

What Do Women FEs Want? The Survey of NAFE Women Forensic Economists

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Women constitute approximately 14% of the membership of the National Association of Forensic Economists (NAFE). In May of 2019, N.C. Ostrofe conducted a detailed survey of NAFE's women members about life as a female Forensic Economist (FE), asking if they ever felt they were treated differently from males and how NAFE could attract more women to the profession. 37% of the female members who were contacted responded. The survey finds that female FEs generally find their work to be intellectual, stimulating and lucrative, but many believe FE is not a gender balanced field and that the culture of litigation and forensic economics could and should be improved for women.

Keywords: careers, expert witnesses, forensic economics, forensic economists, litigation, National Association of Forensic Economics (NAFE), women

INTRODUCTION

This article originated from a post on the NAFE list serv. A member mused that perhaps the reason that there were so few women forensic economists was that the field was “too adversarial” for women. Given that 60% of the attorneys in America are women working within an adversarial system of law, I responded, this was likely not the reason.¹ Shortly thereafter I received a request from Kevin Cahill, NAFE President, to write an article on women in forensic economics. I proposed that we conduct a survey.

Whatever the reason, women are a small minority within NAFE. 588 members are recorded in NAFE's online membership directory. Of these, 87 have identifiably female names. Of those 87 that I contacted, 1 was an attorney, 2 were male, 1 was a vocational expert and not an FE, and 1 woman was listed twice, leaving 82 female forensic economist members, or 13.95% of NAFE's membership. While more women than men earn Bachelor's Degrees², only 30% of the Bachelor's Degrees in Economics are awarded to women. Beyond that, 41% of the Master's Degrees, and 34% of the Ph.D.'s in Economics are awarded to women.³ This imbalance is not necessarily present in other fields relating to forensic economics. In accounting and related fields, 51.2% of Bachelor's degrees, 55.4% of Master's Degrees and 53.5% of Ph.D.'s were awarded to women in 2016-17.⁴ Even so, women represent just 22% of partners in CPA firms.⁵

In an effort to determine why so few women are NAFE members, and what female NAFE members think about being an FE and about NAFE in general, on 5/20/19, I e-mailed NAFE's women members and asked them the following questions:

1. Name:
2. Professional degree(s):
3. Years worked as a Forensic Economist (FE):
4. Practice areas (e.g., Personal Injury):
5. Professional organizations to which you belong:
6. Professional organizations in which you actively participate:
7. How has being a woman affected you as an FE: good, bad, or not at all?
8. Is being an FE a good career move for a woman? Why or why not?
9. Do women face any barriers as an FE? If so, what are they?
10. Have you ever been mistaken for the court reporter? How did you feel about that?
11. Does being a woman ever influence your professional opinion as an FE? If so, how?
12. Do you think jurors respond differently to male vs. female expert witnesses? How so?
13. Do you think attorneys respond differently to male v. female expert witnesses? How so?
14. Do you think attorneys' clients respond differently to male v. female expert witnesses? How so?
15. Do you think opposing experts respond differently to male v. female expert witnesses? How so?
16. Do you think more women should be published in FE journals? If so, how could this be encouraged?
17. Do you think more women should be on the editorial boards of FE journals? If so, how could this be encouraged?
18. Has the MeToo# movement affected you? If so, how?
19. If you were a man, would you make more money? Why or why not?
20. Does the FE profession seem to be gender balanced? If not, why do you think this is? How could this be addressed?
21. How could NAFE attract more women FEs as members?
22. How could NAFE attract more women to the FE profession?
23. How could NAFE attract more women to NAFE conferences?
24. How could NAFE better serve its female members?
25. What could NAFE do now to ensure an equitable future for female FEs?
26. Is there a question you wish I had asked? What is it? Could you answer that question?

The responses were electrifying. First, women were delighted to have NAFE address these issues and many thanked me for conducting such a survey. Of the 82 female FEs contacted, 30 responded, for a 36.6% response rate, slightly better than the 33.1% response rate for the 2017 Survey of NAFE Members.

