who paved the way for us to practice law. She was the first woman to become a federal district judge in Texas, and only the third federal judge in the nation. It's not enough to just be able to practice law, I want to be part of the generation of women attorneys to increase the numbers of women in law firm partner and other leadership positions in the law.

## What was the path you followed to make this an integral part of your own career?

I followed my mother's example. She wasn't an attorney, she was a leader in our community in the Texas Panhandle. Where she saw a need, she developed a solution. And when she decided something should happen, it happened. She was an amazing woman.

Since starting my career, I have been blessed to walk a path with amazing, talented, and ambitious women who lead their firms and their communities. Part of the equation is to be involved in organizations that further the goals of promotion and retention of women in law. The other part of the equation is to do what you can in your own office, to make it a place where women want to work.

## What is the most exciting aspect of your efforts to be a champion for other women attorneys?

I love it when it works. When I hear that a woman has enhanced her career, gained autonomy in her firm, or become a leader in her firm, I know it works. This doesn't happen overnight, though. It is a process, and the rewards do come with time.

## What are your goals and plans as far as continued collaborative efforts, both inside and outside your law firm, to retain and advance women attorneys?

I want to continue to attract talented women attorneys to my firm, and help grow it into a place that women can find fulfilling professional lives while maintaining their personal

lives, as well. I plan to help my office revise the traditional law firm model to make it work for today's attorneys.

## Please share some tips/advice for other attorneys who aspire to be champions as far as efforts to retain and advance women attorneys in firms or in-house positions.

Don't be daunted. Have courage. The traditional law firm model must change, but that change won't happen with traditional leadership. So you have to step up and speak up, and make a case for yourself and other women attorneys. Share your success. Lift as you climb; there is room enough at the table for all of us. As our numbers grow, so does our power. And don't be afraid to ask your clients for opportunities. I was trying a case for a client who had a strict rule against more than two lawyers having speaking roles at trial. I had an experienced woman attorney trying the case with me, but I also wanted a young woman attorney who hadn't been to trial to handle the damages witnesses. The client balked. I made my case that I couldn't train her to be a trial lawyer unless she was given this opportunity. The client, who is quite a character, agreed to it, with one condition. The young attorney would have to weave a reference to a Shakespearean soliloquy into the questioning. She was ready to go, but unfortunately for her, the case settled after we picked our jury.

## What role has DRI played in your efforts to be a champion for women attorneys?

DRI is central to my effort to advocate for women attorneys, and within DRI, WITL has been the most amazing and rewarding group, personally and professionally. The friendships and opportunities are incredible.

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*Melissa Dorman Matthews is a partner at Hartline Dacus Barger Dreyer LLP in Dallas, TX. Melissa represents clients in professional liability, product liability, personal injury, commercial litigation and premises liability matters. She defends legal professionals in malpractice cases. She also enjoys defending medical devices, automotive manufacturers, and heavy equipment makers. She has extensive experience representing a broad spectrum of industries and clients in attorney-client disputes, business disputes, personal injury cases, construction defect cases, and product defect cases. Melissa has gained extensive first-chair trial experience over more than 20 years of practice, and has tried cases in many cities throughout Texas. She is also involved in women's organizations in Texas and on a national level.*

## In-House Counsel Spotlight

# Loree Shelko

By Stacy D. Fulco



*Loree Shelko is the Director of Litigation and Assistant General Counsel at Meritor, Inc., and she was generous enough to speak with us about her company, her career path, and her role as in-house counsel.*

### Tell us a little about Meritor, Inc., and its history

Meritor manufactures and supplies drivetrain, mobility and braking solutions for commercial vehicles and industrial markets. In very simple terms, we make parts for trucks and other vehicles that allow them to stop and turn. The global and U.S. headquarters are in Troy, Michigan, which is approximately 30 minutes from Detroit. The legal department is also located in Troy, Michigan, and we have attorneys in Brazil and Germany.

The legal department at Meritor consists of 15 attorneys and compliance professionals, along with legal operations paralegals and administrative assistants. Our attorneys are subject matter experts and some act as liaisons to the business units. I handle the litigation for the company, and my colleagues specialize in other areas such as contracts, mergers and acquisitions, securities, labor and employment and patent law. The general counsel of the company is a woman and then in addition to me, one other attorney is female.

