

# Creating Pathways *to* Success



Advancing and Retaining Women  
in Today's Law Firms

Women's Bar Association of the District of Columbia  
Initiative on Advancement and Retention of Women

May 2006

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## Advancing and Retaining Women in Today's Law Firms

The Final Report of the  
Initiative on Advancement and Retention of Women

**May 2006**

Women's Bar Association of the District of Columbia

Karen M. Lockwood, President 2005-06

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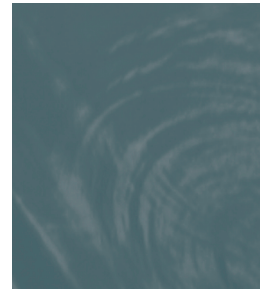
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# Letter From the President



The WBA centered this Initiative on Advancement and Retention of Women on three questions. What do we in DC — firms and women — perceive to be the stumbling blocks to our mutual success in moving more women farther, faster? What are DC firms already doing to keep and promote women? And, can we use the answers to those two questions to discern new ideas and better ways to stem the departure of women from law practice?

The first two questions turned a mirror on ourselves. The third, if we were successful, would allow us to chart a road map toward advancing successful law practices by developing and advancing successful women.

We posed the view that the DC legal community is well positioned to find pragmatic solutions. Our demographics should help: high percentages of two-career professional couples, high job mobility, and choice in styles of legal careers.


We asked firm leaders and interested women at all levels to join an exchange of views, and we set only two rules: leave competitive swords at the door and bring your sense of humor so that participants could comment safely and enrich the insights. They came, they stayed, and they shared.

Once a month, from January 6 through April 3, 2006, we convened a four-hour conference, in an academic setting, that drew firm leaders into a full and cooperative exchange with the experts, the sponsoring firms, and the women who attended. The DC firm leadership was stupendous in expressing vital interest and visionary concerns. The DC women and men — over 230 attendees in an audience largely comprised of partners and senior associates — was unflinching in raising intelligent contributions and hard issues. Our mandatory bar leaders added their support as moderators. Our experts, who came to speak in January, returned repeatedly to listen and participate. Please congratulate all of our speakers, our 30 generous firm sponsors, and all other participants.

The four sessions were evolutionary. We designed each session's structure and issued speaker invitations only after the prior session had closed, in order to provide new value with each session. Our Reporter's Committee of WBA members carefully reviewed records of each session, then wrote and distributed Summaries of Proceedings before the next session, in order to welcome new participants without losing the power of evolution.

At the conclusion of the exchange sessions, the Reporter's Committee integrated the discussions into four chapters, which we present in this Final Report.

Chapter One reports the Perceived Challenges at play in our marketplace, as seen by our participants. The central finding, supported by the research as well, is that women leave when their capabilities are not valued, or their contributions are not acknowledged or recognized.



Chapter Two reports the Common Strategies already at work. These emerged from speaker discussions of current practices, though there are many variations and numerous unique approaches. The central finding is that, at the core lies the need to help all women, including part-time lawyers, from day one, to begin their development into senior partners and rainmakers.

Chapter Three contributes the WBA RoadMap. Built entirely on the productive exchange in this Initiative, the RoadMap is grounded in several key revelations:

- Many more stumbling blocks were identified than are currently addressed by the commonly used methods of supporting and promoting women lawyers.
- The most common current practices focus on specific programs in specific business areas, almost like silos standing in the same field.
- The stumbling blocks, on the other hand, plow across the field, uniting at their core in the question of how to be the business success women expect themselves to be, and how to do so consistent with societal demands and personal creativity.
- The essential truth disclosed by the four sessions about women lawyers in practice is this: *they want to be the best, with business of their own, in organizations that recognize that their lives occasionally will demand disproportionate chunks of time outside the practice, where the culture has a "stickiness" that binds the lawyers together beyond the business unit of the billable hour.*

Our RoadMap presents axioms and pragmatic principles for each axiom. It melds the vision articulated by many participants, their wonderful ideas that are not yet common practices, and the literature. It works like a river chart, consulted by rowers who race across the water's top, eager to circumvent bottom snags and submerged rocks. Readers should use the RoadMap as a reference to fashion their own business cases, to identify core concerns, to distinguish mere inadequacy in tools from definition of the root problems, and to review and refresh new programs and policies suited to their firms and law offices.

This Initiative seeks to inspire similar exchanges in other legal communities and to suggest ways to begin a cooperative discussion of the problem, rooted in the facts.

This report is only as final as the current exchange that just concluded. Our hope is that it will inspire continuous efforts to update our profession's understanding of the problems, stay ahead of progress, and accomplish significant increases in retention and advancement of women lawyers by firms that dedicate themselves to winning this race for talent.



Karen M. Lockwood, Esq.  
President, Women's Bar Association  
2005-2006  
Partner, Howrey LLP

# The Perceived Challenges

## Chapter

# 1

Women attorneys have made great strides at law firms, but most would agree that their progress has been largely stalled for over a decade. The causes of the stall have been examined by others in commendable studies, but the studies have not resulted in a significant rise in the number of women partners in firms. Wanting to take the next steps of creating real change for women attorneys, the Women's Bar Association of the District of Columbia undertook an Initiative on the Advancement and Retention of Women.

We brought the facts and the discussion to the marketplace, taking a fresh approach to the issues that took nothing for granted and deemed nothing sacred. The Initiative began with an examination of the problem of attrition of women attorneys, and invited law firm leaders and women attorneys, as equals, to hear and share their experiences and beliefs about the causes of the attrition. The scope of the discussion was unlimited, and the Initiative proceeded in full discovery mode.

The WBA launched this sharing by laying a common foundation of facts. The entire first session, on January 6, 2006, was dedicated to learning from four national experts about the research into demographics, the ever-present force of gender stereotyping, the reasons that women privately cite for leaving practice, and the most up-to-date thinking on balanced hours. The second session, on February 14, presented panels and views of 13 partners, including nine women and three managing partners, in frank discussion about challenges.

### The Experts Present the Research

**Brande Stellings, Esq.**  
Catalyst

Demographics, Trends and  
Perceptions of Their Cause

**Joan Williams**  
Distinguished Professor at  
Hastings College of the Law

Behind the Numbers:  
Stereotyping and  
the Glass Ceiling

**Dr. Ellen Ostrow**  
LawyersLife Coach, LLP

What the Women Say When  
Men Aren't Around

**Cynthia Calvert**  
Director  
Project for Attorney Retention

Flexibility in Achieving:  
Men and Women

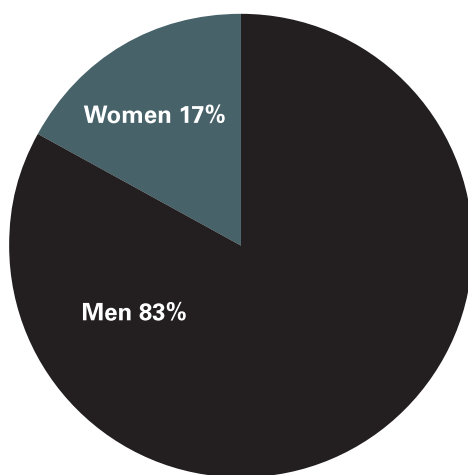


As hoped, the sharing of perceptions coalesced into a broadly held consensus that many hurdles can be identified and listed, and must be surmounted. We present our interpretation of that consensus here.

**The lack of women in senior ranks and leadership positions is self-perpetuating.**

- Not only a symptom, this status quo creates significant obstacles.
- Only 17% of law firm partners are women, and that number has changed little over 19 years.
  - This creates a disproportionality in “voice” and “vote.”
  - This problem interferes with the effectiveness of best practices intended to advance women.
- In other words, 83% of law partners nationally are men.

