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Kalpana Srinivasan Talks DE&I, Trends in Big Tech and IP Litigation

“There are still those frontiers that we need to be pushing ahead more and helping lawyers not just get into the system but also stay and want to reach the highest levels of the profession. That is going to require more development,” says Susman Godfrey managing partner Kalpana Srinivasan.

BY CHRISTINE SCHIFFNER

The National Law Journal has launched a profile series of plaintiffs bar leaders. Each Q&A will take a personal look at the attorney’s career and legacy as well as discuss industry trends.

In this edition, Susman Godfrey managing partner Kalpana Srinivasan discusses plaintiffs bar trends in the intellectual property and technology field. She also opens up about how she experienced diversity and inclusion efforts throughout her career and her own priorities in promoting diverse legal talent.

NLJ: Why did you choose to become a lawyer?

Kalpana Srinivasan: I was a journalist before I became a lawyer. I started as a reporter and over time, my beat became communications policy. So I was covering both the technical developments but also the consumer impact, the real-world changes and the influence of legislation.

A fair bit of what I was doing was also covering the legal impact of the 1996 Telecommunications Act and trying to translate that for real people. It made me interested beyond a level that I would do writing about those issues.

I also thought, as an advocate, I might be able to influence the direction of some of these important questions. So that led me to consider a profession in the law and [I] applied to law school. [It] led me to become a lawyer who was particularly interested in this area of the law, intellectual property and competition and how the law can shape people’s

experiences and their access to technology.

How have you experienced gender equality and diversity on your way to a leadership role of a firm?

First, I hope that my own elevation to this position signals to other women, diverse people that it is absolutely feasible. It should be part of

your career trajectory—an attainable goal. I started my career at this firm and to be able to be in this position now is really amazing. I have had a lot of support and positive feedback along the way, but I think, a lot of times, there is a tendency to talk yourself out of it: “Well, maybe I’m not ready, maybe I’m not the right person,” instead of listening to the people around you who feel differently.

It’s also been great to have this platform to be able to speak more candidly on what we need to do as a profession to move forward. We collectively have a lot of women lawyers entering the field and at the junior stages of our field and we need to obviously continue that, but also think about how we lay the groundwork for women and diverse lawyers to stay in the profession and to flourish in the profession.



Kalpana Srinivasan,
managing partner of
Susman Godfrey.

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I believe that includes doing things like helping younger lawyers figure out how they will cultivate business eventually, giving them opportunities to be visible and to be seen, especially in court or with opposing counsel, or with clients—both because it helps them to grow, but also because, ultimately, that’s often how they get business leads down the road; incorporating younger lawyers in strategic decision-making, so that they can learn the judgment that they eventually are going to need when they are the person running a case or bringing in a client.

There are still those frontiers that we need to be pushing ahead more and helping lawyers how to not just get into the system but also stay and want to reach the highest levels of the profession. That is going to require more development.

I’ve spoken quite a bit about the work still to be done in the courtroom, which has gotten better. But it’s still surprising how many times you will see a trial or a major hearing where there are no women or diverse lawyers present even when you know you’ve seen them on the pleadings, you interacted with them. But when push comes to shove and it’s time for the big argument or for the trial or some significant stand-up role, there is a big disparity and it’s a real disservice to the lawyers who are trying to grow and are trying to develop that skill set so that they can be marketable one day.

In my firm, we always had the ethos that was really developed by our founder that we split stand-up work, that when we go to trial, even an associate would handle a witness. We try to give those opportunities and share those across the team. I can say for me, personally, it was very career-influencing because I got to go to trial as a young lawyer, and I got to handle witnesses, people got to see me in action and that ultimately helped my own career to develop.

That’s an area where collectively we can do more, which is to ensure that we’re recruiting and retaining diverse and female lawyers, but also that we’re giving them a chance to be seen where it matters.

Could you talk about one or two cases you worked on and what kind of challenges you had to meet?