One of the most interesting and impressive things about Meritor is that we have a very strong culture of social responsibility. Meritor pledges to support and strengthen the communities that host our facilities and our employees join in the effort. By volunteering, the employees of our company provide personal, local support for schools, neighborhood associations and a variety of organizations, making a clear difference in their own cities and towns. What is unique is that each manufacturing site in the Meritor family has its own local strategy and plan of action, and this is supported and encouraged at all levels of our company.

### What was the career path that led you to your current in-house position?

I received an undergraduate degree in International Business from Hofstra University and then my law degree from

Hofstra as well, graduating in 1995. I started my career in an in-house role focusing primarily on environmental permitting and compliance, and then moved to my first law firm, which was a new firm started by partners from one of the big New Jersey firms. I moved to Big Law after that, focusing on various types of complex commercial and mass tort litigation. In 2005, I joined McGuireWoods in New York City, and in 2013, I went back in-house.

I was Asst. General Counsel, Litigation & Compliance, and Manager of Asbestos Litigation at ITT in White Plains, New York until 2016. In that position, I managed teams of outside counsel nationwide, and worked on internal investigation and compliance matters, including revising the company's Code of Conduct. I moved to Michigan and started my current role at Meritor in March, 2017.

### What is your role in the legal department?

We have a very lean legal department so in my role as the Director of Litigation I handle everything related to litigation. Every file that relates to litigation is on my desk and is my responsibility. A key part of my job is keeping the CEO and finance team updated on the status of litigation so there are no surprises. I am involved in setting reserves and meeting with our auditors.

As the head of litigation, I develop and direct our strategy. I work closely with our GC and outside counsel, and am very hands-on. Another one of my primary roles is managing outside counsel. I have to be focused on budgets and make sure that my firms are as well. I am typically the liaison between our outside litigation counsel and my internal business clients, working to make sure that the business understands legal risk and that our outside counsel understands the business's goals.

### What was the most important thing you learned as you transitioned into your role as in-house counsel?

The in-house counsel role is very different from that of the external adviser! When you're in-house, you become more deeply involved with the business, and you now have only one client. You are also much more involved with financial reporting and strategy than law firm lawyers

typically are. In-house counsel is looked at to provide actionable strategy along with risk mitigation – you have to understand the company’s priorities and find a safe and defensible way forward. Another interesting difference is that you may get to work one day and find that you have a new GC, whereas you don’t really show up at a law firm and learn that you report to a new partner. You need to be able to adapt to changing management styles and theories. I’ve also learned that the level of client service from outside attorneys can vary widely, so you need to get your firms aligned with you and your goals.

### **What do you find effective in working with and providing advice to non-lawyers in your company?**

I consider myself a legal business partner and that is often how I explain my position to others. My goal is to protect the company from risk while helping it to grow and succeed, and in order to do those things, I need a seat at the table early on. Developing a trusting relationship with my co-workers is the best way to reach that goal. I was a business major in undergrad and I believe that helps me better understand and acclimate to the business environment and quickly earn trust, and I am happy in an in-house role. Some people grow up never expecting or wanting to work in corporate America, and those people might be less suited to working in a business.

### **What challenges, if any, have you faced as a woman in your in-house position?**

I think people have the perception that in-house positions are cushy jobs and that is completely off base. The concept of working 9 to 5 is not reality for any practice of law, whether at a law firm or an in-house position. In fact, vacations were easier to take when I worked at a law firm because the firm had bench strength that a small in-house legal department just doesn’t have. In-house positions can be just as demanding, if not more demanding, than law firm positions. But I work for a great company, and I haven’t been treated differently because I’m a woman.

What I have learned is you do not need to act like a man—you can be taken seriously without being one of the boys.

### **What do you enjoy most about your role as in-house counsel?**

I cannot say one thing I enjoy most because overall, I love my job. The leadership team at Meritor is a group of inspiring people and they developed a company with an amazing culture. I get to work with people in a lot of different functions and it is a great team to be part of.

### **How can law firms best partner with you to achieve your legal department’s objectives?**

The best thing outside counsel can do is ask that very question of their own clients so they learn what specifically their clients need. Most in-house lawyers are juggling a lot of priorities and are looking to outside counsel for specific types of help. For me, it’s bandwidth, or subject matter expertise, or maybe Board-level diligence on high-level projects. I can give you a few examples of things that help, or that drive me crazy when they aren’t done. One is, give me the answer briefly and succinctly—think Executive Summary up-front, with more detail after that if necessary. Also, remember that corporations and their finance people think in Power-Point and Excel, not Word, so try not to send me a law review article that I will then have to pare down. If you can’t explain something quickly and simply, I’m going to worry that you don’t really understand it. Don’t send me a meeting invite or an email with the subject “Meritor” —all of my calls and meetings and emails are about Meritor! When you ask for my availability for a meeting, it’s best to book that meeting right away, because open time slots don’t stay open for long. Finally, keep me apprised of any new people on your team. I want to know who’s working on my matters.

