

BigLaw Bias Suits New Wild Card In Fight For Gender Equity

By **Ed Beeson**

Law360, New York (July 23, 2017, 8:02 PM EDT) -- The lawsuit dropped like a bombshell on Greenberg Traurig LLP. A former shareholder publicly accused the global law firm of discriminating against female attorneys by denying them equal pay and opportunities and by punishing her for speaking out.

The 52-page complaint from Francine Griesing, filed in December 2012, painted a harsh portrait of life for women inside one of the world's largest law firms. The lawyer, who worked at Greenberg between April 2007 and January 2010, said women like her were routinely underpaid, locked out of business opportunities, refused credit for work they did win, and in general held back in a veritable boys' club. She said when she complained repeatedly about her own status, she was pushed out of the firm.

Greenberg saw things differently at the time, calling Griesing's suit a "financially motivated publicity stunt" and an "affront to the accomplished, talented women of Greenberg Traurig," in a statement attributed to executive committee member Hilarie Bass. But Griesing wasn't alone in her claims. The Equal Employment Opportunity Commission investigated a complaint she filed and found reason to believe the firm discriminated against female lawyers within the Philadelphia office where she worked, Griesing said in her lawsuit.

So did those claims prevent the firm from growing its roster of female attorneys after the dispute was resolved in May 2013? Apparently not, according to data from several years of Law360's annual Glass Ceiling Report.

Between Dec. 31, 2013, and Dec. 31, 2016, the number of female attorneys at the firm jumped by more than 20 percent to 579, survey data shows. By comparison, the number of male attorneys at the firm grew by just under 6 percent over the same period.

In a recent interview, Bass, who is Greenberg's co-president, said the lawsuit had nothing to do with the hiring gains by women at the firm, which she said have been consistent over time and a credit to its long-standing commitment to diversity.

As for firms currently facing discrimination claims, it's an open question how they will fare down the road. Over the past year and a half, at least five BigLaw shops have been hit with lawsuits — three of which were filed as putative class actions — accusing them of underpaying and otherwise diminishing the work of their female attorneys.

Perhaps the suits will deter some women from joining those firms. Perhaps they will force firms to redouble their efforts to bring female attorneys into their ranks. Or, perhaps they will have no measurable impact.

That remains to be seen. But legal industry experts say these cases are on people's radar and could herald change in a sector long dominated by men.

Echoing other industry surveys, Law360's Glass Ceiling Report found women are making only sluggish gains in BigLaw, accounting for just under 35 percent of the lawyers at surveyed firms and just under 20 percent of the equity partners as of the end of 2016. A year earlier, women accounted for 34 percent of the lawyers at the surveyed firms and just over 19 percent of equity partners.

The reasons for that are a source of debate. Lauren Stiller Rikleen, president of the legal consultancy the Rikleen Institute for Strategic Leadership, said some of the answers are in the lawsuits against firms.

"For firms looking for ways to make a difference, the complaints in many ways offer a blueprint," she said. "Somebody doesn't come in to work, get upset and sue. It is years of trying, years of hoping, and the eventual frustration that nothing will change unless something dramatic happens."

A Wave of Litigation

The complaints have piled up against BigLaw. Since early 2016, LeClairRyan, Sedgwick LLP, Chadbourne & Parke LLP, Proskauer Rose LLP and Steptoe & Johnson LLP have been hit with claims accusing them of discriminating against their female lawyers. (Chadbourne merged with Norton Rose Fulbright last month.)

The common thread running through the lawsuits is one of unequal pay — the plaintiffs generally say they were big revenue generators or exemplary lawyers at their firms, yet they were paid at or below the level of male counterparts who brought in a fraction of the business. In some cases, such as the Proskauer, LeClairRyan and Chadbourne lawsuits, the plaintiffs charge that they were threatened or retaliated against when they complained about their status or the general treatment of women where they worked.

The firms have denied any wrongdoing. With the exception of the Sedgwick claim, which was settled last month, the lawsuits are still underway. And chances are, more will follow.

David Sanford of Sanford Heisler Sharp LLP, which handled the Chadbourne, Proskauer and Sedgwick cases, said his firm is also representing lawyers with similar claims against about a dozen other major



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firms. These matters are currently in pre-dispute negotiations.

The Washington, D.C.-based lawyer, who also represented Griesing in the Greenberg Traurig case, said he doesn't know if his litigation is having an effect on recruitment efforts at law firms, but he acknowledged that it is probably not helping them.

"I assume that when you have a high-profile matter brought against you, it's not exactly a magnet for young recruits," Sanford said. "Otherwise, these firms have great reputations."

