

“None of This Happened by Accident”: How O’Melveny Built a Self-Sustaining Pipeline For Women Litigators

Time, firm-wide buy-in, deliberate platforming and succession planning all play a part in how the firm was able to not just develop prominent women litigators, but make the firm a destination for those who hope to follow in their footsteps.

By Patrick Smith
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When it comes to women in litigation, the numbers aren’t promising. A New York State Bar Association survey from 2017 found that women had lead roles in cases only 25% of the time, even though they have made up 50% (or more) of law school graduating classes for the last 30 years.

When the survey was done again in 2020, that number had moved to 26.7%—incremental at best and still well below the way the numbers should play out given women’s population in the legal community.

So how does O’Melveny & Myers, a firm that ranks well in the Diversity Scorecard (T-28) but certainly not at the top, manage to consistently have women litigators in positions where they are representing companies like Johnson & Johnson in opioid lawsuits or Amgen in patent infringement cases or working with Airbnb? All high-profile clients with high-risk work.

There isn’t one answer. What does allow for the firm to have a strong stable of women litigators, and the momentum to recruit and retain future ones, is a standing priority for diversity, deliberate platforming of their female attorneys and buy-in from a partnership that seems to realize that the actions taken by the firm aren’t just good from a moral standpoint, but from a financial one as well.

Critical Mass

Critical mass is defined as “the minimum size or amount of something required to start or maintain a venture.”



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“We have succeeded because this is something we have focused on for a long time,” Apalla Chopra, co-chair of O’Melveny’s litigation practice, said in an interview. “Not only because it is consistent with our values, but also because it benefits our clients, gives us a market advantage and allows us to bring in the best talent. We have achieved sort of a critical mass that starts to build upon itself.”

That mass didn’t appear overnight and it wasn’t easy to get to, according to firm chair Brad Butwin.

“I can only speak from our experience, but 20 or even 12 years ago, when the numbers were lower, it was hard to move the needle,” he said. “When you are recruiting people, they gravitate toward places where they are going to feel comfortable. They don’t want to be the only one or one of a handful. Until you start showing real progress, I think firms can get stuck. I’ll tell you from our experience many years ago, the change is gradual. But then the world turns.”

The world may turn, but firms need to pivot with it if they want to reap the benefits.

Part of the way that O'Melveny was able to move the needle was to actively assist women with getting into positions of leadership at the firm, not just be a part of the firm.

While O'Melveny touts its success in several areas related to women in their firm, such as doubling their equity partner percentage of women from 12% in 2011 to 25% in 2020, the most influential aspect might be what it has done with leadership roles.

Butwin said 50% of the firm's department heads, 46% of its policy committee and 71% of its U.S. managing partners are now diverse.

"We trained, mentored, sponsored and promoted," Butwin said.

And again, all of that takes dedicated efforts.

Chopra said for any business there are dozens of issues that could be considered top priorities. At O'Melveny, she said, they chose one of those issues to be diversity.

"Diversity has been at the top of our list for some time," she said. "You have to be purposeful and tireless about it, and that takes time and attention."

Clients and Money

While the firm believes it is the morally correct thing to do to position diverse attorneys for success, there is a perhaps less noble but more practical reason for doing so as well: It makes clients happy and makes money for the firm.

"You have to reflect your community, the judges, the clients and the witnesses," Butwin said. "There are no shortages of studies showing diverse teams ultimately give better advice, and what we are asked to do is provide good judgement. We are not hired to be law encyclopedias. We ultimately get paid for our judgment, and you need diverse teams to deliver common sense."

Damali Taylor, a San Francisco-based litigator for O'Melveny who often works with Airbnb, said that the idea of going in front of a jury without having their team look like the jury is a bit of a head-scratcher.

"It has always been remarkable to me, especially in 2021, that you would ever go before a jury of your peers with nothing but a team of white men," she said. "You want to be able to speak to everyone."

Another of O'Melveny's star female litigators, Lisa Pensabene, who worked with Amgen on its patent protection suits around cancer drug Kyprolis, agreed.

"It just makes business sense," she said. "Being an advocate is about distilling complex issues into a narrative. A diverse team provides a lot of ways to connect. And we are starting to see that play out in today's world. Success begets success."

A Destination Firm

One of the reasons the traditional white male litigator became so entrenched in litigation work was that there was always a pipeline feeding it.

The same principle applies if firms want to have a strong stable of diverse and or female litigators.

Taylor, a former litigator in the state of California's prosecutor's office and then later a federal prosecutor, said that when she decided to get into private practice, O'Melveny's reputation had preceded it.

"I was often the only Black female in the room," Taylor said of her time in the prosecutor's offices. "So, when I decided to leave, it was sort of a no-brainer to go to back to O'Melveny. It is just different here. It was always a place where I felt valued."

That Taylor felt strongly enough to come back to the firm is something the firm counts on when looking to recruit female talent, and it tries to make itself visible to other female attorneys in part by platforming those they already have.

"It takes a strong effort at the senior levels," Rich Goetz, the other co-chair of O'Melveny's litigation department, said. "If you don't platform women you miss the competitive advantage. We need women role models for others to see."

Patrick Smith, based in New York, covers the business of law, including the ways law firms compete for clients and talent, cannabis law and marketing innovation. Reach him at pasmith@alm.com or on Twitter at [@nycpatrickd](https://twitter.com/nycpatrickd)