### **What is your advice for women attorneys considering an in-house counsel position?**

If you never pictured working for a business or majoring in business, you might not enjoy a corporate environment. At a law firm, the lawyers are the profit center. In-house, you might be considered a cost center. There are very different pressures once you work in-house and it is definitely not an easy job. But it can be extremely rewarding.

### **What are your interests and hobbies outside of your legal career?**

I’m from New York but moved to Michigan a little over a year ago and still have not completely unpacked. I can’t say that that’s a hobby, but I’ll be happy when it’s done. I’m



somewhat of a homebody and like to spend time hanging out with my husband, drinking wine, and trying to catch up on sleep. Slow flow vinyasa yoga has greatly improved every aspect of my life. You should try it!



*Stacy Fulco is a partner at the Chicago firm of Cremer Spina LLC. Stacy specializes in premises and product liability cases and represents many*

*national and international retail and hospitality companies. Stacy is an active member in the Women in the Law and Retail & Hospitality DRI Committees and the author of a retail and hospitality law blog, [www.stacyfulco.com](http://www.stacyfulco.com).*

## Professional Development

# Tailoring Your Business Development Efforts for Greater Return

By Marianne Trost, The Women Lawyers Coach



Have you ever asked yourself, “If I do everything in business development that I am supposed to do, how will I ever find the time to bill?” If so, you are not alone. One size does not fit all and there are not enough hours in the day to do it all. The following tips will help you tailor your business development, so you can achieve a greater return on your investment of time, money and effort.

**Customize your approach.** Not everyone should be doing everything in business development in equal measure. Business development is about relationships, *i.e.*, connecting with people, cultivating rapport and trust, uncovering potential legal needs, offering to fill those needs, doing an outstanding job filling those needs, and serving as an ongoing resource. How you cultivate those relationships should be a mixture of the things that attract the types of clients you are seeking. Go where your clients go. Do they network? Do they read certain publications? Do they attend specific annual conferences? Do they serve on community boards? Are they members of your firm’s internal committees who refer work across offices? Are they attorney referral sources who attend bar association events? Are they contacts in other states who attend DRI’s Women in the Law conference? Customize your efforts so that your time is spent interacting with your clients or people who can connect you to potential clients including referrals sources.

**Set clear goals and revisit them at least once a year.** Taking the time upfront to think through what kind of clients you want to work with, what type of industry you want to penetrate, what type of work you want to be doing, where your potential clients gather, what your

potential clients read, is key to discerning whether your business development activities are aligned with your goals and worth your time. While it may seem like this is a time-consuming task, you will save substantial hours when you are able to align your goals with your business development activities and not get sidetracked on things that do not line up with what you want to achieve.

**Select your activities wisely.** Think through your strengths and align them with business development activities that tap into your natural skills set. If you can draft an informative four paragraph article in a few hours that you can send to potential clients who will find it of value, great. However, if it takes you multiple days to draft something and there isn’t much of an audience for it, writing may not be the best use of your time. If you relate to people better in smaller, more personalized settings, consider hosting a breakfast briefing or attending a CLE with an in-house counsel contact. If you have the ability to connect with people you have never met, put yourself out there at networking events where your potential clients engage. If you are the type of person who remembers the little things, keep a list of birthdays, special events, and details that you can tap into to create an avenue of thoughtful engagement with your contacts. Integrating your strengths into your business development activities will make your time more efficient, effective and authentic.

**Do fewer things and do them well.** More is not always better. Consider the following two scenarios. Jackie registers for a networking event, reaches out ahead of time to connect with potential attendees, sets a goal of meeting two new quality contacts while at the event, also identifies two people she would like to introduce at the event, fully

engages while on site, and then follows up afterwards. She does this every time she registers for an event. By the end of the year, she will have added 20–30–40 new quality contacts to her business development network and be well on her way to cultivating those relationships successfully.

Alison also registers for a networking event. She attends three times the number of events that Jackie does, is usually rushed before attending, figures out what she's going to do when she gets there, collects business cards as she works the crowd, and when she gets back to her office she intends to follow up but gets swept away with billable work. By the end of the same year, she may have added more names to her contact list than Jackie, but she won't be nearly as far along as Jackie in cultivating the type of meaningful relationships that lead to referrals, introductions, opportunities, or new clients. Investing time in fewer things and doing them well, actually saves time in the long run.

