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SPECIAL REPORT LAW FIRMS

Rainmaker represents A-list clients

Emily Nicklin | Kirkland litigator's billings put her in the big leagues

By **MARY ELLEN PODMOLIK**

Within nine days of joining Kirkland & Ellis LLP in October 1979, litigator Emily Nicklin was told to assemble experts for a case and develop the attack on the opposition's experts.

"I did something that I now encourage young women not to do," Ms. Nicklin says. "I said, 'Well, I haven't been here very long, and I haven't been out of school very long, and I don't really know that I can do that.'"

Her mentor at the time, well-known Chicago litigator Fred Bartlit Jr., told her, "You can (do it). It will be no problem." And he was right," she says.

She never again vocalized her doubts, what she calls the "chattering in her head." Now 50, Ms. Nicklin, doesn't act like one of the boys, do much networking or participate in bar association committees. But her skill and self-assurance have made her one of Chicago's top trial lawyers and a top rainmaker for Kirkland & Ellis, the city's most profitable law firm.

Kirkland ranks as the 12th-largest firm nationally and Chicago's largest based on gross revenue, with 2002

revenues of \$611 million, according to *American Lawyer* magazine's Am Law 100, a list of the top 100 firms nationwide. It also is the nation's fifth-most-profitable law firm, with profits per equity partner of \$1.8 million in 2002, and Ms. Nicklin is one of 145 equity partners. Kirkland says that based on fees billed to clients, Ms. Nicklin is in the firm's top 10% of 350 equity and non-equity partners worldwide. And work from clients she has brought to the firm is handled by 93 Kirkland lawyers, according to the firm.

She has defended Andersen Consulting and several accounting firms on professional liability and breach of contract; Navistar International Corp. on retiree benefits; Dow Corning Corp. on breast implants, and the city of Chicago on runway expansion

at O'Hare International Airport.

There's no evidence of lingering self-doubt in Ms. Nicklin today. Her confidence—and self-deprecating wit—show in her conversation. Her stark office reflects her head-down focus on work. Three pictures of her children sit on a credenza, but the walls behind and adjacent to the desk are an empty white canvas.

Her defense of Andersen Consulting in a suit filed by Beverly Enterprises Inc. was selected by the *National Law Journal* as one of the top 15 defense victories of 1997. Beverly, an Arkansas-based nursing home chain, had sued Andersen for \$35 million over its advice regarding a new computer system. The Fort Smith, Ark., jury rejected the claim and awarded Andersen \$1.87 million.

William Sutton, a Little Rock lawyer who represented Beverly, says Ms. Nicklin is among the top litigators he's opposed. "Sometimes it's harder to accept a hard edge from a woman because hard women are not the kind we like the best," Mr. Sutton says. Ms. Nicklin "stayed within the bounds of correctness. You can be pretty tough if you can't be proven wrong."

Her latest challenge is preparing to defend Morgan Stanley against a sexual discrimination lawsuit filed in New York by the Equal Employment Opportunity Commission (EEOC) in 2001. The case, which could involve as many as 100 plaintiffs, is like a class-action suit, but because of the government's involvement, it's called a pattern and practice suit. It drew headlines last March, when Morgan



Stanley backed out of a potential settlement.

Donald Kempf, general counsel at the investment banking firm and a former Kirkland partner, has known Ms. Nicklin since she was a law student at the University of Chicago. When the EEOC filed its complaint, Mr. Kempf and two other Morgan Stanley attorneys each drew up a list of six potential defense lawyers for the case. Ms. Nicklin's name was on two of the lists, and she got the call.

Having a woman defend the firm in such a suit might hurt Morgan Stanley's chances initially, Mr. Kempf says, because jurors might think the firm is pandering to them. After that, her sex will be irrelevant. "Within an hour, they will quickly say, 'They didn't hire her because she's a woman lawyer. They hired her because she's a spectacular lawyer.'"

Former mentor Mr. Bartlit says Ms. Nicklin's intelligence

has made her a go-to trial lawyer. "From the beginning and to this day, she has probably the clearest mind and way of thinking of anyone I've met," says Mr. Bartlit, founding partner in the Denver office of Chicago-based Bartlit Beck Herman Palenchar & Scott.

"I've always felt that women in some ways are easier to work with and have a good chance of becoming greater trial lawyers than guys. When you tell a guy that he screwed up, you get half an hour of wounded male pride," he says. But women like Ms. Nicklin ask, "How can I do it better next time?" he adds.

Her longest-running client is PricewaterhouseCoopers LLP. She first represented the accounting firm in 1983 when another Kirkland lawyer asked if she wanted to handle a small dispute. Ms. Nicklin resolved the issue, and seven months later, the firm asked her to take over

the defense of a case that was 10 days from trial. That cemented her relationship with PricewaterhouseCoopers and led to more work from accounting firms, including the former Arthur Andersen, as well as Deloitte & Touche LLP.

Despite the growing ranks of women litigators, Ms. Nicklin warns up-and-comers that they have two strikes against them. "The great likelihood is, because you're young and because you're female, you won't look like a decision-maker," Ms. Nicklin says. "Time will take care of being young. Female you're stuck with."

But there is a plus. "If you are really good, better than the other people, you'll build a relationship faster because you stick out," she adds.

Ms. Nicklin thinks the next 10 years will be her most productive, because she has the experience to take on wider-ranging cases.

She is also mentoring other

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women at Kirkland, much as she was mentored: by giving opportunities to colleagues who don't necessarily feel ready for them.

And, she's part of a formal women's leadership initiative at the firm to help groom future women rainmakers. Some male colleagues mockingly asked when a men's leadership initiative would start. "I told them, 'We don't have that for the same reason there's no white history month,'" Ms. Nicklin says.

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