

Winter 1-5-2023

## Gender, Credentials, and M&A

Tracey E. George

Mitu Gulati

Albert Yoon

Follow this and additional works at: <https://digitalcommons.law.byu.edu/lawreview>



Part of the [Law Commons](#)

---

### Recommended Citation

Tracey E. George, Mitu Gulati, and Albert Yoon, *Gender, Credentials, and M&A*, 48 BYU L. Rev. 723 (2023).  
Available at: <https://digitalcommons.law.byu.edu/lawreview/vol48/iss3/5>

This Article is brought to you for free and open access by the Brigham Young University Law Review at BYU Law Digital Commons. It has been accepted for inclusion in BYU Law Review by an authorized editor of BYU Law Digital Commons. For more information, please contact [hunterlawlibrary@byu.edu](mailto:hunterlawlibrary@byu.edu).

# Gender, Credentials, and M&A

Tracey E. George, Mitu Gulati & Albert Yoon\*

*For the past several decades, women have made up roughly half of law school classes and the ranks of entering law firm associates. Attrition between entry to law firms and partnership results in women comprising 20% to 25% of partners. But is there yet more attrition to the top of the partnership pyramid? Analyzing the past decade of data on publicly filed M&A deals and detailed biographical information of M&A lawyers, we find that women make up fewer than 10% of deal leaders. When we look at the factors that determine who becomes a deal leader, we find that credentials – both educational and professional – matter. But they matter more for women. And one credential – attending a top law school – seems to matter a lot. Using conversations with senior lawyers, we try to get answers for why.*

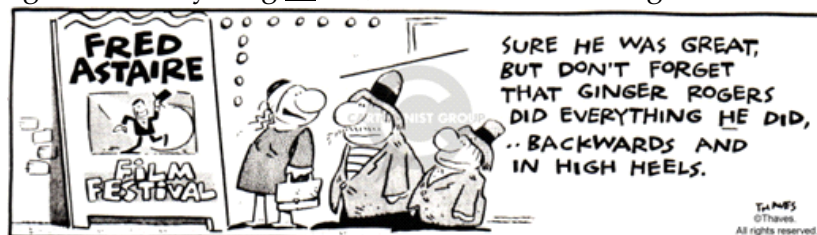
## CONTENTS

INTRODUCTION .....	724
I. THE GENDER GAP IN THE LAW .....	729
II. EMPIRICAL STRATEGY AND DATA DESCRIPTION .....	737
III. RESULTS .....	745
IV. DISCUSSION .....	762
CONCLUSION .....	769
APPENDIX .....	774

---

\* George is Vice Provost for Faculty Affairs, Charles B. Cox III & Lucy D. Cox Family Professor of Law & Liberty, and Professor of Political Science at Vanderbilt University; Gulati is Professor of Law at the University of Virginia; and Yoon is the Michael J. Trebilcock Chair in Law and Economics at the University of Toronto. For getting us started on this project and, subsequently, for comments, we owe thanks to Eva Davis. For comments on prior drafts, thanks to Afra Afsharipour, Kate Bartlett, Elizabeth Gorman, Cathy Hwang, Matt Jennejohn, Peter Lyons, Melissa Sawyer, Leo Strine, Glenn West, David Wilkins, and participants in the Legal Profession seminar at Harvard Law School. For research assistance, thanks to the amazing librarians at the law schools at Vanderbilt and the University of Virginia, and to Holly Chaisson, Sehan Choi, Sejin Choi, Sarah Dvorsky, Gabrielle Jassir, Amanda Joos, Jessica Lee, Andres Paciuc, Bailey Sanders, Nan Wu, and especially Li Yuan. Last but not least, we owe a special debt to our respondents from the industry who generously gave us time where they had none.

“Sure [Fred Astaire] was great, but don’t forget that Ginger Rogers did everything he did, backwards and in high heels.”<sup>1</sup>



## INTRODUCTION

The United States suffers from a gender power gap. Several important leadership firsts followed women’s suffrage in 1920:<sup>2</sup> the first woman governor (1925),<sup>3</sup> the first woman elected senator (1932),<sup>4</sup> and the first woman director of a major U.S. corporation (1934).<sup>5</sup> Early breakthroughs were not, however, a harbinger of widespread change. Other important firsts for women took decades: the first woman became CEO of a Fortune 500 company in 1973, leader of a major research university in 1975, and Vice President of the United States in 2021.<sup>6</sup> A century since gaining the

1. Bob Thaves, *Frank and Ernest* (May 3, 1982), <https://www.frankandernest.com>.

2. Women gained the right to vote in the United States on August 18th, 1920, when the Nineteenth Amendment to the U.S. Constitution was ratified. See *19th Amendment to the U.S. Constitution: Women’s Right to Vote*, NAT’L ARCHIVES, <https://www.archives.gov/historical-docs/19th-amendment#:~:text=Passed%20by%20Congress%20June%204,decades%20of%20agitation%20and%20protest> (last visited Oct. 8, 2022) (explaining the history of the 19<sup>th</sup> Amendment).

3. Nellie Tayloe Ross was the first, and only, woman elected governor of Wyoming. TEVA J. SCHEER, *GOVERNOR LADY: THE LIFE AND TIMES OF NELLIE TAYLOE ROSS* (2005).

4. Arkansas elected Hattie Wyatt Caraway to the U.S. Senate in 1932. *Hattie Wyatt Caraway: A Featured Biography*, U.S. SENATE, [https://www.senate.gov/senators/FeaturedBios/Featured\\_Bio\\_Caraway.htm](https://www.senate.gov/senators/FeaturedBios/Featured_Bio_Caraway.htm) (last visited Sept. 9, 2022).

5. The Coca-Cola Company added Lettie Pate Whitehead to its board in 1934. *Lettie Pate Whitehead*, LETTIE PATE WHITEHEAD FOUND., <https://lpwhitehead.org/about/lettie-pate-whitehead/> (last visited Sept. 9, 2022).

6. Katharine Graham became CEO of The Washington Post Company in 1973. *Katharine Graham: How a Self-Proclaimed “Doormat Wife” Became the Most Powerful Woman in Journalism*, WASH. POST: CREATIVE GRP., <https://www.washingtonpost.com/brand-studio/fox/katharine-graham/> (last visited Sept. 9, 2022). Biochemist Lorene Lane became president of the University of Texas at Austin in 1975. Christina Lopez, *Teacher, Chemist, Leader: Meet UT’s First and Only Female President*, LIBERATOR (Feb. 16, 2018), <https://theliberatormagazine.com/2018/02/16/teacher-chemist-leader-meet-uts-first-and-only-female-president/>. Kamala Harris became U.S. Vice President in 2021.

right to vote, women now comprise 51% of the population but lag in the posts that hold power in the American polity and economy: only 18% of governors, 24% of senators,<sup>7</sup> 26% of Fortune 500 board seats,<sup>8</sup> 8% of Fortune 500 CEOs,<sup>9</sup> and 13% of Research 1 university leaders<sup>10</sup> are women. We can better understand – and seek to remedy – the gender power gap by examining the women who have succeeded.

Political and corporate leaders directly impact American society generally and the lives of women in particular. When Texas threatened voting rights, corporations responded.<sup>11</sup> When the state threatened women’s reproductive rights, however, corporations remained largely silent.<sup>12</sup> For example, Texas-based Fortune 500 companies American Airlines, Exxon Mobil, Dell, Oracle, and Hewlett-Packard publicly protested measures that limited access to the ballot box, but they did nothing when Texas effectively prohibited access to abortion. This asymmetry was not a case of corporations simply tracking public opinion: 75% of women and 58% of men said the Texas law would make them less

---

7. *The Data on Women Leaders*, PEW RESEARCH CENTER (Sept. 13, 2018), <https://www.pewresearch.org/social-trends/fact-sheet/the-data-on-women-leaders/#:~:text=In%201975%2C%20Lorene%20L.%20Rogers%20was%20the%20first,This%20interactive%20was%20originally%20published%20in%20January%202015> (updated Jan. 2021).

8. DELOITTE & ALLIANCE FOR BOARD DIVERSITY, MISSING PIECES REPORT: THE BOARD DIVERSITY CENSUS OF WOMEN AND MINORITIES ON FORTUNE 500 BOARDS (6th ed. 2021).

9. Emma Hinchliffe, *The Female CEOs on This Year’s Fortune 500 Just Broke Three All-Time Records*, FORTUNE (June 2, 2021), <https://fortune.com/2021/06/02/female-ceos-fortune-500-2021-women-ceo-list-roz-brewer-walgreens-karen-lynn-cvs-thasunda-brown-duckett-tiaa/>.

10. Data collected by authors is based on the Carnegie R1 classification. *146 Results for Basic = “Doctoral Universities: Very High Research Activity”*, CARNEGIE CLASSIFICATION OF INSTITUTIONS OF HIGHER EDUCATION, [https://carnegieclassifications.acenet.edu/lookup/srp.php?clq=%7B%22basic2005\\_ids%22%3A%2215%22%7D&start\\_page=standard.php&backurl=standard.php&limit=0,50](https://carnegieclassifications.acenet.edu/lookup/srp.php?clq=%7B%22basic2005_ids%22%3A%2215%22%7D&start_page=standard.php&backurl=standard.php&limit=0,50) (last visited Oct. 8, 2022).

11. See Ephrat Livni, *Texas Businesses Take the Fight Over Voting Rights to Washington*, N.Y. TIMES (Sept. 2, 2021), <https://www.nytimes.com/2021/09/02/business/texas-voting-rights-law-business.html> (describing how companies have spoken out against the Texas Legislature’s passage of bills overvaluing election laws).

12. Todd C. Frankel & Jena McGregor, *Corporate America, Critical of Restrictive Voting Bills, Remains Largely Silent on Texas Abortion Ban*, WASH. POST (Sept. 4, 2021), <https://www.washingtonpost.com/business/2021/09/04/companies-response-texas-abortion-ban/> (describing the companies’ lack of reaction to legislative restrictions on abortion compared to voting).

likely to take a job in the state.<sup>13</sup> One of the notable exceptions was Match.com, whose CEO, Shar Dubey, happens to be a woman.<sup>14</sup> After the U.S. Supreme Court's decision overturned *Roe v. Wade*,<sup>15</sup> however, corporations have begun responding to state laws banning abortion.<sup>16</sup>

Law is central to power in American society. The United States is a country of laws and is led by lawyers across industries and the private-public divide. Within law, private law firms represent the dominant career path to power and a crucial means of impacting the economy and society writ large. Women have made slow but notable gains in directing the work of firms, although the gaps remain large.<sup>17</sup> Based on the 2020 Vault/MCCA Law Firm Diversity Survey of 300 firms, 46% of associates, 40% of "of counsel," 30% of non-equity partners, and 22% of equity partners were women.<sup>18</sup> Women hold 26% of executive/management committee positions, lead 25% of practice groups/departments, and head 22% of U.S. law firm offices.<sup>19</sup>

---

13. Lauren Aratani, *Texas's Largest Companies Stay Silent on State Abortion Ban Despite Outrage*, THE GUARDIAN (Sept. 15, 2021), <https://www.theguardian.com/us-news/2021/sep/15/texas-largest-companies-silent-state-abortion-ban>.

14. David Gelles, *Why the CEO Behind Match.com and Tinder Took a Stand*, N.Y. TIMES (Dec. 14, 2021), <https://www.nytimes.com/2021/12/24/business/shar-dubey-match-texas-abortion-law.html>.

15. See *Dobbs v. Jackson Women's Health Org.*, 142 S. Ct. 2228 (2022).

16. See, e.g., Ken Kusmer, *Biden Team, Eli Lilly Condemn New Indiana Abortion Ban*, IND. TRIBUNE-STAR (Aug. 7, 2022), [https://www.tribstar.com/news/biden-team-eli-lilly-condemn-new-indiana-abortion-ban/article\\_14945bb3-3ae9-59d2-ae50-03f3af4.html](https://www.tribstar.com/news/biden-team-eli-lilly-condemn-new-indiana-abortion-ban/article_14945bb3-3ae9-59d2-ae50-03f3af4.html) (reporting that pharmaceutical giant Eli Lilly & Co. announced that it would "be forced to plan for more employment growth outside [its] home state" of Indiana, where it is one of the largest employers, after the Indiana legislature banned abortion and also announcing expanded healthcare coverage for out-of-state travel to obtain abortion care).

17. See, e.g., Staci Zaretsky, *The Glass Ceiling Report: Law Firms Say They Support Women, but Are Nowhere near Closing the Gender Gap*, ABOVE THE L. (Sept. 24, 2021), <https://abovethelaw.com/2021/09/the-glass-ceiling-report-law-firms-say-they-support-women-but-are-nowhere-near-closing-the-gender-gap/>.

18. *2020 Vault/MCCA Law Firm Diversity Survey Report*, MINORITY CORP. COUNS. ASS'N, [https://mcca.com/wp-content/uploads/2021/02/2020-Vault\\_MCCA-Law-Firm-Diversity-Survey-Report-FINAL.pdf](https://mcca.com/wp-content/uploads/2021/02/2020-Vault_MCCA-Law-Firm-Diversity-Survey-Report-FINAL.pdf) (last visited Aug. 4, 2022).

19. *Id.* Similar numbers are reported by other organizations such as the National Association for Law Placement and the National Association of Women Lawyers. For a discussion of data from both groups, see *A Current Glance at Women in the Law: January 2018*, AM. BAR ASS'N, [https://www.pbi.org/docs/default-source/default-document-library/10569\\_a-current-glance-at-women-in-the-law-jan-2018-\(1\).pdf?sfvrsn=0](https://www.pbi.org/docs/default-source/default-document-library/10569_a-current-glance-at-women-in-the-law-jan-2018-(1).pdf?sfvrsn=0) (last visited Sept. 9, 2022).

Research has shed light on the nature of the gender gap and the related persistence of a glass ceiling in the legal profession.<sup>20</sup> Studies have demonstrated that women lawyers, particularly in the private sector, earn less money,<sup>21</sup> receive fewer promotions,<sup>22</sup> and exit the profession earlier than men.<sup>23</sup>

Trends aside, there is much that we still do not know. We have limited knowledge about the impact of fundamental aspects of employment—such as the type of employer and salient structural features of the workplace—on the success of women lawyers. Within private practice, the relationship between firm and deal characteristics and gender equity are essentially unknown. While women are making gains in the partnership ranks, what is the nature of those gains? Much of the discussion of the gender gaps numbers for law firms treats partnership positions as all the same or, to the extent distinctions are drawn, distinguishes only between equity and non-equity partners.<sup>24</sup>

The question we ask in this Article is which women in one important subset of legal practice—mergers and acquisitions (M&A) deals—ascend to leadership positions? Which women will develop the primary business and social relationship with the client? To borrow from our respondents in the industry: Which women make it to “relationship partner?”<sup>25</sup>

20. As Senator Robert Dole observed, “There are probably as many definitions of the glass ceiling as there are individuals affected by it.” He contended, however, that the reason to examine the phenomena and address it “boils down to eliminating artificial barriers in the workplace which have served to block the advancement of qualified women.” 137 Cong. Rec. 28,859 (1991).

21. See, e.g., Debra Weiss, *Pay Gap Has Widened For Male and Female Partners: Study Says*, A.B.A. J. (Sept. 15, 2020); Joyce S. Sterling & Nancy Reichman, *Navigating the Gap: Reflections on 20 Years Researching Gender Disparities in the Legal Profession*, 8 FIU L. REV. 515 (2013); Robert G. Wood, Mary E Corcoran & Paul N. Courant, *Pay Differences among the Highly Paid: The Male-Female Earnings Gap in Lawyers’ Salaries*, 11 J. LABOR ECON. 417 (1993).

22. See, e.g., 2019 National Association of Women Lawyers Survey on Retention and Promotion of Women in Law Firms, NAT’L ASSOC. WOMEN LAWS., <https://www.nawl.org/p/cm/ld/fid=1163> (last visited Sept. 9, 2022); Sterling & Reichman, *supra* note 21, at 517.

23. See, e.g., Joni Hersch & Erin E. Meyers, *Why Are Seemingly Satisfied Female Lawyers Running for the Exits? Resolving the Paradox Using National Data*, 102 MARQ. L. REV. 915 (2019); Lee Rawles, *Why are Women Lawyers Leaving the Profession Mid-Career? ABA Initiative Takes Up Issue*, A.B.A. J. (Nov. 15, 2017); Ronald Leslie Hirsch, *Will Women Leave the Law?*, 16 BARRISTER 22 (1989).

