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By Vivia Chen

O Crystal Ball, O Crystal Ball

What's in store for Big Law in 2019?



It's that time of the year again when I don my velvet robe and giant hoop earrings to gaze into the future. Here's what I see in the new year:

Associates will have more freedom than ever. Firms will offer more corporate goodies like unlimited vacations and unlimited parental leave. (Two of the country's hardest-working firms, Quinn Emanuel Urquhart & Sullivan and Susman Godfrey, already do so.) They'll also require less face time in the office. Who cares where you work, how you're doing it or what you look and smell like in the process? Just keep billing at least 2,800 hours a year and you can be as free as a butterfly.

Law firms will offer more lavish perks. Besides picking up your dry-cleaning and buying birthday gifts for your loved ones, firms will extend concierge services to your children and dogs. Yes, they will feed them, potty-train them and kiss them good-night. (And you thought Latham & Watkins offering free Fed-Ex service

for breast milk to nursing lawyer-moms was a big deal!)

Firms will insist on emotional intelligence in associate hiring. Too bad management can't think of a reason why EQ should apply to the partners in their stables.

Firms will brand themselves as thought leaders. Caveat: No one in management has a clue what that means. But, hey, isn't that what those expensive consultants told you to say to distinguish your firm from the pack?

Theories will fly about why women still aren't breaking into the equity partner ranks. Is it because they're too busy having babies (or worried about not having babies)? Is it because they're not pushy enough about client development (or being too pushy)? Are they wearing the wrong clothes, shoes, hairstyles?

Mommy track will still be a dead-end. Despite all the wishing and hoping, women on the mommy track are not

going anywhere. That said, we'll hear the occasional story about some lone woman who clawed her way to partnership from a part-time position. It's nice to believe in miracles.

Men and women will not agree about sexual harassment, power, accountability or anything else. Men will continue to think that the system is working well; women, not so much. (Remember, 54 percent of men think of themselves as "allies" for gender equality, while only 31 percent of women agree with them, according to an American Bar Association study.) And why shouldn't men think everything is great? I mean, duh, they're doing fine.

Trump University will be reborn as Trump School of Law. Although Trump University was a fail and a fraud, it proved that there are suckers aplenty. So why not sell the Trump J.D. to his beloved "poorly educated"? The degree will be worthless but it'll be a great investment for Trump's friends and family, particularly with Education Secretary Betsy DeVos at the helm. MAGA!

Mike Pence will be the new role model for men. As men get increasingly unnerved by the #MeToo movement, expect the Mike Pence rule to prevail. Yes, that means more men in power will dodge one-on-one meetings or business travel with female colleagues. Expect a more uptight workplace and increased gender segregation on matters.

And yes, it will still be a great time to be a white man in the legal profession and everywhere else. I know you've been worried that clients now demand diverse teams and that the #MeToo era has emboldened women to speak out, but chill. I'll go on a limb and predict that white men will still rule Big Law, corporate America and the highest office in the land. Feel better now?

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Race to the Top

Why are minority women more ambitious than their white counterparts?

How ironic: *Despite their low status* as minorities among minorities, women of color are resolute in their determination to get ahead. In fact, minority women tend to be much more ambitious than their white sisters and, in some cases, more than white men.

That ambition seems counterintuitive, considering how few minority women make it to equity partnership in Big Law (2.81 percent) or the C-suite of major corporations (3.9 percent). Yet that's the revelation in the latest McKinsey & Co. and LeanIn.Org study on women in the workplace. Consider these findings:

Minority women (76 percent or more, depending on ethnicity) are more likely than white women (68 percent) to seek advancement.

Some groups of minority women aspire to obtain promotions more than men (83 percent of Asian women and 80 percent of black women vs. just 75 percent of all men).

Asian women topped all groups of men and women in negotiating for raises and promotions (34 percent

negotiated for raises and 44 percent for promotions vs. 29 percent and 36 percent for men, respectively).

More women of color than white women want to be a top executive (38 percent of black women, 44 percent of Latina women and 51 percent of Asian women vs. just 29 percent of white women)

While we might expect a gender divide in workplace attitudes, what's jolting is the apparent ambition gap between women of color and white women. Though all women face enormous hurdles in reaching the top (remember, women make up only 20 percent of equity partners), white women dominate that select club. (The 2018 Vault/MCCA Law Firm Diversity Survey found that white women are making gains in law firms.) If any group should feel encouraged about going for the brass ring, it should be white women. Why, then, are more of

them hanging back while women of color are fighting the daunting odds?

Some women of color say they feel they have no choice but to push forward. "Culturally, it's not unusual to find black, Hispanic or Asian women with family responsibility at an early age," says Paula Boggs, Starbucks' former general counsel and the first African-American partner of Preston Gates & Ellis (now K&L Gates). After her parents' divorce, Boggs says, she took care of her three siblings: "At 13, I was responsible for babysitting and standing in for my mom in certain situations. My story is typical in the African-American community."

Sandra Leung, the general counsel of Bristol-Myers Squibb Co., isn't surprised that minority women strive harder. "White women are used to relying on white men," Leung says. "They are more supported in corporate environments." As a result, she says, women of color feel they have to be more self-reliant: "I didn't think of relying on someone else. It's our reality." With nine girls and one boy in her family, Leung says she "worked in all kinds of crazy jobs through school" and never thought of slowing her work pace: "I never took time off except for maternity leave." She adds, "Work/life balance is an illusion anyway. It's conjured up to make us feel guilty."

Which brings us to this question: Are white women making the choice to be less ambitious because they can? To put it bluntly: Are they too comfortable, too well-off and too acculturated to traditional norms—like the idea that women's first priority should be home and children—to gun for top positions?

