

ABA's advice to women is just precious

Written by Not an Elle

Wednesday, 30 January 2013 12:50

Another day, another problem-with-women-in-the-law piece that perpetuates the women-in-the-law problem.

The ABAJ has apparently mastered time travel, because yesterday they published this piece, dated February 1, 2013, by our ABA President, Laurel Bellows, about [shattering the glass ceiling](#). Bellows takes umbrage with a number of statistics in the latest National Association of Women Lawyer's survey, which can be found [here](#).

President Bellows starts off by saying:

Time and time again, I have asked myself and others the same questions: Why are female lawyers still grossly underrepresented in positions of real power, influence and leadership? Why is there still such a disparity in pay between female equity partners and their male colleagues performing exactly the same work? Why are female lawyers still shut out of the choice assignments and limited in access to major clients?

Funny, because time and time again, we find ourselves asking when anyone is going to actually try to answer these same questions. Interesting that she hasn't attempted to answer the inquiries she seems to have been wrestling with for so long.

If you want something to stop happening, you have to examine why it's happening. Is this sex discrimination? Are women just making different (arguably better) career decisions? Is this a problem in the legal field, or an issue across multiple professions?

If you're looking for answers to those questions, don't bother reading her post. But don't worry, because even without knowing or attempting to understand why this happens, Bellows has solutions for them. Get excited.

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Solution #1: a task force will develop a “pay equity toolkit” complete with model pay recommendations and tips for women to negotiate higher pay. Perfect. Problem solved. Because obviously all firms really need is for someone to point out that the pay isn't equal and then write out numbers that would make it equal. And of course, all that's needed to bring about parity in negotiation skill and results is an ABA bulletin.

Solution #2: networking. Right. Because all women need to make equal money in law (after the toolkit, of course) is to talk to other women. Then, just like that, women will make more money and be more represented in law. Not sure how many times we'll have to say this, but women talking to other women will not solve the not-enough-women-in-the-law problem. In fact, the not-enough-women-in-the-law problem is probably in part due to women not talking to enough *men*

. You don't rise through the ranks and bring in clients by spending all your time networking with women. If men are the managing partners and CEOs, then you're going to get ahead by talking to men, not women.

We have some questions of our own, and you've probably heard some of this from us before. While pondering these questions, did it occur to her that there might be a good reason for fewer women in the top ranks of law firms? Like maybe women are being more rational than men and deciding that a \$500,000 paycheck for 3000 hours a year is totally better than a \$1M check for 4000 hours?

She's presuming that the outcomes men get are the most desirable. Yet, if we look at things like amount of parental leave taken, we could just as well ask why aren't men getting as much time off as women? And why do men get 7 fewer potential years in the workforce due to dying so much younger?

Further, there isn't much evidence to support that this pay gap and underrepresentation in management is unique to the legal field. Only 18 of the Fortune 500 had female CEOs in 2012. That's a record high, and yet still only 3.6% of Fortune 500 companies are run by women, compared to the 10% that don't even have a woman on their boards. [[HuffPo](#)]

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Compare that to the 4% of firms with a woman as the firm-wide managing partner and the 20% of positions held by women on a firm's highest governance committee. It looks like women in the law are doing *better* than women in Fortune 500 businesses. Maybe instead of trying to fix what's happening in law, other industries should be emulating it.

So let's look at a broader scale. Nationwide, women typically make [77 cents to a man's dollar](#), which means the 89% women in law are making compared to men is higher than average.

The NAWL survey says median hours for women, billable and total, are lagging behind men at all levels. It also says the pay gap cannot be explained by differences in billable hours, total hours, or books of business. If that's the case, then doesn't the underrepresentation of women in the field suggest women are making a rational decision? If you know your pay scale won't be equal or based on quantifiable work product, then aren't you making a smarter choice by not taking that job?

This is exactly the problem. The survey goes as far to explain what isn't causing the pay gap, but doesn't look into what is. And the ABA President doesn't help anything by accepting this and offering solutions based on.. well, based on nothing.

By no means are we suggesting this conversation isn't one we should have. Instead, we're advocating that it's a conversation that needs to be taken further and include more participants. Like men and people outside the legal profession. Actually try to find out why these things are happening instead of just asking why. And stop coming up with solutions without knowing why the problem is occurring in the first place.