24. See, e.g., Vault, *supra* note 18.

25. Designation as “relationship partner” (a cousin of the term “origination partner”) can translate into additional compensation, status, and power at the law firm. Kibkabe Araya, *Change at the Start: How Law Firm Origination Credit Still Hurts In-House*

M&A firms are a powerful force within elite law firms.<sup>26</sup> As we will show, M&A is a significant practice field in terms of the number of lawyers who designate it as one of the areas they work in. By all anecdotal accounts, the path to M&A partnership is demanding.<sup>27</sup> It is also one of the most highly compensated areas,<sup>28</sup> making it an area of particular interest to the extent one is interested in gender gaps at the top levels of law practice. One of our respondents explained, in response to our findings: “[You may wish to point out that] management/executive committee members at elite firms typically include a meaningful if not disproportionate number of M&A lawyers. This is important in understanding the relevance of these departments within firm structures as a whole.”<sup>29</sup>

With few exceptions, however, the literature on the gender gap in the legal profession has not drilled down to study individual practice areas such as M&A.<sup>30</sup> This Article fills that gap.

---

*Counsel Diversity Focus*, AM. LAW. (Sept. 2, 2019), <https://www.law.com/americanlawyer/2019/09/04/change-at-the-start-405-43662/>.

26. See, e.g., Sierra Jackson, *Large Law Firms Rode High on Record Year for M&A Dollars*, REUTERS (Jan. 6, 2022), <https://www.reuters.com/legal/transactional/large-law-firms-rode-high-record-year-ma-dollars-2022-01-06/> (describing how the nearly \$6B in 2021 M&A activity represented a 64% increase from 2020).

27. See Kate Beioley, *Junior Lawyer Burnout: M&A Boom Accelerates Exit from Elite Law Firms*, FIN. TIMES (Jan. 2, 2022), <https://www.ft.com/content/f4006248-eb05-49d2-a938-d70118c4ce1b> (describing how many M&A associates have quit amid heavy workloads and long hours); THOMPSON REUTERS INST., 2022 REPORT ON THE STATE OF THE LEGAL MARKET: A CHALLENGING ROAD TO RECOVERY (2022) (providing survey results that explain the variables that prompt senior associates to leave firms that lead in M&A practice).

28. See *The 2022 Am Law 100*, AM. LAW. (Apr. 26, 2022, 10:01 AM), <https://www.law.com/americanlawyer/2022/04/26/the-2022-am-law-100-ranked-by-profits-per-equity-partner/> (ranking firms by profits per equity partner with the highest ranked firms also being the same firms that are at the top of the M&A ranking including such firms as Wachtell Lipton (\$8.4m profit per equity partner), Kirkland & Ellis (\$7.388m), Davis Polk (\$7.01m), and Sullivan & Cromwell (\$6.366m) that are known for their M&A practice); Patrick Smith, *The Am Law 100 Caught a Wave in 2021*, AM. LAW. (Apr. 26, 2022, 10:05 AM), <https://www.law.com/americanlawyer/2022/04/26/the-am-law-100-caught-a-wave-in-2021-but-sustaining-the-ride-will-be-a-challenge/> (offering a detailed analysis of the American Lawyer data); David Lat, *The Top 20 Most Profitable Law Firms*, ORIGINAL JURISDICTION (May 25, 2022), <https://davidlat.substack.com/p/the-8-million-law-firm> (analyzing law firm profits and attributing growth to the M&A market).

29. We promised the M&A lawyers we spoke to anonymity so that they could speak candidly about their practice experience. Accordingly, we do not reveal their identities.

30. Afra Afsharipour, *Gender and M&A*, 12 UC IRVINE L. REV. (forthcoming 2022) (examining gender gaps in the M&A field, including in deal leadership); Afra Afsharipour & Matthew Jennejohn, *The Old Boys Network in Delaware Corporate Litigation* (unpublished

Because power is intimately related to law and because M&A is such a powerful force within the law, understanding the gender gap within the M&A context is an invaluable step toward explaining the gender gap nationwide.

Our Article proceeds as follows. In Part I, we examine the existing literature on the gender gap, consider its implications for M&A practice, and develop hypotheses that can be tested empirically. We then detail our empirical strategy and detail the data that is at the heart of our study in Part II. These first two substantive sections together present our research design. Part III sets forth the results of our quantitative empirical analysis of those hypotheses—both descriptive statistics as well as multivariate analysis. We take a deeper dive in Part IV to understand those results, including quantitative and qualitative examinations of the plausibility and persuasiveness of the findings. We conclude by presenting the implications of our results and proposing future areas of research.

## I. THE GENDER GAP IN THE LAW

The gender gap in the legal profession is well known.<sup>31</sup> Commentators have observed that women have been underrepresented in leadership roles in law firms for decades.<sup>32</sup> The disparity in law, as elsewhere, is often attributed to a pipeline problem: the supply of women is so small that only a few will make

---

draft, 2021) (examining networks among M&A litigators and the gender gaps in information sharing); Stephen J. Choi, Adam C. Pritchard & Mitu Gulati, *Should I Stay or Should I Go? The Gender Gap for Securities and Exchange Commission Attorneys*, 62 J. L. & ECON. 427 (2019) (examining securities litigators at the SEC).

31. In 1989, the New York City bar association formed a Committee on Women in the Profession “to monitor and address issues confronting women lawyers . . .” and the committee’s first project was to examine the glass ceiling that prevented women from reaching the very top of the profession. Colleen McMahon & Ellen Friedman Bender, *Glass Ceilings and Open Doors: Foreword*, 64 FORDHAM L. REV. 295, 295 (1995). They asked Dr. Cynthia Fuchs Epstein to lead the project. *See id.* at 296; *see also*, Marilyn Tucker, Laurie A. Albright & Patricia L. Busk, *Whatever Happened to the Class of 1983?*, 78 GEO. L.J. 153 (1989); CYNTHIA FUCHS EPSTEIN, *WOMEN IN LAW* (1981) (offering the first systematic study of women in large law firms, which was updated in a second edition in 1993).

32. *See, e.g.*, Ina Ganguli, Ricardo Hausmann & Martina Viarengo, *Gender Differences in Professional Career Dynamics: New Evidence from a Global Law Firm* (Harvard CID Faculty Working Paper No. 378, April 2020), <https://www.hks.harvard.edu/centers/cid/publications/faculty-working-papers/gender-in-professional-careers-global-law>.



it to the top.<sup>33</sup> However, women have entered law schools and the legal profession in large numbers since the late seventies,<sup>34</sup> and women have accounted for roughly half of all JD students since the early 1990s.<sup>35</sup> With nearly thirty years of comparable numbers of women and men graduating from American law schools, *supply* is not the problem.

The legal profession itself has acknowledged the gender gap and sought to better understand it. Numerous bar association reports, legal media outlets, and law practitioner journals have expressed concern in particular about the underrepresentation of women in leadership positions, including among partners in private law practice.<sup>36</sup> Many observe that in addition to exiting before attaining top posts, women who remain tend to earn less and gain fewer opportunities for prime work.<sup>37</sup>

The cause of the gender gap is generally understood to be a product of constraint and choice.<sup>38</sup> Private law practice can be

---

33. See, e.g., DEBORAH H. RHODE, *WOMEN AND LEADERSHIP* (2017); Joe Alper, *The Pipeline is Leaking Women All the Way Along*, 260 SCL. 409 (1993).

34. See BARBARA A. CURRAN WITH KATHERINE J. ROSICH, ET AL., *THE LAWYER STATISTICAL REPORT: A STATISTICAL PROFILE OF THE U.S. LEGAL PROFESSION IN THE 1980S* (1985).

35. See *First Year and Total J.D. Enrollment by Gender 1947-2011*, AM. BAR ASS'N, <https://perma.cc/4S5Q-WGSR> (reporting that one in three 1Ls in the entering class of 1979 was a woman and that representation has steadily increased since that time, reaching an even split of all JD students in 1992 with small variations since that time); See generally American Bar Association Section on Legal Education and Admissions to the Bar: Statistics, [https://www.americanbar.org/groups/legal\\_education/resources/statistics/](https://www.americanbar.org/groups/legal_education/resources/statistics/) (last visited Oct. 8, 2022).

36. E.g., Emily Nussbaum, *Peers; Great Expectations*, N.Y. TIMES MAG. (Sept 9, 2001), <https://www.nytimes.com/2001/09/09/magazine/peers-great-expectations.html>; Amy J. St. Eve & Jamie B. Luguri, *How Unappealing: An Empirical Analysis of the Gender Gap among Appellate Attorneys*, AM. BAR ASS'N (2021), [https://www.americanbar.org/content/dam/aba/administrative/women/how-unappealing-f\\_1.pdf](https://www.americanbar.org/content/dam/aba/administrative/women/how-unappealing-f_1.pdf) (finding that men are three times more likely than women to argue a case before the U.S. Court of Appeals for the Seventh Circuit and the gap was largest among private attorneys appearing in complex civil cases).

37. E.g., Elizabeth Olson, *Pay Gap, Lack of Credit, Push Women Out of Law Firms*, *Study Says*, BLOOMBERG L. (Nov. 14, 2019, 4:01 AM), <https://news.bloomberglaw.com/us-law-week/pay-gap-lack-of-credit-push-women-out-of-law-firms-study-says>.

38. See Liane Jackson, *Why Do Experienced Female Lawyers Leave? Disrespect, Social Constraints*, *ABA Survey Says*, A.B.A. J. (Aug. 3, 2018, 7:50 PM), [https://www.abajournal.com/news/article/why\\_do\\_experienced\\_female\\_lawyers\\_leave\\_disrespect\\_social\\_constraints\\_AB\\_A](https://www.abajournal.com/news/article/why_do_experienced_female_lawyers_leave_disrespect_social_constraints_AB_A); Fiona Kay & Elizabeth Gorman, *Women in the Legal Profession*, 4 ANN. REV. L. & SOC. SCI. 299 (2008).

hostile to women due to sexual discrimination and harassment,<sup>39</sup> negative stereotypes,<sup>40</sup> unconscious bias,<sup>41</sup> and structural biases.<sup>42</sup> Women may voluntarily opt out of the legal labor market to care for family or leave private firms to pursue other careers.<sup>43</sup> Scholars have struggled, however, with unpacking whether constraint or choice is doing more of the causal work. Are women forced off the path by the many obstacles to their progress or are they choosing to leave the traditional law firm career path to maximize different preferences?<sup>44</sup> Other factors also may be at play, such as societal pressures and expectations, dissatisfaction with law practice, lack of mentoring within the firm, poor work/life balance, and even failures in legal education.<sup>45</sup>

While academic research has sought to understand the causes of gender imbalance in law generally, few researchers have looked at specific segments of the legal labor market. In particular, elite legal practice, including M&A dealmaking, is largely unexplored. What we have primarily are reports on data collected by the ABA's task force on gender in M&A and a 2021 study on M&A practice.<sup>46</sup>

---

39. See JOAN C. WILLIAMS ET AL., *YOU CAN'T CHANGE WHAT YOU CAN'T SEE: INTERRUPTING RACIAL & GENDER BIAS IN THE LEGAL PROFESSION* (2018) (finding gender bias in all significant career decisions from hiring to promotion to work to salary).

40. See, e.g., Elizabeth H. Gorman, *Gender Stereotypes, Same Gender Preferences, and Organizational Variation in the Hiring of Women: Evidence from Law Firms*, 70 AM. SOC. REV. 702 (2005); Epstein et al., *supra* note 31, at 353–357.

41. See, e.g., Rawles, *supra* note 23; Justin D. Levinson & Danielle Young, *Implicit Gender Bias in the Legal Profession: An Empirical Study*, 18 DUKE J. GENDER L. & POL'Y 1 (2010).

42. RONIT DINOVIETZ ET AL., NALP FOUND. FOR L. CAREER RSCH. & EDUC. & AM. BAR ASS'N, *AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS* (2004); RONIT DINOVIETZ ET AL., NALP FOUND. FOR L. CAREER RSCH. & EDUC. & AM. BAR ASS'N, *AFTER THE JD II: SECOND RESULTS FROM A NATIONAL STUDY OF LEGAL CAREERS* (2009); NALP FOUND. FOR L. CAREER RSCH. & EDUC. & AM. BAR ASS'N, *AFTER THE JD III: THIRD RESULTS FROM A NATIONAL STUDY OF LEGAL CAREERS* (2014) [hereinafter *AFTER THE JD III*].

43. ROBERTA D. LIEBENBERG & STEPHANIE A. SCHARF, AM. BAR ASS'N, *WALKING OUT THE DOOR: THE FACTS, FIGURES, AND FUTURE OF EXPERIENCED WOMEN LAWYERS IN PRIVATE PRACTICE* (2019).

44. Kathleen E. Hull & Robert L. Nelson, *Assimilation, Choice, or Constraint? Testing Theories of Gender Differences in the Careers of Lawyers*, 79 SOC. FORCES 229 (2000).

45. See generally Ronit Dinovitzer, Joyce Sperling & Nancy Reichman, *The Differential Valuation of Women's Work: A New Look at the Gender Gap in Lawyers' Incomes*, 88 SOC. FORCES 819 (2009); Ghazala Azmat & Rosa Ferrer, *Gender Gaps in Performance: Evidence from Young Lawyers*, 125 J. POL. ECON. 1306 (2017); Lani Guiner, Michelle Fine & Jane Balin, *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 U. PA. L. REV. 1 (1994).

46. See Lizzy McLellan, *M&A's Missing Women*, AM. LAW. (Mar. 27, 2017), <https://www.law.com/americanlawyer/almID/1202781815609/> (reporting on numbers from the ABA Task Force's survey); Siobhán Brett, *Women Still Sparse in M&A Circles*,

Briefly, the ABA Task Force survey finds that women in M&A practice share a similar experience with their counterparts in other areas of law. While they form a significant portion of the junior ranks of M&A lawyers (between 40% and 50% in 2016 and 2014), their attrition rates are significant between then and partnership (roughly 15% of senior M&A partners were women in 2016).<sup>47</sup>

A 2021 study on M&A deals, in turn, examines the extent to which senior women lawyers are chosen to lead the biggest deals. This study looks at data on the one hundred biggest public M&A deals for each year during the period 2014–2020 and finds that women are part of the lead teams roughly 10% of the time.<sup>48</sup> It also finds that the men who lead deals tend to do so repeatedly, whereas the women are more likely to be one-and-done winners.<sup>49</sup>

As we explain in the introduction, our project seeks to contribute to the literature on the gender gap in the legal labor market by focusing on those M&A deals. Our interest in the gender imbalance in M&A is motivated by its distinctive features. Relative to other seemingly similar practice areas, such as the issuance of corporate or municipal bonds or managing trusts and estates, M&A tends to be a “feast or famine” area. Lawyers are either busy working around the clock (if they are trying to close a deal) or are twiddling their thumbs.<sup>50</sup> This is relevant because the broader gender gap literature, particularly the work of Claudia Goldin, tells us that a high degree of variability in the demands from work tends to hurt more those workers who have bigger fixed outside obligations that cannot easily be moved or postponed (e.g., caring

---

FORBES (Jan. 26, 2016), <https://www.forbes.com/sites/mergermarket/2016/01/26/women-still-sparse-in-ma-circles/?sh=36c0f79b4f73>; Diane Frankle, Jennifer Muller & Eric Talley, *Fixing the Dearth of Women in M&A*, DAILY J. (Sept. 18, 2014), [https://www.law.berkeley.edu/files/bclbe/Women\\_in\\_M\\_and\\_A%281%29.pdf](https://www.law.berkeley.edu/files/bclbe/Women_in_M_and_A%281%29.pdf) (reporting numbers from a large survey in 2014); Afsharipour, *supra* note 30.

47. McLellan, *supra* note 46 (reporting numbers).

48. *See* Afsharipour, *supra* note 30.

49. *Id.* Along these lines, a 2021 report in the American Lawyer also examined a handful of the biggest deals (“mega deals” of over \$10 billion) and found only a couple of women on the lead subsets of the deal teams for a dozen plus deals for each year. *See* Patrick Smith, *When it Comes to Leading Big M&A Deals, Women are an Illusion*, AM. LAW. (Jan. 13, 2021, 10:00 AM), <https://www.law.com/americanlawyer/2021/01/13/when-it-comes-to-leading-big-ma-deals-women-are-an-illusion>.

