CHOOSING TO LEAD, CHOSEN TO LEAD: THE PATH TO BAR LEADERSHIP POWER FOR WOMEN IN MICHIGAN

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This Symposium has challenged us to take a close look at the gender disparity that exists in positions of power in the legal profession. Selection by your peers to lead your profession is widely recognized as a mark of power, but the nature of the power represented by bar presidency is ambiguous. The title is held for just a year, the pay is nonexistent, the perks minimal, and the authority largely ceremonial. Unlike law professors and managing partners, bar presidents do not determine professional destinies. Their monthly bar journal columns, unlike judicial opinions, do not drive outcomes or the direction of the law. But for a year, a state bar president stands in for all the lawyers of the state, from the newly-minted to the most powerful. The president is widely recognized as their spokesperson, articulating their highest ethical aspirations, defending their honor, advancing their interests, and championing their essential role in the rule of law. It is undeniable that weeks of the presidency may be filled with the equivalent of royal ribbon-cutting—an address to a local bar association here, a speech at a swearing-in ceremony there—but let a high-profile scandal involving lawyers break or a serious threat to the judiciary or profession arise and suddenly the state bar president becomes the center of public attention. Whatever the vicissitudes of a particular presidential year, a successful state bar president serves as a role model for young and future lawyers and is expected to personify the ideal of what a lawyer should be.

The pipeline to a state bar presidency is as elusive as the nature of its power. No one becomes a state bar president without earning the respect of influential members of the profession, but there is not a single prescription for achieving that respect and then converting it into selection as president. In Michigan, the bar president is chosen by a board of thirty-two commissioners, most of whom sit on the board by virtue of election from the general membership. Unlike other positions of professional power, you do not

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1. Portions of the information presented in this piece are attributable to Anne Vrooman, Director of Research and Development at the State Bar of Michigan.

2. According to Section 2, which pertains to membership and terms, the board consists of:

(1) 20 elected members, each serving a 3-year term commencing upon the adjournment of the meeting of the outgoing Board of Commissioners held at the annual meeting following the member's election.
grab the brass ring of the presidency by checking off predictable boxes or by dominance in GPA, writing competitions, billable hours, courtroom victories, publications, or performance at a confirmation hearing. Being in the right place at the right time is important, of course. But while one can (and should) argue that there can never be a wrong time for a woman to lead, for most of the seventy-seven year history of the State Bar of Michigan, there were simply not very many women in place to lead the bar. In 1936, when the State Bar was formed, there were only seven women on the roster of lawyers. By 1986, the year the first woman was chosen to lead the bar in Michigan, the number of women lawyers had grown to over 4,000.

There have been seventy-seven presidents of the State Bar of Michigan; five have been women. This Article includes the stories of the four living woman presidents, which they offered to the Symposium. From the first, Julia Darlow, to the current president, Julie Fershtman, their collective stories illustrate the recurring patterns of resistance and persistence that permeate all the narratives of this Pipeline to Power Symposium.

When Julia Darlow was elected president of the State Bar, women represented 16% of the bar’s membership. She was a pioneer in Michigan legal circles in several ways, developing a substantial international business law practice at a time when such practices were unusual in Michigan. Her clients included American, German, Canadian, and Japanese corporations and joint ventures throughout the world. She was the only woman in the main Detroit office of Dickinson Wright LLC when she joined the firm in 1971 and was the first woman elected by her partners to the firm’s governing board in 1996. She became the fifty-second president of the State Bar of Michigan in 1986, and in 1990, she was the first woman to receive the high-

(2) 5 members appointed by the Supreme Court, each serving a 3-year term commencing upon the adjournment of the meeting of the outgoing Board of Commissioners held at the annual meeting following the member’s appointment. In the event that a commissioner appointed by the Supreme Court is not appointed before the adjournment of the annual meeting at which time he or she would ordinarily take office, that member shall begin to serve immediately upon appointment. Except where appointment is made under Section 5, such appointed commissioner shall be considered to have been in office at the beginning of the term for which the appointment is made.

(3) The chairperson-elect, the chairperson and the immediate past chairperson of the State Bar young lawyers section, each serving for the years during which they hold those positions.

(4) The chairperson, vice-chairperson, and clerk of the assembly, each serving for the years during which they hold those positions.


