

Expert Q&A on the Gender Gap in Bankruptcy & Restructuring Practice

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An expert Q&A with Rachel Ehrlich Albanese of DLA Piper and Cullen Drescher Speckhart of Cooley LLP on the unique challenges women face in restructuring practice and how the practice can work to improve retention and promotion of women.

Law firms continue to struggle with the retention and promotion of women, particularly in the bankruptcy and restructuring practice. Historically male-dominated at all ranks, the COVID-19 pandemic highlighted:

- The gender gap in the restructuring industry.
- The overall struggle of women to remain in the workforce as they try to manage the demands of their career with the obligations of family.

While things are gradually improving, as corporations and clients push for increased diversity, equity, and inclusion in the law firms they engage, firms must accelerate their efforts to hire, retain, and meet the needs of female talent at all levels of practice, particularly in partnership and client relationship roles.

Practical Law asked Rachel Ehrlich Albanese of DLA Piper and Cullen Drescher Speckhart of Cooley LLP to discuss:

- The unique challenges women face in restructuring practice.
- How the practice can improve retention and promotion of women.

Rachel Ehrlich Albanese is Chair of DLA Piper's US Restructuring practice and a nationally recognized partner in their New York office. Rachel has over 20 years of experience representing secured and unsecured creditors, debtors, equity holders, purchasers of distressed assets, and other parties in interest in a wide range of restructuring matters, including cases under Chapter 11, out-of-court workouts, Title III of PROMESA, and cross-border insolvency proceedings.

Cullen Drescher Speckhart is Chair of Cooley's business restructuring & reorganization practice and partner

in charge of its Washington, DC office. Cullen is a top advocate in corporate restructuring and financial litigation, with a diverse practice spanning a range of industries, including health care, life sciences, technology, energy, and retail. In addition to her deep experience in complex insolvency litigation, Cullen has led some of the largest and most significant restructuring engagements in numerous jurisdictions.

The focus of this expert Q&A is the gender dynamic between men and women in law firm bankruptcy and restructuring practice and how the practice can work to improve retention and promotion of women. For resources exploring other aspects of diversity, equity, and inclusion in the legal profession, see [Legal Operations, Professional Development & Well-Being Toolkit: Diversity, Equity & Inclusion](#).

Describe your path as a restructuring attorney.

Cullen: I have a very personal connection with my profession, which began at a very early age. Growing up, both of my parents worked for the Bethlehem Steel Corporation in Bethlehem, Pennsylvania. Bethlehem Steel filed for bankruptcy when I was a teenager. Restructuring lawyers were a source of hope for a whole community during a very uncertain time. We followed closely as they developed strategies to save jobs and pensions, and as they identified productive homes for the company's assets. I was forever changed by that experience, and for me it was impossible to imagine anything more important than having the ability to save a company in distress. I've never looked back on that very early decision to become

a restructuring professional, and I've never wanted to do anything else with my energy. I absolutely love my job.

Rachel: During my district court clerkship after law school, I had the opportunity to work on a variety of matters, including bankruptcy appeals. I found the bankruptcy issues interesting and intellectually challenging, and I had enjoyed my bankruptcy law classes at Penn Law, so I decided to go into restructuring. I spent the first part of my career as a "big law" associate working crazy hours. After I had my kids, I spent several years on a flex-time schedule, but given my career aspirations, I returned to full-time. This time, however, I prioritized getting home for the kids' school events and their evening routines, while continuing to work at night after the kids were in bed. This schedule isn't for everyone, but it allowed me to feel present at home and at work. My husband's flexible schedule certainly made things easier too. Eventually, I joined DLA Piper as a partner, and now I am chair of our US Restructuring practice. My path was not linear, but it worked for me, and that was key to charting my own course.

What explains the lack of parity for women lawyers and other professionals in the restructuring industry, especially at the leadership level?

Restructuring historically has been male dominated across the profession, including lawyers, financial advisors, and bankers. However, the restructuring industry has made great strides in the last two decades, particularly in law firms, where women are achieving greater parity with men, especially in leadership positions. Financial advisors are also making progress in retaining and elevating women, while investment banks still have some work to do.

That said, it is still common to be the lone woman on a case conference call or in virtual board meetings where women may be surrounded by twenty men. Video calls, which have become more frequent since the start of the COVID-19 pandemic, have made the disparity even more obvious. There, women can clearly see when they are the only woman in the virtual room. The restructuring community also has a diversity issue broader than gender, which is on display during these calls.

