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Feminist firms and the pursuit of happiness for lawyer parents

A new law-practice model to solve the time-commitment issue and retain female attorneys who are raising families

BY LAURA MAZZA, KATIE BAIN AND KATIE DEBSKI

Our firm is composed of three female partners, all with young children. Between the three of us, we have one four-year-old, one three-year-old, two two-year-olds and one on the way. We run a successful employment law and personal injury firm with no staff, seldom work late or on weekends, and are three of the happiest female-litigator moms around.

Why? Because we said goodbye to the traditional firm model of crazy hours

and the ridiculous notion that she who “bills the most hours” or “comes in first and leaves last” is the best attorney. Instead, we created a feminist firm that embraces family and is both efficient and frankly, fun. We know that no mother who is worried about her sick kid at home or feels guilty about missing a kid’s school performance is going to be productive at work; that no parent who feels pressured into taking as little vacation or parental leave as possible is going to love their job and truly excel at it.

The only pressure the attorneys at our firm feel is to take *more* time off, so that they don’t make the other partners

feel bad for their own time away from the office. We also feel an urge to exemplify, as a firm, the more compassionate and human brand of workplace for which we advocate in our employment cases. We know that we are the unicorn of the law firm world, but we have made it work and are on a mission to let others know that they can too.

“Family friendly” and “work-life balance”

Today, law firms everywhere are touting the terms “family friendly” and “work-life balance” to attract new lawyers, painting the picture that you *can*



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have it all by working for them. However, the proof is in the pudding, as they say, and according to the American Bar Association, as of May 2016, women lawyers made up 44.7 percent of associates at large firms, but only 21.5 percent of partners.¹ These statistics indicate that women attorneys are leaving big firms before making it to the level of partner, and are not returning.

It is also apparent that the women who are staying are not being treated equally, as evidenced by the fact that women who have achieved the level of equity partner are still earning on average 80 percent of their male counterparts – shockingly, this earning gap has actually increased from a decade ago.² The Ninth Annual Survey by the National Association of Women Lawyers (published in 2015) concluded that “firms have made no appreciable progress in the rate at which they are promoting women to the role of equity partners,” with women making up only 18 percent of all equity partners – a measly 2 percent increase since 2006.³

What is particularly troublesome about these numbers is that women have been matriculating from law schools in approximately the same numbers as men for over fifteen years.⁴ The disparity in male vs. female partners is clearly not because women are not willing to work as hard as men or to put in the necessary hours, but instead is likely due to the fact that they cannot possibly work as many hours as their male colleagues when they have to take on child-rearing tasks at home, even if that burden is equally divided with their spouse.

The time commitment

For parents, the time commitment that many law firms require is virtually impossible to undertake if you do not have a partner at home taking on the majority of child care responsibilities. Not even an equal divide is enough – you have to have someone who can take on *more than* 50 percent of the work at home because of

the extensive billable hour requirements, particularly at large firms.

In Yale Law School’s “the Truth About the Billable Hour,” they break down what it means to be able to bill the 1800 hours per year often required at big firms.⁵ According to the Yale Law School breakdown, if you work Monday through Friday from 8:00 a.m. to 6:00 p.m. and take a typical one-hour lunch and two fifteen-minute breaks, you would only be able to bill 37.5 hours per week. Taking into account the typical vacations and holidays provided to associates, that would leave you 70 hours short of your annual billable hours requirement, meaning you would be required to work late, on weekends, and/or take fewer vacation days to make up for it.

Keep in mind that the typical billable hours’ requirement ranges from 1700 to 2300 hours per year, so you can imagine how hard it would be to meet the even higher billable hours requirements at many top firms. It is also worth noting that while large defense firms are the most likely culprits behind unattainable billable hours requirements, the “more hours worked = better attorney” equation has permeated the legal field and is often present in traditional plaintiffs’ firms as well, where long hours, mandatory weekend work, and practically non-existent vacations are all too common.

Anyone with kids in daycare knows that the hours so often expected of attorneys at typical firms are impossible to contend with if you do not have *a lot* of help at home. A daycare that will allow you to pick your child up after 6 p.m. is almost unheard of. Thankfully, large firms tend to pay well, so it is still possible to be a female equity partner and a mother – you could hire a live-in nanny, for example, but really, what is the point of having children if you never see them? This is the question many parents, particularly women, are asking themselves, and few are willing to sacrifice playing a significant role in their children’s lives just to be a partner at a law firm, thus, the ongoing exodus.

Retaining female attorneys

To give big firms credit, they are trying to address their inability to retain female attorneys. For example, despite the ridiculously inadequate laws providing for maternity/paternity leave in this country (we are still the only developed nation with no legally mandated paid family leave according to the WORLD Policy Analysis Center⁶), many law firms have generous parental leave policies, with almost all big firms providing paid leave for 12 weeks and some going far beyond.