The Path to Bar Leadership Power for Women in Michigan

est award of the State Bar of Michigan, the Roberts P. Hudson Award, for her service to the bar and the public.4

Describing the “young lawyer/bar activist” years of her professional life at the Symposium, Julia Darlow made clear that while determination and inspiring role models are essential ingredients for breaking into positions of power, single-mindedness and conformity are not:

When I started practicing in 1971, I was not ambitious; I did not even think about power—but I did have strong motivation to earn my living as a lawyer. I was a single mom with a toddler daughter, and I was very determined to raise her on my own terms.

I had no women mentors in my firm and knew only two or three women at other corporate law firms. However, I was very fortunate to meet a number of women lawyers—like me just starting out in their careers but in totally different types of practice—prosecutors, sole practitioners, government lawyers and plaintiffs lawyers. They were way ahead of me in thinking about how our justice system treated women and how to make it better.

We worked together, mainly through the Women Lawyers Association of Michigan (WLAM), which we reorganized to become a statewide activist organization. There was a lot to try to change, from cruel rape laws to judicial tolerance of domestic violence to rampant employment discrimination. One of our main efforts was to increase the number of women judges, not to secure equal representation (then a distant dream) but to ensure greater understanding of women’s issues among the judiciary.

Thus, curiously, the gender isolation I experienced within my firm turned out to be a very positive influence on my career because it led me into activist bar work. Rather than learning from mentors within the firm about the standard path to success at a corporate firm, I learned from my colleagues outside the firm how to be a nonconformist, how to work for change.

The work that we did led to leadership roles for many of us. In my case, two wonderful senior women judges gave me tremendous momentum. Michigan Supreme Court Chief Justice Mary Coleman secured my appointment to the State Bar Board of Commissioners. I didn’t even know what the Board did at the time, but this is the board from which the state bar presidents are elected, as I was to be ten years later. And federal judge Cornelia Kennedy (then one of about eight women federal judges in the entire country) made me her delegate to the prestigious Sixth Circuit judicial conference for five years, an honor that even today moves me greatly. Let me also mention Michael Franck, the executive director of the State Bar of Michigan, who was a phenomenal mentor to many of us, and who personified activism guided and inspired by the highest ideals and values of our profession.

[So let me voice support for nonconformity and for a broad vision of professional service to the public as excellent pipelines to power].5


Darlow emphasized that bar service, while a pathway to power in its own right, in her experience did not translate into power within her own law firm. On the contrary:

I believe that achieving leadership positions within the bar is invaluable in enhancing one's reputation and credibility with clients and professional colleagues, but it is not a pipeline to power within corporate firms. At least it wasn't for me. In fact in my case, while my clients were very supportive about my being state bar president, my bar work was viewed by some within my firm as indicative of how I was not fitting in well. In fact, when my term as president ended, some partners suggested to me that bar work might have been a distraction from developing the sort of relationships within the firm important to ensure a regular flow of work, and that perhaps I should consider alternatives outside the firm. Fortunately, this view did not prevail among the leadership of the firm, which has had an extraordinary record of bar service.

Here, again, with the benefit of hindsight, I see that I was fortunate not to have been on the then normal path to success within my firm—a path that involved relying on the established, internal firm process for advancement, earning increasing responsibilities for the long-term, large establishment clients that the firm already had. The alternative I developed was to create a new path inside the firm.

Through sheer eagerness and willingness to take on almost anything, I had begun to develop a number of small clients of my own, including some Canadian, Japanese, and German companies who were just sticking their toes in the U.S. manufacturing waters. I found working with them very interesting and I worked hard to understand their businesses and cultures as well as their legal needs. A couple of them began to grow really nicely and really big. I became in a position to refer work to other lawyers within the firm and to bring in significant revenues—in short, a rainmaker. One great consequence of rainmaking was that I was able to involve quite a few of my junior women colleagues in working closely with these clients and eventually to turn client responsibility over to them.  

It took another decade after Julia Darlow's presidency for the State Bar of Michigan to elect another woman as president. When Victoria Roberts was elected in 1996, the percentage of women lawyers had grown to 23% in the Michigan Bar and to 41% of entering lawyers. At the time of her election, Roberts was managing partner of the Detroit law firm of Goodman, Eden, Millender & Bedrosian, a storied civil rights firm that was the first racially-integrated law firm in the United States. Introducing herself as president to the readership of the Michigan Bar Journal, she wrote, "I will begin with the obvious: I am the first black woman to serve as president of the State Bar of Michigan. That is not the point of my presidency." The point of her presidency, she soon made clear, was to be a passionate champion of all the profession's most urgent causes, from the importance of ju-