**Keep the momentum going.** Part of making business development work for you is finding ways to keep the momentum going even when you don't have time. The reality is that most business development relationships can stay current with a simple ping (*i.e.*, an email, an article, a link to a blog post, an invitation, a social media post, an introduction, etc.) every three months. Before you read something, ask yourself, "Is there anyone else I know who would find this article interesting?" Then send it to them. When you receive an invitation to a conference or event, ask yourself "Is there anyone else I know who would find this event of value?" Then invite them. If you are headed into trial for six weeks, consider sending an email that lets your contact know you would like to get together and you will circle back after you get out of trial. This simple email will keep the momentum going and set the stage for you to not only follow up and schedule, but potentially let your contact know you won the case! Keeping your relationships current is actually less time consuming and less difficult

than finding ways to get back in touch with relationships that have gone dormant, coming up with "excuses" to reach out to someone you have not spoken with for two years, or searching for new relationships that will need to be cultivated from scratch because you have let the ones you had languish.

**Stay fluid and modify the plan when needed.** Keep in mind that the very best rainmakers recognize that business development is fluid and has to fit into the ebb and flow of a day, or it won't happen. They may attend only two days of a three-day conference, but they do the prep, the active engagement and the follow up. They may not have time to draft an article, but they are on the lookout for one that someone else has written that they can send as a way keep the momentum going. They may not be able to set up lunch immediately, but they let their contact know they have not forgotten and they will circle back in six weeks. The next time you are tempted to skip business development because you were not able to stick with your original plan, consider modifying the plan to meet your needs.

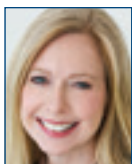
**Conclusion.** As you look for ways to increase the effectiveness of your business development, look beyond the standard check list of activities and instead consider tailoring your efforts to best utilize your strengths, align with your potential client base, and fit into the demands of your practice. Customizing your approach will save time in the long run and help you stretch your business development hours farther for greater return.

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## A Faster Way to Grow Your Career

By Bridget Grimes



As women professionals, how we manage our business or career makes a tremendous difference to our financial success. First, it affects your ability to fund the goals that are important to you. Second, it affects your current quality of

life. Unfortunately, most women executives do not consider how management of their business or career affects their financial planning at all. How could they? There is little or no time for themselves, let alone time for business or career strategy.

In fact, statistics show that we professionals spend one-third of our waking hours working over our lifetime.

And it is likely even more for attorneys.

But without having a financial plan centered around your career, or without leveraging your career for the compensation and quality of life that is important to you, life on your terms can be elusive.

Women executives have some significant challenges as a result of our gender and women in law are no exception. You are no doubt aware of the statistics around women attorneys regarding compensation and leadership roles:

- Women equity partners make 80 percent of what their male counterparts earn
- The number of women equity partners has remained unchanged for the past 10 years

Clearly there are challenges for women in law with respect to leadership and compensation. This is not cause for discouragement, rather it is an opportunity for strategic planning, and the chance to bring into play those resources and tools that can get you where you want to be.

In search of solutions for women professionals, we sought out one resource that has been known to work: mentoring. We wanted a solution that was respectful of the limited time attorneys have, and that also addressed the traditional leadership challenges unique to law. We found one solution in a firm called Mentoring Method and have shared their key tips to help grow your career faster.

Why do we recommend mentoring and how can it help? Most of us have heard that mentoring is a good thing. But how can it truly help your career?

Mentoring can help your career stay on track by having someone who is experienced in your field share their experiences, share best practices, provide guidance to help you best navigate your career, and motivate you. Diverse perspectives can also be incredibly beneficial to your career with respect to problem solving and culture. And having more than one mentor is even better, because one person does not know everything.

Attorneys are especially well suited for the benefits mentoring provides. The legal field suffers from something called Similarity Bias. This is where we tend to surround ourselves with people just like us. In law, those in leadership roles tend to promote others similar to them. In turn, law firms tend to recruit, mentor, and promote people very similar to their leaders (which often means, other men). In

the case of women in the law, this means fewer mentors, fewer promotions, and more women leaving law.

We know mentoring can help with an attorney's career track and address the similarity bias issues. So how can we implement mentoring when time is a rare commodity?