**Partnership Demographics**



- This predominance traces through each internal system that is career determinative, including informal networks, access to meaningful assignments, and participation in client development.
- This problem interferes with women’s access to and control over important career building tools.
- Many male partners do not perceive a problem with retention and advancement of women at their firms, or they believe that time alone will resolve the problem.
- A “tokenism” effect burdens women seeking promotions, as well as the senior women.
  - A woman’s qualifications for promotion and plum leadership responsibilities come to be measured according to the path of the few women who successfully climbed to that role.
  - The sheer number of senior men opens up the standards by which men are judged for promotion, creating greater variance and more tolerance of individual differences for successful men than for women.
  - The few women senior leaders are unequally burdened to devote non-billable time mentoring, recruiting, and performing similar functions.
- An evident glass ceiling hinders proportionate promotion of women beyond the special counsel or non-equity partner ranks.

- On one hand, non-equity partner categories provide an advantage of choice and flexibility to some women.
- On the other hand, a “parking” phenomenon seems to underlie the disproportionate number of women in these categories.
- Lack of analysis of this phenomenon makes it hard to change.
  - ◆ A Defense Research Institute study on litigators challenges this as stemming from outdated promotion criteria.
  - ◆ A NY Bar Benchmarking Study questions if women are steered to such positions by designation, and whether there is a pathway out for them.
- Retention is hurt by the relative lack of senior women.
  - Lawyers are trained to observe and act upon precedent, and few or a static number of women in the ranks of partners and senior leaders is interpreted to be a negative.
  - Women coming up the ranks need to witness visible and realistic evidence that their own dreams of success are achievable.
  - Women lack women mentors who can help them overcome the hurdles to advancement.
  - Women need female senior-partner role models. Women want to observe successful women with a style they want to develop, a practice that is fulfilling, and a good balanced life.

**The horizontal ownership and organizational structure of law firms makes cultural and policy changes difficult.**

- A “tone at the top” that supports the retention and advancement of women attorneys is essential but not enough.
- Interactions between individual supervising attorneys and those they supervise are what ultimately controls retention and advancement.
  - The vast majority of supervising attorneys are men, with life experiences different from those of women.
  - One in four firm partners has a stay-at-home wife. Women lawyers often feel this is an implicit model that places them at a disadvantage.
- Firms must secure buy-in of every partner, practice group, and office to produce effective and long-lasting gender equity.

**The business case has not been broadly considered and integrated by law firms.**

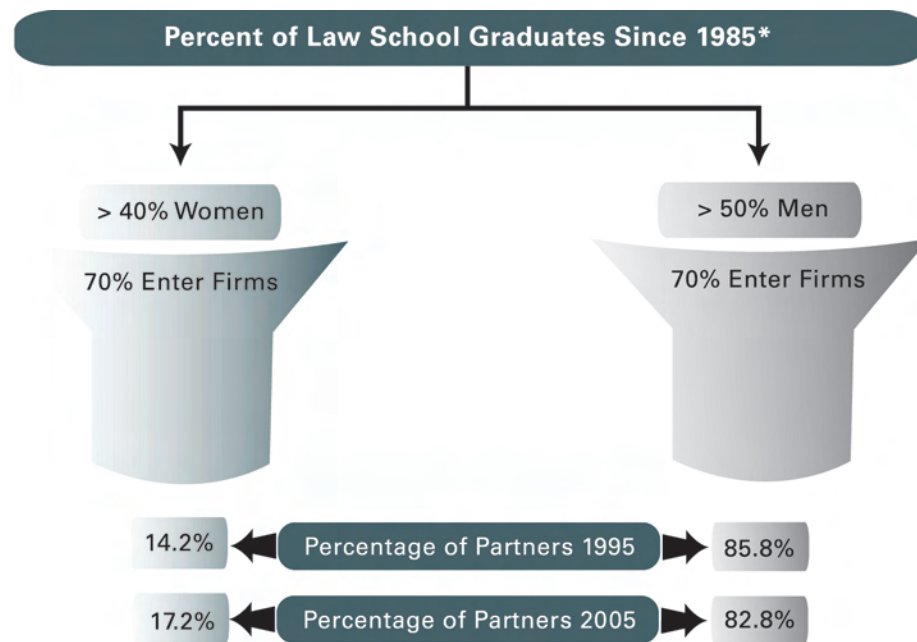
- There has been an historic failure to appreciate the professional and economic need for the retention and advancement of women.
- Nearly half of the new business potential in all lawyers, now up to 20 years out of law school, lay with those women law graduates.



- Retention and advancement of women attorneys helps firms to attract new business from companies that want to hire firms with women attorneys in meaningful positions of authority.
- Attrition of talented women attorneys drains money from the bottom line through lost costs of hiring and training the women, costs of hiring and training their replacements, damaged morale among the attorneys who remain with the firm, reduced productivity, and client dissatisfaction caused by the high turnover.

**Assumptions and unexamined attitudes reveal themselves in daily interactions, and can significantly impact women's careers.**

- Persistent misconceptions are used to explain away the divergence in career paths between men and women.
  - The "Pipeline Myth" creates a vague — and false — hope that issues will resolve automatically as more women graduate from law school. Based on current rates it will take until 2115 to reach 50% women partners.\*\*\*



\*Source: ABA; national numbers

## The Top Two Reasons Why Women Leave Their Jobs

Their careers  
are not satisfying  
or enjoyable.

They feel  
stalled in their  
careers.

Few women lawyers leave the workforce to be at-home moms.

*Only 9% of women law graduates were not working 15 years after graduation.*

One lawyer's comment summed up:

*"So I decided to quit, and this was a really, really big deal...because I never envisioned myself not working. I just felt like I would become a nobody if I quit. Well, I was sort of a nobody working, too. So it was ...  
'Which **nobody** do I want to be?'"*

Source: Stone. (2004)

- The "Ambition Myth" reflects a false belief of many that women are not as ambitious as men.
- The "Work/Life Myth" incorrectly assumes that only women struggle with the conflict.
- Unexamined and implicit biases shape lawyer interactions and law firm culture.
  - Whether benevolent or hostile, unexamined biases operate in everyday encounters among attorneys.
  - The biases form an unfair basis for judgments about women's performance and capacity.
- Small individual differences, accumulated over time, are captured in a woman's evaluative record and can have a large cumulative effect on promotion decisions.
- Unexamined bias operates in three basic ways:
  - It makes it harder for women to be perceived as competent;
  - It penalizes competent women who are perceived as "too aggressive," "ambitious," or lacking in interpersonal skills in situations where a man would be praised as "hard-driving"; and

### On Work/Life Conflict

**Work/Life balance** is one of the top 3 reasons cited by women **AND** men for selecting their current employer.

Men and women, partners and associates, report similar levels and sources of work/life conflict, with all groups reporting difficulties due to that conflict in the 70% range.

**But the conflict impacts women's careers more.**

In one study, 34% of women law graduates worked part-time compared to 9% of men.

And men and women agree that part-time work under current practice models adversely affects advancement.

Source: Women in Law (Catalyst)

- It creates additional hurdles for mothers: Motherhood triggers strong negative assumptions about competence and commitment.
- These misconceptions and biases can be addressed through education and commitment to change.
  - Recognition and examination of such biases will often reverse their effect; “the bias observed is the bias corrected.”
  - Yet lawyers are typically resistant to such training, which requires implementation, time, follow-up, evaluation, and reinforcement.

**The need to create better access and control for women over their career paths and client development starts on day one.**

- Firms do not reach out to women early enough in their careers to nurture client development skills.
  - Client development talents, well within the natural ken of most women, are rarely the subject of specific skills training.
  - Participation by women in client-pitch teams is limited, and tokenism remains a risk.
  - Women need to encourage firms to support nontraditional client development methods that women find comfortable and effective.
- Women believe, falsely, that their value, as measured by compensation and promotions, will be judged purely on merit of work.
  - Many women are less comfortable than their male colleagues with self-promotion due to an unexamined bias: Studies show that a woman may be faulted as inappropriately bragging in situations in which a man is praised for “knowing his own worth.”
  - Women face a catch-22: Although women's efforts at self-promotion are more likely to backfire, self-promotion remains vital for career success.
- Random “hey you” or “free market” assignment methods, which staff projects with attorneys already familiar to the partner, limit women's access to meaningful work on career-advancing

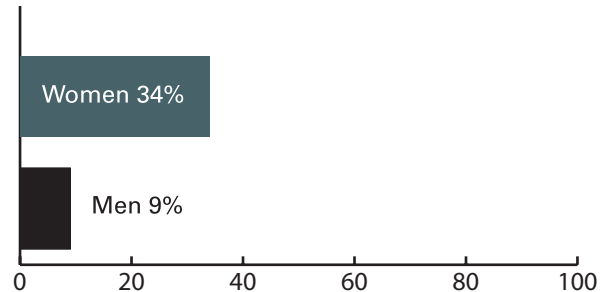
matters with influential partners, and narrow their field of role models and mentors.

