In June 2011, Danny Van Horn, President of the Tennessee Bar Association, appointed a group of women lawyers across the state of Tennessee to identify a set of proposed “Best Practices” for promoting the success of women in the practice of law. This group, initially dubbed the Glass Ceiling Task Force, began this initiative by identifying the following six areas where both barriers to advancement and opportunities for success might arise:

1. Mentoring/Sponsorship and Networking
2. Social Inclusion and Client Development
3. Alternative Schedules/Balanced Hour Programs/Transition
4. Attorney Evaluation/Promotion-Partnership-Leadership/Compensation
5. Attorney Assignments/Implicit bias
6. Improving the Economic Performance of Female solos and Small Firm Attorneys

These six issues are certainly not all-inclusive, but were felt to be those in most need of immediate exploration. In an information-gathering effort, the Tennessee Lawyers’ Association for Women (“TLAW”) conducted focus groups in each of the three Grand Divisions – East, Middle and West Tennessee -- to help further analyze the barriers and to identify practical solutions to those barriers. The focus groups represented a diverse demographic of women lawyers in a myriad of practice situations (solo practices, small to large firms, government and non-profit organizations, in-house counsel, and law schools), community sizes (metropolitan and small city) and years of experience (recent graduates to retirees). The Task Force suggested that of the six areas under scrutiny, the following two best lent themselves to this initial undertaking: Mentoring/Sponsorship/Networking and Alternative Schedules/Balanced Hour Programs/Transition. The information gathered below is being provided to the Task Force to assist in its goal of creating a set of “Best Practices” to be used by those in leadership or management positions who affect access to and advancement in the practice of law in multiple aspects, including but not limited to, opportunities for advancement, compensation schemes, networking, mentoring, flexible schedules, client development and others.

The one hundred and eleven participants were provided the attached Questionnaires, prepared by members of the Task Force, several days in advance to acquaint them with the subject matter and in hopes of preparing them for more productive discussions. The Nashville event was a testing ground and resulted in the preparation of the attached Demographic Questionnaire, prepared by Professor Cornett, for use in the other three cities. Consequently, the demographic results obtained from the Nashville focus group are less detailed. The following figures cannot be relied on for generating accurate statistics because not all participants completed the Demographic Questionnaires and those same questionnaires had not been created prior to the Nashville event. Some general observations, however, can be drawn from them. We learned a great deal, not only about the issues at hand, but also about what information to gather and how to gather the information – particularly the need to ensure that both sets of questionnaires are completed and turned in by participants.

Participants earned two (2.0) hours of general Continuing Legal Education credit. Generous donations to cover the CLE fees were made by The East Tennessee Lawyers Association for Women (Knoxville
event), the Ortale, Kelley, Herbert & Crawford law firm (Nashville event), and TLAW Board members Cheryl Rice and Mary Miller (Johnson City). The TLAW Board voted to approve an expenditure of up to a total of $600.00 to provide refreshments.

Confidentiality was paramount in the focus groups. A very telling factor that arose when inviting participants was reluctance on the part of some invitees that there would be reprisal for participating. So great was this concern, that some invitees regretfully declined. Consequently, the identity of participants is known only to the TLAW Board and to the participants themselves in each location. Each focus group had an assigned scribe and while notes were taken, no comments were attributed to any identified participant. In keeping with this confidentiality, TLAW asks that no one other than a member of the Task Force have access to this report without the express written consent of the TLAW Board.

I. LOCATIONS.

<table>
<thead>
<tr>
<th>City</th>
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<th>Counties Represented</th>
<th>Location</th>
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<th>Facilitators</th>
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<tr>
<td>Nashville</td>
<td>February 15, 2012</td>
<td>Davidson Montgomery Sumner County Rutherford Williamson Putnam White</td>
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<td>Wendy Longmire</td>
<td>Leigh Ann Roberts Rhonda Kinslow</td>
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<td>Knoxvile</td>
<td>February 22, 2012</td>
<td>Knox Blount</td>
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<td>Cheryl Rice Mary Miller Karen Crutchfield</td>
<td>Professor Judy Cornett Professor Penny White</td>
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<td>Shelby Madison</td>
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<td>Ahsaki Baptist Kristi Rezabek</td>
<td>Carol Nichols Shea Welford</td>
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II. DEMOGRAPHICS.