6. *Id.*
ries, to expanding access to justice, to implementing strategies to address persistent racial, gender, and ethnic bias in the justice system.\(^8\) Two years after her presidency, Roberts became only the second former State Bar president to be elevated to the federal bench, with her unanimous confirmation as a judge of the U.S. District Court for the Eastern District of Michigan.\(^9\)

In a President’s Page article titled *Striking a Balance*, President Roberts addressed an issue that threads its way through every discussion of how to remove barriers to women’s advancement to power in the profession—work-life balance:

As a student at the University of Michigan in the early 1970s, one of the attractions of the women’s movement was the message that I could have it all—career, husband, children—and that I could do it all. Like many of my female contemporaries, I bought the message. The message was good, and it should have been true. However, the message went only to women.

It did not go to the men to whom we would find ourselves bound; no one told them that if they want wives with careers who took care of matters at home, as well, that they, too, had to adjust the manner in which they work, run their businesses, and care for their children.

It did not go to the employers to whom we would pledge our dedication and loyalty; no one told them that if they wanted women in their work force with children, they, too, had to adjust the manner in which they run their businesses.

And so, 25 years later, while more women than ever are in the work force, both by choice and necessity, parents are burnt out; children feel neglected; couples lament the lack of time together; we manufacture reasons for leaving work early; men and women still struggle over roles and contributions. And, we wonder if our teenagers, some of whom are not highly motivated and who dabble in drugs

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A profession-wide plan can be announced by the major firms, to establish relationships with minorities and women while still in law school, to guarantee inclusion on their own staffs. The same personnel policies that we draft for our clients outlawing race and sex discrimination and sexual harassment, should be in place in our own law firms. Client trust account monies can be placed in minority owned and operated financial institutions. Contractual arrangements can be made only with court reporting services which have a representative number of women and minority court reporters. The same could be the case for other vendors. Profession-wide, we could adopt policies that make it possible for men and women lawyers to practice law, raise families and still enjoy a reasonably good quality of life.

Id. at 140.

and alcohol, are in the shape they are in because we didn’t spend enough time with them, because we put our careers first.  

As the third of twelve children and the daughter of a lawyer, Nancy Diehl, the seventieth president of the State Bar of Michigan, had early first-hand exposure to work-life balance challenges in the legal profession. In her inaugural President’s Page she paid tribute to her father’s priorities:

All those years, he made sure he could attend every parent teacher conference, father-daughter event, scouting activity, and every baseball or basketball game that one of his children was involved in. He was active in the community, taking on major projects. For example, when our school needed to close a street to make it safe for children crossing between school buildings, he volunteered his time and legal skill to get it accomplished. And, when he agreed with me that it was unfair that girls were not allowed to play in Little League, he started a girl’s intramural softball league at our school.

Diehl became the third woman president of the State Bar eight years after the Victoria Roberts presidency, leading a bar in which the percentage of women had grown to 27% and over 48% of entering lawyers. Among the seventy-seven presidents of the State Bar, Diehl is the only prosecutor, a position from which she forged a national reputation as a leading expert on issues concerning child abuse and family violence. And it was a career, she told Symposium attendees, that almost eluded her:

I interviewed in 1981 for a job in the Wayne County Prosecutor’s Office and I was practicing at the time in the City of Detroit doing negligence work. I came in for an interview with what I would describe as four old white men. Now that I am about that same age I think I was a little harsh saying that they were old, but they clearly were white men. Most of our interview centered on whether I would go to the appellate division. And I said no. “Why would I go to the appellate division? I am interviewing because I want to be a trial lawyer. That’s what I have done and that’s what I want to do.” And they kept insisting that the path for women was in the appellate division and I said, “Well then I am not interested.” And they said, “Wouldn’t you consider at least, say if we put you there for six months, would you come?” And I said no. At the end of that interview I thought, “Oh well, I blew that interview, but who cares? I have a pretty good job.” As it turned out, I was offered the job. I learned later that they decided that if I could speak to them in that manner and hold my own ground that I could maybe make it in the courtroom.

Forging a career in a large metropolitan prosecutor’s office in the eighties and nineties was full of minefields for the few women on staff.