- Mentoring programs do not adequately teach women to network, to self-promote, to develop a professional identity and plan, and to balance outside commitments.
  - Forced formal programs often fail to establish meaningful relationships.
  - Much essential “learn by doing” training in business and client skills occurs only through informal networks.
- Informal networks tend to exclude women because they comprise groups of people who have the most in common.
  - Business and client relationships are handed down through informal networks.

**The conflict between high demand for 24/7 professional responsiveness and personal and family obligations imposes a disproportionate burden on women lawyers.**

- As long as legal careers are “two-person” endeavors that require adults at home supporting the lawyers who freely devote themselves single-mindedly to work, women will be at a disadvantage. (So will men who want an active daily role in their family’s lives.)
  - Legal careers, particularly at the top, still tend to be “two-person” careers.
  - While most married female professionals are married to other professionals, many male professionals are married to


**Percentage of Attorneys Who Work Part-Time During Their Careers**



nonprofessionals, who relieve them of most day-to-day household or family responsibilities.

- Women who lack the support to pursue a two-person career plan risk being seen as “uncommitted, unprofessional, or suffering from some other character defect,”\* even if they remain available on critical or long-planned matters 24/7.
- Stigmas attach to part-time attorneys and mothers, creating a maternal wall that is nearly impossible to scale.
  - Women using alternative-hours schedules report less challenging and meaningful assignments, lack of mentoring, few advancement opportunities, inequitable pay, and career stall.
  - In some firms, part-time attorneys cannot be considered for partnership until after they have returned to full-time status for a period of time.



- 
- Women thus seek other legal employers in lieu of electing a part-time schedule.
  - On-ramps for women who have temporarily cut back or left firms but wish to return are inadequate or non-existent, leaving women to “start over” with the extra stigma of having once been “uncommitted.”
  - Failure to credit hours spent in business development and pro bono representations discourage women from pursuing such career-building activities in junior years.
  - Minimum hours continue to climb, from an average of 1800 per year 20 years ago to almost 2100 in 2004. Supervising partners frequently fail to set priorities, contributing to a uniform sense of urgency attached to every e-mail or voice message.

### **Isolation and invisibility “downsize” ambition.**

- Women frequently report a sense of isolation — from networks that pass “inside” knowledge, from natural relationships with important rainmakers and leaders of the firm, from access to career-determinative initiatives, and from others who may share their needs and concerns but do not voice such issues.
- When firms do not recognize their contributions, women attorneys feel discouraged and pushed away from their firms, causing their ambition to stall. As their ambitions stall, they are perceived as less committed and no longer get the best assignments. Although they hold on by their fingernails, this “downsizing” of women’s ambition can become a self-fulfilling prophecy.\*\*

\* James Sandman, Managing Partner, Arnold & Porter, excerpt from remarks for the Working Mother WorkLife Congress, (October 1, 2003) (New York, NY).

\*\* Ellen Ostrow, Ph.D, Mothers in Law (2005).

\*\*\* [http://www.pardc.org/LawFirm/PAR\\_usability\\_test.shtml](http://www.pardc.org/LawFirm/PAR_usability_test.shtml) (last visited April 28, 2006)

# The Common Current Strategies

Continuing to turn the mirror on the profession, the Initiative participants gathered in the third session on March 7, 2006 and the fourth session on April 3 to answer the question: What are DC firms already doing and what else can be done to keep and promote women?

Twelve partners from 11 firms presented prepared remarks in both three-hour sessions. Three of the 12 were women. They had been asked to identify new, unique, or proven-effective measures, rather than trying to catalogue all practices aimed at women. Each speaker then participated in a panel of leaders in an exchange with the audience, to probe the tough questions.

The reported practices of firms varied somewhat, as to relative emphasis on issues, the detail of programs, and their fit with existing firm culture.

Overall, the current strategies reported by participating firms include part-time programs, internal networking groups of women lawyers, evolving approaches to mentoring programs, and acknowledgement that plum assignments can make or break a young legal career. A number of firms have developing or time-proven cultures that encourage women's professional development. Those and other unique ideas are discussed in Chapter Three.

Here, we summarize the strategies most commonly cited during the Initiative sessions.

## Part-Time or Alternative Hours Programs

Most firms reported having a part-time or alternative hours option. Firms are realizing that solving the "hours" problem alone does not solve the retention issue. One firm has a full balanced hour program, just four months old, and several others are beginning to recognize the need for full flexibility in customizing one's hours based on business objectives, career development strategies, and balance, rather than simple measures of hours. The "balanced hours" model is discussed in Chapter Three.



**Available to both associates and partners** — The most successful programs are ones available to both partners and associates. Some women find that acute work/family conflicts arise after they become partners, when their children are teenagers, and/or their parents become elderly.

**Business based and broadly available** — Limiting flexible schedules to women with child-care responsibilities can create legal risks as well as stigma and backlash. Numerous Initiative participants reported making flexible schedules available to anyone who demonstrates that working a different schedule would be beneficial to the firm. Some participants reported that men, as well as women at their firms, work reduced schedules or take parental leave.

**Principle of proportionality** — It was common among the participants to offer proportionate pay, benefits, and billable-hours ratios, and the best of the programs offer full benefits, proportionate bonuses, and eligibility for partnership (at times on a delayed schedule). Arguments that part-timers do not cover their overhead have been discredited.

### **“We Don’t Make Enough Money on Part-timers to Cover Their Overhead”**

**James Sandman, former Managing Partner of Arnold & Porter,  
used real numbers to assess this claim:**

“In 2001, according to a survey of law firm economics..., average occupancy cost per lawyer in large law firms was \$41,000, and the average malpractice premium per lawyer was \$4,000. If we assume a part-time lawyer working 75% of the hours of a full-time lawyer, that means the part-time lawyer is incurring \$10,000 in occupancy cost and \$1,000 in malpractice insurance expense more than would be the case if it were possible to reduce those costs pro rata with the lawyer’s reduced schedule.

But what revenue is that lawyer generating, and how does this \$11,000 in ‘excess’ cost compare to that revenue? The same survey showed that average revenue is \$533,000. Using that figure, a lawyer working a 75% schedule would, on average, generate \$400,000 in revenue. The \$11,000 in so-called additional cost looks immaterial....”

Source: Sandman, 88 Women Lawyers’ Journal 16 (2003).

## Creating Mentoring Programs

Historically, young associates honed their legal skills and developed their partnership and business capabilities through interaction with informal mentors. But as law firms grew and billable-hour requirements squeezed out available time, mentoring became less routine. This particularly impacted women, who as a group find themselves excluded from informal networks that single out and groom young lawyers for success.

Firms have intervened by adopting various formal programs to prevent associates from “falling through the cracks.” Many devise a mentor/mentee pair by assignment, a method that Initiative participants reported to be relatively unsuccessful. Some firms try to make formal mentoring programs less artificial.

**Mentoring circles** — A mentoring circle matches eight to ten female associates with four or five partners. They meet regularly and may plan activities. This structure allows mentoring pairs to evolve into promising one-on-one relationships. It permits senior associates to mentor junior associates, it opens up more partners to be approached by the more junior lawyer, and it permits more senior associates and junior partners to seek advice as well.


**All voluntary mentors** — A cadre of all-volunteer mentoring partners assures that mentees have available to them a partner who is both interested and talented at mentoring. But the time burden on those few partners is heavy.