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### Current Employment

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<td>Medium Firm (6-15 Lawyers)</td>
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*Nashville: 20 participants were in private practice, including 7 in solo practices. Firm size for the other 13 is unknown.

### Status with Firm

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**Nashville: 2 participants were managing partners  
***Memphis: A “several” equity partners were reported to attend.

### Age

<table>
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<tr>
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### Years in Practice

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<td>21 or more</td>
<td>**</td>
<td>10</td>
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**Nashville: 11 participants had 15 or fewer years of experience  
18 participants had more than 15 years of experience

### Child-Care Responsibilities

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<td>16</td>
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General observations on the demographics are:

Nashville Focus Group:
Solo practitioners represented twenty-five percent (25%) of the participants in this first of the four events. Thirty-eight percent (38%) have fifteen or fewer years of experience. Sixty-two percent (62%) have practiced for sixteen years of more.

Knoxville Focus Group:
This group had almost equal representation by three general groupings of attorneys: (1) medium and large firms, (2) small firms and solo practitioners and (3) lawyers in governmental, corporate and academic settings, with very slightly more representation of medium and large firm attorneys than the other two general groupings. Participants were almost equally divided between those attorneys practicing 10 years or less, those between 11 and 20 years in practice and those with more than 20 years of experience, with the majority being in the category of between 11 and 20 years in practice. The group was more heavily populated by attorneys who were not partners in law firms (whether equity or non-equity) with all other areas of status (associate, of counsel governmental, etc.) representing over two-thirds (2/3) of all in attendance.

Johnson City Focus Group:
The smallest of the four events, this group was predominantly comprised of small firm and solo practice lawyers (58%) with seventy-five percent (75%) of attendees practicing in firms being in equity partner positions. The group was evenly divided between those practicing less than ten years, those practicing 11-20 years and those practicing more than 20 years. One-half of the participants were between the ages of 30 and 45 and more than half had some child care responsibilities.

Memphis Focus Group:
The Western District had the largest representation by government/non-profit attorneys and corporate counsel (26%) and by attorneys practicing in large firms (29%).

III. ISSUEs AddresSed.

All four Focus Groups addressed the following two of the six issues developed by the Task Force:

1. Alternative Schedules/Balanced Hours/Transition

2. Mentoring/Networking/Sponsorship, defined by the Task Force as:

• Mentoring -- [A] mentor is a person who helps a lawyer develop professionally to achieve the lawyer’s desired professional goals, and mentoring is the process by which the mentor and protégé work together to identify and help the protégé work toward those professional...

•Networking – The art of cultivating mutually beneficial relationships. These relationships establish a supportive system for exchanging information and for producing meaningful business opportunities.

•Sponsorship - Advocacy for the attorney. A sponsor fights for the attorney and also may be a critic. “A sponsor is someone who helps you get paid, gets you promoted, gets you hired—they’re in the room when the decisions are being made.” Id. at 128, quoting Priya Truaber from Knowledge@Wharton.

IV. STAND OUT ISSUES.

•Participants were mostly unfamiliar with the term “sponsorship,” which in this context is “advocacy on for the advocate.” They were, on the other hand, were quite familiar with the term “mentor.” The discussion of the distinction lead to the recognition that women lawyers need someone “in the room” or “a place at the table” with the decision-makers to assist in gaining advancement, whether this advancement would be financial recognition, making partner, access to clients, etc. Very few participants had actually experienced sponsorship whether as being a sponsor or having one. Despite a willingness to serve as a sponsor, many participants expressed an inability to do so because they simply lack the power, that is, they were too low on the totem pole, they needed to first protect their self-interest by silence on another’s behalf, or they were in solo practice with no one to sponsor. As for mentors, virtually all the participants felt they were mentored at some point in their careers and had also been mentors to others. Notably, for many, their mentors were men – prior employers outside the legal profession, partners while they were associates, colleagues practicing in other firms, and teachers. Crucial to the idea of sponsorship is that it be offered on a merit basis.