Regarding possible explanations for the lack of parity for women in the restructuring industry, some women may be put off by the inherent adversarial nature of the

practice. However, adversarial is not always contentious, and there are many ways to handle contention. As more women continue to succeed and take leadership positions in restructuring, many have embraced communication styles that feel authentic to them, which may not involve the same aggressive posturing or other methods of communication traditionally associated with men.

Additionally, the nature of restructuring is fundamentally one of unpredictability and crisis. A debtor's descent into Chapter 11 can look like a carefully planned prepack on one day and turn into a free fall the next. The day-to-day requirements of restructuring are constantly shifting depending on the level of emergency the debtor or their creditors are experiencing that given day. Because many women find themselves in the role of primary caregiver to children and other family members, some may be deterred by the perceived lack of flexibility of a career in restructuring.

While there is still much progress to be made, businesses across the restructuring industry are increasingly focused on rectifying the gender gap and creating a more inclusive culture within the practice by:

- Fostering flexible work environments.
- Promoting environments that better allow women and individuals from historically underrepresented groups to have opportunities to succeed and rise up through the leadership ranks.

For a discussion of the tasks, skills, and responsibilities that law firm bankruptcy associates should develop and master to help advance their careers, see [Practice Note, Bankruptcy Associate Development: Overview](#).

How does having a family affect the barriers women face in restructuring practice?

Women and others with primary family and childcare responsibilities undoubtedly face heightened barriers to professional success, both within the restructuring industry and beyond. Regarding restructuring specifically, times of crisis are inherent to the industry, so it can be especially challenging for women to find the flexibility they need to meet both their familial and professional obligations. While there is still a long way to go in making careers in the industry more accessible, there are many tactics and strategies that make a future in restructuring more feasible for women with primary familial responsibilities.

Consider a Non-Traditional Path

For example, the path to partnership or leadership in restructuring does not have to be linear. Choosing to pursue part-time associate or counsel positions can help women remain in practice while requiring fewer practice and business development hours, giving women more time to focus on their families. However, this can be a tricky path because restructuring work at law firms often demands full attention, even when working reduced hours. One solution is flexible scheduling, which allows women to work full-time hours at times that work for them.

Moreover, a commitment to having and being present for family does not have to take any woman “off track.” The path might just look a bit different. Part of this involves embracing the idea that the traditional hierarchical structure based on practice year, where partner consideration typically occurs in one’s seventh or eighth year, does not always reflect a woman’s experience or ability to practice at an exceptional level.

Designing Your Own Advancement

While some big law firms are making great strides in attracting and retaining female talent, this is not true across the board. The traditional model, with its emphasis on billable hours and face time, still exists and has historically pushed women out before rising to leadership roles for trying to meet the demands of both their clients and their families. It is important for women to proactively conduct some measure of due diligence on the general experience other women have had at any law firm they intend to join. Seeking out current women leaders at the firm to discuss their experiences and any barriers to advancement they encountered along the way can be edifying about firm culture and how a firm values the retention and advancement of women.

It is crucial for women to learn that they can be the architects of their own unique career and business development paths. Smaller law firm practice can be an alternative option. Taking a position at a smaller firm, possibly with fewer demands on their time, or with fewer large-cap, demanding clients, can allow a woman to focus on the exact kind of restructuring work they want to do. In short, it is possible to achieve leadership roles in restructuring while forging your own path as a practitioner and parent.

For a discussion on the transition to law firm partnership, see [Article, Congratulations, You Are a Partner: What Happens Now?](#) For a discussion on the various options

open to law firm associates who do not become or do not want to become partners at their current law firm, see [Article, Not on Partner Track: Where Do You Fit In?](#)

How is having women in leadership positions in restructuring important to encouraging other women to aspire to those heights?

Having women in leadership roles is not just important but vital to the advancement of junior women across all industries and is especially true in restructuring practice.

One key reason for this is that women at junior levels are witnessing an evolution in the ethos of restructuring practice. Specifically, women in restructuring leadership are challenging the long-held idea that for a woman to succeed she must act, speak, or argue like a man. Today, so many women practicing restructuring in leadership roles do so at a high level, authentically, and without mimicking masculine practice, and junior women in restructuring are taking notice. There is no longer an artificial mandate for women to imitate masculine behavior to succeed.

What are some of the difficulties women are having in moving up the ranks in restructuring practices?

An often-overlooked driver of the gender gap amongst high-ranking attorneys in restructuring practice is the unspoken pressure from clients toward their women attorneys to adopt a conventionally masculine approach in their representation.