The case that stood out the most for me is our trade secrets matter on behalf of HouseCanary. The case started with HouseCanary being a defendant in a breach-of-contract case. But over time, and through really paying attention

to the way discovery was unfolding and some of the things that didn’t quite compute, it became clear that HouseCanary was actually the injured party—that they had had trade secrets stolen from them in the course of this contractual relationship and so it went from being that HouseCanary was a defendant in a breach-of-contract action to becoming a counterclaimant and really the plaintiff in a trade secret case which turned out to be a \$706 million jury verdict for HouseCanary.

It was both understanding the technology but also the value and understanding the evolution how theft happens in intellectual property. It can take a lot of forms and in this case, one of the critical ways in which the other party stole HouseCanary’s trade secrets was through reverse engineering and trying to effectively recreate the real estate evaluation model that my client had.

We learned in the middle of this case about this theft and that really turned everything around, but also very critically in terms of presenting it to the jury. It was a jury trial in a multiweek state court jury in San Antonio and making the technology accessible for everybody.

So that was a very exciting case and one in which I felt my prior life had played a very natural transitional role because both in terms of understanding, but also in terms of translating it in a way that explained its importance to jurors and to the court.

What is your advice to young lawyers?

I remind them, it’s a marathon, not a sprint. One of



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**Kalpana Srinivasan
of Susman Godfrey.**

the things that I found hard as a young lawyer is not to take everything to heart every day. Sometimes, something doesn't go your way—you lose a motion and you feel that and I think the highs and the lows you feel more acutely when you are younger.

Over time, when you see the big picture, you realize that that's just the little steps along the way, and there's going to be steps forward and there's going to be steps back.

The other thing is, that I remind young lawyers that it is not easy when you're dealing with lawyers that are very adversarial on the other side. It's very challenging and you really have to work hard to stay above that and I remind them a lot of times you hear bluster or comments or this or that, those things don't change the outcome of the case.

What other skills are needed for lawyers to succeed?

Being a successful advocate has a lot of different aspects to it. One of them is your job is to problem-solve. That's the job as somebody who is a client advocate, and problem-solving can be really nuanced. It could be that resolving [a case] early is the right call, and another case it could be "this is a problem we're not going to achieve the right resolution in the short term so we're just going to focus on the long term."

I think it also requires being a good listener. What does your client want to achieve? What are they saying to you about their goals in litigation and what can you achieve for them? And also, being able to read the room. Does the court want more of this, does the court want to see less?

Where do you see evolving trends in the plaintiffs bar?

We do a large volume of plaintiffs work across a wide number of areas, including consumer protection, intellectual property, individual and class cases in the copyright and patent area—to me, these are going to continue to be really hot areas of the law and particularly so for the plaintiffs bar.

I do believe that protecting innovation and the position of rightsholders is going to continue to be really important. I think it will be a very important trend in the bar, certainly in our firm.

And then, more broadly, class actions as a vehicle to remedy harms by plaintiffs, and that can be in the space of antitrust to data privacy to consumer protection to music royalties. I've handled cases for copyright holders and others who had rights in sound recordings and music compositions. When they are not paid their due royalties, it's hard to assemble enough plaintiffs to make it worthwhile to go litigate that case against a major music company.

So the class action vehicle really remains critically important because, in the absence of that, there would be a lot of cases for which it would be hard to pursue a remedy. I think this is going to continue to be an important trend that we're going to see—how to make use of class actions.

What challenges do you see for the plaintiffs bar over the next few years?

There are some legal challenges. I think in a lot of cases these days, you see a complaint and it is clear the level of work and investigation and analysis, the legal research that has already happened before the case is even filed. That is certainly different from a time when you would get the complaint on file, give notice and then we're going to get deep into discovery.

It does mean that in vetting your plaintiff's case you're doing it earlier, you are doing it very thoroughly, you're trying to chase down everything you can and in the absence of discovery so you can put your best foot forward.

There have been times where the defense tries to create a shadow around a plaintiff's case from the get-go and they can use that as a distraction to discovery.

And so, plaintiffs are really demonstrating how much they have done to get a case together even with the limitations of not having access to [the] defendant's documents and materials.