50. For a recent discussion of the demands in this area, see Beioley, *supra* note 27.

for small children or elderly parents).<sup>51</sup> Women lawyers who can predict early in their careers that they are going to have greater difficulty in dealing with uncertainty and variation in the demands of an M&A practice than male counterparts will either accept lower success rates within the area or choose a different practice area with less uncertainty and variability, but often less compensation.<sup>52</sup>

In constructing hypotheses about how to measure and understand gender equity in M&A practice, we face two threshold challenges that every study on the gender gap faces: (a) how to solve the confounding effects of choice and discrimination on our outcome variables; and (b) how to measure individual lawyer performance.

To solve the choice/discrimination question, we borrow from the research of economist Marianne Bertrand. To focus in on the discrimination question, Bertrand limited her analysis to individuals who had signaled that they were competing seriously.<sup>53</sup> One way to discern that signal is to look to their prior investments. For example, if a lawyer has invested enough time and sweat to make it through the qualifiers to the main draw of the tournament, it is probably safe to say that that person is a bona fide competitor for the top rewards.<sup>54</sup> Once we have determined who is in the real competition, the next question is to come up with a measure of success.

The fact that someone has made it to the main draw of the tournament sharpens our analysis in that we can assume that if

---

51. See Claudia Goldin & Lawrence F. Katz, *The Cost of Workplace Flexibility for High-Powered Professionals*, 638 ANNALS AM. ACAD. POL. & SOC. SCI. 45 (2011); CLAUDIA GOLDIN, CAREER & FAMILY: WOMEN'S CENTURY-LONG JOURNEY TOWARD EQUITY (Joe Jackson & Josh Drake eds., 2021).

52. Goldin frequently uses high-level lawyers as examples in her studies. See, e.g., Claudia Goldin, *A Grand Gender Convergence: Its Last Chapter*, 104 AM. ECON. REV. 1091, 1094 (2014); People I (Mostly) Admire, *Claudia Goldin: What's Greedy Work and Why is it a Problem?*, FREAKONOMICS, (Dec. 17, 2021), <https://freakonomics.com/podcast/pima-claudia-goldin/>.

53. See Marianne Bertrand, *Coase Lecture – The Glass Ceiling*, 85 ECONOMICA 205 (2018); Marianne Bertrand et al., *Dynamics of the Gender Gap for Young Professionals in the Financial and Corporate Sectors*, 2 AM. ECON. J.: APPLIED ECON. 228 (2010); Marianne Bertrand & Kevin F. Hallock, *The Gender Gap in Top Corporate Jobs*, 55 INDUS. & LAB. REL. REV. 3 (2001).

54. We borrow the tournament metaphor from the works of Marc Galanter, David Wilkins, Bill Henderson, and others. See, e.g., MARC GALANTER & THOMAS PALAY, TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM (1991); David B. Wilkins & Mitu Gulati, *Reconceiving the Tournament of Lawyers: Tracking, Seeding, and Information Control in the Internal Labor Markets of Elite Law Firms*, 82 VA. L. REV. 1581, 1589 (1998); Marc Galanter & William D. Henderson, *The Elastic Tournament: A Second Transformation of the Big Law Firm*, 60 STAN. L. REV. 1867 (2008).

someone makes it to partnership, they have similar commitment levels as their competitors.<sup>55</sup> In an attempt to try and put aside the confounding effects of choice and discrimination, then, it helps to focus only on the competition among those who ascend to the partnership ranks.

From here, we can identify – by comparing those lawyers who make it to the level of being able to compete for deal leadership – who among them lead on the big M&A deals. It bears reiterating that we are assuming that if someone has made it through the gauntlet of obtaining a job in the M&A practice group of an elite law firm and has then survived a grueling eight-to-ten-year apprenticeship as an associate, they have similar commitment levels as other partners. That fact, we further assume, implies that they are approximately as skilled, hard-working, endowed with social capital, and as successful in dealing with uncertainties in their personal life (e.g., office politics, childcare, divorces, parental responsibilities) as their competitors. Indeed, they get selected as partners in part because their senior colleagues at their firms can predict that these lawyers will now be able to work even longer hours, do more deals, and bring more business, than they did in the prior eight to ten years.<sup>56</sup> Thus, by focusing on partners, we can assume any difference in leadership roles between male and female M&A partners is not caused by a difference in choice; we assume female partners, given the chance, would be just as open to taking a leadership role as male partners.

Our measure of tournament victory is whether and how often an M&A transactional lawyer gets designated as a lead lawyer on a deal. To provide context to how we got to this measure, one of us was working on a set of research projects in the M&A field that involved in-depth interviews with senior lawyers in the field. In the context of those interviews that focused on the nitty-gritty of M&A contract terms, one of the questions we were interested in examining was whether we could match up the likelihood of

---

55. This is not to say that it is not important to study the factors impacting why many more women choose to exit before partnership than men (roughly speaking, women are about 30% less likely to reach the partnership level at a major law firm than men).

56. See Sara Randazzo, *Being a Law Firm Partner was Once a Job for Life. That Culture is All but Dead.*, WALL ST. J. (Aug. 9, 2019, 10:53 AM), [https://www.wsj.com/articles/being-a-law-firm-partner-was-once-a-job-for-life-that-culture-is-all-but-dead-11565362437?mod=itp\\_trending\\_now](https://www.wsj.com/articles/being-a-law-firm-partner-was-once-a-job-for-life-that-culture-is-all-but-dead-11565362437?mod=itp_trending_now) (describing how even after promotion, partners are evaluated by their ability to generate revenue, with increasingly variable compensation).

contractual innovation with the particular lawyers listed on the “notice” provisions of deals filed with the Securities and Exchange Commission as the deal “leaders.”<sup>57</sup> Respondents disabused us of that hope, explaining that the person listed as the deal leader was usually not responsible for drafting specific contract terms that would realize the parties’ vision for the deal. Instead, the person designated as leader was likely the “relationship partner.” That is, the person with the primary business and social relationship with the client.

Knowing the identities of the relationship partners on deals filed with the SEC may not have been a source of insight as to contract drafting but represented an achievement that most M&A lawyers covet for its reputational significance inside and outside the firm. Lead lawyers are typically influential and powerful partners at the firms in question—the ones who earn the designation as leaders on the deals on the basis of their relationships with the clients. For this reason, we use the lead lawyer designation as our measure of the gender gap.

As we explain in more detail in the next section, our inquiry looks at a larger set of deals, not just the biggest public deals. We look at 2,880 deals over an eleven-year period (2010 through 2020), constituting the full universe of deals in which a public company was a deal party and that were material enough to the reporting public company to require an 8-K filing during that period. For each of these deals, we collect deal-specific variables such as deal size, industry type, and type of transaction. As a baseline, we also collect data on the lawyers who practice in the M&A field, which gives us a sense of our universe of lawyers competing to lead M&A deals.

Our approach—drawing upon larger datasets for both publicly reported M&A deals and the universe of M&A lawyers who are potentially competing to lead a deal—allows us to get a sense of what the gender gap is in this dimension of deal leadership amongst the select lawyers chosen.

---

57. The M&A contracts that have to be filed by public companies with the SEC on their 8-K forms are those that are considered “material.” Hence, this is necessarily the subset of the most important deals for the firms in question. The measure is imperfect, though, since the measure of materiality is a function of what is important to the firm doing the filing. Hence, while a small firm worth a few billion might consider a \$100 million acquisition material, an Apple or Google might consider those deals too small to be material.

One observation particularly relevant for us is whether a lawyer is listed as the leader of the deal in the notice provision of the deal document filed with the SEC on Form 8-K. Designation as the lead lawyer, as senior M&A lawyers explained to us, is not necessarily a measure of which lawyer on the team did the most or best work to ensure the success of the deal. Rather, the lawyer most likely to be listed is the one with the client relationship. That is, the lead lawyer is the individual the client relies on to see the deal through completion and who the client contacts if problems arise along the way. It was also explained to us that there are occasions when multiple lawyers are listed, and while that might be because credit is being shared, it is sometimes also because a transition is taking place between a senior lawyer on the cusp of retirement and a younger one who will inherit the relationship.

Our respondents from within the industry also set forth a number of aspects of the gender disparity in deal leaders that they thought should be investigated to understand the gender dynamics better. Below are the four factors that our respondents most often raised that we examine and on which we report results, in addition to variables deriving from the broader gender gap literature:

1. *Deal Size*: Previous studies focused on only the largest deals.<sup>58</sup> Respondents wondered whether the results might be different if one examined a wider range of deals. Perhaps women would be more likely to be represented in deal leadership in private companies and/or smaller deals.
2. *Type of Transaction*: Traditional mergers between companies, where particular lawyers at the big law firms have longstanding relationships with the merging firms, might have fewer women at the top than financial deals where a private equity firm was buying a company. In the former type of deal, the relationships tended to be social and built over many years of repeat dealings. Perhaps, some of our respondents wondered, were the lawyers having these relationships more likely to be men? Conversely, in the latter type of deal, typically involving private equity firms, women lawyers might do better since they might have private equity firms as their clients. While private equity is

---

58. For example, Afsharipour's study focused on the hundred biggest public company deals for each of the seven years in her study. See Afsharipour, *supra* note 30.

male-dominated, the suggestion was that it was perhaps more focused on merit and skill in the choice of lawyers than the traditional public company.

3. *Industry Type*: Some industries might be more friendly to women, whereas others might be less (consumer products might be more friendly to women, while the Oil and Gas sector was mentioned multiple times as perhaps being in the latter category).
4. *Firm's Commitment to Diversity*: Some firms are more committed to diversity than others. Some of our respondents wondered (although they did not predict) whether the firms who did best on diversity metrics would be the ones where women were most likely to get to the top of the deal hierarchy since these were the firms most likely to have taken steps to ameliorate structural barriers to advancement.

## II. EMPIRICAL STRATEGY AND DATA DESCRIPTION

In this section, we describe our empirical strategy for exploring gender and M&A deal leadership and the data we draw upon for our analysis.

*Empirical Strategy*: In developing our empirical strategy regarding M&A deals, we divide it into two stages. The first stage looks at the universe of lawyers who specialize in mergers and acquisitions. We err on the side of defining this group of lawyers broadly. We include not only lawyers who list M&A as a practice area, but also those lawyers who list other practice areas, and—in some cases—do not list M&A as a practice area. We chose this approach because we observed from our deals database that most, but not all, lawyers who have led an M&A deal did list M&A as a practice area. The second stage looks at the subset of lawyers who were selected by their firms to be the lead lawyer representing either the buyer or the seller in the deal.

*Figure 1* represents the two stages. It borrows the metaphor of firm practice as a tournament,<sup>59</sup> where lawyers vie with one another for recognition and compensation within the firm. In Marc Galanter and Tom Palay's original conception, lawyers, as associates, compete

---

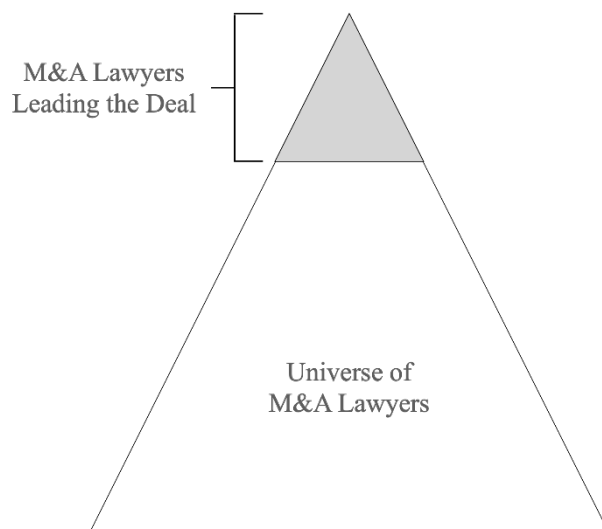
59. See Galanter & Palay, *supra* note 54.



with one another for the scarce partnership positions.<sup>60</sup> We assume the M&A partners at large firms compete with each other to form client relations (thereby becoming the “lead lawyer”).

Figure 1

*The Environment of M&A Lawyers*



In many respects, *Figure 1* oversimplifies the practice of M&A. While each deal may have a single lead lawyer on the buyer and seller side, completing each one requires the effort of many other lawyers within the firm who nonetheless are not listed on the deal. At the same time, from a competition perspective, *Figure 1* provides an accurate depiction. Having the privilege of leading a deal is an all-or-nothing proposition, but this designation maps onto real qualitative differences. The lead lawyer is perceived to have the strongest relationship with the client, and for this reason, typically receives higher recognition and compensation.

Accordingly, we first examine who, from the universe of M&A or M&A-adjacent lawyers, is selected to lead a deal. Specifically, we are interested in what factors, if any, explain this selection process. For example, we expect that experience matters. It takes time to develop the expertise to lead a deal as well as the relationships with

---

60. *Id.*

clients who are involved in an M&A deal. Other factors also likely influence the selection process.

Two categories of factors are qualities specific to the individual lawyer and those specific to the firms at which they work. While we do not observe ability directly, we do observe characteristics that may serve as proxies for lawyer qualities, at least at the entry stage of their careers, such as law school attended, academic performance during law school, and judicial clerkships. For each lawyer, we know the firm at which he or she worked: many of these firms have been recognized for their M&A practice, noted for their commitment to diversity within their firms, or—in many instances—both.

After identifying the subset of lawyers chosen to lead one of the M&A deals in our database, we examine what factors—if any—differentiate between when male and female lawyers are chosen as the lead lawyer. As in the first stage, we examine observable characteristics of the lawyer, as well as his or her firm, that correlate with men or women chosen at the top of the deal. In addition, because we are looking just at lawyers who have led an M&A deal, we are able to examine whether the characteristics of the deal (e.g., deal size, type of deal, industry sector) correlate with the gender of the lead lawyer.

*Data:* In our analysis of gender and M&A deal leadership, we are interested in understanding the factors that explain two phenomena corresponding to the two aforementioned stages: one, the factors that explain which lawyers are selected from the general pool of lawyers to lead an M&A deal; and two, amongst lead lawyers, the factors—if any—that explain when women versus men are leading the deal.

Our first task is to identify the universe of M&A lawyers. We construct a database of the lawyers who do M&A work and who are likely to be in the competition to be deal leaders. To build this denominator, we utilized data sourced from the Leopard Solutions database. Leopard Solutions, a data source aimed at recruiters on the legal market, provides one of the most extensive databases of working lawyers and their backgrounds, with information on over 300,000 lawyers from over 4,000 firms.<sup>61</sup>

---

61. See LEOPARD SOLUTIONS, <https://www.leopardsolutions.com> (last visited Oct. 8, 2022).

Importantly for our purposes, this data from Leopard Solutions covered the firms representing almost all the deals reported in the What's Market database. For each of the lawyers at these firms, we were also able to determine their practice areas of interest, whether one of them was M&A, and partnership status.

In defining this universe, we are over-inclusive. We include all lawyers who list M&A as one of their practice areas. However, because lawyers in M&A-adjacent practice areas may also lead deals, we added lawyers who do not expressly list M&A but do list related areas such as finance and private equity.

To conduct our analysis of gender and M&A deal leadership, we primarily used two data sources. As described earlier, for the numerator in our analysis, the women designated as leaders on M&A deals, we used filings of M&A contracts with the Securities and Exchange Commission. This is necessarily a subset of all deals since these filings are made only if one of the companies involved in the deal is a public company and if the deal is material to said company. Broadly speaking, our data generates two sets of deals: (a) one involving public companies on both sides of the transaction (the "public" deals) where at least one has reporting obligations and (b) the other where a public company is transacting with a private company and the public company has reporting obligations.<sup>62</sup> We designate these as our "public" and "private" deals.

For each deal, we extracted both deal-specific and lawyer-specific data from the filings. For the deals, the variables we collected included deal size, industry type (e.g., financial services, media, or oil and gas), type of transaction (public or private; strategic or financial<sup>63</sup>), the companies involved, and the law firms representing the various companies.

---

62. Documents filed here are available on Westlaw's "What's Market" Database. To return a list of the documents, enter Westlaw's Practical Law research service, click on "What's Market," and then select the tabs "Private Acquisition Agreements" and "Public Merger Agreements." See *What's Market*, THOMSON REUTERS: PRAC. L., [https://1.next.westlaw.com/Browse/Home/PracticalLaw/WhatsMarket?transitionType=Default&contextData=\(sc.Default\)&navId=71E4C783478835EDE2D4368CCAB14321](https://1.next.westlaw.com/Browse/Home/PracticalLaw/WhatsMarket?transitionType=Default&contextData=(sc.Default)&navId=71E4C783478835EDE2D4368CCAB14321) (last visited Oct. 8, 2022).