**Tag-Alongs** — One firm reported encouraging partners to ask associates to “tag along” on client meetings, interesting hearings or negotiations, and business development matters by designating a non-billable account to record such time, thereby implicitly approving the practice.

## Forming Women’s Committees and Encouraging Networking

Firms commonly create and empower women’s committees. They recognize that women experience common stumbling blocks, that their sense of isolation can be softened through open discussion, and that women will help the firm by expanding new business networks. These forums enable women attorneys to have candid discussions and generate initiatives that benefit the business.

**Budgets for women lawyers’ activities** — Firms provide significant budgets to bring in speakers, meet regularly, plan client networking activities, produce and maintain media focused on women’s activities, and undertake other initiatives that support women in their practice and business development.



**Encouraging all women to participate** — Clear enthusiasm of management is essential to the credibility and effectiveness of women’s committees. The press of billable hours threatens full participation by women lawyers. Designating a non-billable account for such activities elevates the importance of joining.

**Cross-selling** — To counteract the passing of institutional client relationships from male partner to male partner, firms are matching a male partner with one or two female partners to maximize cross-selling in compatible books of business and legal talents.

## Leveraging the Assignment Process to Maximize Career Development

Good work on good assignments with partners of influence are the *sine qua non* of good evaluations and promotion in a law firm. The core of this engine is the matching of lawyer with assignment. But informal networks, the comfort of working with lawyers one has worked with before, and the ease of working with persons most like oneself all weigh against the imperative that women lawyers must have routine access to the best assignments to build their reputation.

Initiative participants readily acknowledged that more and careful attention needs to be paid to the process of matching lawyer with assigned project.

**Dealing with free-market systems** — “Darwinian free-market systems,” where partners are free to work only with the same few lawyers, amplifies the effects of bias and exclusion from informal networks. Most firms have some system to regulate such a free market.

**Assignment committees** — The most common means is to establish assignment committees to coordinate work flow and smooth allocation of billable matters.

**Monitoring to tailor assignments to the woman’s development plan** — Close monitoring of how the assignments match up to the lawyer’s capabilities and development goals significantly helps retention and actively works against implicit biases. Some firms task partners as mentors with this specific objective. Others use a looser central assignment method.

## This is Not Enough

The fresh approach to the issues that took nothing for granted and deemed nothing sacred guided the Initiative from the outset. The Initiative began with an examination of the causes of attrition of women attorneys. Pathways that enable women to realize their potential and receive credit for their success must be found. The most common current strategies covered in Chapter Two are all essential. But they are not enough.

The Initiative participants at the highest management level sought ideas from each other and from women regarding what more to do, and how.

Chapter Three includes these in the WBA RoadMap.





# A RoadMap for Advancing Women Lawyers

## Chapter

# 3

We are in a race for talent. Half of the talent in new lawyers (and 43 percent of all associates) are women.<sup>1</sup> Firms that win the race for that talent will have moved those women into positions of rainmakers and leaders. Doing so directly benefits the firm's core business purpose. At the same time, preparing women to fulfill roles as partners and leaders counteracts the key reason for women's attrition — it communicates that their talents are recognized, their accomplishments acknowledged, and their continued presence deeply valued.

It seems simple — the pathway to law firms' success is also the pathway for women's retention and advancement. But to accomplish this requires vision, commitment across the partnership, and best practices.


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*"Our objective should be to grow senior partners in law firms, rainmakers, people who are going to be the leaders of practice groups and control client relationships. That's what makes a lawyer in a big firm ultimately successful."*

— James J. Sandman

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The challenge is to create an environment that supports a range of models in which women can be successful. At today's law firms, success is measured by one's rainmaking ability, and to become rainmakers women lawyers need access and control to the building blocks, including key business development opportunities, high-quality assignments, and meaningful mentoring relationships. Successful firms will reshape their cultures to educate those within the firm about the damaging assumptions and misconceptions, systematically work with women to manage their assignments, experiences, and skills, diligently find ways to equalize access to new and existing clients, provide nonstigmatized balanced-hours programs, and increase the number and effectiveness of role models. Initiative participants, having moved *together* through the questions of Chapters One and Two, readily approached these subjects to find strategies to retain and advance women, in large numbers, long-term.



This Chapter is a road map intended for multiple audiences. Whether used by managing partners, practice leaders, senior women, women's groups, or aspiring junior women, it identifies the cut-across concerns — the topics on which firms and women must build the careers of women — and key action items on each. To some it will be educational in its explanation of the interaction among the cut-across concerns and the key action items. To others those headlines will provide convenient guideposts for using management techniques they know well already, but bending them toward the concerns of women.

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*"We can not approach this issue from  
too many different angles."*

— Dena E. Wiggins

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The strategies in this RoadMap will help to both *advance* and *retain* women. The four cut-across concerns track to the core finding of this Initiative: to improve retention and advancement of women, we must "make work worth it," in the words of Catalyst's Brande Stellings, Esq. Catalyst reports that those women who stay at a law firm are most satisfied with advancement opportunities, the availability of mentors, the management of their organization, their professional development opportunities, and their control over work.<sup>2</sup> Lauren Stiller Rikleen reports that the majority of women that she interviewed for her recent book, *Ending the Gauntlet: Removing Barriers to Women's Success in the Law*, were seeking "a demonstrated commitment to their growth and development as professionals."<sup>3</sup>

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*"We need to turn women into economic  
powerhouses, and that has to start at a very  
early stage."*

— Amy L. Bess

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To fulfill and benefit from the core aspiration of women law graduates, firms must coordinate across their business practices and reach all partners. To tailor their own careers, women lawyers must use their voice and work with firms for positive coordinated change. The distinct needs and concerns of women of color need to be addressed.

Women and men pulling together on the oars, working under a mutual plan, will win the race for talent. The rudder can be set in the direction of this RoadMap.

# Create Rainmakers

- **Teach the Business Aspects of Practicing Law**
- **Ensure Access to High-Quality Assignments**
- **Institutionalize Effective Formal and Informal Mentoring**

The speakers resoundingly agreed that access to key business development opportunities, high-quality assignments, and meaningful mentoring relationships with both female and male mentors are critical to the success of lawyers at law firms. The process of investing in women lawyers' success must begin earlier than it does now, from their first day at the firm.

## Teach the Business Aspects of Practicing Law

The ability to cultivate business defines a lawyer's success at a firm. Thomas Mills explained, "We are trying to put our women lawyers in the position to be big successes. You get to be a big success in a large law firm in this town or any other town if you have clients." An audience member advocated, "It is never too early to start teaching young associates business development skills."


**Provide business development training.** Traditionally firms have directed little or no resources to teaching lawyers how to market and create business relationships. As one marketing consultant explains: "Corporations will train people to the job. Law firms just expect the good ones to know such things intuitively."<sup>4</sup> Women lawyers routinely report frustration with their firms' lack of training on business development, particularly in light of the importance given to business generation. An audience member observed:

One of the most important things for women to do in law firms early on, is to recognize that it is a business, that they can be successful at generating business, that it is a skill that can be learned, that there are tried-and-true methods that work for generating business. Women lawyers must start at the earliest levels to develop the skills that firms will respect.

Participating firms recognized the importance of conveying these teachable skills.

**Advance women's meaningful involvement in client relationships.** William Eckland stressed that advancing meaningful involvement in client relationships is "very high on our list of things to do.... Until we can shift the billing and [client] handling responsibilities [to women], a lot of this is not going to be meaningful." He detailed the firm's efforts to involve women in relationship roles for large institutional clients. His firm is analyzing who is doing the billing and handling for the firm's top 100 clients in an effort to introduce female partners to the general counsels and senior management





in those organizations. His firm also is matching men who have significant business relationships with one or two women partners in compatible practice areas, and charging the group with cross-selling and developing other opportunities.