In restructuring, it is common for women to have had the “lone woman” experience, that is, they have frequently been the only woman in a board room or court room filled with men. This highlights the differences in the ways men and women tend to advocate and argue. Some clients see a woman in a room full of men and urge or even demand their women lawyers to be more assertive, be more aggressive, or act differently to be on par with the men in the room. Law is a service industry, and lawyers seek to please their clients. Hearing that she needs to confront a situation in a way that is inauthentic to the way she wants to practice can not only derail a woman’s confidence but can deter her from wanting to practice in that space at all. In fact, compromising one’s values in law practice is a significant cause of burnout for legal professionals

(see [Article, Breaking Down Silos to Empower Workplace Mental Health and Well-Being: Q&A with Zoe Sinclair, Co-Founder, This Can Happen and Owner, Employees Matter: What mental health and well-being issues are the most critical for leaders in the legal profession to address in the US?](#)).

For women to succeed in restructuring, it is essential for them to build trusting relationships with their clients and, where necessary, assure them that being the most aggressive or loudest in the room is not always the best or only strategy. Demonstrating that she can deliver results while being true to her personal style of advocacy shows clients that posturing is not always the prudent approach. The more we emphasize to junior women lawyers that this authenticity can achieve winning results, the more we can encourage young women lawyers to stay in the practice and cultivate their unique strengths rather than looking to mimic someone else's style.

How can men help narrow the gender gap in bankruptcy and restructuring practice?

Male allyship is a crucial part of elevating women. We must encourage men to actively participate in closing the gender gap within the industry rather than exclude them from the conversation. We must prioritize ensuring that men at all levels of practice do not have a blind spot to how they can help to achieve gender parity.

Some examples of these blind spots include:

- Not giving women space to respond to a point, whether in a meeting or on a call, by interrupting, talking over them, or hastily shifting the subject.
- Using polite conduct as a guise for a micro inequity. For example, this happens when someone tempers their speech or apologizes for using crass language because a woman is present. By calling attention to the fact that there is a woman present and implying that she may be more sensitive to what was said than her male counterparts, gender becomes the focus, even if that was not the intention.
- Assuming that a woman is a junior-level lawyer or a non-lawyer based on her appearance.

Recognizing and eliminating these behaviors and speaking up on behalf of women when these behaviors occur will go a long way toward fixing the problem.

For a discussion of barriers to well-being in the legal industry, see [Article, Breaking Down Silos to Empower Workplace Mental Health and Well-Being: Q&A with Zoe Sinclair, Co-Founder, This Can Happen and Owner, Employees Matter](#).

What should law firm leaders focus on as they work to improve gender parity of restructuring lawyers going forward?

To remove some of the most common barriers for advancement of women in practice and therefore narrow the gender gap, law firms can:

- Have appropriate childcare options. The lack of accessible, affordable, and flexible childcare is one of the biggest reasons women are held back from advancing in the professional world, including restructuring law. The ability to offer or help arrange appropriate childcare could help to remove that barrier.
- Ensure that all associates are generally staffed equally on matters and large cases. Assignments should be equitably distributed regardless of gender so that associates can get the same opportunities and training.
- Equalize mentoring opportunities. Male partners may fear the perception of impropriety when spending one-on-one time with women and therefore avoid making individual mentorship and sponsorship connections with women. Women partners may have the same concerns about spending time with male associates. If they are uncomfortable, partners in this position have many options, including lunchtime meetings, coffee outings, and partnering on CLE presentations, to get to know and mentor young associates.
- Encourage women to feel more confident in their practice, which is the key ingredient to effective advocacy, business development, and dynamic leadership. Law firms should not assume that once a lawyer reaches a certain level of seniority, they no longer need to be encouraged to be confident in their practice. Confidence can bolster a woman's path to success, as often women are criticized and torn down in the name of "toughening them up."

For a discussion of imposter syndrome in the legal profession and its effect on attorney well-being and performance, see [Article, Imposter Syndrome: The Silent Struggle of the Over-Achieving Attorney](#).

In what ways is restructuring a compelling practice for women?

Some women may be drawn to a practice that provides a unique opportunity to routinely solve complex business and legal problems, or they may enjoy the rehabilitative aspect of restructuring. Ultimately, the goal of restructuring, especially on the company side, is to save a company, save jobs, and restore a failing

business. On the creditor side, the goal is to try to get as much value out of a business as possible, whether through an ongoing business relationship or a claim that is paid in full. Although this facet of the work may often be eclipsed by the more contentious side of the practice, it is arguably the most rewarding aspect and speaks to women who are seeking to be part of a building, rather than an adversarial, process. It is also an extremely rewarding, interesting, and intellectually challenging career.

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