63. In a strategic M&A deal, the buyer's motivation is strategic rather than financial, with the goal of integrating the target's business with the buyer's existing business, achieving cost savings or other synergies. Conversely, in a financial M&A deal, the buyer seeks to invest in the seller's companies and realize a return. See Practical Law Corporate, *Strategic and Financial Buyers Comparison Chart*, WESTLAW (2022), <https://content.next.westlaw.com/>

To code our primary variable of interest—deal leaders—we looked at the notice provision in the agreements that reports the lead lawyer(s) and law firm(s) for the deal. We found that most deals name one or two lawyers as leaders. A small subset of deals does not disclose the lead lawyer and sometimes does not even disclose the representing law firm.<sup>64</sup>

We next looked online (primarily, law firm websites) for additional information regarding each lawyer's biography. This level of analysis gave us information on the qualifications of individual lawyers (e.g., law school, college, honors, judicial clerkships) and gender. To determine gender, we took a two-stage authentication approach. The first step was conducted by research assistants who reviewed credible online resources, including law firm biographies and press releases, to code gender based on pronoun usage, organizational affiliations (such as women lawyer groups), explicit gender identification, and photographs. We followed this first-level of analysis by using census-based programs that predict gender based on names.<sup>65</sup> Although unreported in this paper, we also conducted both steps of this analysis for race and ethnicity.

*The Universe of M&A Lawyers:* Table 1 reports the summary statistics on all of the lawyers in the Leopard's database in the year 2020, which we merged with the list of lead lawyers from our dataset of deals involving a public company. Note, of the 859 lawyers listed at the top of deals in 2020, Leopards had 774 (95%) of them in its database. This rate of representation provides a strong indication that Leopards is comprehensive in its coverage.

From this data, we limited our analysis to the calendar year 2020.<sup>66</sup> This approach is conservative by design. As a practical matter, it is likely that the turnover in the composition of M&A (and

---

Document/1857f25d0296811e89bf099c0ee06c731/View/FullText.html?originationContext=knowHow&transitionType=KnowHowItem&contextData=(sc.RelatedInfo)&firstPage=true.

64. We exclude from our analysis deals where the lead lawyers are not identified.

65. See, e.g., Yifan Hu et al., *What's in a Name? Gender Classification of Names with Character Based Machine Learning Models*, ASS'N COMPUTING MACH. (2021), <https://arxiv.org/pdf/2102.03692.pdf>; Shervin Malmasi & Mark Dras, *A Data Driven Approach to Studying Given Names and Their Gender and Ethnicity Associations*, PROCS. OF AUSTRALASIAN LANGUAGE TECH. ASS'N WORKSHOP 145-49 (2014).

66. While we would have liked to construct an annual directory from Leopards for each year matching our data on public deals (2010-2020), Leopard's electronic library provides only a library for the current calendar year.

M&A-adjacent) lawyers is incremental from one year to the next. Most of the lawyers who appeared in Leopard's 2020 directory will likely have appeared in its 2019 directory, save those associates just beginning their careers and those who retired during 2019. But because we cannot observe the timing of previous additions and departures from the directory, and only a small fraction of lawyers in the directory are chosen each year to lead deals, we limit our analysis for this stage to 2020.

This dataset is comprised of 23,413 observations, with each observation representing a unique lawyer. Women represent slightly more than a quarter (26.9%) of all lawyers. Lawyers on average had nineteen years of experience, given the mean law school graduation year of 2001. A closer look at the data revealed, as one might expect, a positive correlation between graduation year and representation of women. This trend reflects two phenomena: one, the convergence in gender parity among law school graduates over the past twenty years. Two, that gender parity at law firms is highest among junior associate classes and declines among more senior classes. Our dataset includes lawyers at all levels of experience, including junior associates for whom leading a deal is unlikely.

*Table 1* shows that lawyers routinely list several areas of specialization within M&A. On average, lawyers list over seven practice areas. Unsurprisingly, the most common practice area listed is Mergers and Acquisitions, with nearly 100% of lawyers including it in their biographies. Acquisitions, its own separate category, is listed amongst 96% of lawyers. The next most common areas of practice listed are Finance (43%), Private Equity (41%) and Transactional (41%). Leopard's includes 200 different practice areas, most of which lawyers list less than 1% of the time. Finally, *Table 1* shows that only 3.7% of all M&A lawyers appeared as deal leaders in 2020. This percentage translates into 859 lawyers.

Table 1

## Summary Statistics

## Universe of M&amp;A Lawyers

2020

<b>Observations/Unique Lawyers</b>		<b>Total Practice Areas Listed</b>	
All	23,413	All	7.4
Women	6,301	SD	3.1
Men	17,112		
<b>Year of Law School Graduation</b>		<b>Most Frequent Practice Areas Listed</b>	
All	2001	Mergers & Acquisitions	99.8%
SD	13.4	Acquisitions	96.4%
		Finance	42.9%
		Private Equity	41.1%
		Transactional	40.9%
<b>Selected as Lead Lawyer (Buyer/Seller)</b>			
All	3.7%		

Note: Practice area refers to areas of practice listed by lawyer, which can exceed one.

*Lawyers at the Top of the Deal:* Table 2 reports summary statistics for lawyers who appeared at the top of the deal during the period 2010–2020. Here, the unit of observation is *lawyer-deal*, meaning each lawyer is working on either the buyer or the seller side. While some deals involve a single lead lawyer on each the buyer and seller side, the majority of our observations involve deals involving six or more lead lawyers (this is not reported in the summary statistics).

Of the 13,128 names listed as leads on the deals in our dataset, 1,169—or 9%—are women lawyers. Over this time period, many lead lawyers appeared more than once at the top of the deal. This data contains 3,104 unique lawyers, meaning that on average, lawyers who appeared at the top of the deal did so roughly four times over this eleven-year period. Of unique lawyers, women numbered 327—or 11%—of the total, meaning that, on average, male lawyers led more deals (4.3 deals) than female lawyers (3.6).

Table 2

## Summary Statistics

## Lead Lawyers – M&amp;A Deals

2010-2020

<b>Observations</b>		<b>Total Practice Areas Listed (mean)</b>	
All	13,128	All	6.5
Women	1,169	SD	3.0
Men	11,959		
<b>Unique Lawyers</b>		<b>Most Listed Practice Areas</b>	
All	3,104	Mergers & Acquisition	83.8%
Women	327	Private Equity	54.3%
Men	2,777	Securities	45.8%
		Finance	44.2%
		Corporate Governance	42.2%
<b>Year of Law School Graduation (mean)</b>		<b>Most Frequent Industry Sector Deal</b>	
All	1994	Services	21.2%
SD	10.3	Banking/Financial	12.5%
<b>Types of Mergers</b>		Medical Devices/Hardv	8.0%
Strategic	91.1%	Manufacturing/Machin	7.2%
Financial	8.7%	Oil/Gas	6.7%
Both	0.1%		
<b>Deal Size (2020 Dollars)</b>			
All	\$774,900,000		
SD	\$2,026,000,000		

Note: Practice area refers to areas of practice listed by lawyer, which can exceed one.

The average year of law school graduation amongst lead lawyers was 1994, with a standard deviation of ten years. Lawyers at the top of the deal listed on average between six and seven practice areas. The dominant listed practice area was M&A (84%), followed by Private Equity (54%), Securities (46%), Finance (44%), and Corporate Governance (42%).

While a direct comparison between *Table 1* and *Table 2* is inapposite—given that the former looks just at 2020 and the latter the period of 2010–2020—note the smaller variance in year of graduation as well as total practice areas. This difference suggests that the lead lawyers are older than the universe of M&A lawyers, and therefore have a more specialized practice than their younger

counterparts, on average. Also, while the overlap in common practice areas is considerable, roughly a fifth of the observations involve a lawyer who did not list M&A as one of their practice areas.

*Table 2* also reveals information about the nature of the deals. Each of the deals corresponds to one of twenty-five industry sectors.<sup>67</sup> Of these sectors, over a fifth (21.2%) fell within services. Banking and Financial comprised roughly an eighth (12.5%) of the deals. Medical Devices and Hardware (8.0%), Manufacturing Machines (7.2%), and Oil and Gas (6.7%) were the third, fourth, and fifth most common sectors. Lastly, the average deal size—in constant 2020 dollars—was \$775 million, with deals ranging from \$25 million to \$44 billion.

### III. RESULTS

In this section we first examine the factors that help explain which lawyers among the universe of M&A (and adjacent areas of practice) are chosen to lead the deal. We then analyze the subsets of these lead lawyers, and explore which factors, if any, explain when women were chosen to lead.

*The Universe of M&A Lawyers in 2020:* We begin by examining where M&A lawyers attended law school. We use law schools as a proxy for lawyer ability. Admission into law school is determined by prior academic achievement, performance on the Law School Admissions Test (LSAT), and other personal attributes. Earlier studies—prior to the 2009 recession—showed law school admissions as a competitive and selective process, with the top 100 law schools rejecting more than half of applicants.<sup>68</sup> Among the

---

67. The twenty-five industry sectors are: aerospace; agriculture; autos and planes; banking and financial; chemical; computers; construction; consumer goods; food and beverages; forestry and paper; insurance; manufacturing machines; media and entertainment; medical devices and health care; mining meals; oil and gas; pharmacy and biotechnology; real estate; retailers; services; healthcare; telecom; textiles; travel and leisure; and utilities.

68. The American Bar Association requires that law schools report details on their admissions process, including total number of applications, number of applications accepted, and the number of admitted students who enroll. The ABA Section of Legal Education and Admissions to the Bar issues annual reports compiling the results, including acceptance rate. See *Legal Education and Admissions to the Bar*, AM. BAR ASS'N, [https://www.americanbar.org/groups/legal\\_education/](https://www.americanbar.org/groups/legal_education/) (last visited Oct. 8, 2022). Law schools, prospective students, and empirical researchers all rely on these reports.



most competitive law schools, acceptance rates were below 10% of all applicants.

For ease of presentation, we collapsed the data into categories of law schools based on the U.S. News & World Report rankings of law schools. We use this ranking because the majority of lawyers in our dataset attended a law school accredited by the American Bar Association (ABA), and the U.S. News Ranking is widely regarded as the most influential of American law school rankings.<sup>69</sup> We select as our bins ABA-accredited schools ranked among the top 6; schools ranked 7 through 14, schools ranked 15 through 50; schools ranked 50–100; schools ranked 101 and below. These categories are based on the 2016 U.S. News rankings,<sup>70</sup> which is the midpoint of our time period.<sup>71</sup>

*Figure 1* reports where men and women in the 2020 Leopard's directory attended law school. Some patterns emerge. For each of the aforementioned tiers of law schools, a higher percentage of men attended a top law school than did women. The majority of male M&A lawyers (54%) attended a law school ranked among the top fifty by U.S. News & World Report, compared with a large plurality (45%) of women. Amongst these schools, a higher percentage of men (15%) attended the most selective schools – defined as the US News Top Six: Yale, Harvard, Stanford, Columbia, Chicago, and NYU—compared with women (12%). A similarly higher percentage of men (16%) over women (13%) attended the next tier of schools—defined by the US News to be University of Pennsylvania, Duke, Berkeley, Virginia, Michigan, Northwestern, Cornell, and Georgetown. Men (23%) also attended law schools ranked fifteen through fifty at a higher rate than women (20%). Each of these differences were statistically significant ( $p < 0.01$ ).

Among law schools ranked outside the Top 50 by U.S. News, a higher percentage of men than women attended law schools ranked

---

69. The US News rankings are much criticized, but extremely influential. For discussions, see, e.g., Kyle McEntee, *How to Fix the US News Law Rankings*, ABOVE L. BLOG (Jan. 12, 2016, 4:53 PM), <https://abovethelaw.com/2016/01/how-to-fix-the-u-s-news-law-school-rankings/>.

70. We opted against linking where a lawyer attended law school to the U.S. News ranking for the year(s) in which they attended, in part because the older lawyers in our dataset attended law school before the inception of the rankings.

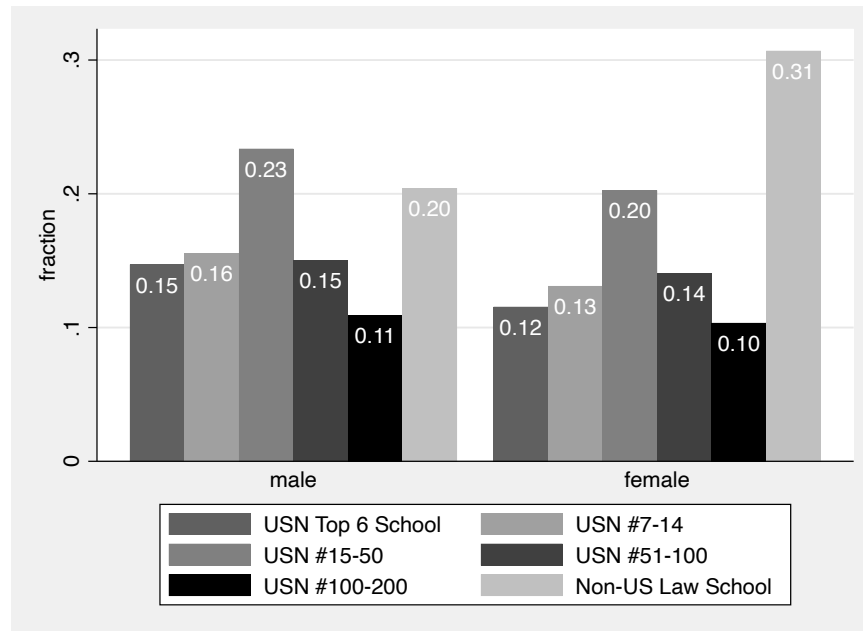
71. The US News law rankings are highly correlated during this time period. Tying the rankings to the year of the M&A deal yields substantively the same results.

51 through 100 (15% for men versus 14% for women) and law schools ranked 101 through 200 (11% for men versus 10% for women). These smaller differences, however, were not statistically significant.

The largest difference between men and women were those lawyers who attended non-U.S. law schools. Among men, this group comprised one fifth (20%); for women, nearly a third (31%). This difference is large and statistically significant ( $p < 0.01$ ).

Figure 2

Law School Attended – by Gender  
Universe of Practicing M&A Lawyers  
2020



Because where a lawyer attended law school is an imperfect proxy for lawyer ability, we also look at other measures, including a lawyer's academic performance during law school, their attainment of a judicial clerkship, their rank or title at their current firm, and salient characteristics of their current firm, particularly whether the firm is recognized for its M&A work.

We measure academic performance based on whether a lawyer graduated Order of the Coif. First established in 1902 at the University of Illinois School of Law,<sup>72</sup> this distinction is bestowed upon students graduating in the top 10% of their class. Amongst ABA-accredited law schools, eighty-six have Order of the Coif chapters. This presence is most concentrated amongst those schools ranked in the Top 50 of the U.S. News Rankings (45 of 50 schools),<sup>73</sup> and generally those ranked among the top 100 of the rankings. *Figure 3* shows that of the directory of M&A lawyers in Leopards, 9% of men and women each graduated Order of the Coif.

Although not reported in *Figure 3*, we also examine whether lawyers clerked. The Leopard's directory did not provide any details about the clerkship (such as jurisdiction, level, or judge), so we treat clerkship as a binary measure. We found that 5% of men clerked, compared with 4% of women. This difference in means, while small, was statistically significant ( $p < 0.01$ ).

In comparison of law firm title, we observe that nearly a third of men (31%) are partners, compared with 17% of women, a statistically significant difference ( $p < 0.01$ ). A bit of context is helpful in interpreting this difference. Women comprise roughly a quarter (27%) of the entire directory. This gender imbalance is negatively correlated with law school graduating class. Amongst lawyers who graduated in the period 2016 through 2020, women comprise 43% of their cohort (compared with lawyers who graduated between 1991 and 1995, where women comprise only 15% of their cohort).

This difference in partnership rates between men and women is consistent with the story that women exit M&A practice (and perhaps the firm altogether) at higher rates than men.<sup>74</sup> Moreover, even for those experienced women who remain in the firm, their rates of partnership are lower than for men (for example, for lawyers who graduated law school between 1991 and 1995, 49% of men are partners, compared with 40% of women).