The most common professional credentials for female FEs were M.B.A. (11/36.6%), Ph.D. in economics (9/30%), B.A. in Economics (7/23.3%), or CPA (6/20%) – but respondents also possessed Master's Degrees and Ph.D.'s in Public Planning, Mathematics, and Geography, and one was a Chartered Financial Analyst (CFA). Years of experience ranged from 1 to 36 years, averaging 19.5.

Practice areas ranged widely, but the most common were Personal Injury (25/83.3%), Employment (17/56.7%), Wrongful Death (17/56.7%), and lost profits | business interruption (8/26.7%).

Professional organizations that FEs belonged to and actively participated in were also wide ranging (encompassing the Financial Industry Regulatory Authority (FINRA) and American Board of Vocational Experts (ABVE)) but most commonly the National Association of Forensic Economics (NAFE) (25/83.3%), American Academy of Economic and Financial Experts (AAEFE) (10/33.3%), the American Institute of Certified Public Accountants (AICPA) (6/20%) and the Collegium of Pecuniary Damage Experts (CPDE) (4/13.3%).

As far as the effect of being female upon being a FE, most felt it was both good and bad (8/26.7%) or had no effect (7/23.3%). (4/13.3%) women felt it was good. Respondents indicated that it could be more difficult being a female FE in terms of demands on women's time (given traditional caregiving and domestic responsibilities), securing the confidence (if not the respect) of attorneys, clients, or peer forensic economists, or simply getting paid for an assignment.

Was being a FE a good career move for women? (12/40%) thought so without reservation and (10/33.3%) thought so but added caveats. No respondents indicated it was not a good career move, although approximately half of these respondents expressed some reservations in that the demands of litigation could be stressful and impact family and work life balance. Almost universally, however, women found the work to be intellectual, stimulating, and lucrative.

Did women believe there were barriers to becoming an FE for women? While some (7/23.3%) did not, most (11/36.7%) believed this to be so but qualified their answers. (5/16.7%) respondents answered “yes” with no qualifications. The barriers, as one respondent described them, were “more social in nature”. Again, some expressed the difficulty of there being “serious barriers to growth while raising a family” and “short deadlines and long hours may be barriers to women with dependent children or aging family members”. Others felt that there was a “lack of collegial mentoring”, “stereotypical attitudes about women may persist in attorneys and jurors”, that there were “old boys clubs in law firms”, that “clients prefer male experts”, that it took women longer to gain the confidence of attorneys about their ability to withstand cross examination, and that one had “to continuously prove your credentials”.

Most respondents (15/50%) indicated that they had never been mistaken for a court reporter or a receptionist, although many (9/30%) had. Younger FEs found this to be mildly offensive, while older FEs were more likely to “be amused by people’s pre-conceived notions” or even found it “beneficial to have an adversary underestimate my abilities as a forensic economist.”

Most women (20/66.7%) did not believe being a woman had any effect upon their opinions as an FE, although some (7/23.3%) felt it might. One woman wrote that while she might identify with a female plaintiff in a discrimination case, this would not affect her calculations or her valuation of the loss. Several women indicated that being a woman gave them a certain insight into the valuation of household services.

About half (13/43.3%) of respondents believed that jurors responded differently to female witnesses, while (4/13.3%) didn’t know and (6/20%) didn’t think jurors would respond differently on the basis of gender. Some felt it was easier for male experts to establish trust with a judge and jurors, and that male experts could be aloof and jurors would interpret this as “smart” and “professional”. Others believed jurors would view female experts more favorably because they were “warmer”, comparatively egoless, and would be more straightforward and less likely to prevaricate.

As to whether attorneys responded differently to female FEs, half (15/50%) of respondents said that they did, (7/23.3%) respondents said that they didn’t, and (4/13.3%) respondents said they didn’t know. (2/7%) respondents noted that attorneys may have strategic reasons for picking an expert of a particular gender or race based upon the nature of the case or the demographics of the principals in the case. Many respondents believed that attorneys were less likely to “beat up” on a female expert undergoing cross examination for fear of looking bad to the jury.

