

ANTITRUST AND UNFAIR COMPETITION LAW



presents

2023 Celebrating Women in Competition Law

Recognition and Elimination of Bias

Thursday, March 9, 2023
6:00 p.m. - 7:00 p.m.

Speakers:

Bonnie Lau

Lin Chan

Elizabeth Jensen

Leonor Velazquez Davila

Conference Reference Materials

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ANTITRUST AND UNFAIR COMPETITION LAW



Sixth Annual
“Celebrating Women in Competition Law in California”
Panel Presentation and Networking Event
March 9, 2023

SPEAKERS

Moderator: The Honorable Jacqueline Scott Corley, United States District Judge

Panelists: Bonnie Lau, Partner, Morrison & Foerster LLP
Lin Chan, Partner, Lieff Cabraser Heimann & Bernstein
Elizabeth Jensen, Trial Attorney, US DOJ Antitrust Division
Leonor Velazquez Davila, Associate Director, Global Antitrust Compliance, Intel Corp.

Co-Chairs: Jill M. Manning, Partner, Pearson Warshaw, LLP
Kate Patchen, Partner, Covington & Burling LLP (not licensed to practice in CA)

The Honorable Jacqueline Scott Corley

Judge Corley is a district judge for the U.S. District Court for the Northern District of California, appointed by President Biden in 2022. Judge Corley sits in San Francisco, hearing a broad array of cases. Judge Corley previously served as a U.S. magistrate judge for the Northern District, from 2011 to 2022.

Prior to her appointment to the bench in 2011, Judge Corley engaged in private practice as a partner at the law firm of Kerr & Wagstaffe LLP in San Francisco, from 2009 to 2011, and prior to that served as a career law clerk to District Judge Charles Breyer of the Northern District of California from 1998 to 2011.

Judge Corley received her undergraduate degree from U.C. Berkeley, and her J.D. from Harvard Law School, magna cum laude, where she was an editor and Articles Chair of the Harvard Law Review. Upon graduation she served as a law clerk to the Honorable Robert E. Keeton of the United States District Court for the District of Massachusetts. She then practiced complex commercial litigation and white collar criminal defense at Goodwin, Procter LLP in Boston and was a litigation associate at Coblentz, Patch, Duffy & Bass LLP in San Francisco before joining Judge Breyer in 1998.

Bonnie Lau, Partner, Morrison & Foerester LLP

Bonnie helps clients navigate internal and government antitrust investigations, enforcement proceedings, and class action litigation. Clients commend Bonnie as “absolutely outstanding; a practical, responsive and adept adviser” and “a fantastic lawyer, detail-oriented and able to handle complex matters with ease and good humor.” (*Chambers USA*, 2022.)

Bonnie Lau is the co-head of Morrison Foerster’s San Francisco litigation department. A dynamic trial lawyer, Bonnie has significant experience defending class actions, multidistrict litigations, and enforcement actions, and deftly handles international competition investigations and enforcement issues. She advises clients across a range of industries that face government scrutiny or allegations of anticompetitive conduct, including technology, manufacturing, media, telecommunications, healthcare, and financial services.

Bonnie has tried several bench and jury trials to verdict, and recently served as lead trial counsel in an antitrust class action jury trial with over a billion dollars of exposure. She has represented companies in antitrust and related complex litigation involving claims of price-fixing, wage-fixing, no-poach conduct, output suppression, monopolization, refusal to deal, predatory pricing, and group boycott, and prosecuted antitrust counterclaims in patent infringement and IP matters. Bonnie has also represented clients in various complex litigation and alternative dispute resolution matters involving unfair competition, RICO, TCPA, and intellectual property claims.

Lin Chan, Partner, Lief Cabraser Heimann & Bernstein

A partner in Lief Cabraser's San Francisco office, Lin Chan's successes include representing California consumers and third party payors charging that brand name and generic drug manufacturers conspired to restrain competition in the sale of Bayer's blockbuster antibiotic drug Ciprofloxacin (Cipro). In 2017, plaintiffs in the Cipro case settled with all remaining defendants, bringing the total recovery to \$399 million. Lin won AAI's Antitrust Enforcement award for "Outstanding Antitrust Achievement by a Young Lawyer" for her work on the Cipro drug antitrust cases. She also shared Lief Cabraser's team award from the AAI's Antitrust Enforcement award for "Outstanding Private Practice Antitrust Achievement" for their work on the Cipro case. Lin also represented direct purchasers of titanium dioxide against titanium dioxide manufacturers for conspiring to fix prices. The case settled on the eve of trial in 2013 for \$163 million. Lin currently serves as co-lead counsel representing consumers who allege that the two leading manufacturers and distributors of consumer telescopes conspired to fix prices and monopolize the consumer telescope market in the United States.