Likewise Carl Cooper emphasized ways to increase women lawyers' involvement in client relationships:

I go out to general counsels of Fortune 500 firms all the time and talk to them, and I take women and I take associates with me and I take young people of color with me so that they see me make a pitch, they get to know who the people are that I know on a very intimate level, and then I shift them into my position to carry that relationship forward so that they learn at an earlier point in time how to develop and nurture a potential future client with their own future career building.

By identifying and nurturing those client relationships with women, firms will increase the skill and enthusiasm of women to generate significant business.

**Honor and nourish budding relationships between women and their clients.** "Learn by doing" is the password. Counsel and mentor, but take care not to supplant the woman in the developing relationship.

Learning the skills of business development, apart from expanding matters for existing clients or "inheriting" institutional client accounts, requires practice and repetition in the habitual nurturing of new business relationships. Turning casual conversations and speeches into new retention typically requires repeated conversations. When the potential client's return call to a woman comes instead to her supervising or mentoring partner, the teamwork required to cement the new client/firm relationship must preserve the woman's role as leader in the relationship. To do so requires forethought, and asks that more experienced partners check their natural instincts, instead portraying to the client that the woman has been and will remain the leader of that effort. When "credit" for the new account is determined, firms that recognize the importance of rewarding business development efforts will not default to the presumption that the large rainmaker, perhaps involved as a mentor, succeeded once again.

Corporate clients are increasingly demanding that women and minority lawyers lead client relationships. To put forward the less-senior woman who is developing the client as the relationship partner, fully mentored behind the scenes, proves to clients that women are coequal, serious, respected, and empowered members of the firm. In rewarding women for the development that they have done, the practice also retains and advances them in the firm's natural interest.

**Encourage external relationship building.** Initiative participants also worked to promote external relationship building through comprehensive women's networks. Such women's groups targeted the growing women-client market with unique and tailored client development tools that resound with women's interests and schedules.<sup>5</sup> Examples would include social activities (perhaps in lieu of the traditional golf outing) that permit women to spend time with clients in an entertaining and relaxed environment.

## Ensure Access to High-Quality Assignments

An effective assignment process steers meaningful work to associates consistent with their growth and development plan. By providing opportunities to work for a variety of partners and to practice leadership and management skills, good assignments are a critical foundation for future business generation. But, as Ms. Rikleen explained in the April 3 session, women lawyers she interviewed find the assignment process "steeped in mystery and riddled with discretion," and that "[i]nvariably and particularly in the highly prized litigation and corporate departments, women do not get high-quality [assignments]." It is critical, therefore, that firms demystify the assignment process and ensure that women have access to the type of work they need to succeed.


**Abandon traditional free market and "hey you" tasking systems and implement centralized assignment systems.** To demystify the process, Cynthia Calvert, Co-Director of the Project for Attorney Retention, challenged firms to end "hey you" tasking systems, which condone random distribution of work and threaten planned work schedules. The free market assignment process is also disfavored; it allows partners to distribute work by default to those they know best and to rely implicitly on uninformed assumptions and unexamined biases that disadvantage women. On the other hand, purposeful centralized assignment systems reduce randomness, permit associates who are less popular or less visible to secure challenging work from significant partners, and negate the effect of circumstances that disfavor women's growth.

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*"What made the big difference this time around is the real commitment on the part of management to enforce the requirement that partners go through the [assignment system]. In the old system, if the assignment partner called [an associate], it was only because it was such a lousy assignment that no one wanted it.... [W]e had to change that and we did change that."*

*— William S. Eckland*

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**Monitor the effectiveness of the assignment system.** Numerous participants emphasized the importance of monitoring the assignment process. According to Grace Speights:

[M]onitoring which assignments go to whom, which associates have not had an opportunity to work with this partner or do this kind of work, is critical to the success of women lawyers. Because, after all, we're looking to develop associates, and women associates especially, making sure that they are getting a well-rounded experience so that we can make sure that they have an opportunity to advance at the firm.

One method of monitoring, which some accounting and law firms recommend, is to analyze the representation teams for the firm's most high-profile, interesting, and complex cases for the purpose of ensuring that women are among those lawyers.

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*"One thing that works is paying much more attention to the assignments that women get, to the opportunities they get."*

— Andrea Bear Field

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**Offer meaningful career guidance tailored to each associate.** Participants noted that women lawyers need guidance to dispel the meritocracy myth, by which women frequently assume that quality work product alone paves their road to success. Mentoring and training would identify all of the other necessary components to a successful career. Assignments on non-billable substantive work that model the business development process offer "learn-by-doing" opportunities. To demonstrate the importance of career development to both the associate and the assigning partner, one participant's firm created written job responsibilities for assigning partners that expressly include career development of junior lawyers. By distributing these job descriptions to the junior lawyers, the firm creates some partner accountability for promoting growth through such guidance. Another participant's firm has mid-year reviews for associates that focus only on career development.

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*“[T]he leaders of our practice groups, the people that these associates and income partners deal with on a day-to-day basis, have expectations. What is it that you want your associates to do? What should they know? What should they be doing beyond client work? How should they be developing client development skills? We put it on paper.”*

— Melvin White


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**Educate supervising lawyers about the impact of biases on their judgments about appropriate assignments.** Joan Williams, Distinguished Professor of Law at Hastings College of the Law, emphasized that a key component of any assignment process is the training to correct myths commonly held about women’s talents, desired roles, and presumed preferences. Deloitte & Touche’s experience is instructive.

After Deloitte & Touche’s internal analysis into the staffing of key matters revealed that “fewer women were assigned to high-profile, high-revenue assignments because male partners made assumptions about what they wanted...[e.g., avoiding difficult client or travel],” the distribution of work assignments became a pivotal focus point of Deloitte’s two-day management workshops.<sup>6</sup> Deloitte’s former CEO, Doug McCracken, explained later:

Everyone knew that high-profile, high-revenue assignments were the key to advancement in the firm. Careers were made on big clients; you grew up on the Microsoft engagement, the Chrysler engagement. But the process of assigning these plum accounts was largely unexamined. Too often, women were passed over for certain assignments because male partners made assumptions about what they wanted, “I wouldn’t put her on that kind of company because it’s a tough manufacturing environment;” or “That client is difficult to deal with.” Even more common, “Travel puts too much pressure on women;” or “Her husband won’t go along with relocating.” Usually we weren’t even conscious of making such assumptions, but the workshops brought them front and center.

The takeaway: “[D]on’t make assumptions about what women do or don’t want. Ask them.”<sup>7</sup>



Deloitte's management workshops also highlighted the self-fulfilling nature of these assumptions. McCracken explained:

Say a partner gets a big new client and asks the assignment director to put together a team, adding, "Continuity is very important on this engagement." The assignment director knows that women turn over more rapidly than men and has the numbers to prove it. So the thinking goes, "If I put a woman on this account, the partner will be all over me — and that's who evaluates me."

In the end, John gets to work on the big account and Jane works "somewhere else." After a while, Jane says, "I'm not going anywhere here. I'm never going to get the big opportunities," so she leaves. And the assignment director says, "I knew it."<sup>8</sup>

The insights and conclusions drawn by Deloitte have equal application in the legal profession.

## **Foster Meaningful Formal and Informal Mentoring**

Participants overwhelmingly agreed that access to both male and female mentors is critical to the success of any lawyer. Yet participants expressed their frustrations with implementing effective mentoring programs, and reported mixed results. Ms. Rikleen, speaking at the Initiative, summarized:

We all know that women are excluded from the benefits of strong mentoring networks where those relationships are informal.... Today's comments about the issue of mandatory partner mentoring versus nonmandatory approaches really got to the heart of the issue itself. Can you have good mentoring from somebody essentially being told that they have to mentor?

As firms implement the steps in this RoadMap, women gain greater access to business development opportunities and high-quality assignments. Lasting relationships between senior and junior lawyers begin to develop, and the number of women reaching the senior levels begins to increase. But until junior women lawyers develop an increasing number of informal mentors — both male and female — formal mentoring programs are a necessary step. And Linda Oliver cautions that formal programs will fail unless "every single partner who serves as a mentor understands what they need to do and why."