Rather than approach mentoring with the traditional one on one model, law needs a new approach. Below are the steps Mentoring Method CEO Shavon Lindley shared with us that they implement for their corporate clients, and that individual attorneys can implement themselves if there is no firm buy-in:

- Be sensitive to a time commitment. Keep each mentoring session to 6 months, once a month.
- Get leadership buy-in to advocate for the group. Track and measure success. Present findings to management at the end of the 6-month period.
- Consider Group mentoring-rather than the traditional one-on-one model. Create small groups of 3-4 diverse employees. Groups can be made up of associates, partners, Of counsel, even non-attorney staff. The goal here is to assemble a small group of diverse experiences and thoughts about 1-2 levels away. Invite at least one male member to the group. Diversity is good.
- Make it easy to meet. Have one hour monthly virtual sessions that use webcams to keep members engaged. Rotate the facilitator so that everyone, regardless of seniority, gets to facilitate.
- Provide the curriculum online. Provide an e-learning leadership curriculum that precedes each session and that is mandatory. Keep the curriculum relevant, keep the time to complete it under an hour, and keep group members accountable for completing. Lindley provides free downloads of their modules here: <https://inclusion360.com/modules/>
- Keep the groups going after the session finishes. Each mentoring group becomes its own networking system at the firm.

“In male dominated professions where women often face even greater challenges building networks and embracing feminine leadership strengths, mentoring has proven more paramount,” according to Margie Warrell in Forbes.com, June 24, 2017. It goes without saying law is one of those male-dominated professions. But with the addition of mentoring, the ability to leverage your biggest asset as

professional women into more career growth can open up opportunities for you to live life on your terms.

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## Legal News

# State Regulatory Authority under the New Toxic Substances Control Act

By Corrie Plant and Krista deBoer



Two years ago, the Toxic Substances Control Act (TSCA) was significantly overhauled with bipartisan support in Congress, and with substantial support from the chemical industry. The EPA has now begun implementing the “New TSCA,” also known as the Frank R. Lautenberg Chemical Safety for the 21st Century Act (H.R. 2576), which was officially signed into law by President Obama in 2016 (15 U.S.C. 2601 *et seq.*).

One of the most controversial elements of the overhaul was the scope of federal preemption and the continued role of the states in chemical regulation. In the absence of robust federal chemical regulation under the Old TSCA, many states became active participants in chemical regulation. Under the New TSCA, California and other states were remarkably successful in preserving existing state regulatory schemes, such as California’s Proposition 65, and preserving the ability to act on chemicals the EPA has not addressed. This article addresses the areas of retained state authority under the New TSCA and the continued action by states in the arena of chemical regulation.

## Retained State Regulatory Authority

The most significant federal preemption exemptions for state chemical rules are contained in the grandfathering provisions—which exempt from preemption certain entire state chemical regulatory schemes enacted prior to the TSCA amendments.

## Grandfathering Provisions

Section 18 now expressly excludes three distinct categories of state and local laws from TSCA preemption:

*Action taken pursuant to a state law that was in effect on August 31, 2003.*

15 U.S.C. §2617(e)(1)(B). This exemption specifically exempts from federal preemption California’s Proposition 65 (enacted by referendum in 1986), and Massachusetts’ Toxics Use Reduction Act (enacted in 1989). In addition, the exemption protects new actions taken under those laws irrespective of the timing of state action. So, for instance, California will be able to continue to add chemicals to its Proposition 65 list of chemicals, regardless of any federal risk evaluation for such chemical under TSCA.

*Continued state enforcement, or requirement imposed, or requirement enacted “relating to a specific chemical substance” as of April 22, 2016, “that prohibits or otherwise restricts manufacturing, processing, distribution in commerce, use or disposal of a chemical substance.*

15 U.S.C. §2617(e)(1)(A). Here, state enforcement of requirements imposed prior to the TSCA amendments is protected from preemption, regardless of later EPA action on any specific chemical. However, unlike the first exclusion discussed above, this exemption does *not* safeguard new actions taken pursuant to the existing state laws after April 22, 2016.

New requirements prohibiting or restricting specific chemicals added by states—*after* April 22, 2016—therefore would be preempted.

*Any state or federal common law rights or any state or federal statute creating a remedy for civil relief, including those for civil damage, or a penalty for a criminal conduct ...*

*[including] any cause of action for personal injury, wrongful death, property damage or other injury based on negligence, strict liability, product liability, failure to warn, or any other legal theory of liability under any state law, maritime law, or federal common law or statutory theory.*

15 U.S.C. §2617(g). This provision preserves common law causes of action, providing recourse for plaintiffs alleging harm even from a chemical EPA has found does not present an unreasonable risk.