Lin was the inaugural recipient of AAI and COSAL's Hollis Salzman Memorial Leadership Award in 2021, awarded to a leader within the plaintiffs' antitrust bar who has advanced opportunities for other women and attorneys from underrepresented groups. She also serves as Immediate Past President of COSAL and a member of the AAI's Advisory Board. Lin is President of the Asian American Bar Association of the Greater Bay Area.

Prior to joining Lief Cabraser, Lin litigated employment class actions at Goldstein, Demchak, Baller, Borgen & Dardarian. She also served as a law clerk to the Honorable Damon J. Keith of the Sixth Circuit U.S. Court of Appeals from 2007 to 2008. Lin received her J.D. from Stanford Law School in 2007.

Elizabeth Jensen, Trial Attorney, US DOJ, Antitrust Division

Ms. Jensen has been at the Department of Justice since 2014, when she was hired through the DOJ Honors Program to work in what was then the Networks and Technology Section (NetTech), and is now Technology and Digital Platforms (TDP). Early in her career she worked on various merger investigations and litigations, including as part of the teams that litigated *United States v. Aetna* (2016) (challenging Aetna's acquisition of Humana) and *United States v. AT&T* (2017) (challenging AT&T's acquisition of Time Warner).

In 2018, Ms. Jensen transferred from Washington, D.C to the San Francisco office of the U.S. DOJ antitrust Division. After working on criminal investigations for a little over a year, Ms. Jensen began to work full time on the Division's Google Search Litigation, where she has served as chief of staff on a large team of attorneys, paralegals, and economists since 2020, with trial set to begin in September 2023.

Ms. Jensen is from Berkeley, California and graduated from the University of California, Los Angeles in 2008 with a major in English and minors in Political Science and French. After a year living in Japan, she returned to the United States and worked for a few years before applying to law school. She graduated from Harvard Law School in 2014, where she served as Co-Editor and Chief of the *Harvard Journal of Law and Gender*.

Leonor Velazquez Davila, Associate Director, Global Antitrust Compliance, Intel Corporation

Leonor's responsibilities at Intel include all aspects of Intel's antitrust compliance program, including training and counseling employees, policy development, and monitoring. Leonor's responsibilities also extend into other areas of compliance, including anticorruption compliance.

Prior to joining Intel, Leonor was an attorney at the U.S. Federal Trade Commission where she held several roles, including attorney in a merger group and in the Office of International Affairs.

ABA Commissioned Reports on Women in the Profession:

- *How Unappealing: An Empirical Analysis of the Gender Gap among Appellate Attorneys*, Amy J. St. Eve and Jamie B. Luguri (2021)
 - Available at: https://www.americanbar.org/content/dam/aba/administrative/women/how-unappealing-f_1.pdf
- *In Their Own Words: Experienced Women Lawyers Explain Why They Are Leaving Their Law Firms and the Profession*, Joyce Sterling and Linda Chanow (2021)
 - Available at: https://www.americanbar.org/groups/diversity/women/initiatives_awards/long-term-careers-for-women/in-their-own-words/
- *Walking Out the Door: The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice*, Roberta D. Liebenberg and Stephanie A. Scharf (2019)
 - Available at: https://www.americanbar.org/groups/diversity/women/initiatives_awards/long-term-careers-for-women/walking-out-the-door/
- *Left Out and Left Behind: The Hurdles, Hassles, and Heartaches of Achieving Long-Term Legal Careers for Women of Color*, Destiny Peery, Paulette Brown, and Eileen Letts (2020)
 - Available at: https://www.americanbar.org/groups/diversity/women/initiatives_awards/long-term-careers-for-women/left-out-left-behind/
- *Why Women Leave the Profession* (Dec. 2017)
 - Available at: <https://www.americanbar.org/news/abanews/publications/youraba/2017/december-2017/aba-summit-searches-for-solutions-to-ensure-career-longevity-for/>

Statistics to Pay Attention To:

Promotion Disparity:

- Men are two to five times more likely to become partners. That partnership disparity exists even for women who never took time out for family.
- Women of color are the most dramatically under represented group in law firm partnerships. Women of color represent only 3 percent of all equity partners and about 5 percent of all nonequity partners.

Pay Disparity:

- The NAWL 2019 Survey Report found that “[a]cross all types and levels of attorneys, men are paid more per year than women, and this pattern existed without significant variance across the AmLaw 200 for all attorney types and levels.”
- In its new Profile of the Legal Profession, the ABA reported that male equity partners earned 27 percent more than female equity partners.