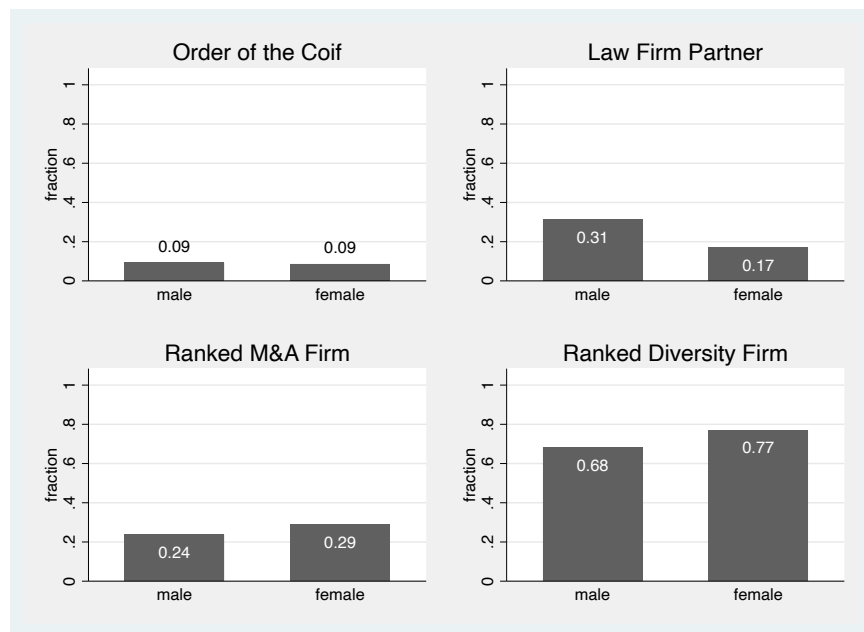
---

72. THE ORDER OF THE COIF, <https://orderofthecoif.org/member-schools/> (last visited Sept. 17, 2022).

73. *Id.*

74. See, e.g., 2020 Vault/MCCA Law Firm Diversity Survey Report, *supra* note 18; 2019 National Association of Women Lawyers Survey on Retention and Promotion of Women in Law Firms, *supra* note 19; Hersch & Meyers, *supra* note 23; Jackson, *supra* note 38.

Figure 3  
 Credentialing Differences by Gender  
 Universe of Practicing M&A Lawyers  
 2020



In our examination of law firm environment, we observe that a higher percentage of women (29%) compared to men (24%) work at a firm recognized for their M&A work (statistically significant,  $p < 0.01$ ). In identifying these firms, we rely on Chambers and Partners, an independent research company, that annually provides detailed rankings into leading law firms (and lawyers) across numerous jurisdictions, including the United States.<sup>75</sup> We use this ranking specifically because it was the one our respondents in the M&A world pointed us to as respected and utilized in the industry. Each year Chambers provides a list of law firms they determine to be elite Corporate or M&A firms. Chambers provides

75. See CHAMBERS AND PARTNERS, <https://chambers.com/about-us> (last visited Oct. 2, 2022) (providing a description of the organization and their services).

rankings of fifteen to twenty-five law firms, identified ordinally by tiers. For our purposes, we do not draw upon these granular differences, but simply whether Chambers has listed a firm in its rankings. These numbers show that, conditioned on choosing to specialize in M&A practice, women are more likely to be at a law firm reputed for this practice.

Similarly, we find that a higher percentage of women (77%) than men (68%) in Leopard's 2020 directory work at a firm recognized for its diversity (statistically significant,  $p < 0.01$ ). For these rankings, we rely on the American Lawyer's annual Diversity Scorecard, which identifies which law firms amongst its Am Law 200 and National Law Journal 250 law firms employ the highest full-time equivalent minority attorneys (both partners and non-partners). These numbers show that women who choose to specialize in M&A practice are more likely to be at a firm known for its diversity amongst lawyers.

Examining the data visually allows us to focus on individual characteristics and identify the magnitude of these differences. There are limitations, however, at drawing inferences from these raw differences, as they fail to account for other factors that may correlate with one another or otherwise help explain these differences. For this reason, we conduct regression-adjusted analyses to see how the impact of these factors varies once one controls for other observables.

*Table 3* provides the regression results. In each specification, the dependent variable is whether a lawyer from the 2020 Leopard's directory was chosen to lead an M&A deal (involving at least one public firm) in 2020. Each specification runs a probit regression model. For ease of interpretation, the coefficients are expressed as marginal effects at the mean, which can be read as percentage changes. In each specification, we cluster at the deal and attorney levels.

Table 3  
 Universe of M&A Lawyers  
 Whether Lawyer Chosen to Lead M&A Deal  
 2020

	1	2	3	4	5	6	7	8	9	10
Female	-0.0208*** (0.006)	-0.0156** (0.005)	-0.0187*** (0.005)	-0.0176*** (0.005)	-0.0088* (0.004)	-0.0015 (0.002)	-0.0013 (0.002)	-0.0014 (0.002)	-0.0013 (0.002)	-0.0009 (0.002)
USN Ranking 1-6		0.0501*** (0.005)								0.0112*** (0.002)
USN Ranking 7-14		0.0392*** (0.005)								0.0094*** (0.002)
USN Ranking 15-50		0.0254*** (0.005)								0.0067*** (0.002)
Yale JD			0.0322* (0.016)	0.0202 (0.015)	0.0199 (0.012)	0.0086 (0.006)	0.0041 (0.005)	0.0041 (0.005)	0.0036 (0.005)	
Harvard JD			0.0317*** (0.009)	0.0254** (0.009)	0.0244*** (0.007)	0.0101** (0.003)	0.0050 (0.003)	0.0048 (0.003)	0.0048 (0.003)	
Stanford JD			0.0264 (0.015)	0.0156 (0.015)	0.0131 (0.012)	0.0037 (0.005)	0.0002 (0.004)	0.0002 (0.004)	0.0000 (0.004)	
Columbia JD			0.0374*** (0.009)	0.0321*** (0.009)	0.0272*** (0.007)	0.0119** (0.004)	0.0076* (0.003)	0.0075* (0.003)	0.0075* (0.003)	
Chicago JD			0.0364** (0.012)	0.0322** (0.011)	0.0275** (0.009)	0.0122** (0.005)	0.0095* (0.004)	0.0092* (0.004)	0.0093* (0.004)	
NYU JD			0.0427*** (0.010)	0.0367*** (0.010)	0.0332*** (0.008)	0.0144*** (0.004)	0.0092** (0.003)	0.0090** (0.003)	0.0091** (0.003)	
Order of the Coif				0.0269*** (0.006)	0.0225*** (0.005)	0.0087*** (0.003)	0.0069** (0.002)	0.0067** (0.002)	0.0068** (0.002)	0.0056** (0.002)
Clerkship				0.0042 (0.008)	0.0003 (0.006)	0.0009 (0.003)	0.0011 (0.003)	0.0012 (0.003)	0.0012 (0.003)	0.0006 (0.002)
Elite Undergrad				-0.0015*** (0.000)	-0.0012*** (0.000)	-0.0005*** (0.000)	-0.0004*** (0.000)	-0.0004** (0.000)	-0.0004** (0.000)	-0.0002 (0.000)
Practice Experience (years)					0.0060*** (0.000)	0.0006* (0.000)	0.0005* (0.000)	0.0005* (0.000)	0.0005* (0.000)	0.0006* (0.000)
Practice Experience <sup>2</sup> (years)					-0.0001*** (0.000)	-0.0000** (0.000)	-0.0000** (0.000)	-0.0000** (0.000)	-0.0000** (0.000)	-0.0000** (0.000)
Partner at Law Firm						0.0373*** (0.004)	0.0313*** (0.004)	0.0307*** (0.004)	0.0310*** (0.004)	0.0281*** (0.003)
Law Firm Listed - Chamber (M&A)							0.0130*** (0.002)	0.0121*** (0.002)	0.0126*** (0.002)	0.0112*** (0.002)
Law Firm Listed - AmLaw Diversity Index								0.0026 (0.002)		
Law Firm - AmLaw Diversity 1-25									0.0031 (0.002)	0.0024 (0.002)
Law Firm Listed - AmLaw Diversity 26-50									0.0007 (0.001)	0.0005 (0.001)
N	23413	23413	23413	23413	23413	23413	23413	23413	23413	23413

*Note:* Dependent variable is whether the female lawyer is selected to be at the top of a mergers and acquisitions deal in 2020. The specifications are probit models, with the coefficients reporting marginal effects at the mean. All specifications include clustering for both deal and attorney. \*, \*\*, and \*\*\* represent statistical significance at the p<0.05, p<0.01, and p<0.001 levels. JD - T14 refers to the set of law schools (Yale, Harvard, Stanford, Columbia, Chicago, NYU, Penn, Virginia, UC Berkeley, Cornell, Georgetown, Northwestern, Michigan, and Duke) as ranked by US News. In specifications with individual law schools listed, the remaining schools are the baseline omitted group. Elite undergrad refers to the Ivy League schools (Harvard, Yale, Princeton, Columbia, Cornell, Dartmouth, Brown, Penn) as well as Stanford, MIT, Cal Tech, UC Berkeley, Northwestern, Michigan, and Duke.

Regarding gender, each of the specifications show that women lawyers were less likely than men to be chosen to lead a deal in 2020. The magnitude—and statistical significance—of these differences, however, diminish as we control for more factors.

We examine the role of schooling a few different ways. Column 2 and Column 10 replicate the categories in *Figure 3* for the tiers of schools. We see that, compared with the baseline category of schools ranked outside the top fifty by U.S. News, lawyers who attended higher ranked schools benefitted. The benefit monotonically increased the higher the tier of school, each statistically significant ( $p < 0.01$ ). Lawyers attending schools ranked fifteen through fifty were 3% more likely to be chosen to lead a deal; lawyers who attended schools ranked seven through fourteenth were 4% more likely, and lawyers who attended schools ranked one through six were 5% more likely. When controlling for other individual attributes of the lawyers (Column 10), these point estimates became smaller, albeit still statistically significant.

In the remaining specifications, we focus on the effect of attending individual schools ranked among the top six. We find that the returns to attending these schools varied considerably. In most specifications, the returns to attending Yale Law School, the nation's most selective law school, while positive, were small, and statistically not significant. Similarly, Stanford—routinely the nation's second-most selective law school—also had positive but small and not statistically significant returns. For the other remaining schools in this cohort, there were larger and—in most specifications—statistically significant positive returns. Graduates from Harvard, Columbia, Chicago, and NYU were 2% to 4% more likely to be chosen to lead the deal than the baseline group. For each of these schools, however, these advantages grew smaller as we controlled for firm environment.

With respect to schooling and academic performance, *Figure 3* shows positive returns for graduating Order of the Coif, no appreciable returns for having a judicial clerkship, and a small but negative and statistically significant effect of having attended an elite undergraduate institution (as defined by attending an Ivy League school or Stanford, MIT, Cal Tech, U.C. Berkeley, Northwestern, Michigan, or Duke).

*Figure 3* also shows that more experienced lawyers are more likely to be chosen to lead a deal. Column 5 through 9 include a quadratic specification, which reveals a concave relationship where the benefits to experience are positive but eventually decline. Similarly, lawyers who are partners are on average 3% more likely to lead the deal than non-partners (e.g., usually, lawyers with the

title of “of counsel” and, in rare cases, associates), reflecting that while few lawyers of any title lead an M&A deal, those chosen are predominantly partners.

In Columns 7 through 9, we include a dummy variable if the lawyer worked at a firm recognized by Chambers as an elite M&A law firm. Lawyers at a Chambers-ranked firm were one percentage point more likely to be chosen to lead a deal, a statistically significant difference. This number sounds modest but takes on greater meaning when looking more closely at the data: approximately a quarter (5,882 out of 23,413 lawyers) of all lawyers in the Leopard directory worked at a Chambers-ranked firm. Among lawyers chosen to lead a deal, over half (54%) worked at a Chambers-ranked firm. Amongst lawyers not chosen to lead a deal, less than a quarter (24%) worked at a Chambers-ranked firm.

Lastly, in Columns 8 and 9 we examine the effect of a lawyer working at a firm recognized by The American Lawyer for having a diverse lawyer composition. The effect is small and not statistically significant. Two factors explain this result: First, the majority of all lawyers in the directory (71%) work at a firm ranked by the American Lawyer. Amongst lawyers chosen to lead a deal, that percentage is 89%; amongst lawyers not chosen, the percentage is still 69%. Second, a sizable fraction of lawyers works at firms that are ranked both by the American Lawyer for its diversity and by Chambers for its M&A practice. Amongst lawyers at the top of the deal, 54% worked at firms ranked by both; amongst the remaining lawyers, the figure was 24%.

To more cleanly identify the effect of these factors on gender, we ran the same specifications in *Table 3* for men and women separately (shown in the Appendix: *Table A1* for women; *Table A2* for men). As with the general regression, lawyers of both genders benefitted from attending more selective schools, across different tiers of the U.S. News rankings, and also from the individual schools most highly ranked. Similarly, we found positive returns for graduating Order of the Coif, as well as from having experience and being a partner. We also observed a positive effect for both women and men for working at a firm recognized by Chambers for its M&A practice.

At the same time, we found subtle but systematic differences when looking at women and men separately. While the coefficients pointed in the same direction for both genders, there were



differences in the point estimates. Conditioned on attending a specific band of schools (i.e., U.S. News rankings of one through six; seven through fourteen; and fifteen through fifty), men were more likely to be chosen to lead a deal than women. Amongst the most academically accomplished law students—i.e., those graduating Order of the Coif—men were more likely than women to lead a deal. Amongst partners at a firm, again, men were more likely than women to lead a deal. And even amongst lawyers working at a firm recognized for its M&A practice, men again were more likely than women to lead a deal.

*Lawyers Chosen to Lead an M&A Deal:* In these analyses, we limit our analysis to the tournament winners: the small group of lawyers chosen to lead an M&A deal. Our data, as discussed in section III, uses over a decade of deal information.

*Figure 4* shows the composition of men and women chosen to lead deals for each calendar year for the period 2010 through 2020. There is a consistent and significant gender gap each year. Over this entire period, men led over 91% of all deals. In only two years did women comprise more than 10% of the deals: 2013 (11%) and 2020 (17%).

A question that we were curious about at the start of this project was whether we would see trends. Specifically, whether we would see improved success rates for women lawyers over time—after all, there have been positive trends in terms of the gender gap reducing over the past few decades as discussed in the introduction.<sup>76</sup> *Figure 4*, however, shows no discernable trend over the past decade. There were few women at the top of deals in 2010—a statistic that remained much the same throughout the ensuing decade.

Intriguingly, we do see a small turn in the numbers for 2020, where women have their highest level of representation during this decade. Recent coverage of the pandemic suggests that it may have a deleterious effect on gender equality in the labor market,<sup>77</sup>

---

76. See *supra* Part I.

77. See, e.g., Amanda Taub, *Pandemic Will 'Take our Women 10 Years Back' in the Workplace*, N.Y. TIMES (Sept. 26, 2020), <https://www.nytimes.com/2020/09/26/world/covid-women-childcare-equality.html> (describing how the childhood demands fall disproportionately on working women rather than men); Maite Fernández Simon, *Covid Caused 'Big Losses' for Gender Equality in Europe, New Index Says*, WASH. POST. (Oct. 28, 2021), <https://www.washingtonpost.com/world/2021/10/28/europe-gender-equality-index-coronavirus-pandemic/> (explaining how Covid-19 has disproportionately affected women in the labor market).

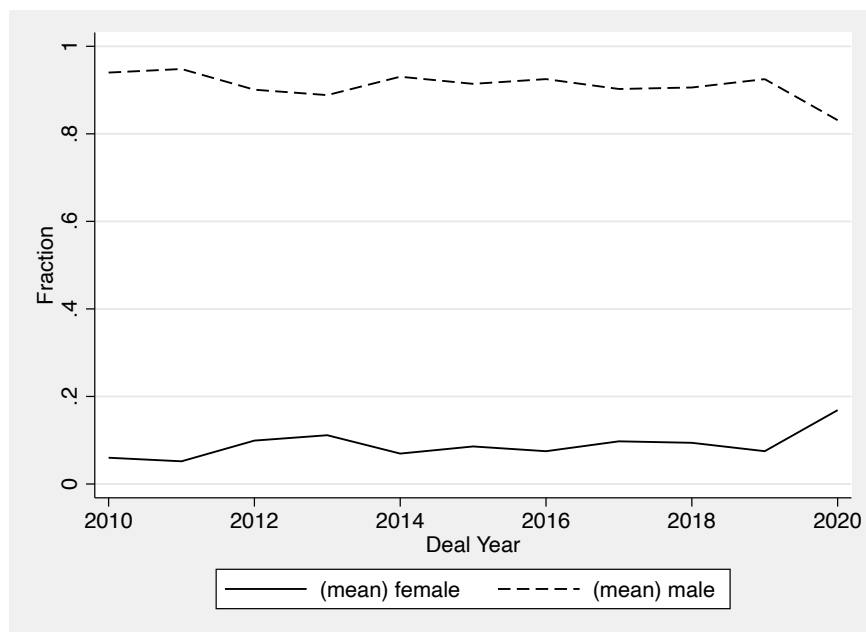
consistent with studies that show that in the pandemic women have borne a greater share of domestic work.<sup>78</sup> While it is impossible to say with certainty from a single year of the effects of Covid-19, it is possible that the pandemic may explain some of this convergence. For example, the reduction of in-person working, and the near-elimination of travel, while affecting both men and women M&A lawyers, may have also reduced the disparity in availability on these deals between the genders.<sup>79</sup>

---

78. See Allison Dunatchik et al., *Gender, Parenting, and the Rise of Remote Work During the Pandemic: Implications for Domestic Inequality in the United States*, 35 GENDER & SOC. 194, 199 (2021) (describing how women took on much of the additional domestic demands created by the pandemic).