Diehl spoke in detail about how she avoided the trap of being pigeonholed as a woman in low-status work. One strategy is to work relentlessly toward higher-profile, higher-risk assignments; another is to elevate what has traditionally been considered low-status work, such as child abuse and neglect cases, into a rightful place of importance in the justice system.\(^{15}\) Diehl’s career advancement illustrates both strategies. What was her advice for advancing through the pipeline of office politics, as well as through bar politics? “When there is trouble you adjust. . . . [A] lot of hard work. Be flexible. Be true to yourself.”\(^{16}\)

The fourth woman State Bar president, Kim Cahill, was a close friend of Nancy Diehl’s. She assumed the presidency just two years after Diehl.\(^{17}\) In fact, the two had strategized years earlier about how to have back-to-back presidencies—a goal thwarted by the Board’s dominant male sensibility, which found the idea of two woman presidents in a row unnerving.\(^{18}\)

Cahill, one of the State Bar’s youngest presidents, died unexpectedly just a few months after her presidency ended, leaving her story to be told by the living presidents.\(^{19}\) She and her family represent a dramatic example of the advancement of women in the legal profession in Michigan. Her mother, Florence Schoenherr, began working as a legal secretary for a sole practitioner straight out of high school, and, with his encouragement, worked her way through college and law school as an evening student, joining his practice upon her graduation from law school in 1956, one of only four women in her law school class.\(^{20}\) The new lawyer married and started a family, then became a single mother of two young children after the death of her young husband, Maurice Cahill. Shortly afterward, she took over the law firm when her former mentor, now law partner, died.\(^{21}\) Schoenherr remarried and a third daughter, Dana, was born.

Cahill spent hours of her childhood in her mother’s office and was fascinated by the work, so it is not surprising that she chose to follow in her mother’s footsteps. As a new lawyer Cahill quickly established herself as one of the state’s savviest and most knowledgeable full-service, general practice lawyers. Such were her legal talents, especially in business law, that she would have been enthusiastically welcomed at any blue chip law

\(^{15}\) Id.  
\(^{16}\) Id.  
\(^{17}\) See STATE BAR OF MICH., supra note 3.  
\(^{18}\) There still have not been two consecutive women presidents; women in bar leadership in Michigan joke that they will know that they’ve finally made it when two women in a row are elected.  
\(^{20}\) Kimberly M. Cahill, Celebrating 50 Years and New Beginnings, 86 MICH. B.J. 14, 14 (2007).  
\(^{21}\) Id.
firm, but instead joined her mother's practice directly out of law school, as did her sister Dana. Until Cahill's death, the three presided over a thriving three-woman practice in southeast Michigan. 22

The prosaic explanation of Cahill's path to the State Bar presidency is that, somehow, despite the demands of a busy small firm practice, she was willing and able to work harder than anyone else on bar activities. The more insightful and equally correct explanation is that Cahill possessed the sort of rare and effervescent leadership skills that took her to the top of every bar she joined—except the American Bar Association (ABA)—and her friends are certain that the ABA presidency would also have been hers had she lived and sought it. Before the age of forty-five, Cahill had led the Women Lawyers Association of Michigan, the statewide Access to Justice campaign, the Representative Assembly of the State Bar of Michigan, and the Macomb County Bar Association. 23 Along the way, she mentored and became a role model to scores of women lawyers, including the current State Bar president, Julie Fershtman, whose own path to the presidency resembles Cahill's.

Like Kim Cahill and Nancy Diehl, Julie Fershtman is the daughter of a lawyer. Like Cahill, she made her mark early in bar leadership, serving as chair of the State Bar's 150-member Representative Assembly just two years after Cahill, earning a reputation for hard work and responsibility, and accumulating honors and accolades along the way. 24 Fershtman shared with the Symposium her view of the value of bar association work in the pipeline to power:

I'm not so sure that bar association involvement is, in itself, power, but it does offer valuable opportunities to make a difference. Bar associations allow us to serve the public through, for example, community programs and law-related publications for the layman. Bar association activities also allow us to serve the bar and improve the profession. Examples from my Young Lawyers Section days included videotaped mock interviews in the law schools for law students. Another example is a proposal that I drafted for the American Bar Association Young Lawyers Division that opposed mandatory discovery disclosures in Federal cases (this proposal was then under consideration for the Federal Rules of Civil Procedure).

What kept me from falling out of the pipeline? As a young lawyer who became involved in State Bar activities, I met or observed some of the most committed, dedicated, organized, accomplished, articulate, and supportive lawyers and judges in Michigan. These people were bar leaders, and they inspired me. Over time, some of them, male and female, became my mentors.

22. See id.
24. See Welch, supra note 19.
My experience has taught me to never assume that the pathway will readily open for you to State Bar leadership just because you're a woman. When I ran for a State Bar officer position several years ago, two very accomplished men also ran for the same position. It was a hotly contested three-way election and quite a challenge.