Thus, law firms benefit by developing strategies that resolutely lead partners to team with junior women lawyers, in order to counteract the natural tendency to feel more comfortable working with lawyers like themselves, and to reject judgments not to invest their limited time and political capital in lawyers who they subjectively guess — based on gender — are destined to leave the firm anyway. Firms can use the powerful tool of compensation to provide this incentive.<sup>9</sup>

## Assess Needs

- **Compile Demographics**
- **Test Hypotheses About Why Women Leave**

To be successful, any initiative must be tailored to the particular firm environment. Ms. Calvert stresses that before law firms can fix the problem, they must assess the true causes underlying attrition or lack of advancement of women in their firms. Mr. Mills agrees, “Law firms must take a hard look at themselves, uncritically, as we would for a client when we are called in to do an informal investigation or compliance effort.”

### Compile Demographics

To help pinpoint areas where firms have been more or less successful in retaining and advancing women, firms should begin their self-analysis by analyzing demographical information, paying particular attention to differences among practice groups, and determining where the various practice groups stand in relation to their peers. In addition to the expected demographic measures of class year, gender, race, national origin, other basic criteria, analysis of recorded time in billable and segregated categories of non-billable time, matters worked on, supervisors, and more, firms should determine, for lawyers who are leaving, why (if possible), at what point in their careers, and where they go.


### Test Hypotheses About Why Women Leave

Through surveys, focus groups, exit interviews or other means, firm leaders should assess the overall experience of women at their firms and use independent and objective consultants to contact lawyers who have left to learn what influenced their decisions.

This independent appraisal is necessary. As Ms. Stellings from Catalyst explained, persistent misconceptions still influence divergence in male and female career paths. For instance, individual partners continue to believe that the lack of senior women is due to a pipeline problem, notwithstanding the fact that women have been graduating from law schools at levels of 40% or higher since 1985. Another common myth is that women leave their firms because they lack interest in practicing law — a myth belied by the fact that only 9% of women who graduated from law school between 1972 and 1985 were not working 15 years after graduation, according to a 2004 study.<sup>10</sup>

Studies show that women leave their firms — not the practice of law — because they are dissatisfied with their career development and prospects for promotion. According to Ms. Stellings, “Women are equally as willing as men to make tradeoffs if they feel that their careers are worth it, that they are getting recognition, and that they have opportunities for advancement.” But women





lawyers leave in large numbers because they find that firms too often fail to affirm their value in tangible ways — in their work assignments, in the level of respect and approval afforded them by their partners and clients, and with salaries and promotions. Maureen Dwyer explains:

When you have senior women who have the pulls of other demands, the pulls of children, the pulls of family responsibilities, the pulls of wanting to do something other than practice law; and you have the push from the firm of attitudes or policies that are not supportive of women; then the pulls look very rewarding to them.

A fair assessment of the experience of women who have left is likely to reveal that the highly credentialed and motivated women lawyers who were hired leave not to stay at home, but to work for other legal employers.

The caveat is that the reasons women will cite to their firms are made with the understanding that bridge-burning is counterproductive. Getting to the “real” reason is difficult. In a recent Webcast conference by the National Association of Women Lawyers, the question was asked of participants, “What would it take for the firm to convince you stay?” One participant immediately typed back, in effect, “Ask me what I need *before* I make the decision to leave.”

## Reinforce Consistent Message

- **Tone at the Top is Necessary, but Not Sufficient**
- **Educate the Partnership on the Business Case**
- **Sensitize the Partnership to Implicit Biases and Stereotypes**
- **Place Women in Significant Numbers in Important Leadership Positions**
- **Accountability: Give Partners a Personal Stake in Women’s Success**
- **Fund and Support a Comprehensive Internal Women’s Network**

A strong tone at the top is instrumental to a firm’s efforts to advance more women lawyers. Lee Tiedrich explains, “This type of change is difficult, if not impossible to make unless the management of the firm understands the business case, adopts appropriate policies, and works hard to fully implement it.”

## Tone at the Top is Necessary, but Not Sufficient

Notably, while “tone at the top is essential, it is not sufficient.” Eric Bernthal stresses, “[I]t is absolutely essential that management in law firms own this issue, that managers press persistently for progress, that management demands accountability and results both from itself and from the partnership at large.” Jay Hebert agrees saying, “Tone at the top alone is just not going to do it. We have found that life is lived in the sections, and that’s for all associates, men and women, black and white. And that unless you’re going to reach the sections, the section leadership, the partners working with them day to day and change their mindset, whatever we say at the top is really fairly meaningless.” Jim Sandman concurs, “Leadership is critically important.... But it’s not sufficient. A managing partner can only do so much without the active participation and buy-in of all of the partners.”

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*“There is no doubt in my mind that our progress in  
advancing and retaining diverse lawyers is due...to  
the management of the firm embracing it and  
helping us put it into action.”*

— Karen A. Popp

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To be successful, therefore, firms must reinforce a consistent and pervasive message to all partners that retaining women is a business imperative.


## Educate the Partnership on the Business Case

Law firms are horizontal organizations made up of many bosses, and each boss directly affects the experience of the lawyers supervised. To achieve the “active participation and buy-in” from all the individual partners, Ms. Calvert recommends that firms educate all members of the firm on the business case, using literature and findings from reports such as this one, and concrete evidence obtained from the firm’s self-analysis using PAR’s Attrition Cost Worksheet, the PAR Usability Test, and similar tools.<sup>11</sup>

This training is necessary to remedy what Kevin Clark termed “an historic failure to appreciate the business case,” which affects the relationships between supervisors and junior lawyers. Mr. Bernthal explains:

[I]ndividual relationships between supervisors and junior lawyers...are the crucible where career decisions get made, the place where women truly decide whether to stay or go. If our partners, men and women





alike, recognize that there are huge business advantages to be gleaned if they can win the loyalty and enthusiasm of young women who work with them, there's a chance for these numbers to improve.

But for that to happen, he continued, "partners need to be more aware of the business case," so that they approach investing in women "with real enthusiasm."

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*"Unless we can do a good job with respect to the  
retention and advancement of women,  
we are not going to build the people or type of firm  
— both culturally and professionally —  
that we want to build."*

— Jay H. Hebert

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**A diverse workforce increases business development opportunities.** Corporate America is intensely focused on racial and gender diversity as a matter of strategic importance to the success of their businesses. For instance, at Wal-Mart, success requires a workforce "that is as distinct as the suppliers that we buy from, the shareholders we serve, and the global communities in which we operate."<sup>12</sup> In addition, women have an increasing level of hiring authority in Fortune 500 companies. In just five years, the number of women general counsels in the highest-grossing 250 companies grew from 6.8 percent to 12 percent.<sup>13</sup> In the past year alone, 18 women general counsel joined the Fortune 500 and 17 joined the Fortune 501—1000.<sup>14</sup> A total of 76 women currently head Fortune 500 corporate legal departments.<sup>15</sup> Revenues for the companies within the Fortune 500 headed by women general counsel totaled \$79.9 billion in 2005.<sup>16</sup> Another 66 women head the legal departments of companies in the Fortune 501 to 1000.<sup>17</sup> A focus solely on the general counsel position does not account for the fact that many companies have women in senior decisionmaking positions below the general counsel level.

