

# THE DAILY RECORD

WESTERN NEW YORK'S SOURCE FOR LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

## GRAWA PRESIDENT'S MESSAGE

### Women still not equally on the bench

The Center for Women in Government & Civil Society just published its Spring 2010 report, "Women in Federal and State Level Judgeships."

The center is part of the Rockefeller College of Public Affairs & Policy at the University at Albany and is an academic research center that engages in policy analysis and development on issues facing women and girls, particularly women's leadership. The report used existing data from the Federal Judicial History Office as well as the Foster-Lang's 2010 edition of "The American Bench" in order to reach their conclusions and recommendations. From the aggregate data, the researchers calculated the percentage of women represented in both state and federal-level judgeships nationwide. Based on the relative percentages, states were ranked accordingly.

Despite clear advances in the representation of women in the legal profession and on the bench, the report indicates that no state has yet to achieve equal — 50 percent — representation of women, in either federal or state-level judgeships. That number remains, as the report states, "elusive."

Men still occupy 74 percent of all state and federal judgeships nationwide. Women make up an average of 26 percent of all state-level judicial positions and only 22 percent of all federal positions. The report argued "women's equal representation matters, not only because of their different life experiences which make their perspectives diverse, and in turn enrich and broaden knowledge of the courts, but because it is critical to a representative democracy and to equal citizenship."

To that end, the report quoted U.S. Supreme Court Justice Ruth Bader Ginsburg: "Women bring a different life experience to the table. All of our differences make the judicial conferences better. That I'm a woman is part of it."

The report also noted, however, that achieving at least a critical mass of women in the judiciary is a vital benchmark. The study defines "critical mass" as "the point at which the presence of women becomes significant enough to instigate change in the stereotypical conception of gender roles" and, further, holds that women achieve "critical mass when they comprise one-third the membership of a group."

Critical mass on the bench would be achieved, then, when 33

percent of those holding seats at the state and/or federal levels are women. Given that statistical marker, several states have met critical mass status. New Jersey (44 percent) and Connecticut (38 percent) are the only states to have achieved critical mass on their federal benches.

Women seems to have fared better at the state level, with eight states achieving critical mass — Vermont (40 percent), Massachusetts (37.5 percent), Rhode Island (36.7 percent), Montana (36.5 percent), the District of Columbia (36 percent), Hawaii (35 percent), Kentucky (34.5 percent), and Oregon (33 percent).

New York did not achieve critical mass in any category. Per the center's report, New York has a total of 396 women and 1,324 men in state and federal judgeships, which translates to an average of 30 percent total female representation on the bench. Of the 150 total members of our federal bench, 113 are men and 37 are women — 25 percent of women actually are serving in federal judgeships. While that number is in line with the national average, the study ranks New York 18th in the United States based on that

percentage.

On the state bench side, New York has 359 women serving, compared to 928 men — 30 percent of state bench seats are held by women. Based on that percentage, New York ranked 14th in the nation, tied with Arizona. Unfortunately, because the study is not New York-specific, it does not drill the numbers down further by analyzing judicial district or court types statewide to better illuminate our geographic differences or the challenges relating to female representation on particular benches. The researchers did, however, shine a spotlight on the U.S. District Court in the Northern District of New York. The report noted a total "absence of women from the ranks of U.S. District and Magistrate judgeships in the Northern District of New York, despite the presence of a large qualified pool of 359 female judges on state-level benches."

The report indicates New York is not alone. Other states play host to similar pockets of gender disparities. In Mississippi, for example, women are absent or nearly absent from both the U.S. Bankruptcy Court and the state Supreme Court benches.

The most recent report from the New York State Office of Court

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Administration — released September 2009 — breaks down New York's numbers a bit more fully. The Court of Appeals has nearly 43 percent female representation while the Appellate Divisions have nearly 32 percent. Outside of New York City, only a quarter of all Surrogate's Court judges are women. Outside of New York City, women represent about 11 percent of county court judges.

Alternatively, the state's family courts have nearly met or exceeded equal representation, with nearly 64 percent of those benches held by women in New York City and 49.4 percent in the rest of the state. A concentration of women in any court, most certainly, is progress. However, it would be extremely interesting to meaningfully study why New York women are represented in such large numbers in courts dealing exclusively with family law issues.

Doubtless, extremely competent women are to be found in all areas of the law, including family and matrimonial law. Given women's disproportionate representation on family court benches, however, several questions come to mind: Are women being stereotyped by voters as being more capable of adjudicating only certain types of matters, such as family law? Are women being stereotyped by their political parties as being more electable for only certain

types of offices? How do women fare in elected versus appointed positions? Why are women so vastly underrepresented in the county courts that handle serious criminal cases?

Addressing the national gender disparities detailed by the aggregate data, the center's report states the "gender gap cannot be attributed to the lack of women who are qualified to serve on the bench, but to the lack of opportunity and access afforded to women." The report does not outline the particular challenges relating to opportunity and access faced by women, however.

The change in women's representation on the bench has been profound. In 1988, only 11 percent of the New York State judiciary were women. By 1999, that figure had more than doubled to 24 percent. Now, 10 years later, women represent about 30 percent of our state judiciary seats. Despite encouraging advances, this remains a work in progress, for both men and women, here and throughout the country.

To advance the conversation locally, GRAWA will host a panel in the spring, intended to discuss and support women's access to the judiciary. Look for more information on GRAWA's Web site, [www.grawa.org](http://www.grawa.org).

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