Legal recruiters had mixed opinions on the effects of lawsuits on their clients. Since most claims are brought by individual attorneys, many in the lateral market may just view them as isolated disputes — despite the plaintiffs' aspirations for class status. Lawyers will likely consider the allegations as they are mulling over a job move, but other aspects of a firm may prove to be equally, if not more, important in their decision.

"One woman's allegations of discrimination won't be the determining factor in a candidate's decision," Kristina Marlow of Lateral Link said.

Still, for many in the lateral market, a firm's commitment to gender equality is important, recruiters say.

"We've had candidates specifically identify, as a factor in their decision, very much wanting to be a part of a platform that embraces gender equality," said Bill Sugarman, a legal recruiter with Astor Professional Search in Chicago. "Not just lip service but also execution upon that mission."

A lawsuit can raise questions about how well a firm is doing in that regard.

"I do think it gives people pause for thought," said Sharon Mahn, a legal recruiter who heads Mahn Consulting. "If they find the woman has a valid point, it would definitely sway their decision not to join the firm."

Recruiters say lawsuits also may affect the advice they give.

"If there is a highly publicized case involving a particular law firm, it's something that would definitely go through the consideration process of what firms to recommend to a particular person," said Stephen Nelson, managing principal with The McCormick Group in D.C.

Some might even advise lateral candidates to weigh their options if they're considering a firm that's currently facing a discrimination claim.

"If you have other options, it's just a wise move to avoid those [firms] at least until the dust settles," said Valerie Fontaine of the California-based recruiting firm SeltzerFontaine.

Greenberg Grows

Without a doubt, women have helped Greenberg Traurig become the biggest law firm in the U.S. by headcount.

The firm has been on a hiring binge in recent years, growing to 1,717 attorneys at the end of last year and taking the top spot in the most recent Law360 400 survey. Since the end of 2013, the firm's

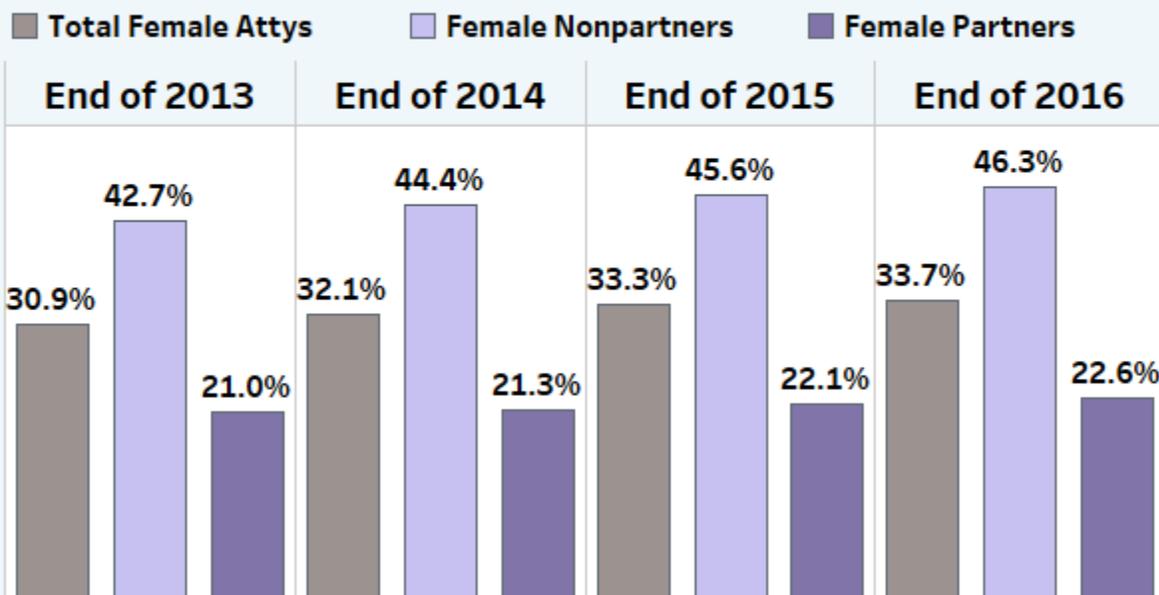
headcount has seen a net increase of 159 lawyers — with women accounting for nearly two-thirds of that net gain, according to data from the Glass Ceiling Report.

The number of female partners at the the firm grew overall to 206 at the end of last year from 178 three years earlier, a nearly 16 percent net increase. By comparison, the number of male partners saw a net gain of only about 5 percent.

Overall, women accounted for 33.7 percent of all Greenberg attorneys at the end of last year, up from 30.9 percent at the end of 2013. Women also inched up the partnership ranks, accounting for 22.6 percent at the end of last year, compared with 21 percent three years earlier.