•Flex-time was the predominant focus, particularly among the younger attorneys. Outside of a solo practice, many of the long-term practitioners had not worked in an environment where an attorney worked on a moderated or flexible schedule. Flex-time and the concept of a balance between the practice of law and personal time is a hot button issue. The focus groups revealed that many women had left moderate to larger sized firms so that they could build their own flexibility into their work schedules once they had children. Those that find flex-time availability in larger firms found it indirectly, i.e., working from home while still trying to maintain their billable hours. When flex-time is available in the firm situation, it is generally hashed out on an individual basis rather than via a formal firm policy. For in-house, non-profit and judicial or quasi-judicial attorneys, flex-time is not usually an option. The “Catch 22” is that while the attorneys and employers can reach a modified payment scheme for a flexible schedule, that scheme is not realistic or there is little to no advancement opportunity unless they wait until after they reach partnership and have some measure of control. There are some notable exceptions in a few very large firms that still provide partnership opportunities. Most midsized to smaller firms provide fewer or no flex-time opportunities. Some individuals who avail themselves of flex-time feel that there are “not secure” in their positions. For other governmental attorneys, depending on the agency, job sharing is a real alternative.

•Maternity leave comes in many forms – from unpaid leave, to a period of paid leave. When maternity leave was offered, compensation was handled differently. These range from leave under the Family Medical Leave Act, extended leave beyond six weeks was unpaid, or compensation based on a rolling three-five year average, and being taken off partnership track. Under most scenarios, the attorneys felt penalized, not only for the year in which they took the maternity leave, but also in subsequent years, how their path along the partnership track was affected and a perception that the time off was a negative.
Many participants felt that it was still a man’s world where men can play golf with clients or take on coaching responsibilities for his family and not be penalized. This disparity frequently manifests in networking, marketing and access to clients wherein male attorneys have more socially-oriented encounters with clients and one another. While interpreted as completely benign for men to take male clients to dinner or a football game, women are constrained by societal influences and a perception that this is somehow inappropriate. Women have to be more creative about taking out male clientele or coming up with different ways of networking. Women need to look out for one another in the legal field as the males have us beat in this area. Women often fail to make referrals to their female colleagues. Unfortunately, the problem is that women need to gain representative numbers within law firms or in-house settings, but they often leave the practice once they start families and/or set up solo practices to obtain the flexibility they need.

For the lawyers who have already established solo practices:
- the biggest area of interest and/or concern was networking and having an influence within the network; and
- flexible schedules.

The “good ole’ boy system” appears to inhibit women from advancement into judicial or other elected or appointed governmental roles. It was noted that the last three appointments to the Bench by the Governor have all been white males.

V. WORST PRACTICES/ PERCEIVED PROBLEMS

Alternate Schedules/Balanced Hour Programs/Transition:

• The failure to permit Alternate Work Schedules (“AWS”), Maternity Leave or other leave other than as formally required by law.

• When these benefits are permitted, there is a failure to have a formal policy (in any format) setting forth how those forms of flexibility will look, when they are available, who is eligible, when, etc. that is regularly communicated (orally or in writing) to employees. Such leave is permitted on an ad hoc basis. This lack of transparency necessarily results in a certain amount of uncertainty and confusion among females in considering whether their current place of work is a place they want to commit to for the long term. It also makes expectations unclear and effective planning difficult.

• AWS /leave situations that do not allow an attorney to receive a reliable, traditional salary/wage while utilizing an AWS and/or leave.

• Part-time or flex-time attorneys routinely work more than they are actually contracted and compensated for. They are allocated a full share of firm overhead although they might not be utilizing a full share of resources.

• Employers are unable or unwilling to limit the adverse effects of AWS/flexible positions (and, to a lesser extent, leave) on career advancement within the firm. Part-time or flex-time attorneys are inadvertently penalized for the lack of “face time” in the office and are perceived as less dedicated to their employer when, in fact, they are working from home, a client’s office or elsewhere. This perception translates to fewer or less profitable assignments, promotions, mentoring, and sponsorship or being placed “Of Counsel.”
Where billable hour requirements might be pro-rated for periods to help minimize detriment to the employee where leave is taken, there are typical periods of slowing down and ramping back up in one’s practice that still result in skewed productivity numbers for the attorney that can negatively impact the attorney financially and in career advancement.