Data on Reasons Why Women Leave the Profession:

	% OF WOMEN WHO SAY IT'S A VERY IMPORTANT REASON FOR LEAVING	% OF WOMEN WHO SAY IT'S A SOMEWHAT IMPORTANT REASON FOR LEAVING	COMBINED % OF WOMEN WHO SAY IT'S A VERY OR SOMEWHAT IMPORTANT REASON FOR LEAVING⁴⁹
FINANCIAL COMPENSATION	7%	17%	24%
WORK/LIFE BALANCE	19%	27%	46%
CHALLENGING/INTERESTING WORK	2%	7%	9%
ADVANCEMENT OPPORTUNITY	12%	20%	32%
RELATIONSHIPS WITH COLLEAGUES	3%	6%	9%
LEVEL OF STRESS AT WORK	17%	37%	54%
NUMBER OF BILLABLE HOURS	15%	34%	50%
EMPHASIS ON MARKETING OR ORIGINATING BUSINESS	13%	38%	51%
CARETAKING COMMITMENTS	16%	42%	58%
PERSONAL OR FAMILY HEALTH CONCERNS	9%	33%	42%
JOB OPPORTUNITIES FOR SPOUSE/PARTNER	4%	27%	30%
PERFORMANCE REVIEWS	2%	14%	16%
NO LONGER WISHES TO PRACTICE LAW	18%	31%	49%
SEXUAL HARASSMENT OR RETALIATION	9%	15%	24%
OTHER	2%	3%	5%

SOURCE: *Walking Out the Door: The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice*, Roberta D. Liebenberg and Stephanie A. Scharf (2019)

Caretaking Commitment – 58% of Women Listed As Reason For Leaving (ABA Study)

According to the ABA study, “experienced women lawyers are, indeed, much more likely than experienced men to be solely responsible for multiple dimensions of child care.”

The gender differences are striking:

ACTIVITY	PERCENTAGE OF WOMEN WHO SAY THIS IS THEIR FULL RESPONSIBILITY	PERCENTAGE OF MEN WHO SAY THIS IS THEIR FULL RESPONSIBILITY
ARRANGING CHILDCARE	54%	1%
LEAVING WORK FOR CHILDCARE	32%	4%
CHILDREN'S EXTRACURRICULARS	20%	4%
EVENING CHILDCARE	17%	4%
DAYTIME CHILDCARE	10%	1%

SOURCE: *Walking Out the Door: The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice*, Roberta D. Liebenberg and Stephanie A. Scharf (2019)

Reasons Women Lawyers Stay At Their Firm



POLICY	PERCENTAGE OF EXPERIENCED WOMEN LAWYERS WHO SAY THE POLICY IS VERY OR SOMEWHAT EFFECTIVE
WORK FROM HOME POLICY	78%
PAID PARENTAL LEAVE	76%
FORMAL PART-TIME POLICY FOR PARTNERS	75%
CLEAR, CONSISTENT CRITERIA FOR PROMOTION TO EQUITY PARTNER	75%
CLIENT SUCCESSION PLANNING POLICY	71%
TRAINING FEMALE LAWYERS/BUSINESS DEVELOPMENT	70%
CLIENT NETWORKING/FEMALE LAWYERS AND CLIENTS	70%
MENTORING/SPONSORING PROGRAMS FOR FEMALE LAWYERS	69%
LEADERSHIP/MANAGEMENT TRAINING	68%
WRITTEN RULES ABOUT CREDIT ALLOCATION	60%
MONITOR GENDER METRICS	60%
IMPLICIT BIAS TRAINING	47%
SEXUAL HARASSMENT TRAINING	42%
FORMAL PROCESS FOR DISPUTE RESOLUTION (E.G., PROMOTION, ORIGATION)	42%
MANSFIELD RULE	42%
ON-RAMPING PROGRAMS	37%
COMPENSATING DIVERSITY WORK (NOT PRO BONO)	35%
PARTNER COMPENSATION PARTLY TIED TO DIVERSITY EFFORTS	31%

Discussion Prompts

Sometimes it is difficult for women to have their voices heard. Whether your co-counsel is ignoring you, a client is not listening to you, or you cannot get the attention of a superior. What steps have you taken to make sure your voice is heard?



Discussion Prompts

Describe a gender-based obstacle you have encountered in your path toward leadership and how you resolved it.



Discussion Prompts

The antitrust bar is heavily male dominated. How do women compete with men for cases, clients and leadership positions?



Discussion Prompts

Work-life balance can seem like an ideal impossible to achieve. Maintaining boundaries has especially been hard for some since the pandemic and the rise of work-from-home. What tips do you have for achieving work-life balance?



Discussion Prompts

Share one piece of advice for young female attorneys beginning their practices in the antitrust field.



Discussion Prompts

Describe a proud career moment.



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QUESTIONS OR COMMENTS ABOUT THE EVENT?

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