Respondents were similarly divided as to whether clients responded differently. Almost half (12/40%) believed that they did; while (9/30%) believed that they did not and (4/13.3%) didn’t know. Some noted that clients were predominantly male, could be condescending, or stereotypical attitudes could persist. One FE noted that traditionally feminine traits, such as being gentle or sensitive, could be advantageous when communicating with plaintiffs in wrongful death cases.

Most female FEs (12/40%) felt that they were not treated differently from male FEs by opposing experts, (4/13.3%) didn’t know, and many (9/30%) noted that opposing male experts could be arrogant or a bit more confident opposing a female expert. One felt that age was a greater differentiator than gender.

Most respondents (20/66.7%) believed that more women should be published in professional forensic economic journals. Some noted that it might be difficult to obtain papers, or papers of publishable quality, given the small number of female FEs in the field, the time demands upon women, and the paucity of FEs from academia. Several noted, too, that women, as Virginia Woolf believed, need “a room of their own” in order to publish papers -- in the form of time away from billable hours, family responsibilities, and support and mentoring from editors. A few felt that the journals were “absolutely male dominated” or that only a small “clique” of writers tended to appear in journals.

Respondents also believed (20/66.7%) that more women should serve on the editorial boards of FE journals. One respondent noted that the editorial boards seemed like “a boys club”, but another noted that the “ratio of male to female FEs would make it hard if composition of board is to be representative” and still another noted that she was unsure “how to make this happen, forced diversity hires tend to backfire”.

Half of respondents (15/50%) indicated that they had not been affected by the MeToo# movement, although (1/3%) respondent reported being harassed in graduate school and in the online job market.

The majority of respondents (16/53.3%) believed they would make more money were they male, (9/30%) unequivocally so. Respondents felt that were they male, they could charge more, demand more from employers, or attract more work. One respondent poignantly noted: “I have had to beg to be fairly compensated for many years now. I do not believe I would have such trouble negotiating my compensation year after year had I been a man.” Another tartly retorted: “No!!!! If I bought into that I wouldn’t be where I am today. Because of the uphill struggles being a woman in this industry, I produce meticulous work, knowing I am under a magnifying glass, whereas it seems men can often get away with throwing stuff against the wall just to see what sticks because they believe they can. My work product and reputation precedes me, slow and steady wins the race. there isn’t a man alive that is grittier than I am.” Some (3/10%) felt that domestic responsibilities prevented them from working more hours. Another responded that taking maternity leave in graduate school had hurt her on the job market.

Most (21/70%) respondents believed that forensic economics was not a gender balanced field, although (3/10%) respondents indicated that they didn’t know, and (1/3%) respondent observed that there were more female FEs than male in the market in which she worked. One respondent felt this imbalance would never be addressed. Another believed that time, STEM education, and the influx of women from accounting would correct this. One respondent believed that most experts were professors or men who hired other men and having more women on hiring committees would improve this. Another respondent felt that NAFE was dominated “by the same group of men, who are not very welcoming.”

In terms of NAFE attracting more females to the organization and to the FE profession, developing a mentoring program was a frequent reply (4/13.3%).⁶ Several women expressed the desire for a mentor, and several experienced FEs expressed the desire to become mentors.⁷ Several respondents suggested building awareness of the FE profession at colleges and universities. One respondent suggested creating a NAFE student membership program⁸ and another extending NAFE membership at a reduced rate to all members of an FE firm instead of just offering individual memberships. A few respondents suggested offering NAFE sessions and networking events designed just for women like women attorneys have in the legal field. Education in the form of continuing education courses, training sessions, or “bootcamps” was recommended. One recommended that NAFE work to attract a “comfortable minority” of women in the profession both locally and nationally as it would be “comfortable” to have more women present, even though the men at NAFE gatherings were friendly. Many respondents found the NAFE list-serv to be a deterrent, one writing that she would like to see it managed more professionally and another who bluntly quipped “put duct tape over mouths and fingertips of jerks on list-serv”. A respondent echoed: “NAFE list-serv is so discouraging to be honest. Some of the discourse taking place there is just too discouraging and alarming.” One respondent suggested creating a list-serv for new members that would be a “safe-zone” where questions could be posted without fear of snide remarks.