As a result, clients are questioning the quality of law firms' commitment to diversity. In Spring 2004, the General Counsel of Sara Lee, Roderick Palmore, building on the company's business imperative for diversity, created "A Call to Action: Diversity in the Legal Profession," with the goal of "tak[ing] the general principle of interest in advancing diversity and translat[ing] that into action, into a commitment to act on, to make decisions about retaining law firms based in part on the diversity performance of those law firms."<sup>18</sup>

The Call to Action provides:

[W]e pledge that we will make decisions regarding which law firms represent our companies based in significant part on the diversity performance of the firms. We intend to look for opportunities for firms we regularly use which positively distinguish themselves in this area. We further intend to end or limit our relationships with firms whose performance consistently evidences a lack of meaningful interest in being diverse.<sup>19</sup>

As of April 2006, 90 major corporations had signed the pledge.<sup>20</sup> Thomas L. Sager, DuPont's vice president and assistant general counsel, has also called for accountability at outside law firms:


We need to use constructive and creative means to ensure that all of our firms make immediate and lasting advances in the area of diversity in the profession. Failing that, we will need to re-examine those relationships where progress has not been achieved with a view of placing work elsewhere."<sup>21</sup>

These corporations and others are increasingly seeking tangible evidence that firms have achieved stable gender and racial diversity in their partner and associate ranks, and that they are setting and achieving goals to hire, retain, and develop women and minority lawyers. It is increasingly routine for general counsels' Requests for Proposals to law firms to require such data. For example, a recent RFP from a Fortune 100 company stated:

We encourage each of our law firms to increase the numbers of women and minority attorneys they use to work on our matters and, to the extent applicable, the number of women and minorities in the firm as a whole. The Legal Staff has established a goal that, by the end of 2005, 20 percent of our work will be performed by minority attorneys and 33 percent by female attorneys. These targets mirror the current composition of the attorneys of the Legal Staff. Selected firms will be expected to meet or exceed these diversity targets on assigned cases.

According to Mr. Hebert:

[I]t is not just the numbers that [the Fortune 500 companies] are looking for. They want to make sure that women and people of color are getting real, meaningful roles on the assignments.... [F]irms have to make sure that their senior partners turn over those roles to senior partners or junior partners who fit the bill...because they're going to call you to task.



Most recently, some corporate clients have severed long-standing outside counsel relationships because they find those firms' diversity records to be inadequate. In July 2005, Wal-Mart made news by terminating its relationship with a law firm "strictly because of their inability to grasp our diversity expectations."<sup>22</sup>

Mr. Bernthal notes a new trend as well: "In the future, clients will be looking not only at the number of women and minority associates at a firm, but also, women and minority relationship partners." In fact, Wal-Mart has demanded that 40 of its preferred 100 firms replace their white male relationship partner with a partner who is a woman or minority. It also held a diversity training conference for all relationship partners at its top 100 law firms.<sup>23</sup> Similarly, Guy Rounsaville Jr., general counsel at Visa, is insisting that women and minority lawyers be among the client relationship managers: "I get intrusive about who in the firm is getting credit for the relationship." Clients mean business when they ask their firm providers to increase diversity.

**Retention and advancement of women strengthen the power to recruit.** Because fully one-half of law school graduates are women, as Paul Smith put it, "the firms that can succeed in [increasing the odds] that women will become leaders at the firm" will have "a tremendous competitive advantage [in recruiting top talent]." Warren Gorrell agrees: "In our DC office...we have openly recognized that we have to be a great place to work for women in order for us to be increasingly competitive in the profession."

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*"We want to be in the situation where there is no longer any surprise that women and minorities stay in their law firms and become senior partners. It should not come as a shock to anyone that a woman or a minority has spent 15 years of their career in a law firm."*

— *Melvin White*

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**Attrition is expensive.** A recent NALP survey reports an increase in attrition among firms of all sizes. Published studies estimate that the cost of replacing an associate at a large law firm ranges from \$250,000 to \$500,000.<sup>24</sup> "Losing capable associates early in their careers or losing partners at any time is expensive and is not good for business," explains Mr. Gorrell. The costs include not only the costs "to recruit and train our lawyers but also the costs to recruit and train their replacements." Therefore, "it is incredibly important to make sure that we are focused on retaining our women associates longer, developing them into partners.... This is an economic necessity." While some attrition is welcome, the question is whether firms are "keeping the keepers." Ms. Calvert explains that "when we're talking about the business case, we're talking about the people who come in with the skills, with the desire, with the potential relationships, the people who could be the future leaders of the firm. And they are the ones who decide to leave."

## Sensitize the Partnership to Implicit Biases and Stereotypes that Negatively Impact Women

Progress also requires that firms provide all partners, not just practice leaders, with the information to correct myths commonly held about women's talents, ambitions, and preferences. Mr. Sandman explained: "It is going to be difficult to change the status quo materially until we begin to educate and sensitize the 83 percent of partners who have such an impact on the lives of the women they supervise."


**Comprehensive management training made the difference at Deloitte & Touche.** In the early 1990s, then-CEO Michael Cook spearheaded a task force on women, which found that women at Deloitte perceived they had fewer career opportunities than men. Cook took the risky and costly step of requiring all managers to attend mandatory two-day workshops designed to explore issues of gender in the workplace. Over a two-year period, *5,000 management level professionals* at Deloitte & Touche — including the board of directors, the management committee, and the managing partners in all of their U.S. offices — attended the workshops in small groups of 24.

McCracken, later promoted to CEO, describes how he, like many other managers, had harbored significant doubts as to the value of the programs. Skeptical of "HR-type programs" and seeing the workshops as "just one more thing to do," he "calculat[ed] in [his] head the lost revenue represented by two days' worth of billable hours, multiplied by 5,000 — not to mention the \$8 million cost of the workshops themselves."<sup>25</sup>

But, because Cook personally monitored attendance, "[r]esistance was futile" and, ultimately, "the workshops converted a critical mass of Deloitte's leaders."<sup>26</sup> He explains:

The workshops were a turning point, a pivotal event in the life of the firm. Through discussions, videos, and case studies, we began to take a hard look at how gender attitudes affected the environment at Deloitte. It wasn't enough to hear the problems in the abstract; we had to see them face-to-face. Sitting across a table from a respected colleague and hearing her say, "Why did you make that assumption about women? It's just not true," I, like many others, began to change.

The light bulbs went on for different partners at different times. Many of us had little exposure to dual-career families but did have highly educated daughters entering the workforce. A woman partner would say to a male counterpart, "Sarah's graduating from college. Would you want her to work for a company that has lower expectations for women?" Suddenly he'd get it.<sup>27</sup>



Wendy Schmidt, Principal, Deloitte Financial Advisory Services LLP, presented to participants the broad and highly organized systems now used by Deloitte to advance and retain women.

**Unexamined “implicit” bias exists in the legal profession.** In the January 6 session, Professor Williams, examining the character and causes of the glass ceiling and the maternal wall, drew on her extensive review of social psychology studies from the past 30 years to relate how unexamined biases — attitudes and misconceptions that exist unrecognized — generally shape lawyer interactions and law firm culture. Such interactions often form an unfair basis for judgments about women’s performance and capacity. Small individual differences can have a large cumulative effect over time.

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*“Where is the most bias?*

*Traditional assumptions say we should worry about the formal hiring interview or the formal personnel evaluation or the meeting to discuss termination.*

*But the science really says that we should worry about the 500 hallway encounters and interactions that precede that meeting, because firm culture matters, either priming bias, triggering it, or inhibiting it, and formal decisions are based on the cumulative effect of prior interactions and behavior — making the conclusions virtually inevitable.”*

*— Joan C. Williams*

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Some forms of glass-ceiling bias make it harder for women to be perceived as competent. For example, studies show that men tend to be judged on their potential, while women tend to be judged strictly on what they have already accomplished; that women’s successes tend to be attributed to luck while men’s are more likely to be attributed to skill; that objective rules tend to be applied leniently to men but rigidly to women; that men are often given greater rewards than women for the same accomplishment; that women’s mistakes may be remembered when men’s are soon forgotten; and that self-promotion may well be seen as unseemly in a woman.

Glass-ceiling bias includes types that set up a catch-22. For example, if a woman is too assertive, she may be faulted for being too aggressive in a context where a man is more likely to be praised for being “assertive” or “knowing what he wants”; yet if a woman is not assertive enough she may be faulted for not “having fire in her belly.”

