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Federal Judge's Incentive Gives Women Lawyers More Speaking Roles in Court



U.S. District Judge Barbara Lynn

In light of a recent study showing female lawyers aren't getting many speaking roles in the courtroom, one federal judge in Texas noted that she's indirectly increased opportunities for women attorneys by encouraging firms to send young lawyers to argue at hearings.

While trying to provide courtroom experience to young lawyers in the age of the vanishing jury trial, Chief Judge Barbara Lynn of the U.S. District Court for the Northern District of Texas created a voluntary rule in her court about 10 years ago that said if firms sent young attorneys to argue their own briefs and motions at hearings, she would be more likely to grant an oral argument. Even though her main goal was training the lawyers of the future, many of those getting opportunities are women and minorities—something she hoped would happen. Those opportunities have been amplified as 20 to 30 other federal judges have

followed Lynn's lead and created young lawyer rules of their own.

A recent survey (http://www.law.com/sites/almstaff/2017/08/07/what-law-firms-and-judges-can-do-to-increase-role-of-women-litigators/?cmp=share_twitter) by the New York State Bar Association showed that only 25 percent of lead counsel were women, and it was worse in the private sector than the public sector. Just over 19 percent of lead counsel in private representation were women.

We asked Judge Lynn about her **young lawyer rule** (<http://www.texaslawyer.com/id=1202792618269>) and how it's impacted female attorneys. Here are her answers, edited for brevity and clarity.

What is your young lawyer rule?

Essentially my rule is designed to encourage law firms particularly to have young lawyers who have been in practice seven years or less—the word “young” is just a placeholder. It's not based on age, it's based on number of years of experience. If it's a case I might not set for oral argument, if they tell me a young lawyer will argue, I'd be more likely to set it for oral argument and give more time for the argument.

Among the young lawyers who get to argue under the rule, what's the distribution of male and female?

I have not kept count of that. My sense of it is there are many more young female lawyers than male lawyers who are arguing. I thought that would happen. I did it in part because I thought that would designate opportunities to females and other diverse lawyers not getting opportunities, because the default is to senior lawyers, and the more senior lawyers are more white and male.

Why did you feel it was necessary to provide diverse attorneys with more opportunities to argue?

I think that because the field of opportunities to argue is more limited, and because particularly in a big case, clients are naturally risk averse, that those two factors would combine to make the default choice a more senior lawyer. But I observed over the years that I would ask a question, and eventually the more junior lawyers coming up to the more senior lawyer with a note or whispering in that lawyer's ear, because they are the ones who really know—they wrote the brief, gathered the facts.

Since you've done this and seen more women and diverse lawyers, what changes have you noticed in your courtroom?

They work extremely hard because they appreciate these opportunities are precious and few and far between, so they are generally very well-prepared. I've made it clear from the get-go: There is not any coddling. They are playing in the big leagues and they are expected to hit the ball. I'm not going to nurse them through and teach them court protocol. If they are not measuring up, they get treated the same way the senior lawyer would be.

How popular is using the rule among law firms? How frequently are they using it?

I'd say slightly less frequently than I would have thought, but still a significant number of these happen. I think they like having me as an excuse to do what they think is the right thing, where they might not be able to get it through the client. I made sure to not make it mandatory, because the clients should have the choice about who their lawyers are. A lawyer can say to a client, "Judge Lynn really likes it when young lawyers show up. We are not going to win or lose because of that, but she is going to appreciate it and it's a good frame of mind for her to be in."

For the young women who have argued in your court under the young lawyer rule, what difference do you think it's made in their careers?

I hoped it would be important to a law firm in deciding to make the person a partner. These speaking opportunities should be very important to law firms in making someone a partner in the trial section. If they don't have opportunities, their chance to become partner in the trial section, one would think logically, would be significantly reduced.

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