Respondents had a plethora of suggestions for attracting more women to NAFE conferences: greater female participation and involvement; “find new people, not the same super-involved people”; have women plan the meetings and be present to welcome and talk to other women; hold more practical sessions and have fewer sessions addressing esoteric theory; provide ways for FEs to enhance their skills; provide incentives for women with families; recruit women from other organizations; and develop a stronger marketing campaign that is fresh and new. One respondent suggested that it might be of interest to have a panel at an upcoming conference called “Women in FE: How we got here, Advice to others on how to excel in the field.” Given the demands on women’s time, one woman suggested that NAFE should hold online forums allowing remote and virtual attendance. Respondents also suggested that NAFE “disinvite jerks on the list-serv who are rude and arrogant” and “minimize male egos that are on display”.

Ideas for how NAFE could do to better serve its female members were somewhat in the same vein: encouraging more active involvement by women; provide opportunities to network and enhance professional skills; make female members feel valuable and welcome; and also providing “trailblazer” female role models who are “authoritative while maintaining their feminine qualities”.

As for suggestions as to how NAFE could create a more equitable future for female FEs, (5/16.7%) respondents said they didn’t know. Others repeated answers they had provided to preceding questions, namely: greater female leadership and involvement; promoting awareness of FE at business and economics schools; mentoring; having more women present papers at conferences and publish them in journals; and encouraging, training, and mentoring more women and having them testify, not just do the leg work. One woman suggested adding a section to *The Forecast* to discuss gender issues and allow males and females to comment. One woman felt NAFE should change how women are handled; another quipped: “Check egos at door and stop behaving like they know everything.” And one woman ambitiously suggested: “Work for a more egalitarian society at large.”

Finally, one respondent vehemently believed that there were no differences between male and female FEs and wrote: “I think that publishing anything that implies that women are discriminated against in the FE profession would do more harm than good and potentially **cause fewer women to be attracted to the profession!** If you want to attract women to NAFE, I suggest you promote the successes of women in the profession, not advertise failures. Publishing something that suggests women FEs are treated differently than men would, in my experience, be incorrect and potentially influence women who are researching the profession to go elsewhere. Imagine the harm it would do if NAFE published something that suggested ‘Barriers to Women in FE Profession’.”

As for my last question, What question do you wish I had asked? several women wished I had asked respondents to explain how they became Forensic Economists, an obvious question I that wished that I *had* had the wit to pose. And one woman responded: “You should have asked, ‘Would you recommend the FE profession to your daughter?’ Yes, without any reservations, I would highly recommend this profession to my daughter!”

ENDNOTES

1. Interestingly, this fact was insufficiently convincing, as some NAFE members continued to muse online that the 60% of attorneys that were women likely worked in non-adversarial practice areas of the law.
2. <http://www.aei.org/publication/table-of-the-day-bachelors-degrees-by-field-and-gender-for-the-class-of-2015/>
3. National Science Foundation: Women, Minorities, and Persons with Disabilities in Science and Engineering: <https://www.nsf.gov/statistics/2017/nsf17310/digest/fod-women/economics.cfm>
4. Catalyst.org: <https://www.catalyst.org/research/women-in-accounting/>
5. Catalyst.org: <https://www.catalyst.org/research/women-in-accounting/>
6. One respondent had approached NAFE members for help at conferences or on the listserv but had been turned away.
7. The author made the requisite introductions.
8. NAFE offers student memberships.