

Beyond Bias:
Unleashing the Potential of
Women in Law



EDITED BY LAURA SLATER

Chapter 1: **Cheaper to keep 'er – The economic impact of losing female talent at law firms**

By Paola Cecchi-Dimeglio, behavioral economist and chair of Harvard Law School's Executive Leadership Research Initiative for Women and Minority Attorneys at the Center on the Legal Profession

We know there are separate barriers for recruiting and for sustaining female talent. When firms excel at acquiring female talent but do not follow up with excellence in sustaining that talent, relationships break down and talent is lost. In fact, diversity costs dearly when it's done wrong – when there's little effort to retain or promote female talent, and women walk out the door. That's because, in a profession where leadership is largely dominated by men, women leaders are rare. One of the ways I've gotten elite firms to focus on ways to foster a sustainable, attractive, gender-balanced culture is by drawing attention to the cost of losing top female talent.

Once law firms appreciate fully (and numerically) the real measure of funds lost in the departure of (female) talent, two options become blatantly obvious: get out of the diversity game in order to avoid throwing away money, or invest those inevitable losses in fostering a sustainable, attractive, gender-balanced culture.

Needless to say, there is no real dichotomy or dilemma here; abandoning diversity is not an option. Gender diversity is not merely ornamental, a gesture of corporate benevolence. Creating and maintaining a gender-balanced workforce is essential to business strategy, viability, and competitiveness. In fact, most conversations around diversity and female leadership focus on the business benefits. Firm leaders are beginning to understand that, when done right, diversity pays. Law firms

with significant numbers of women leaders have a far better chance of solving complex problems; it leads to increased innovation, and it drives financial growth.

This article examines and enables quantification of the monetary impact of losing and replacing female talent. I've collected and analyzed years of data involving lateral movement at numerous US and international firms. The effort has been part of my research in nudging law firms to attract, retain, and promote women leaders.

The power of big data to quantify the loss

Arriving at an accurate cost of replacing employees is key, and assessing that cost with an understanding of the impact of gender difference is even more pertinent. To conduct this research, I mined cost and quality data of several domestic and international law firms over a period of ten years. One of the initial steps in nudging the organization to attract, recruit, promote, and sustain more women in leadership was, in fact, incentivized by drawing attention to the monetary cost of lawyer turnover, including direct and indirect cost, and the operational cost of replacing a highly productive lawyer (one who's reached their steady state with regards to performance). All of these elements were analyzed through a gender lens. The enormous data set yielded findings of very high statistical validity. They revealed a number of patterns about the cost of turnover. To my knowledge, it was the first study in the legal profession to look at turnover in this manner and demonstrate that it costs significantly more to replace female talent.

Analyzing the cost of replacing talent can be complex, but mathematical modeling based on big data facilitates analysis and enables predictive modeling. The equations may be elusive, but numbers identify patterns, improve approaches, and provide tools for tackling problems. In a nutshell, done right, diversity pays; done wrong, diversity costs.

Analysis of the data provides a wealth of information, confirms or disproves our gut feelings, and allows for informed

choices “debiasing” strategic decisions. With respect to the loss and replacement of female talent, the data-analytics ecosystem approaches offer ways to deal with the challenge of achieving scaled solutions to increase diversity and inclusion in a meaningful and efficient way. The cost variability varies as a function of the firm size. But, whatever the size, law firms collectively spend billions of dollars each year to attract, recruit, train, and develop lawyers over several years, only to lose them. If they took time to assess them, organizations might act to stem the tide of these losses.

What’s included in the cost of turnover?

Lawyers leave Big Law firms for a variety of reasons and destinations. Some go to competitors; some go in-house; some enter the public sector; some decide to leave the profession; some choose smaller, boutique firms. Still others are let go, are laid off, or decide to leave the job market altogether. All of these examples represent turnover, but they don’t all have the same organizational or gender implications. Although large law firms base their business model on attrition, all turnover is not equal. There is a distinction between the “wanted” and the “unwanted”, the necessary and the unnecessary – between functional (beneficial) and dysfunctional (harmful) turnover.

Turnover is costly; it impedes overall business performance, and it may become increasingly difficult to manage. The vast majority of firms, including law firms, do not often quantify the cost of turnover. Actual calculations of lawyer turnover rates may vary, but no matter how the math is done, it is stunningly high.

What’s included in the cost of turnover? Salaries, signing bonuses, relocation costs, recruiting costs, administrative time and revenue lost while the position is open, all figure into the calculation. Then there are the costs associated with onboarding, credentialing, and training. Last and more difficult to quantify are reduced productivity and decreased revenue while a new lawyer’s practice gets up and running.