Disengaging part-time or flex-time attorneys from client meetings and client networking.

Reticence to invest in technology that supports attorneys working outside the traditional office space.

Mentoring/Networking/Sponsorship regardless of Part-time or Flex-time:

Mentoring and sponsorship remain a largely informal process for most attorneys. These usually evolve out of personalities where there is a “fit”, leaving many newer or younger attorneys without critical guidance. There is a failure to have formal mentoring or sponsorship policies.

Networking is viewed as each individual attorney’s choice/responsibility, because results often most directly benefit the individual participant.

Employers support networking efforts that “inherently” exclude or are not comfortable for women attorneys.

The time spent by a mentor or sponsor is not accounted for and translates to a financial loss for the mentor or sponsor.

The time spent networking is not accounted for and occurs at the expense of the attorney’s productivity and compensation.

Networking budgets are either not established or when they are, there is no formal training on how to utilize the budget.

General:

The “Queen Bee Theory”: The dominant female in the firm or business squelches the inclusion of other females in the firm or the group such that she can maintain her status. Unfortunately, this destructive dynamic is alive and well. Women can be our own worst enemy.

Disproportionate pay or expectations based on gender remains.

VI. BEST PRACTICES.

Alternate Schedules/Balanced Hour Programs/Transition

Enact formal policies for leave (maternity, family, sick and other), alternative work schedules and compensation policies that clearly outline billable hour expectations, collections, how overhead will be apportioned, required office “face time” (e.g., one day per week in the office, two half-days per week in the office, every Wednesday in the office), how compensation will be calculated (e.g., if billing 60 % of the minimum billable hour requirement, will compensate accordingly with 60% of the salary of someone working the full minimum hourly requirements), how the partnership or promotion track will be affected, how assignments will be affected, networking budget and opportunities, access to clients, client development expectations, etc. These policies could be
structured to apply differently based on collections, years with the firm, or position in the firm. They can also take into account certain specialties that require less client interaction and more transactional functions that permit an attorney to work more hours off-site and actually reduce firm overhead.

• A true “open door policy” that encourages open dialogue between management and attorneys (both men and women) on the issues of schedules, leave and flexibility, preferably early in the employer/attorney relationship.

• Open-minded leadership that gives thought to alternative ways to evaluate attorney performance and productivity, focusing on results-oriented facts (including but not limited to project completion, client satisfaction, and client retention by the firm) and consider creative methods for evaluating criteria and eligibility for partner status.

• Dedication to finding creative ways to keep attorneys utilizing AWS involved in client meetings, client networking and business development, without causing the attorney to forfeit either the benefit of the AWS or compensation in order to be involved in these activities that are beneficial to both the employer and the employee.

• The cost of technology continues to drop. The recognized gain in productivity by all quickly offsets the initial cost. To that end, employers should be encouraged to invest in technology, including smart phones, modern phone systems, remote computer access to computer systems and committing items to electronic format so they are capable of being accessed outside the office. Effective use of technology is critical to alternative schedules and leave. Other examples to increase “face time” include Skype and video-conferencing.

Mentoring and Sponsorship

• Enact formal mentoring programs, with training and guidelines on how to mentor, goals for mentoring and give creative thought to structuring mentor/mentee relationships that “work.” Consider compensation structures that incentivize/reward experienced attorneys for mentoring others.

• Enact formal sponsorship programs, with training and guidelines on how to be a sponsor, goals for sponsorship and give creative thought to structuring these relationships that “work.” Consider compensation structures that incentivize/reward experienced attorneys for sponsoring others.