Greenberg Traurig Adding Female Lawyers

The firm has steadily grown the percentage of women in its ranks since 2013, the year it settled a sex-discrimination lawsuit.



Female attorneys at another firm — Mintz Levin Cohn Ferris Glovsky and Popeo PC, which in December settled a long-running gender discrimination suit by a former associate — have also made modest gains in recent years, according to the Glass Ceiling survey. Women accounted for nearly 38 percent of the firm’s lawyers and 24.4 percent of its partners at the end of last year, up from 36.4 percent and 23.2 percent, respectively, three years prior.

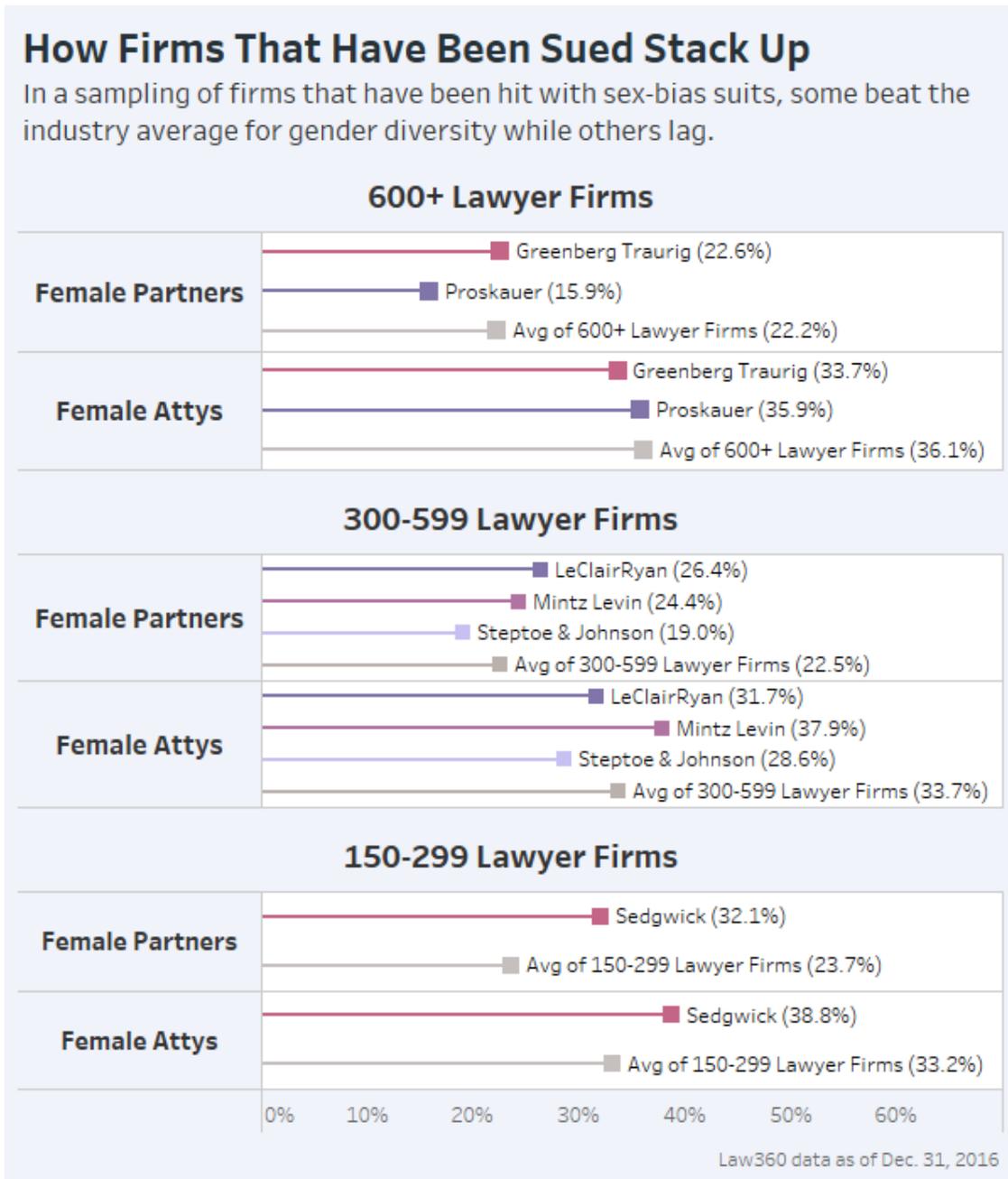
“It is clear to me that the firm has learned and grown, which is reflected in both the continued progress it has made in its diversity efforts and the collaborative resolution to this matter,” Kamee Verdrager, the plaintiff in the Mintz Levin matter, said in a statement at the time the settlement was announced.