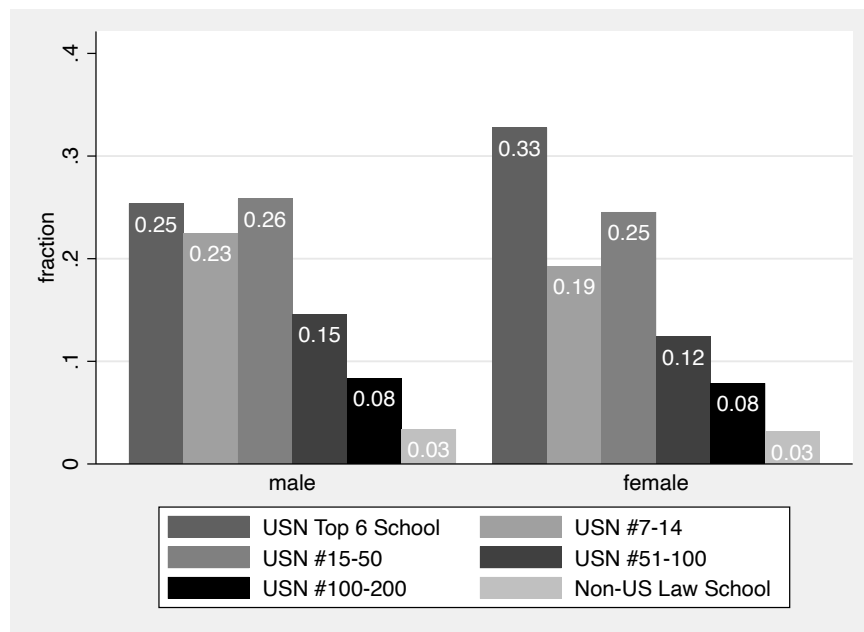
79. Goldin, *supra* notes 51, 52. (Claudia Goldin notes this intriguing possibility in multiple recent podcasts); Amy Bernstein et al., *If We Want Equity, Work Needs to Be Less Greedy*, WOMEN AT WORK (Nov. 8, 2021), <https://hbr.org/podcast/2021/11/if-we-want-equity-work-needs-to-be-less-greedy>; see also Vivia Chen, *What? Corona is a Gender Leveler?* CAREERIST, (June 8, 2020), <https://thecareerist.typepad.com/thecareerist/2020/06/june-column-corona-as-gender-leveler.html> (making a similar point to Goldin).

*Figure 4*  
*Lawyers Chosen to Lead M&A Deal*  
*Gender Composition*  
 2010-2020



With respect to schooling, the notable difference between men and women occurs at the top of the distribution. A quarter (25%) of men attended a school ranked one through six by U.S. News, while a third (33%) of women attended this set of schools. This gap (eight percentage points) was the greatest amongst each of these categories and the only one of statistical significance ( $p < 0.01$ ). For the remaining groups, the difference was small and non-significant. We note that for both men and women, a small percentage (3%) graduated from a non-U.S. law school. This number stands in contrast to the composition of M&A lawyers list in *Figure 2*, where 20% of men and 31% of women graduated from a non-U.S. law school. This finding provides evidence that for both genders, law firms are willing to hire non-U.S. law grads within their M&A practice but are unlikely to select them to lead a deal.

Figure 5  
*Lawyers Chosen to Lead M&A Deal*  
*Law School Attended – by Gender*  
 2010-2020



In our comparison of educational attainment and professional credentials for lawyers leading an M&A deal, we observe differences both small and large. A higher fraction of women (18%) than men (16%) graduated Order of the Coif from law school, but this difference was not statistically significant ( $p < 0.01$ ). Although not reported, our data revealed that more men (8%) than women (7%) were judicial law clerks, although this difference too was small and not statistically significant.

At the firm, a higher percentage of women who ended up as deal leaders than men (92% compared to 88%) were partners at the firm, a statistically significant difference. This gap of four percentage points is all the more notable given the difference in baseline partnership levels in this data: 12% of men compared with 8% of women.

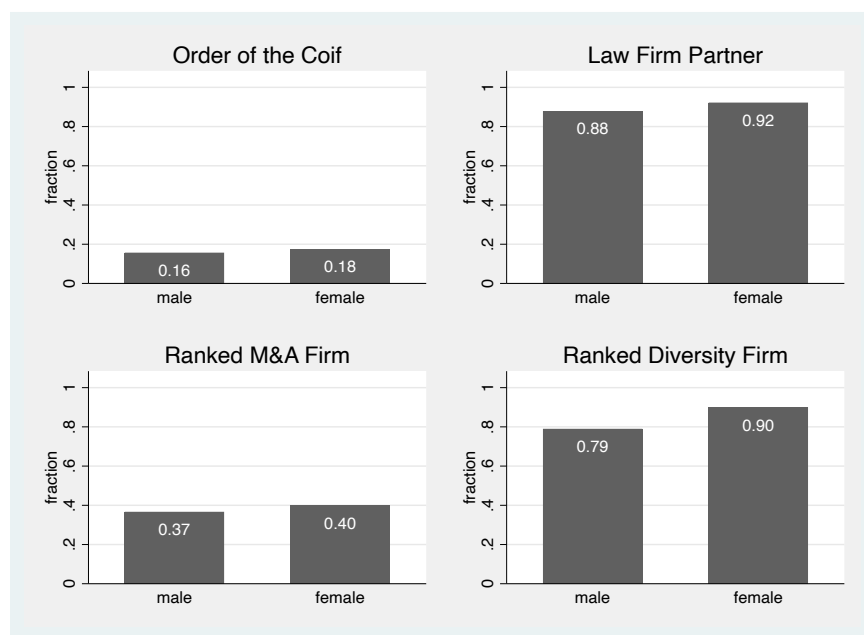
Women also notably differed from men in the firm where they worked. A higher percentage of women (40%) than men (37%) worked at a firm ranked by Chambers for its M&A practice (statistically significant,  $p < 0.01$ ). Similarly, while the vast majority of lawyers of both genders worked at firms ranked by American Lawyer for their diversity, the percentage was again higher for women (90%) than men (79%), a statistically significant difference ( $p < 0.01$ ).

Figure 6

*Lawyers Chosen to Lead M&A Deal*

*Credentialing Differences by Gender*

2010-2020



In our regression-adjusted analyses, reported in *Table 4*, we see that many of the differences in the raw estimates hold up. As this dataset comprises solely of lawyers chosen to lead an M&A deal, the dependent variable of interest is if a woman were chosen to lead the deal, with coefficients representing marginal effects at the mean. In each specification, we control for the year of the deal, as

well as cluster at the firm, attorney, and deal levels, as values along these dimensions appear multiple times in the data.

*Table 4*  
*Lawyers Chosen to Lead M&A Deal*  
*Factors Influencing Whether Woman Chosen to Lead M&A Deal*

	1	2	3	4	5	6	7	8	9	10
USN Ranking 1-6	0.0283** (0.009)									0.0323*** (0.010)
USN Ranking 7-14	-0.0046 (0.010)									-0.0062 (0.010)
USN Ranking 15-50	0.0048 (0.009)									0.0054 (0.009)
Yale JD	-0.0760* (0.033)	-0.0680* (0.034)	-0.0698* (0.033)	-0.0734* (0.032)	-0.0734* (0.032)	-0.0729* (0.032)	-0.0754* (0.031)	-0.0736* (0.032)		
Harvard JD	0.0525*** (0.012)	0.0570*** (0.012)	0.0557*** (0.012)	0.0583*** (0.012)	0.0586*** (0.011)	0.0596*** (0.012)	0.0559*** (0.011)	0.0606*** (0.012)		
Stanford JD	0.0616*** (0.018)	0.0623*** (0.018)	0.0608*** (0.018)	0.0546** (0.018)	0.0549** (0.018)	0.0553** (0.018)	0.0543** (0.017)	0.0574** (0.018)		
Columbia JD	0.0065 (0.013)	0.0102 (0.014)	0.0089 (0.014)	0.0088 (0.013)	0.0101 (0.013)	0.0136 (0.013)	0.0111 (0.013)	0.0128 (0.013)		
Chicago JD	0.0387* (0.018)	0.0413* (0.018)	0.0404* (0.018)	0.0414* (0.017)	0.0416* (0.017)	0.0422* (0.017)	0.0380* (0.017)	0.0413* (0.017)		
NYU JD	0.0153 (0.014)	0.0151 (0.014)	0.0148 (0.014)	0.0157 (0.014)	0.0164 (0.014)	0.0200 (0.014)	0.0158 (0.014)	0.0162 (0.014)		
Order of the Coif		0.0162 (0.009)	0.0160 (0.009)	0.0129 (0.009)	0.0130 (0.009)	0.0128 (0.008)	0.0110 (0.008)	0.0127 (0.008)	0.0133 (0.008)	
Clerkship		-0.0186 (0.013)	-0.0191 (0.012)	-0.0149 (0.012)	-0.0149 (0.012)	-0.0146 (0.012)	-0.0128 (0.012)	-0.0164 (0.012)	-0.0203 (0.012)	
Elite Undergrad			-0.0002 (0.001)	-0.0002 (0.000)	-0.0002 (0.000)	-0.0003 (0.000)	-0.0001 (0.000)	-0.0003 (0.000)	-0.0004 (0.001)	
Practice Experience (years)				0.0026* (0.001)	0.0026* (0.001)	0.0025 (0.001)	0.0025 (0.001)	0.0025 (0.001)	0.0027* (0.001)	
Practice Experience <sup>2</sup> (years)				-0.0001*** (0.000)	-0.0001*** (0.000)	-0.0001*** (0.000)	-0.0001*** (0.000)	-0.0001*** (0.000)	-0.0001*** (0.000)	
Law Firm Partner				0.0194 (0.012)	0.0198 (0.012)	0.0208 (0.012)	0.0106 (0.012)	0.0189 (0.012)	0.0178 (0.012)	
Deal Value (\$10M Unit)					-0.0000 (0.000)	-0.0000 (0.000)	-0.0000 (0.000)	-0.0000 (0.000)	-0.0000 (0.000)	
Representing Buyer					0.0011 (0.006)	0.0015 (0.006)	0.0016 (0.006)	0.0019 (0.006)	0.0022 (0.006)	
Deal Type: Strategic						0.0322** (0.012)	0.0323** (0.012)	0.0321** (0.012)	0.0342** (0.012)	
Law Firm Listed - Chamber (M&A)						-0.0082 (0.007)	-0.0178* (0.007)	-0.0172* (0.007)	-0.0167* (0.008)	
Law Firm Listed - AmLaw Diversity Index							0.0490*** (0.009)			
Law Firm - AmLaw Diversity 1-25								-0.0089 (0.011)	-0.0104 (0.011)	
Law Firm Listed - AmLaw Diversity 26-50								0.0323*** (0.008)	0.0301*** (0.008)	
N	13128	13128	13128	13128	13128	13128	13128	13128	13128	13128

Note: Dependent variable is whether the female lawyer is selected to be at the top of a mergers and acquisitions deal in 2020. The specifications are probit models, with the coefficients reporting marginal effects at the mean. All specifications include year controls, as well as clustering from both firm, attorney, and deal. \*, \*\*, and \*\*\* represent statistical significance at the p<0.05, p<0.01, and p<0.001 levels. JD - T14 refers to the set of law schools (Yale, Harvard, Stanford, Columbia, Chicago, NYU, Penn, Virginia, UC Berkeley, Cornell, Georgetown, Northwestern, Michigan, and Duke) as ranked by US News. In specifications with individual law schools listed, the remaining schools are the baseline omitted group. Elite undergrad refers to the Ivy League schools (Harvard, Yale, Princeton, Columbia, Cornell, Dartmouth, Brown, Penn) as well as Stanford, MIT, Cal Tech, UC Berkeley, Northwestern, Michigan, and Duke.

With respect to law school education, we observe the advantages for women attending the most selective schools. Column 1 shows

that women were 3% more likely to lead a deal if they attended a school ranked by U.S. News among the top six schools. Column 6 shows that this advantage remains after controlling for the lead lawyers' individual characteristics.

The other specifications, Columns 2 through 9, looks at the individual effects of these six schools. We see that, notwithstanding its reputation for its selectivity, women graduates of Yale Law School were less likely rather than more likely to lead a deal, as compared with the baseline group of law schools ranked outside the top six. This difference, however, was not statistically significant ( $p < 0.01$ , although they were significant at the  $p < 0.05$ ).<sup>80</sup>

By contrast, women who attended Harvard or Stanford Law School were 5% to 6% more likely to lead a deal than the baseline group. Women graduates of Chicago Law School were also more likely to lead a deal, although the effect (4%) was slightly smaller and not statistically significant ( $p < 0.01$ ). By contrast, female graduates of Columbia and NYU law were not more likely than their male classmates to lead a deal.

On the educational front, we observe that neither graduating Order of the Coif nor clerking after graduating makes it more likely that a woman leads a deal. This result is unsurprising given the small and statistically non-significant differences in the raw estimates (*Figure 6*).

With respect to experience and title, we again observe the concave influence of experience (as signified by the statistically significant negative value on the quadratic). While women deal leaders were more likely to be partners than men, this difference is smaller than the raw estimate and statistically non-significant.

Characteristics of the deal do not generate a statistically significant difference between men and women. In our data, the average size of the deal for men was \$779 million, compared with \$737 million for women. Similarly, we did not see any appreciable difference between women appearing on the buyer or seller side of the deal. We did observe, however, that women were 3%

---

80. This negative coefficient does not suggest a futility or error of attending Yale Law School, but only the differences across gender amongst graduates of this school. The data reveals that roughly the same percentage of male graduates from Yale Law School appear at the top of the deal as Stanford (approximately 2%); it is also the case that the same percent of male graduates of Yale Law School leading a deal is roughly 40 times higher than the percent of female Yale Law School graduates leading a deal.



more likely to appear on strategic, compared with financial, deals. Some of this difference may be attributable to the composition of the parties involved in these deals. Buyers in financial M&A deals routinely involve private equity, venture capital, and hedge funds, industries where the percentage of female partners is small and has declined in recent years.<sup>81</sup>

Lastly, with respect to characteristics of the firms where lead lawyers work, we find a small and statistically non-significant effect of those working at a firm ranked by Chambers for its M&A practice (Columns 7 through 9). By contrast, we observe that women at a firm ranked by American Lawyer for its diversity were 5% (Column 8) more likely to lead a deal than women working at firms not on this ranking. Examining the top fifty firms ranked for diversity, we see a greater effect amongst women at firms twenty-six through fifty, compared with the firms ranked one through twenty-five.

#### IV. DISCUSSION

Women now comprise a majority of law graduates.<sup>82</sup> They remain fewer in number than men among the practicing bar, however.<sup>83</sup> Among M&A lawyers, the representation of women is smaller. Among the M&A lawyers chosen to lead deals, the representation of women is smaller yet. Across eleven years of data, men lead in 91% of the deals. While the numbers vary slightly from year to year, nothing in the time trend indicates any sort of meaningful trend. The question is the denominator.

Is the reason for there being so few women at the top of deals that there are not enough women competing for these spots or that

---

81. See, e.g., David Streitfeld, *Ellen Pao Suit Against Kleiner Perkins Heads to Trial, with Big Potential Implications*, N.Y. TIMES (Feb. 22, 2015), <https://www.nytimes.com/2015/02/23/technology/ellen-pao-suit-against-kleiner-perkins-heads-to-trial-with-big-potential-implications.html?smid=url-share> (describing how the total number of female partners had declined from 10% in 1999 to 6% in 2015).