• Do not “force” female-to-female mentoring or sponsorship relationships just for the sake of it. If possible, the relationships should be driven by a “good fit where possible;” however, all younger or new attorneys should have a mentor and sponsor, preferably within the place of employment. The policy should include scheduled intervals for meetings with the mentor and sponsor and a list of expected activities for the two to engage in (e.g., review the status of cases, touch base on what the mentee is doing to stay abreast of changes in the law such as reviewing the daily TBA link, discuss plans and strategies, critique work, discuss networking efforts, discuss tailored CLE courses). Mentees might be a more senior associate or a partner or a combination of both. Sponsors should only be someone in a management or leadership position.

• Consider a First Year Associate Development Program through which a first year associate receives on-the-job training through mentoring and observation without a traditional billable hours requirement.
Networking

• Create budgets for networking and provide training on how to utilize those budgets.

• Provide training on networking opportunities, recognizing discrepancies in opportunities due to type of activity, tradition, influence, gender, etc.

• Consider creative compensation structures that encourage, measure and reward networking efforts. For example, give billable hour credit for hours recorded for business development activities, bar activities, pro bono work, etc.

General

• Create transparency on all these policies in interviews of potential candidates and on employer websites.

• Gather and provide statistical information on billings, collections and hourly rates – both within the firm and the community.

VII. CONCLUSION and OTHER ISSUES FOR FUTURE CONSIDERATION.

The Glass Ceiling Initiative and the resulting focus groups have generated tremendous excitement. These have given women an opportunity not merely to vent, but to feel empowered and proactive in providing the input of their individual and collective experiences – both good and bad. The participants welcomed the invitation to this conversation and engaged openly. These women want to be involved and want to make a difference for themselves and those coming to the profession behind them. They expressed hope that this was the beginning of a discussion to touch on issues that ultimately affect the willingness of females attorneys to recommend the study of the law to other females, the ability and willingness of female attorneys to remain in legal fields for the majority of their careers and their ability to succeed at all levels in equal measure to their male counterparts in the legal field. Many expressed interest in receiving the Task Force’s findings and recommendations arising from this process.

During the focus groups and since their conclusion, TLAW has had numerous inquiries about whether the Glass Ceiling Initiative will be continued after this year by the TBA or TLAW. There is a strong indication from many of the attendees that they would be glad to participate further in future. In particular, there is a significant interest in also focusing on the following:

• Issues related to Attorney Evaluation/Promotion-Partnership-Leadership/Compensation (outside of just alternative hours or balanced schedules).
• Retaliation and reprisal against mentors and sponsors.
• Sexual harassment.

As an aside, there are two notable general observations. First, the issues relating to flexible work schedules and family related medical leave are perhaps not gender-related as much as generational in current times, particularly with the high divorce rate and as more attorneys are caring for elderly parents. Second, in order to promote the “Best Practices” developed by the Task Force, the decision-makers need to be educated that these are also in their “Best Interest” as employers and might result in efficiencies, reduced overhead, retention of attorneys in whom firm resources have been invested, and securing new or retaining old clients (particularly those that have internal diversity hiring requirements for their outside counsel) to name but a few of the benefits.
The TLAW Board has discussed on several occasions the need to continue this effort; however, no definite plans have been made.
TBA CLASS CEILING COMMITTEE
Alternative Schedules/Balanced Hours/Transition

Questions to be addressed:

1. Does your firm allow an alternative work schedule for attorneys?

2. Do you have currently have anyone on an alternative work schedule?
   If Yes, how many?
   Female? Male?

3. If you do not currently have anyone on an alternative work schedule, have you had anyone in the past?
   If Yes, how many?
   Female? Male?

4. How does your alternative work schedule work?
   a. Work certain number of hours per week?
   b. Certain number days off? Do they have any flexibility with the days off?
   c. Certain number of billable hours expected or just reduced number of hours worked?
   d. Does it contemplate working from home?
   e. What happens if there is a set day off and something needs to be scheduled for that day?

5. How does compensation work when someone is on an alternative work schedule?
   a. Allocation of overhead

6. Does being on an alternative work schedule affect partnership track? If so, how?

7. Is this option available for new hires or only for attorneys who have been practicing at the firm? Do they have to have been practicing a certain amount of time?