Bass, who is the president-elect of the American Bar Association, said the gains for women at Greenberg don’t reflect any change to its hiring strategy after the lawsuit, but rather that they are the result of long-standing practices.

“Diversity has been in our DNA from the beginning, and we have continued to make a real effort to

improve those numbers year after year,” Bass said.

She also said it’s no surprise that women didn’t appear to be deterred from joining Greenberg after the lawsuit was resolved. Bass pointed to the number of women who are office leaders or practice group leaders as a welcoming sign for prospective female recruits.



“If young women attorneys come in and they see lots of successful women, including many in leadership positions, they feel quite comfortable that this is the place where they can attain the level of success that they are looking for,” Bass said.

Even now, however, Greenberg’s employment numbers aren’t too out of the ordinary compared with

those of other large firms. Women on average make up about 36 percent of the lawyers at firms with at least 600 attorneys and less than 19 percent of the equity partners. (Greenberg does not have nonequity partners, but it maintains different tiers of equity partnership.)

The story is largely the same for other firms named in sex-discrimination suits in recent years. For the most part, their employment figures are in line with the industry averages found in the Glass Ceiling survey.

Griesing, who now runs her own 15-lawyer employment boutique in Philadelphia, did not return a message seeking comment.

Representatives for LeClairRyan and Mintz Levin didn't return messages seeking comment on their employment data. A Steptoe spokeswoman declined to comment but pointed to a prior statement responding to the lawsuit, in which the firm noted, among other things, that 80 percent — or four out of five — of the attorneys promoted to partner in January were women.

A spokeswoman for Sedgwick, which has a larger-than-average share of female attorneys, said the firm is “committed to cultivating a progressive and empowering environment and [will] continue to hire and promote women attorneys.”

A Proskauer spokeswoman pointed to the firm's programs for mentoring female attorneys and easing the transition back to work for new parents as examples of how the firm works to cultivate and retain talent. She also said the firm's female partners now earn about 94 percent of what their male counterparts make before considering factors such as specialty and experience.

“Proskauer has long worked to close the gender gap in the legal profession,” the spokeswoman said.

Pushing for Change

Regardless of whether the lawsuits have an effect on recruitment, attorneys and consultants say they nonetheless highlight a serious problem for women across BigLaw, and some public exposure could nudge firms to improve their workplace conditions. Even firms that aren't facing lawsuits or complaints now should take heed.

“It's a good opportunity for firm leaders to double down and say, ‘OK, this is why we need to pay attention and not let things like this happen at our firm,’” said Silvia Coulter, founding principal of the LawVision Group.

What may get firms moving on the issue more is the possibility of losing business based on how they are



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“A lot of women leave BigLaw for the reasons that these lawsuits have been filed,” said Sandra Ezell, a Bowman and Brooke LLP partner who’s written and spoken on women’s issues in the legal industry.

But instead of leaving law, many of these women end up taking jobs as in-house counsel, where they get a say on how to spend their company’s legal budget. For them, Ezell said, a discrimination suit could provide “a window into the culture of law firms” and serve as “a data point when they are making their buying decisions.”

As a veteran trial lawyer whose practice focuses on product liability, Ezell said law firm leaders should be mindful of the message they’re sending when they respond to discrimination claims. In many instances, firms have forcefully denied any wrongdoing or bias on their part and instead insisted that the lawsuit is little more than one disgruntled lawyer’s hunt for a big payday.

“Victim-blaming is not new. That’s an approach that in the courtroom works and in the court of public opinion is not as successful,” Ezell said. “Law firms have to take a long view of where this is going to play out. Is it going to be in the courtroom? Or is it in the court of public opinion?”

To that end, Ezell said, BigLaw can take a page from its corporate clients as firms look to move past the current wave of discrimination claims. Many corporations, she said, have the experience to know that when they’ve made mistakes, it’s best to own up to them and publicly speak about the reforms they have enacted.

The law firms that take such steps, Ezell said, “will be the champions of this discussion.”

--Additional reporting by Jacqueline Bell, Cristina Violante, Linda Chiem and Vin Gurrieri. Editing by Jeremy Barker and Mark Lebetkin.

Methodology: Law360 surveyed more than 300 U.S. firms, or vereins with a U.S. component, about their overall and female headcount numbers as of Dec. 31, 2016. Only U.S.-based attorneys were included in the survey, and firms had to have at least 20 U.S.-based attorneys to participate.

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