82. For statistics on the composition of women and male law students in the United States, see *Statistics Archives*, AM. BAR ASS'N, [https://www.americanbar.org/groups/legal\\_education/resources/statistics/statistics-archives/](https://www.americanbar.org/groups/legal_education/resources/statistics/statistics-archives/) (providing longitudinal and historical data on law school enrolment). See also Elizabeth Olson, *Women Make up Majority of U.S. Law Students for First Time*, N.Y. TIMES (Dec. 16, 2016), <https://www.nytimes.com/2016/12/16/business/dealbook/women-majority-of-us-law-students-first-time.html> (describing increasing enrollment of women in law schools).

83. See AM. BAR. ASS'N, NATIONAL LAWYER POPULATION SURVEY (2021).

they are not getting those spots despite competing? We cannot tell from the data specifically who is in the running for deal leadership spots on any given deal or firm, but the fraction of partners in the entire pool of lawyers gives us a rough sense. Among women in our dataset, 20% are partners. While this figure is small relative to the fraction of men who are partners, it is double that of the fraction of lawyers chosen to lead a deal who are women.

If we start from the premise, as we have, that all women and men partners are fully committed to competing for deal leadership, then the divergent experience of men and women tells a distressing story. Among a subset of employees who we assume do not have different propensities to voluntarily exit – and this is crucial because “opting out” is a standard explanation for why there are fewer women than men who advance in employment tournaments<sup>84</sup> – women systematically fare worse. Our evidence is consistent with this inference, but we are hesitant to reach that conclusion as yet. Conversations about our findings with senior M&A lawyers suggest a more nuanced story.

Success in the legal profession depends on a multitude of factors, some of which go beyond what we observe in the data, and – more importantly – often develop dynamically over lawyers’ career. We can think of this as a hybrid of two phenomena: the first is a ripple effect, where certain events have an enduring effect. For some lawyers, it can be a supportive spouse who makes a consuming career possible. For others, it could be working in a law firm that offers a positive, supportive environment. And yet, for others it might be a mentor who offers wise counsel at key moments – such as alerting the junior lawyer to good opportunities

---

84. A recent study estimates that roughly 30% of women lawyers exit their careers. See Jane Bambauer & Tauhidur Rahman, *The Quiet Resignation: Why Do So Many Female Lawyers Abandon Their Careers*, 10 UC IRVINE L. REV. 799 (2020). More generally, on the “opting out” phenomenon, see Nicole M. Fortin, *Gender Role Attitudes and Women’s Labor Market Participation: Opting-Out, AIDS, and the Persistent Appeal of Housewifery*, 117 ANNALS ECON. & STAT. 379 (2015). There are other explanations as well that have been raised in the literature such as differential tastes for competition between the genders, but these are less well explored. See, e.g., Uri Gneezy et al., *Performance in Competitive Environments: Gender Differences*, 118 Q.J. ECON. 1049 (2003); Muriel Niederle, *Gender* (Nat’l Bureau Econ. Rsch., Working Paper No. 20788, 2014), <http://www.nber.org/papers/w20788> [<https://perma.cc/58GX-4T8X>], reprinted in 2 HANDBOOK OF EXPERIMENTAL ECONOMICS 483 (John Kagel & Alvin E. Roth eds., 2015).

and warning of pitfalls—that elevates the mentee’s work.<sup>85</sup> The second is a butterfly effect: seemingly serendipitous events that have an unpredictable but significant impact on subsequent outcomes. For example, a lawyer, by virtue of having attended the same school as a client, develops a professional affinity. Or maybe there are certain social activities that a client enjoys (attending professional basketball games) that particular lawyers are better at showing interest in.

Much of our discussion has centered on the disparate number of women versus men in the senior ranks of the legal profession, and M&A in particular. These numbers are important in themselves, but also help explain why the parity we observe of lawyers at the beginning of their careers erodes over the course of their careers. Success within large law firms is a combination of ability and opportunity. Our data provides some insight into lawyer ability—using rough proxies such as law school attended, academic attainment, and elevation to partner. It omits, however, measures of opportunity: e.g., introductions by senior mentors to potential clients, quality mentoring, access to outside networks, and opportunities to work on deals that develop both skills and networks within the M&A world. As with law, studies in other high-skilled professions—e.g., physicians—find that differences in opportunity matters, and women in male-dominated specialties systematically receive fewer of these opportunities.<sup>86</sup>

After we had put together our results, we sent them to a set of thirty senior M&A lawyers for comments. We heard the following:

---

85. David Wilkins has referred to this as the “royal jelly” effect where receiving the “royal jelly” (training, mentorship, etc.) is what is key to long-term success in law firms. See David B. Wilkins & Mitu Gulati, *Why are there so Few Black Lawyers in Corporate Law Firms? An Institutional Analysis*, 85 CAL. L. REV. 493, 542 (1996). See also Forrest Briscoe & Katherine C. Kellogg, *The Initial Assignment Effect: Local Employer Practices and Positive Career Outcomes for Work-Family Program Users*, 76 AMER. SOC. REV. 291 (2011) (showing the impact of initial assignments on career success); Bill Henderson, *Solving the Legal Profession’s Diversity Problem*, BILL HENDERSON (Feb. 1, 2016), <http://www.billhenderson.com/articles/2017/4/1/solving-the-legal-professions-diversity-problem>.

86. See, e.g., Briscoe & Kellogg, *supra* note 85. Fahima Dossa et al., *Sex-Based Disparities in the Hourly Earnings of Surgeons in the Fee-for-Service System in Ontario, Canada*, 15 JAMA SURGERY 1134 (2019) (describing how female surgeons earned 24% less than male surgeons on average, in part because the former performed lower-compensated procedures). More generally on the question of the factors that cause the gender gap in leadership ranks, see COLLEEN AMMERMAN & BORIS GROYSBERG, *GLASS HALF BROKEN: SHATTERING THE BARRIERS THAT STILL HOLD WOMEN BACK* (2021).

Yes, the fraction of women making it to deal leadership is distressingly small. But not all M&A partners are competing for deal leadership. There is variation across M&A lawyers.

Everyone who makes it to partner is not necessarily pursuing the same goal, according to our respondents. In particular, not everyone is competing to be a deal leader. Some lawyers might specialize in technical aspects of the transaction—financing, tax, antitrust, etc. Those lawyers are not “client facing.” They are not the ones who work on either bringing in the clients or maintaining the client relationship. And it is primarily those in the latter category who make it to deal leadership.

If women are choosing to focus more on being technical rather than relationship specialists, that might be part of our story. Our respondents did not know the answer to the foregoing question though. And even if women were more likely to play technical roles on the M&A deals, there was still the question of why, especially since the relationship lawyers are likely to ones earning the highest compensation and status. Somewhat tongue in cheek, we think, one of our senior women respondents said:

[The irony of your results] is that I suspect that women who make it to partnership are likely to be better positioned to be the relationship specialist than their male partners. Having had to fight their way to partnership in male dominated environments, they probably have a higher emotional intelligence and ability to be conciliatory, deal with multiple personalities, make everyone happy, not bring egos into play, make the client look good and give the client and everyone else with a fragile ego credit for good ideas. Running a deal is sort of like being a mother dealing with difficult children and personalities.

While distressed, particularly at the lack of an upward trend, none of our respondents were particularly surprised by the overall numbers in *Figure 4*. What did surprise respondents, however, were the factors that correlate with who makes it to the top and how those factors differ by gender.

The story comes in two parts. First, who makes it to the top of the deals. And second, who are the women who make it to the top and how do they differ from the men. For both parts, we find that credentials matter. But for women, credentials appear to matter more than for men.

In terms of the specific credentials, we see, unsurprisingly, that factors such as experience and the quality of one's law firm matter in determining whether a lawyer is likely to make it to the top of the deal. But it turns out that, even at the late stages of one's career, where one is competing for deal leadership—presumably a decade or more after law school—where one went to law school and how one performed there matters. Our most distinct results, both in terms of the 2020 data where we have detailed information on the pool and the 2010–2020 data on who makes it to the top, tell us that where one attended law school and whether one attended an elite law school makes a difference. Indeed, the specific tier of law school matters, with attending a more elite law school helping one up the ladder more than attending a less elite school. Receiving the highest tier of grades helps too, but not nearly as much as attending a school in a better tier. As one might expect, working at a top M&A firm and having experience are necessary but by no means sufficient conditions.

Now, to the main event: the factors that impact gender differences in getting to the top of the deal.<sup>87</sup> Both men and women benefitted from attending more selective schools across all tiers of the U.S. News rankings. That benefit can also be seen when schools are broken down by individual ranking, with graduates from the higher-ranked schools performing better. Similarly, there are positive returns for graduating Order of the Coif, working at a top-ranked M&A firm, having experience, and being a partner. We find systematic differences, however, when looking at women and men separately:

Conditioned on attending a specific band of schools (that is, U.S. News rankings of 1–6, 7–14, and 15–50), men were more likely to be chosen to lead a deal than women.

- Amongst the most academically accomplished law students—those graduating Order of the Coif—men were more likely than women to lead a deal.
- Amongst partners at a firm, again, men were more likely than women to lead a deal.

---

87. *Table 3* reports the results for men and women separately. In the Appendix, *Table A1* shows model results for women, and *Table A2* for men.

- And even amongst lawyers working at a firm recognized for its M&A practice, men again were more likely than women to lead a deal.

Credentials such as where one attended law school and how well one performed during law school matter. But they seem to matter more for women than men. And going to Harvard Law seems to matter especially for women. Conditioned on being in the group to lead a deal, a higher percentage of women attended Harvard (12%) than men (7%). Similarly, a higher percentage of women (4%) attended Stanford than men (2%), but the baseline rate for both is considerably lower than at Harvard. To be clear, people lead deals even if they attended non-elite schools: 12% of all women leading deals attended schools ranked 51–100. But 15% of males in this group attended such schools.

Why a greater Harvard/Stanford effect for women lawyers (which is mostly a Harvard effect because the Stanford numbers are relatively small)? Our initial thought was it might have to do with eliteness. Research by Lauren Rivera and others suggests that elite credentials can be important within institutions such as law firms and matter more for women than for men.<sup>88</sup> The theory is that attending elite institutions is seen by the law firm decision makers as an indicator of institutional “fit” (a proxy for wealth and status), and more important for men than for women because women suffer a penalty for being perceived as likely to drop out of the workforce earlier than men.<sup>89</sup> Others, however, suggest that, while attending an elite law school used to be an important factor in determining whether one got a job at a top law firm, that factor has diminished in importance in recent years, and other factors, such as grades, may have become more important.<sup>90</sup>

---

88. See, e.g., Lauren A. Rivera, *Ivies, Extracurriculars and Exclusion: Elite Employers' Use of Educational Credentials*, 29 RSCH. SOC. STRATIFICATION & MOBILITY 71 (2011); Lauren A. Rivera, *Diversity Within Reach: Recruitment versus Hiring at Elite Law Firms*, 639 ANNALS AM. ACAD. POL. & SOC. SCI. 71 (2012); LAUREN A. RIVERA, *PEDIGREE: HOW ELITE STUDENTS GET ELITE JOBS* (2015).

89. For an interview with Rivera on law firm hiring, see *Lauren Rivera Questions Meritocratic Assumptions in Big Law Hiring*, NYU L. NEWS (Mar. 26, 2019), <https://www.law.nyu.edu/news/big-law-meritocracy-center-diversity-inclusion-lauren-rivera>.

90. See Richard Sander & Jane Bambauer, *The Secret of My Success: How Status, Eliteness and School Performance Shape Legal Careers*, 9 J. EMPIRICAL LEGAL STUD. 893, 893 (2012) (“Our findings suggest that there is little empirical basis for the overwhelming importance students assign to ‘eliteness’ in choosing a law school.”); see also William D. Henderson, *Law Firm*

The problem with the eliteness theory comes on multiple fronts. First, Yale is the one law school more selective than Harvard and Stanford, yet Yale does not have anything close to the Harvard/Stanford effect—at least with respect to women. Our data shows that for men, the returns to attending Yale are comparable to those for men who attend Stanford; the difference is that the returns are markedly worse for women at Yale compared with women at Stanford. Second, if it is eliteness that matters, one might think that attending an elite college would also matter, and we do not find much of an effect here. Third, there are other elite credentials—such as judicial clerkships—that again, like attending Yale, are often more selective than attending Harvard Law. However, we do not observe clerkships as influencing who gets to the top of the M&A deals.

If not eliteness, maybe the Harvard/Stanford effect for women is the product of other less visible dynamics? Perhaps there are strong networks of Harvard (and Stanford) law alumni that support the careers of Harvard (and Stanford) law women?<sup>91</sup> Or perhaps these law schools have faculties that are particularly good at mentoring women students? We don't have answers to these questions, nor did our respondents. None of the M&A lawyers with whom we spoke thought what we were seeing had anything to do with Harvard having better networks for women alumni or being a more nurturing place for women interested in M&A or women generally. Some openly chuckled at the notion that Harvard Law School was especially woman friendly.<sup>92</sup>

---

*Strategies for Human Capital: Past, Present and Future*, 52 *STUD. L., POL. & SOC'Y* (Special Issue: Law Firms, Legal Culture and Legal Practice) 73 (2010).

91. Some research suggests the importance of law school alumni ties or networks for legal employment. See, e.g., Christopher I. Rider, Educational Credentials and Intra-Occupational Inequality: Evidence From Law Firm Dissolutions (Nov. 3, 2014) (unpublished manuscript) (available at [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1881028](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1881028)).

92. As best as we are aware, there is nothing in the literature on law schools and gender that suggests that Harvard Law is a more supportive and nurturing place for women. See, e.g., *Gender Disparities at HLS*, HARV. L. REC. (Apr. 3, 2016), [https://hlrecord.org/gender-disparities-at-hls/#\\_ftnref10](https://hlrecord.org/gender-disparities-at-hls/#_ftnref10); Adam Neufeld, *Costs of an Outdated Pedagogy? Study on Gender at Harvard Law School*, 13 AM. U. J. GENDER, SOC. POL'Y & L. 511, 537 (2005); Dev A. Patel, *In HLS Classes, Women Fall Behind*, HARV. CRIMSON (May 8, 2013), <https://www.thecrimson.com/article/2013/5/8/law-school-gender-classroom/> (quoting visiting Professor Laura Rosenberry as asking, in the context of women law students at Harvard law doing worse than men as compared to her home school at the time, Washington University in St. Louis: "What makes Harvard so different?").

The fact that our respondents did not have a story about why Harvard and Stanford women performed better does not mean that there is not one. Harvard Law School does, for example, house one of the few dedicated research programs on the legal profession that, among other things, looks at—and exposes students to—the dynamics of a career at big law firms.<sup>93</sup> Maybe women graduates of Harvard Law School are better prepared to deal with navigating the law firm tournament.

Our findings invite several promising avenues of future research. One is to examine representation at the top of the deal through the lens of ethnicity. Much has been written on ethnic diversity in private law practice, where many young lawyers of color join elite large law firms but where rates of attrition are typically greater for lawyers of color than for white, male lawyers.<sup>94</sup> Having a greater understanding of the interplay between ethnicity and professional success in at least one practice area can inform our understanding of the broader profession.

Another topic for further study is to understand with greater specificity *how* men and women rise to the top of their respective fields. To the extent that certain factors—for example, school attended and academic performance—explain greater (or lesser) professional success. We believe it is worth exploring more closely what (if any) intermediary factors explain these broader correlations. One possibility is that graduates of certain schools engage in activities at the firm that correlate with greater professional success.<sup>95</sup> These possible explanations warrant closer examination.

#### CONCLUSION

Our study focuses on those at the top of the law firm hierarchy. But why study those at the top, who have already had great success, as opposed to those at the entry levels?

---

93. See Center on the Legal Profession, HARVARD L. SCH., <https://clp.law.harvard.edu/> (last visited Oct. 4, 2022).

94. See, e.g., Richard H. Sander, *The Racial Paradox of the Corporate Law Firm*, 84 N.C. L. REV. 1755, 1806 (2006) (writing that black lawyers in large law firms are one-fourth as likely as white lawyers in the same cohort to earn promotion to partner); see also AFTER THE JD III, *supra* note 42.

95. See Sumit Agarwal et al., *Playing the Boys Game: Golf Buddies and Board Diversity*, 106 AMER. ECON. REV. 272 (2016) (describing how in Singapore, a woman's probability of serving on a board in a large firm in a predominantly male industry more than doubles when she plays golf).