### **No Preemption of Traditional State Powers**

In addition to the grandfathering provisions discussed above, New TSCA specifically exempts from preemption (with narrow exceptions) state regulations adopted pursuant to state law related to water quality, air quality, or waste treatment or disposal. 15 U.S.C. §2617(d)(1)(A)(iii). Further, preemption applies only to state *restrictions* of chemicals. There is no preemption for state disclosure requests, including reporting, monitoring, or other information obligations for chemical substances not otherwise required by EPA. 15 U.S.C. §2617(d)(1)(A)(ii).

States also have co-enforcement authority, meaning that states are free to enact and enforce a new requirement identical to an EPA requirement without being subject to preemption. 15 U.S.C. §2617(d)(1)(B). A state may collect penalties under its co-enforcement authority unless the penalties collected by EPA are “adequate.” *Id.*

### **Continued Action by States**

Despite the significant overhaul to TSCA, there has yet to be a slowdown in the brisk pace of state action in this arena. States continue to enact consumer “right to know” laws and other laws requiring disclosure of the presence of certain chemicals. For instance, California’s “Cleaning Product Right to Know Act of 2017,” which requires manufacturers to disclose ingredients used in cleaning products (including fragrances) on the product label and online, was signed into law on October 15, 2017. Cal. Health & Safety Code §§108950, *et seq.*

Although these consumer right to know laws do not constitute chemical regulation per se, the practical effect of these laws may be that the “right to know” element results in the reduction of the use of certain chemicals. Once a chemical is identified, a product manufacturer may attempt

to eliminate the chemical to avoid the reporting requirement and the negative consumer reaction to the chemical.

As those in the chemical industry are well-aware, increased consumer awareness regarding the presence of chemicals drives much of the state action, especially in regard to single chemical bans. For instance, in 2017, Rhode Island and Maine banned flame retardants. See Sec. 1. 38 MRSA §1609-A (August 2017); R.I. Gen. L. §23-26-3.1 (2017). At least 17 states are currently considering similar bans on the use of flame retardants in various products, including children’s products, upholstered furniture, and electronic products. (See Bill Tracker for Toxic Flame Retardants, *available at* <http://www.saferstates.com/toxic-chemicals/toxic-flame-retardants>).

### **Conclusion**

Despite the numerous open questions regarding the scope of federal preemption, two years into implementation of the New TSCA, it is apparent that states will continue to vigorously regulate chemicals in consumer products. Even if EPA action ultimately preempts some of these state laws, state action may not be entirely precluded; states could seek waivers or continue to regulate the chemical in areas where state law is not preempted, and states could also continue to impose disclosure and reporting requirements under their retained state regulatory authority.

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## Focus on Wellness

## Food (and Water) for Thought

Compiled By Sarah Thomas Pagels



For the Fall Focus on Wellness, we are providing some food for thought about food and water. The following is an excerpt of an interview with Nicole Kerneen, RD, CD, CSSD, a registered dietician, sports dietician, certified personal trainer and physical fitness instructor in Milwaukee, Wisconsin. As we roll from summer into fall, here are some great tips and tricks from Nicole for all of us to get back into the daily grind by fueling our bodies to support our brains.

### Why is nutrition so important to those in the legal profession (or anyone who is in a high stress/sedentary profession)?

Anyone in higher stress jobs, or who juggles between family, being the family taxi, as well as holding a full-time job, needs to hone in on good nutrition to help combat negative effects of stress. Most notably, one negative effect of stress is the presence of cortisol, a stress hormone that elevates when we have a flight or fight response, or when we are under pressure to complete something. It's inevitable that we will experience the cortisol rise in our days and lives, and it's that much more important that we become aware of the effects it has on our health. Stress, chronic or acute, is the number one killer in our country in particular. This translates into heart disease and sudden cardiac effects. The good news is, with heightened awareness and good practices, we can do our best to balance out our lives.