For example, Orrick Herrington & Sutcliffe, repeatedly named in Yale Law Women’s List of the top 10 “family friendly” law firms,⁷ offers 22 weeks of paid leave and *nine months* of total parental leave according to the NALP Directory of Legal Employers.⁸ However, it is the expectation upon *returning* from parental leave that is the primary problem. Women attorneys with children seem to be disproportionately burdened with child care responsibilities, and simply cannot compete with their male counterparts who have partners at home handling most, if not all, of the parenting duties. According to the Pew Research Center, as of 2012, only 16 percent of stay-at-home parents were male (and one quarter of that 16 percent only stayed home because they could not find jobs),⁹ making the likelihood of a female attorney being able to rely on a stay-at-home dad to handle all of the necessary child care and household tasks very unlikely. The most recent American Time Use Survey (reporting on data from 2014) indicates that on an average day, 83 percent of women and only 65 percent of men spent some time doing household activities and “among adults living in households with children under age 6, women spent 1.0 hour providing physical care (such as bathing or feeding a child) to household children; by contrast, men spent 23 minutes providing physical care.”¹⁰

There is no question that today there is more equality among the sexes when it



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comes to child care and household tasks than even a decade ago, however it is still abundantly clear that women do, and are expected to, handle more of the child rearing and household responsibilities at home, even if they are working full time. This “work after work,” or “second shift” (famously termed by sociologist Arlie Hochschild¹¹) is at odds with the expectations of many typical law firms and particularly their billable hours requirements. There are simply not enough hours in the day to do everything required to be a successful partner in a typical law firm and also to be an engaged mother.

Undoubtedly there are some women who have managed to overcome the many obstacles and become both equity partners *and* involved parents, but from the few we are aware of, they either have spouses who take on more than 50 percent of the household and childcare roles at home, or took off a number of years while their children were small to devote solely to parenting before returning to the legal world. Of the ones who took years off to parent, it was only the knock-it-out-of-the-park all-stars who were able to overcome the lost years when they could have been climbing the ladder (as compared with their male counterparts) and make it to that revered equity partner role. Even then, statistics show that these extraordinary women are still making less than their male colleagues, despite their amazing feats.¹²

Retaining female attorneys at big firms is not going to be resolved by giving them four months of paid time off after having a child (though it’s certainly a good first step); they need to be given the flexibility to be actively involved in their children’s lives when they return to work – to attend parent-teacher conferences, plays, recitals etc. The problem really isn’t about finding more men willing to stay home and care for their children so that female attorneys can compete for coveted partner status, it’s the idea that to be a *successful* partner (of either sex) at a law

firm, you have to work such long hours that you cannot put in your 50 percent on the home-front. Men as well as women have been losing out as a result of the way law firms have been traditionally structured.

Women are not able to compete and share in the same successes as their male counterparts due to their simultaneous parenting responsibilities, and men lose out on being a significant part of their children’s lives because of the number of hours they work just attempting to “make it” at a typical firm. It really is a lose-lose proposition for both sexes. Some firms, like Jackson Lewis in 2015,¹³ have attempted to do away with using the billable hour as a measure of success for their associates – a big step forward in our opinion. Many other firms have started supporting flexible work schedules to address the issue, hoping to retain more female lawyers upon their return from maternity leave. But the truth is that not enough is being done to address the gender imbalance in the legal field and if lawyers (particularly those also trying to be committed parents) want to be happy *now*, they may need to take their careers into their own hands and find or even create (as we did) something better than the traditional firm.

Elusive work-life balance

It is important to consider that the pursuit of happiness and the elusive work-life balance we are all so diligently searching for isn’t just about having more free time, but is also necessary for maintaining one’s health – both physical and mental. According to researchers at Johns Hopkins University, lawyers suffer from depression at a rate 3.6 times higher than employed persons generally.¹⁴ The suicide rate for lawyers is also surprisingly high with attorneys ranking at number 4 in highest number of suicides by profession.¹⁵ In a 2014 CNN article titled “Why are lawyers killing themselves?” one attorney was quoted as saying:

Instead of eight hours of sleep a night I was able to get by on six hours and finally four hours. The next things to go were my hobbies. I didn’t have time for reading, so I stopped reading for fun. I didn’t have time to take off from work so I stopped taking vacations. Then I stopped socializing because I didn’t have time to waste away from work. Then I suffered through a divorce and the loss of my family.... For the next 10 years, the chief source of joy in my life was winning a case. Finally, in 2003, I had nothing left to give, hit a wall and crashed and burned.¹⁶

This downward spiral is all too familiar to many of us, who have either felt it happening to ourselves, or observed it in our colleagues. It’s probably unnecessary to mention the incredibly high rate of alcohol and drug abuse in the profession (lawyers are more likely to abuse drugs and alcohol than any other profession),¹⁷ as we are all required to hear about it as part of our yearly MCLE credits. While working at a traditional law firm, in isolation, is not the only factor responsible for the depressed state and substance abuse of so many in our profession, the intense pressure to work long hours and be away from our loved ones is certainly exacerbating the problem.