I overcame this challenge through the advice and support of my mentors. They included all of the female past presidents of the State Bar. Kim Cahill, who was State Bar President at the time, and Nancy Diehl, who had been State Bar President a few years earlier, were especially helpful. They gave suggestions on how to encourage fellow State Bar commissioners to vote for me. Some of them made calls on my behalf. My mentors kept me optimistic when I had doubts, and they served as a constant source of support. Ultimately, I won the election and secured the needed majority of votes in the very first round of balloting. None of this would have been possible without my mentors.25

Like all her female predecessors in the presidency, Fershtman has forged a unique professional path. Leaving a large law firm to strike out on her own as a young sole practitioner, Fershtman not only developed a thriving book of business in insurance defense work, she simultaneously created her own niche practice in equine law.

Staying in the “pipeline” to become a leader in the bar takes creativity and fortitude. In my experience, success required finding niche practice areas and then working outrageously hard to become known within them through writing, speaking, and plenty of hard work to keep clients happy. A solo practitioner for seventeen years, I gradually developed a pretty substantial book of business in areas of insurance law, business litigation, and equine law.

I agree with Julia Darlow that bar association service does not necessarily equate with power within a law firm setting. Rather, I strongly believe, a “Portable Book of Business” does bring women power within a firm and, of course, is also the key to success as a solo practitioner. The challenge is developing the portable book of business, and this is no small challenge. Solo practitioners need to generate business to survive. But law firms since the 1990s have been evaluating partnership, and especially equity partnership positions, with a strong emphasis on business generation. Certainly, productivity and a high quality of work remain important, but the book of business seals the deal. Two years ago when I sought to merge my practice with a law firm in preparation for my year as State Bar president to provide the stability of a large law firm to my clients, it was my portable book of business that opened the door.26

Although each faced distinctly different demographics and politics, the five women presidents of the State Bar of Michigan all faced the same challenge: how to fulfill the role of representing all the lawyers in Michigan while advancing the status of women within the profession; in short, how to apply the lessons of their own success in the pipeline without being pigeon-

26. Id.
holed as a special interest president. Accomplishing that balancing act took every bit of their considerable political skills and energy.

In her first year as a commissioner, in the days before the bar’s advocacy work was restricted by *Keller v. State Bar of California*\(^\text{27}\) to profession-specific topics, Julia Darlow engineered a close vote of the Board of Commissioners endorsing the ratification of the Equal Rights Amendment.\(^\text{28}\) As president, she was able to accomplish the appointment of a record number of “first women” committee chairs and add many women to State Bar committees, priming the leadership pipeline.\(^\text{29}\) Most significantly, she headed the successful effort to convince the Michigan Supreme Court to establish the two Supreme Court Task Forces on Gender Issues and Race and Ethnic Issues in the Courts, just the second such effort in the country, and to champion senior justice and disabilities issues, which had not been in the forefront before her presidency. The task forces issued their reports two years later, making “167 recommendations to improve the quality of justice and to eliminate bias and discrimination” in Michigan’s justice system.\(^\text{30}\)

Nine years later, Victoria Roberts created the State Bar of Michigan Task Force on Race/Ethnic and Gender Issues in the Courts and the Legal Profession, whose mission was to examine and report on the status of those recommendations, to develop a strategy for implementing them, and to identify new areas of concern.\(^\text{31}\) The Task Force’s report was adopted a year later by the Board of Commissioners, which subsequently unanimously approved the creation of the State Bar of Michigan Open Justice Commission, and gave it a mandate to implement the recommendations.\(^\text{32}\) The mission of the Open Justice Commission has formed the basis for the justice initiatives structure and ongoing programs used by presidents Diehl, Cahill, and Fershtman, as well as their male counterparts, to fight the barriers to full participation in the profession and the justice system by women and underrepresented populations.\(^\text{33}\)

\(^{27}\) 496 U.S. 1 (1990).

\(^{28}\) See Marianne O. Battani & John Corbett O'Meara, *Julia D. Darlow: 52nd President of the State Bar of Michigan*, 65 MICH. B.J. 977 (1986).


Ultimately, any productive exploration of the pipeline to power requires a workable definition of what it means to have power. Here's one suggested by the narratives of the Michigan's five women State Bar presidents: power is the ability to make what you want to have happen happen. By that definition they are all role models for navigating the pipeline to power.