### Nicole's top nutrition tips to combat stress:



**Get your B-vitamins in!** That means, don't skimp on carbs. Enough already—they are GREAT for you. We are meant to have them. We are also meant to have the right ones: fruit, 100 percent whole grain—brown rice, quinoa, teff, oatmeal, amaranth, wild

rice, sprouted grain bread, beans, bean pastas, quinoa pasta, etc. These are the things that give us the most B-vitamins. B-vitamins are the *only* things that combat stress effectively. They are considered the “happy vitamin.” When

we are low in Bs, we have higher cortisol levels in general and lower stress fighting hormone serotonin. Without B-vitamins we cannot produce enough serotonin to combat the cortisol rise. This disrupts everything from our sleep, creates anxiety, lessens our ability to focus, and makes us have food cravings—usually for carbs. However, when our bodies are so depleted, our brains want fast-acting, low-nutrition carbs that make us feel better for literally one minute, but it does not last. If you spread your carbohydrates throughout the day, this helps maintain good blood sugar level. Other benefits include mood regulation, help with cramping and keeping muscles happy, and decreased cravings. Eating the right (high fiber) carbs throughout the day also keeps us fuller longer and helps us not be ravenously hungry by the end of the day (though more is involved with hunger levels, but good high fiber carbohydrate intake is a big key).

**Keep caffeine to a minimum.** Can't stress this one enough—pun intended. Caffeine causes a direct increase in cortisol. If you are relying on it all day, it is constantly keeping cortisol elevated, which in turn decreases your body's ability to burn body fat for energy during the day and also depletes your body of more B-vitamins. Yes, caffeine actually requires nutrition just to metabolize it! It has been well documented that 325mg/caffeine/day is the maximum. Less is more in general when you're talking about caffeine. You want your body to be sensitive to it so a little goes a long way. Be careful, that morning venti Starbucks already exceeds the 325 mg and can be as high as 425mg just in that one “cup” of coffee. Caffeine also stays in your system for a long time. This is where it can interfere with your sleep, keeping cortisol levels elevated overnight. This in turn starts a vicious cycle—the caffeine level causes a high cortisol level, which can cause muscle loss and encourages fat gain because it creates so much stress on the body—the thing we all want to avoid.

**Get your protein in!** Like good carbs, you also need lean sources of protein throughout the day. Whenever you eat, ideally, you want to mix high fiber carbs and lean proteins at each meal and snack. It's the perfect combo to keep cortisol low and to create an environment for your body to burn body fat for energy. That's what we want! Too much protein isn't good either. Women can only assimilate a max of 35gms per meal—the rest is turned into body fat

or turned into carbohydrates, which creates stress on the body, raises cortisol levels and inhibits your body to burn body fat for energy! You see these trends here? Balance is everything—3oz of any lean meat (the size of your palm or less if you have a larger hand) provides about 21gms of protein. An egg provides 7gms, string cheese 5–7gms, and a half-cup cottage cheese about 15gms. These are just a few examples: Vegans (no dairy) can try a cup of beans—16 gms of protein, Vegan Veggie Patties, or Glo Bars (12-15 gms protein per bar)—combined with a big salad for a meal. Vegetarians (dairy) can get their protein through cottage cheese (1 cup = 24 gms), 1 c. Greek yogurt (24 gms), protein powder (20 gms per serving), low-fat string cheese (2 pieces = 10-14gms) or tofu (3 oz. = 24 gms). For on-the-go protein, consider Epic bars, soy nuts (1/2 c = 16gms and 8gms fiber - WOW!), Quest bars (20gms protein and 17 gms fiber). Consider bringing your own breakfast (flaxmeal and oatmeal)—1/3 to 1/2 c. dry whole oats to 2 Tbsp flaxmeal gives you 10 gms of protein. If you add ½ c of soy nuts, you get crunch and a tremendously filling and well-balanced, easy meal.

### What tips do you have for managing stress through nutrition?



As stated above. Also, stay consistent. Your body does much better with routine. Fight to maintain that routine as much as possible. Eat every 3–4 hours and try not to eat before 3 hours and try not to go

beyond 4 hours, even if it's just a quick snack or handful of nuts to tide you over. Bottom line is that you are trying not to stress your body out by not eating. Your body wants to work with your normal blood sugar level curves (which operate in a 3–4 hour cycle).

Most importantly: avoid sugary foods, drinks and alcohol during stressful times. Ironic, since that's what we gravitate towards when we are under stress! This is a red flag that we are out of balance. Our bodies need care, balanced nutrition, proper hydration and rest. Not stimulants, depressants and sweets!

It's also important we learn stress management techniques and leave food out of it. We forget that food has a purpose. It's not a drug, it's not a crutch, it's not a best friend, it's simply there to nourish our cells, keep

our immunity strong, keep our minds sharp and help prevent diseases.