Indeed, it's hard not to consider the dynamics of privilege—white female privilege—in this discussion. But who's ready to go there?

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Who's Laughing Now?

Men get ahead with humor in the workplace, but women are punished.



To all you aspiring Mrs. Maisels out there, I've got bad news: Don't try to be funny. Certainly not in the workplace. Because if you tell jokes or deploy humor in a business setting, you will lose credibility, jeopardize your career and fall flat on your face.

That sums up the study from researchers at the University of Arizona and the University of Colorado Boulder who analyzed reactions to the use of humor by male and female leaders. More than 200 participants watched videos of a manager making a sales pitch in which a male or female manager either used humor or played it straight.

The upshot: Funny men got a boost, while funny women got shafted.

Everyone loves humor, so why the difference? You guessed it: It all has to do with gender stereotypes. The study says that when men deploy humor, it enhances their aura of rationality and logic. But when women do so, they're perceived as disruptive, reinforcing the notion that

women are less dedicated to work.

It does seem harder for women to pull off comedy, but here's what's frustrating: "Even when women successfully express humor, they experience a reduction in status perceptions, performance evaluations, and assessments of leadership capability," according to the study.

That means even if a woman is fabulously funny and making the work environment more enjoyable, not only will she not be rewarded, she'll be regarded as a wack job.

The only safe way for a woman to conduct herself at work, it seems, is to play it straight and serious. Except you know what will happen next. She'll be called a humorless bitch.

Once again, women just can't win.

But I can't accept that women have to be sourpusses at work. That can't be healthy for anyone. So I asked Jonathan

Evans, one of the study's authors, whether women can use a different form of humor, like a wry remark, without paying a penalty.

To my relief, Evans thought women employing dry humor might be more palatable, although he stresses this is anecdotal. "It is possible that more casual, impromptu humor in conversation is evaluated differently than the formal, prepared presentation format used for our study," he explains. "We thought that dry humor is more easily incorporated into casual conversation than a presentation."

Another possible exception to the rule that women can't be funny: Older women with a track record of accomplishments. Evans says that this group's use of humor might be more acceptable because these women have established themselves and are thus perceived as "more agentic," or full of agency.

Frankly, I'm not sure these exceptions are making me feel better. Basically, it means women are allowed the privilege of being funny only if they're not too direct or if they've proven themselves. To me, the better course is for women not to give a damn. While it might be true that funny women don't get the respect that funny men do, so what? Do we need to add another "don't" to our list?

I wonder if this kind of information is helping women. Or is it just making women more self-conscious than we already are?

"That's a reaction I've heard from some people when I've told them about these results," says Evans. "The most I can say is that our data suggests the existence of this undesired dynamic in this particular circumstance."

Maybe so. But I'm not amused.

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A Matter of Choice?

Black and female partners are prominent in Big Law's lowest-paid sector.



I know I'm a pain about gender and diversity issues, so I don't take it personally when law firms sometimes avoid me like an STD. Sure, they love to tell me about their newest, most awesome diversity

initiatives, but if I press them about their track records on female or black equity partners—well, let's just say, they're not so forthcoming.

But I've noticed an exception to this rule. Firms with major labor and employment practices chase me down to tout their diversity records. Their spiel is that they're not like other big firms. It's like they're saying, "See! We have female and black partners! And more than just one or two!"

Indeed, it's no secret that labor and employment is packed with female lawyers (remember, I called it a Pink Ghetto), but is this a practice where black lawyers are prevalent, too? If so, is this one explanation why women and black partners lag behind white male partners in compensation? (Male partners make 53

percent more than female partners, while the earnings gap between white and black partners is 15 percent, according to Major, Lindsey & Africa's partner compensation survey.)

The answers to those questions seem to be yes. First, keep in mind that labor and employment partners report the lowest total compensation (\$681,000 compared with \$1.18 million for corporate partners). And women represented an astounding 38.9 percent of labor and employment partners in the MLA survey (versus only 16.2 percent female corporate partners). Black partners were also more dominant in the labor and employment field, making up 8.4 percent of partners (versus 0.9 percent who identified as corporate partners). Though the sampling in the MLA survey was small (24 partners identified as black, representing 1.9 percent of the 1,246 respondents), "it is a large data set and there is no particular reason to suspect that the 1.9 per-

cent isn't representative of the market overall," says Lucy Leach, research director of Acritas, which administered the survey. "Another way of looking at it would be that a third of the black partners responding were labor and employment lawyers, compared to 7.9 percent of white partners."

So here's the big question: Why are women and black partners occupying such a big chunk of the lowest-paid sector of Big Law? I'll ask the same question about black partners that I did about female partners in this area: Are they there by choice? Or are they somehow pushed into the least lucrative, nonglamorous rungs of Big Law?

While women might gravitate toward labor and employment because it provides more predictable hours, I'm doubtful that is relevant to black partners, especially men.

One former lawyer, who's African-American, says it's easier to elevate black labor and employment lawyers because it doesn't really upset the existing order: "It's rote work, not bet-the-company litigation. Big companies have a lot of small employment matters where the plaintiffs are often minority, hourly workers. By using minority lawyers, companies can show the board that they have diverse outside counsel and get credit." Plus, adds this lawyer, many partners in labor and employment are nonequity. "It's a way to throw a bone," the lawyer says.

"I think it's a matter of choice," says Bernadette Beekman, managing director at Hire Counsel. "That's where they see people of color. A lot of people don't go into certain areas because they don't see anyone like themselves."

In other words, it's the old chicken/egg thing. Of course, it's only human nature to gravitate to a group where there's a critical mass of like-minded souls.

But does that qualify as a choice?

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