A new model for the law practice

Although it may seem like there are not many good feminist options out there, particularly if you do not want to take on the financial risk of starting your own firm, more and more attorneys have been coming to the same sad conclusions about the current state of the legal field and creating successful alternatives to a traditional firm. In “Disruptive Innovation – New Models of Legal Practice,”¹⁸ the U.C. Hastings Center for WorkLife Law (headed up by Distinguished Professor Joan C. Williams – a renowned expert in the adversity facing women attorneys) brings to light a number of new types of law firms popping up in response to the



various problems facing the legal field, including the dissatisfaction of both attorneys and clients alike with the billable hour firm model. The report carefully delves into a number of new firm models that offer appealing alternatives to the traditional firm and the “old boys club” attitude that still permeates the legal profession.

The executive summary states, “[f]or lawyers dissatisfied with law firms, the important message is that if you are dissatisfied with law firm life, there are alternatives. This is particularly true if the dissatisfaction stems from pressures to work very long hours with little workplace flexibility.” Some of the new firm types discussed in the report include “secondment” firms, which place attorneys in-house at various companies on a part-time or temporary basis, “accordion companies,” which provide experienced attorneys to firms on an as-needed basis when they need to “accordion up” to meet short term staffing needs, and virtual law firms, where attorneys work from their own homes, typically on an hourly basis.¹⁹

Our firm’s model

The solution the attorneys in our firm have created is something completely different than the traditional law firm model – we run a feminist firm that seeks to put women on equal footing with their male colleagues, and it works. We are lucky that as attorneys who represent primarily plaintiffs, we don’t have to worry about billable hours.

We work on a contingency fee basis in nearly every case, so we can prioritize efficiency because there is no benefit to our firm to spend more time working on a case than necessary. If we are caught up on our work and have no reason to be in the office, we leave early and spend time with our families or take time for ourselves. When we have especially busy times, we work longer hours as needed, and we make up for that by taking time off whenever we can.

All of the partners at our firm are married, but our husbands also have full-time jobs. We, like the vast majority of female attorneys, do not have partners staying at home full-time doing the cooking, cleaning, and child care. However, our husbands understand that our jobs are just as important as theirs are and that they have to share the load at home as well, *and they do*. Both parents are responsible for daycare pick-ups and drop-offs, doctors’ appointments, teacher meetings, etc. (something that is key to making our firm work).

We are litigators, so when we have a large motion due or are in trial, our husbands cover for us at home, and we do the same for them when they have busy times at work. At our last jury trial in March of this year, each of us had a sick child at home at some point during the trial, but thanks to our supportive and feminist spouses, it did not negatively impact the case. We also cover for each other when one of us has to miss work to be with a sick child. Our firm is unique in that we all work on every case and meet with each client, so that if someone has to be out of the office unexpectedly due to family responsibilities, another partner can step in with minimal impact on the client or the momentum of the case. We have found that it is immensely more enjoyable to work together on cases and that working together leads to better outcomes for our clients. It is also less stressful and helps with our quality of life, as we make team decisions on each of our cases and know that any mistakes made do not fall on the shoulders of just one person.

Less guilt

We have found that our firm model makes us all happier lawyers and parents, as we have less guilt about working full time outside of the home thanks to our ability to spend time with our families despite our careers. Our motto has always been “family first and then the firm,” but we have discovered that putting family

first only makes our firm better because it means that our attorneys are happy and engaged while at work. Knowing that we will never have to neglect our families to be respected and viewed as successful lawyers just makes us more passionate about our cases and firm. Our model isn’t for everyone, and we are just one of many feminist options out there that lawyer parents owe it to themselves, their clients, and their families to start exploring.



Katie Debski, Katie Bain and Laura Mazza

Laura Mazza is a Plaintiff’s side employment attorney at the firm of Bain Mazza & Debski LLP. She authored this article with the assistance of her two partners Katie Bain and Katie Debski. Their firm handles a broad range of employment law matters, including employment discrimination, harassment, retaliation, wrongful termination, and wage and hour violations. Their practice also includes personal injury, representing plaintiffs in automobile and slip and fall accidents. All three partners are mothers of young children and firmly believe that litigation and parenthood do not have to be mutually exclusive. A collaborative approach, in which all attorneys work on every case together, sets their firm apart. Check them out on Yelp and at www.bmdlegal.com.

Endnotes

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