A half century ago, when women were still being begrudged entry into law schools or, even if they performed in exemplary fashion, were being denied entry into the top law firms, it was important to focus attention at the entry level. Justice Sandra Day O'Connor famously recounted how, despite her finishing second in her graduating class at Stanford Law School, she was initially able to find work only as a legal secretary.<sup>96</sup> Justice Ruth Bader Ginsburg has similarly recounted how, in 1959, when she graduated from Columbia, she was unable to find a law firm job.<sup>97</sup>

Today, women comprise roughly half of entering associates and there is no evidence that, at least at the entry level, they are getting paid less or are intentionally being given worse assignments.<sup>98</sup> The question, then, should be what happens next. Are women progressing to the upper levels of the profession at similar rates to their male colleagues? The answer appears to be no, in that women comprise only about 25% of partnership ranks.<sup>99</sup> That still reflects a dramatic improvement from two or three decades prior, when one could count the number of women in the partnership ranks at a top law firm on one's hand.

While we know a great deal about gender differences for new graduates entering law firms as associates and for senior associates being promoted to partner, we know very little about what happens next—roughly speaking, between entry to the partnership and getting to the top of the pyramid. Nor do either the firms or bar associations seem especially concerned about this next level—perhaps assuming that once there are enough women partners, everyone is on a level playing field. Nonetheless, our results suggest that there is reason for concern. At this latter stage of the tournament—which is the longest stage, as it lasts multiple

---

96. See Sandra Day O'Connor, *Thurgood Marshall: The Influence of a Raconteur*, 44 STAN. L. REV. 1217, 1219 (1972) (describing her experience facing prejudice in the legal profession).

97. Meredith Mandell, *Book Review: When Ruth Bader Ginsburg Couldn't Land a Job*, BLOOMBERG L. (Nov. 9, 2016), <https://news.bloomberglaw.com/business-and-practice/when-ruth-bader-ginsburg-couldnt-land-a-job-review>; see also Dahlia Lithwick, "It's Amazing to Me How Distinctly I Remember Each of These Women", SLATE (July 21, 2020, 5:06AM), <https://slate.com/news-and-politics/2020/07/ruth-bader-ginsburg-interview-transcript.html> (detailing an interview with Ginsburg reflecting on her experiences as one of the first nine women admitted to Harvard Law).

98. *Law Firms Still Failing to Close the Gender Gap*, KSBRANIGAN L. P.C. (Sept. 23, 2021), <https://www.ksbraniganlaw.com/news/2021/9/23/law-firms-still-failing-to-close-the-gender-gap>.

99. *Id.*

decades — the gender gap cannot be explained solely with the story that women are voluntarily exiting the competition. Our results, however, tell us little about what the source of these disparities are, let alone how they can be ameliorated.

Conversations with senior M&A lawyers, and particularly with the small subset of women who have made it to the very top, suggest at least two possible stories for what we observe in the data. One is that, while making partner is important, receiving the best mentorship, getting access to the right training, and getting introduced to the right deals and right clients are all extremely important in determining who gets to the very top. And if the senior partners — the ones who currently have the thickest client relationships — are worried that their female junior partners might not be as committed to clients as their male colleagues, then those women juniors won't get quite the same opportunities as their male competitors. Or the senior partners may worry that clients will not be as confident with a female partner as their primary point of contact (even when they want good gender representation on their teams).<sup>100</sup> In short, the story is that even a small disparity in the granting of goodies by seniors to juniors can create a butterfly effect and produce big disparities at the end in terms of who gets to be deal leader.<sup>101</sup>

A second story has to do with flexibility. Deal leaders must be ready to deal with client requests 24/7, including flying to London at a moment's notice regardless of vacation plans. These demands are not going to be true for someone working on an important, albeit secondary, role such as making sure the proper filings have been made for securities, tax, or antitrust compliance. Everyone on these deals is working long hours, but the type of hours can differ significantly. Some hours, to borrow from Claudia Goldin, represent "greedy work," where there is disproportionate pay at the highest levels for those who can work maximally flexible hours.<sup>102</sup> Goldin suggests that women, even those in very senior

---

100. One of our respondents exclaimed in reaction to this: "Yes! And if they are going to put a woman in the leadership position, at least she is from Harvard. Clients are often older white men. They don't care about or know precise US News rankings. They do know Harvard though. It is stupid, but . . ."

101. As Gorman points out, these small differentials in the granting of opportunities can even be unconscious and yet negative outcomes in terms of gender disparities will still result. See Gorman, *supra* note 40, at 702–03.

102. See Bernstein et al., *supra* note 79.

positions, may be slightly less able or willing to perform as much greedy work. Even slight differences may be crucial in a tournament structure where only one of two people get to be the leaders.

It is worth mentioning that our respondents, while agreeing with the Goldin story for the early partnership years, have a different story for when one made it to the top level. In the words of one of our respondents:

I think it is hard to be a woman when you are junior—the first fifteen years or so of practice, which line up typically with when kids are small—because you don't control your schedule at all. But once you are senior enough and are getting to be a deal leader, your schedule can actually be better than those doing the technical work. That is because you now have the power to control your schedule, whereas the others on the team do not.

Let me explain. At any one time, as a partner/deal leader, I'm probably working on 10 deals (sadly in 2020–2022 period it was more like 20 deals at a time . . . due to crazy deal environment) and I am backed by a team beneath me that can be 10–20 people on any deal. I am the one setting the schedule, the client calls, the client meetings, so I can control that. The “specialists” beneath me (the tax lawyer, benefits lawyer, labor lawyer on my deal) are probably working on fifty plus deals at a time and have no control over their schedule. It's true that they don't have the same 24/7 push necessary to close a deal, but their day-to-day can be a bear because they have so many deal leaders like me putting demands on them. So, for me, this explains the first 10–15 years of practice, but not afterwards, unless the first 10–15 years puts the women so far behind that they can't catch up when they make partner which may be what's happening.

Ultimately, the legal profession is particularly challenging to analyze. Unlike other labor markets—even high-skilled ones—the legal profession does not generate readily observable inputs or outputs.<sup>103</sup> Moreover, the selection into, and promotion within, these firms is an inherently subjective exercise. Yet, we see that certain observable characteristics explain a fair amount of success

---

103. James Q. Wilson described these organizations as *coping* organizations. See JAMES Q. WILSON, BUREAUCRACY: WHAT GOVERNMENT AGENCIES DO AND WHY THEY DO IT 190 (1989) (describing the four types of organizations based on their transparency regarding inputs and outputs).

in M&A, an intensely competitive area of practice. Our findings provide evidence that, at the highest levels of professional success, educational credentials matter. Just as notable, they matter more for women than for men.

But why? We suspect that educational credentials, on their own, are not doing all the work. But maybe they lead to getting more in the form of other goodies—like better training opportunities or client access. And those small differences in opportunities early over a career can perhaps add up to the type of track one is on: deal leader track or technocrat track. To get at these questions though, we need much more in-depth analyses of firm dynamics, which is not a kind of research that is done on most law school faculties.

Other questions to explore include how these factors interplay with actual practice and how do they play out in the when we incorporate race, ethnicity, intersectionality, sexual orientation, transgender identity, and more into the analysis of who succeeds in the later stages of the tournament and why. Currently, we do not have the data to do analyze the nuanced identity questions—but hope that that will soon be remedied.

Finally, there is also the question of whether the changes that the Covid-19 pandemic forced on workplace structures—including the fact that lawyers were, for the most part, working remotely from home—had gender effects on which lawyers became deal leaders.<sup>104</sup> The uptick in 2020 for women leading deals may reflect that the pandemic's curtailment of travel had a democratizing effect on both genders. Again, we need more data. But the initial data suggests that it is a question worth closer examination.

---

104. This possibility is discussed by Claudia Goldin, *supra* notes 51, 52.

## APPENDIX

Table A1

*Universe of Women M&A Lawyers**Whether Chosen to Lead M&A Deal – 2020*

	1	2	3	4	5	6	7	8	9
USN Ranking 1-6	0.0344*** (0.008)								0.0071* (0.003)
USN Ranking 7-14	0.0256** (0.008)								0.0049 (0.003)
USN Ranking 15-50	0.0219** (0.008)								0.0048 (0.003)
Yale JD		0.0286 (0.025)	0.0236 (0.021)	0.0170 (0.015)	0.0056 (0.007)	0.0037 (0.005)	0.0034 (0.005)	0.0039 (0.005)	
Harvard JD		0.0030 (0.021)	0.0003 (0.020)	-0.0009 (0.014)	-0.0013 (0.007)	-0.0028 (0.005)	-0.0027 (0.005)	-0.0032 (0.005)	
Stanford JD		0.0426* (0.020)	0.0332 (0.018)	0.0243 (0.014)	0.0101 (0.006)	0.0071 (0.005)	0.0069 (0.004)	0.0071 (0.005)	
Columbia JD		0.0287* (0.013)	0.0246* (0.012)	0.0202* (0.009)	0.0105* (0.005)	0.0072 (0.004)	0.0066 (0.004)	0.0072 (0.004)	
Chicago JD		0.0362* (0.016)	0.0330* (0.014)	0.0246* (0.010)	0.0099 (0.005)	0.0085 (0.005)	0.0078 (0.005)	0.0081 (0.005)	
NYU JD		0.0190 (0.023)	0.0140 (0.021)	0.0164 (0.016)	0.0071 (0.006)	0.0039 (0.005)	0.0036 (0.005)	0.0035 (0.005)	
Order of the Coif			0.0298*** (0.007)	0.0233*** (0.006)	0.0090* (0.004)	0.0077* (0.003)	0.0070* (0.003)	0.0075* (0.003)	0.0060* (0.003)
Clerkship			-0.0208 (0.014)	-0.0193 (0.011)	-0.0056 (0.006)	-0.0035 (0.005)	-0.0032 (0.004)	-0.0031 (0.004)	-0.0038 (0.004)
Elite Undergrad			-0.0012** (0.000)	-0.0008** (0.000)	-0.0004* (0.000)	-0.0002 (0.000)	-0.0002 (0.000)	-0.0002 (0.000)	-0.0001 (0.000)
Practice Experience (years)				0.0032*** (0.001)	0.0001 (0.000)	0.0002 (0.000)	0.0002 (0.000)	0.0002 (0.000)	0.0002 (0.000)
Practice Experience <sup>2</sup> (years)				-0.0001*** (0.000)	-0.0000 (0.000)	-0.0000 (0.000)	-0.0000 (0.000)	-0.0000 (0.000)	-0.0000 (0.000)
Partner at Law Firm					0.0207*** (0.005)	0.0164** (0.005)	0.0149** (0.005)	0.0155** (0.005)	0.0129*** (0.004)
Law Firm Listed - Chamber (M&A)						0.0068** (0.002)	0.0054* (0.002)	0.0060** (0.002)	0.0047** (0.001)
Law Firm Listed - AmLaw Diversity Index							0.0044 (0.003)		
Law Firm - AmLaw Diversity 1-25								0.0003 (0.003)	-0.0003 (0.002)
Law Firm Listed - AmLaw Diversity 26-50								0.0027 (0.002)	0.0021 (0.001)
N	6301	6301	6301	6301	6301	6301	6301	6301	6301

*Note:* Dependent variable is whether the female lawyer is selected to be at the top of a mergers and acquisitions deal in 2020. The specifications are probit models, with the coefficients reporting marginal effects at the mean. All specifications include year controls, as well as clustering from both deal and attorney. \*, \*\*, and \*\*\* represent statistical significance at the p<0.05, p<0.01, and p<0.001 levels. JD - T14 refers to the set of law schools (Yale, Harvard, Stanford, Columbia, Chicago, NYU, Penn, Virginia, UC Berkeley, Cornell, Georgetown, Northwestern, Michigan, and Duke) as ranked by US News. In specifications with individual law schools listed, the remaining schools are the baseline omitted group. Elite undergrad refers to the Ivy League schools (Harvard, Yale, Princeton, Columbia, Cornell, Dartmouth, Brown, Penn) as well as Stanford, MIT, Cal Tech, UC Berkeley, Northwestern, Michigan, and Duke.

Table A2  
*Universe of Men M&A Lawyers*  
*Whether Chosen to Lead M&A Deal*  
 2020

	1	2	3	4	5	6	7	8	9
USN Ranking 1-6	0.0568*** (0.006)								0.0126*** (0.003)
USN Ranking 7-14	0.0449*** (0.006)								0.0111*** (0.003)
USN Ranking 15-50	0.0269*** (0.007)								0.0071** (0.002)
Yale JD		0.0347 (0.020)	0.0192 (0.019)	0.0205 (0.015)	0.0094 (0.007)	0.0040 (0.006)	0.0040 (0.006)	0.0033 (0.006)	
Harvard JD		0.0402*** (0.010)	0.0326** (0.011)	0.0323*** (0.009)	0.0135** (0.004)	0.0073* (0.004)	0.0071* (0.004)	0.0070* (0.004)	
Stanford JD		0.0157 (0.018)	0.0037 (0.018)	0.0035 (0.014)	-0.0010 (0.007)	-0.0040 (0.006)	-0.0040 (0.006)	-0.0042 (0.006)	
Columbia JD		0.0410*** (0.011)	0.0348** (0.011)	0.0294** (0.009)	0.0119* (0.005)	0.0074 (0.004)	0.0073 (0.004)	0.0072 (0.004)	
Chicago JD		0.0358* (0.016)	0.0307* (0.015)	0.0273* (0.012)	0.0125* (0.006)	0.0092 (0.005)	0.0090 (0.005)	0.0089 (0.005)	
NYU JD		0.0514*** (0.012)	0.0455*** (0.012)	0.0400*** (0.010)	0.0171*** (0.005)	0.0112** (0.004)	0.0110** (0.004)	0.0110** (0.004)	
Order of the Coif			0.0247** (0.008)	0.0209** (0.006)	0.0080* (0.003)	0.0057* (0.003)	0.0056* (0.003)	0.0057* (0.003)	0.0044 (0.003)
Clerkship			0.0107 (0.009)	0.0056 (0.008)	0.0028 (0.004)	0.0025 (0.003)	0.0026 (0.003)	0.0025 (0.003)	0.0018 (0.003)
Elite Undergrad			-0.0017*** (0.000)	-0.0013*** (0.000)	-0.0006*** (0.000)	-0.0004** (0.000)	-0.0004** (0.000)	-0.0004** (0.000)	-0.0002 (0.000)
Practice Experience (years)				0.0070*** (0.001)	0.0007 (0.000)	0.0006 (0.000)	0.0006 (0.000)	0.0006 (0.000)	0.0006* (0.000)
Practice Experience <sup>2</sup> (years)				-0.0001*** (0.000)	-0.0000** (0.000)	-0.0000** (0.000)	-0.0000* (0.000)	-0.0000* (0.000)	-0.0000** (0.000)
Partner at Law Firm					0.0432*** (0.005)	0.0366*** (0.004)	0.0362*** (0.004)	0.0363*** (0.005)	0.0336*** (0.004)
Law Firm Listed - Chamber (M&A)						0.0154*** (0.002)	0.0147*** (0.003)	0.0150*** (0.003)	0.0138*** (0.002)
Law Firm Listed - AmLaw Diversity Index							0.0019 (0.002)		
Law Firm - AmLaw Diversity 1-25								0.0039 (0.003)	0.0030 (0.003)
Law Firm Listed - AmLaw Diversity 26-50								-0.0004 (0.002)	-0.0007 (0.002)
N	17112	17112	17112	17112	17112	17112	17112	17112	17112

*Note:* Dependent variable is whether the female lawyer is selected to be at the top of a mergers and acquisitions deal in 2020. The specifications are probit models, with the coefficients reporting marginal effects at the mean. All specifications include year controls, as well as clustering from both deal and attorney. \*, \*\*, and \*\*\* represent statistical significance at the p<0.05, p<0.01, and p<0.001 levels. JD - T14 refers to the set of law schools (Yale, Harvard, Stanford, Columbia, Chicago, NYU, Penn, Virginia, UC Berkeley, Cornell, Georgetown, Northwestern, Michigan, and Duke) as ranked by US News. In specifications with individual law schools listed, the remaining schools are the baseline omitted group. Elite undergrad refers to the Ivy League schools (Harvard, Yale, Princeton, Columbia, Cornell, Dartmouth, Brown, Penn) as well as Stanford, MIT, Cal Tech, UC Berkeley, Northwestern, Michigan, and Duke.