### Why is eating enough protein so important? How much protein is enough?

Protein helps regulate the blood sugar level (not by itself, but with carbohydrates), it helps strengthen immunity and conserve our muscle mass during and after exercise as well as during times when we are eating a reduced calorie diet. The lower your calorie intake is, the higher your protein needs to be to counteract the negative effects of low calories. Typically, people need 1gm of protein per pound of muscle. Unless you know your body composition, it's hard to figure out what that actually means. On average, most women need 100gms/protein/day and studies show us that it is important not to get less than 80gms.

Protein should be spread out throughout the day. Not larger servings at one time. This is how your body properly uses the amino acids. Otherwise, like any food/calories we take in, too much at one time stresses the body out and can cause an increase in body fat.

### What if I don't have enough time in the day to cook a real meal? What kinds of ready-made products are out there that will provide the protein I need?

I've mentioned many of those above. Otherwise, try frozen meals with 20-25gms protein and no more than 30-45gms carbohydrate—5-14gms fiber or protein shakes—but find a shake with 20-30gms protein.

### Recommendations are that everyone drink half their body weight in ounces per day—which is a ton of water when all I'm doing is sitting at my desk. Why so much water? What benefits does it provide?



**Drink it up!** Water fuels metabolism. It is the carrier to all nutrients. If your cells cannot get the nutrients from what you eat, you will feel tired, achy, sluggish and foggy. Being fully hydrated also helps your body determine true hunger levels versus thirst. It also keeps your skin softer and more hydrated and helps the muscles contract so you will be less stiff.

## What about coffee and wine?

Coffee neither hydrates nor dehydrates. Decaf coffee will hydrate, while regular caffeinated coffee will not. Similarly, wine is dehydrating. Five ounces of wine is a serving. Women are to exceed no more than 1 glass each day, max. Alcohol in general slows metabolism by about 30 percent and it can remain slow for up to 72 hours. It also breaks down muscle mass because it increases cortisol levels, which in turn decrease the quality of sleep you may get. So unless you are burning that all off through hours of evening dancing, I'd recommend pulling the reins in with wine consumption on a school night.

## Does the time of day that I consume the water matter? Why or why not?

You want to get 75 percent of your water in by 4 or 5 p.m. with just a glass or two necessary up to about an hour and a half to two hours before bed. At that time, you really want to refrain from liquid or literally just sip to whet your palate, not drinking a whole lot. This will help you avoid the need to vacate that water too much during the course of the night.

## What about water before/during/after exercise?

High intensity, high heart rate exercise for 30 min or more will disrupt sleep as it increases metabolism as well as elevates cortisol levels. Your body has a natural wave of cortisol production—peaks at 9 a.m. and slowly falls the rest of the day; then melatonin and ideally serotonin rise and by-passes cortisol, getting you ready for sleep and rejuvenation at night.

A simple walk or easy weights at night is fine for exercise. Ideally, no high intensity workouts a good 4–5 hours before bed. Low intensity is fine, but still, because it raises heart rate and increases circulation, it will still disrupt sleep. You want to make sure low intensity exercise is completed at least 3 hours before bed.

## If I'm not exercising, what tips do you have for working it into your day?



**Move it!** Find ways to move. Set a timer—walk 5 minutes every hour or 10 minutes every hour and a half. Stand up and march in place for 1 minute, do 1 minute of jumping jacks, followed by 1 minute of lunges and maybe 1 minute of tricep dips off your chair with 1 minute of stretching!

Wow! You just increased your energy, metabolism and mental alertness on top of giving your body a huge “little” workout and you got rid of some stress! Super effective!

Also, stand for phone calls. If you feel mentally stuck over something get up and do some deep breaths and stretch. Clear your mind, get some oxygen in you and you can return to the task with more energy and clarity.

If you can walk 10–15 minutes before or after lunch, fit it in. If you can do the stairs for 5 minutes, up and down—do that. Anything! Just make a concerted effort to do more than sit.

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*\*Full disclosure – Nicole is Sarah's personal nutritionist and has been working with her for the last year to provide guidance on how to better fuel her body and brain!*



DRI Cares

# Women in the Law Fly-In Meeting: Helping Sick Kids and the Homeless!

Contributed by Lana Olson



On June 6, 2018, at their fly-in meeting, the leaders of the Women in the Law Committee wrote and decorated notecards to be distributed to hospitalized children around the nation. More than fifty cards were sent to

Cards for Hospitalized Kids which “spreads hope, joy, and magic” to children undergoing treatment in hospitals through handmade cards. Attendees also donated 121 toiletry items to be used in care packets which will be assembled at the 2018 Annual Meeting in San Francisco in partnership with Compass Family Services to help homeless in the Bay Area. Way to go WITL! #DRICares!



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