8. Have you had any issues or problems with alternative work schedules and if so, what were they?

9. Do you have any attorneys who have chosen not to be on a partnership track? If so, describe the circumstances, i.e. hired that way (contract attorney) or someone who was on partnership track and decided to take themselves off for a few years?

10. What is your maternity leave policy?

11. What does it mean to be of counsel in your firm?

12. Do you have contract attorneys?
GLASS CEILING FOCUS GROUPS
Mentoring

Mentoring -- [A] mentor is a person who helps a lawyer develop professionally to achieve the lawyer’s desired professional goals, and mentoring is the process by which the mentor and protégé work together to identify and help the protégé work toward those professional goals. Michele C. Mayes and Kara S. Baysinger, Courageous Counsel 46 (2011), quoting Ida Abbot, The Lawyer’s Guide to Mentoring (2000).

1. Does your firm have a formal mentoring program? If so,
   a. How is it structured?
   b. How effective is it?
   c. What is not effective?
   d. What suggestions do you have for improvement?

1. If there is not a formal mentoring program, what type of informal mentoring occurs?
   a. How effective is it?
   b. What suggestions do you have for improvement?

2. Outside your firm, what mentoring experiences have you had?
   a. What has been effective?
   b. What suggestions do you have for improvement?

3. Does your firm promote mentoring?

4. What opportunities can/should your firm provide for improving mentoring?

5. Have you perceived any discrepancies in your practice situation with regard to mentoring given to male attorneys versus female attorneys? If so,
   a. Please describe?
   b. What suggestions do you have for altering that discrepancy?
   c. How would you recommend informing the law firm of the discrepancies and how to implement corrective action?
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Networking.

Networking - The art of cultivating mutually beneficial relationships. These relationships establish a supportive system for exchanging information and producing meaningful business opportunities.

Questions to be addressed:

1. Does your firm have a networking program, whether formal or informal? If so,
   a. If so, what are its features and how it is implemented?
   b. What support does the firm provide for attorneys attempting to network, such as training, assisting with contacts, covering expenses, etc.?
   c. Are networking efforts taken into consideration in compensation?
   d. Has the program been successful or not? Please explain.
   e. What suggestions would you make to improve the program?

2. If your firm does not have a networking program, please explain why not?

3. What do you believe is a law firm’s obligation with regard to training attorneys how to network or providing opportunities for networking?

4. What networking efforts have you engaged in or observed that you think were successful. Why do you believe they were successful?

5. What networking efforts have you engaged in or observed that you think were not successful? Why do you believe they were not successful?

6. Have you perceived any discrepancies in your practice situation with regard to networking training for or opportunities given to male attorneys versus female attorneys? If so,
   a. Please describe?
   b. What suggestions do you have for altering that discrepancy?
   c. How would you recommend informing the law firm of the discrepancies and how to implement corrective action?

7. What are the top five (5) networking efforts you would recommend that a female attorney engage in?
Sponsorship - Advocacy for the attorney. A sponsor fights for the attorney and also may be a critic. “A sponsor is someone who helps you get paid, gets you promoted, gets you hired—they’re in the room when the decisions are being made.” Id. at 128, quoting Priya Truaber from Knowledge@Wharton.

Questions to be addressed:

1. What, in your opinion, is the difference between ‘sponsoring’ and ‘mentoring’?
2. Does your firm/company have a formal sponsorship program? If so, how does it work?
3. If you firm/company does not have a sponsoring program, what is the reason? Has it been discussed and dismissed, or just never considered?
4. Have you ever had a sponsor? If so, how did that relationship begin? Did you initiate the relationship?
5. Have you ever acted as a sponsor for a younger attorney? If so, please share your thoughts on what worked and what you would change in a future sponsoring relationship.
6. Are there risks (to an individual’s career or reputation) in sponsoring an attorney?
7. How important do you perceive sponsorship to be? Is this an area in which training should be given to equip an individual to be an effective sponsor?
8. Have you perceived any discrepancies in your practice situation, or company, with regard to sponsoring opportunities given to male attorneys versus female attorneys? If so, 
   a. Please describe?
   b. What suggestions do you have for altering that discrepancy?
   c. How would you recommend informing the law firm of the discrepancies and how to implement corrective action?