Another form of unexamined bias is the “maternal wall.” Studies document that strong negative competence assumptions are triggered by motherhood. One study shows that, although “businesswomen” are seen as high in competence, similar to “businessmen,” “housewives” are rated alongside stigmatized groups such as the elderly, blind, and mentally and physically disabled.<sup>28</sup> In the words of a Boston woman attorney, “When I returned from maternity leave, I was given the work of a paralegal, and I wanted to say, ‘Look, I had a baby, not a lobotomy’. She had left work as a “businesswoman” and returned as a “housewife.” The stigma often associated with part-time programs reflects the negative competence assumptions associated with motherhood.

These biases — if they remain unexamined — can shape law firm culture. Ellen Ostrow, Founder of LawyersLife Coach, agreed: “Unless addressed, the presence of biases will undermine the effectiveness of any kind of initiative no matter how well-conceived.” Deloitte’s experience suggests the usefulness of a training program to identify and help correct biasing assumptions about women’s abilities, ambitions, and needs. Mr. Smith described his experience at his firm’s mandatory diversity workshops: “It was illuminating to see the different perspectives people have about the same realities.” He concluded: “[Training] is essential to getting people to break out of their own perspectives and change the way people behave unconsciously toward more junior people, including women and minorities in the workforce.”


## **Place Women in *Significant Numbers* in Important Internal Leadership Positions**

Having women fill substantial numbers of firm management positions is necessary for several reasons. *First*, as John Cruden, immediate past president of the DC Bar, explains, “[I]t is important to be able to demonstrate that hard work brings promotion and achievement, and that is best demonstrated by showing every newly hired woman that other women are already occupying important management positions.”<sup>29</sup>

*Second*, having a significant number of women in important firm leadership positions benefits the business by assuring the value of women’s voice and perspective is a part of essential decisionmaking. Ms. Rikleen explains an example:

[If] you don’t have a woman’s voice at that table [in compensation decisions], if you don’t have a woman pointing out the impacts of the distribution as profits or bonuses are being divided up, then women will suffer from the lack of a woman’s voice in that process.





*Third*, the presence of women in substantial numbers of firm management positions sidesteps the dangers of tokenism, wherein a single woman comes to be expected by the male group to represent “all women,” or finds that she is viewed as “the woman” rather than as the individual possessing actual leadership skills. While the analogy is not entirely apt, the point can be illustrated by Justice Sandra Day O’Connor’s sense of the difference when she became no longer the single woman on the Court. She said, “[T]he minute Justice Ginsburg came to the Court, we were nine justices. It wasn’t *seven and ‘the women.’* We became nine. And it was a great relief to me....”<sup>30</sup> An audience member reminded the Initiative that in many instances, senior women are still the “only woman” in various settings:

I have been practicing law for 25 years or so and recently one of the incoming classes had eight lawyers — seven women, and one man. I heard more than one partner say, “Poor Brett. They’re all women.”

And I responded at one point that when I started in the practice of law way back when in the same position, summer associate, I was always the only woman in the group. Today I still can walk into a room filled with 30 lawyers and be the only woman. At some point people want to look up and say, “There’s more than Lorie Masters there, there’s more than Lorie Masters in this partner meeting.”

How to place significant numbers of women in leadership positions presents difficulties while only 17% of partners are women. Certainly individual women partners must not have their time coopted to organizational and administrative responsibilities at the expense of further developing their business and careers, and some committee or management roles are administrative positions that are counted little toward future success. One local firm is rewarding leadership roles through the compensation and bonus process. In numerous firms, certain committees have been supplemented with senior associate members, and that is an ideal chance to demonstrate to women associates that their talents are noticed and their judgment valued. At a minimum, asking women partners to participate in designating the leadership and management candidates is a necessary ingredient of the firm’s answer to these questions — more women are ready for leadership positions than may often be assumed.

## Accountability: Give Partners a Personal Stake in Women's Success

Firms are beginning to consider how to increase partner accountability for learning and using supervision skills and best practices needed to retain and advance women. While this is a developing area, discussion at the Initiative showed management's awareness of both tools — the carrot and the stick.

Participants discussed how their firms are already requiring practice groups to develop and report on goals relating to the success of women lawyers. Some are seeking those goals as part of the annual plan. In exploratory mode, one managing partner met with practice-group leaders to discern the status of individual practices on issues that affect women's retention, and to seek ideas. The partner asked the leaders "to figure out what they are going to do to improve their program for retaining and advancing women," and would not accept any proposition that the practice area was unsuited to women's ambitions or schedules.

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*"To determine if we are successful partners, your hours, your pro bono work, your billings, how many clients you have, your firm citizenship,...all of those things go into what the management committee looks at the end of the year when it's time to divvy up those profits. Well, why not hold partners accountable for the retention and advancement of women and minorities just like you hold them accountable for billable hours, billings, and things of that nature?"*

— Grace E. Speights

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Other firms are using upward reviews through questionnaires that address individual partners' efforts to advance the careers of women and minorities. In one firm, the associates may pull up an online form and answer questions about a particular partner's efforts; an outside consultant works with the data firm-wide to examine trends or issues by various measures, including gender and minority status. The speaker explained that the program was in its second year, and the matter of what accountability measures to use was now ripe for consideration. In the first year, partners "got a pass" with a discussion about their individual results. However, this year "the management committee and



the chairman of the firm made it clear that people will be held accountable.” In general, several speakers concurred with the proposition that holding people accountable may include compensation.

Partner accountability, at a minimum through assessment and measurement, would send the clear message that increasing the retention and advancement of women lawyers is a business priority.

## **Fund and Support a Comprehensive Internal Women’s Network**

A comprehensive women’s network facilitates women’s efforts to find mentors and role models. It creates business development opportunities through informal and external relationship building. It is a powerful training vehicle that can help women lawyers maximize the relationship building opportunities to benefit their career development.

To succeed, a women’s internal network needs financial resources and the significant time commitment of senior women, as well as substantial administrative support to make the potentials a reality and free the women to directly serve clients and work on business development. To encourage attendance at all events and the attention of senior women, some firms establish separate billing codes to legitimize and recognize the time of women who are advancing the goals of the network. Women coming to know, trust, and rely on each other to help their careers will help the firm as well.

## **Accord Flexibility**

- **Approach Flexibility as a Business Response to Change and Not as an Accommodation**
- **Implement “Balanced-Hours” Programs**
- **Educate Supervisors, Practice Group Leaders, and Others**
- **Provide Benefit Programs to Help Lawyers Meet Their Multiple Obligations**

Part-time programs originally were developed to promote gender diversity by enabling mothers to remain and advance in practice.<sup>31</sup> But technology advances and expansion of billable-hours goals have made the practice far more intense in the years since those bold beginnings. In addition to the career development matters addressed above, women require control over their schedules because most do not have a “two-person career.” In addition, Gen Y women — joined increasingly by many Gen Y men — are not interested in a career that leaves little time to pursue family life.


As a result, initiatives to adopt “balanced-hours” approaches are gaining traction. This section addresses not only balanced-hour programs, but also ways to enhance efficiency and productivity to enable lawyers, and women in particular, to streamline their work, get credit for their productive use of time, and control the power of instantaneous communication in ways that integrate their choices regarding their career path.

## **Approach Flexibility as a Business Response to the Changing Workforce and Not as an Accommodation**

To match today’s workplace to today’s workforce, firms need to dispense with the notion that flexibility is an accommodation for a few lawyers with small children. To enable firms to recruit and retain the talent they require, they need to approach workplace flexibility as something that is open to anyone who can make the business case that the firm would benefit from the attorney’s work on the proposed schedule or from the proposed location. Mr. Smith explains: “Ultimately, what we ought to be...making [is] an institution that exists for the benefit of everybody...a place where there is room for different levels of commitment in different years so you can go off and do pro bono work or go off and do a community project of one sort or another, a place very different from the traditional law firm.”

**Increased hours targets and the impact of technology.** The current relentless legal workplace is a marked difference from that in which the most senior lawyers came of age. The American Lawyer reports that respondents billed an average of 2,072 hours in 2004, “and reports of 2,300 or 2,400 hours were plentiful”; 20 years ago, the national billable hour average was closer to 1800,<sup>32</sup> and in the 1960s, 1300 billable hours was considered full-time.

A straight comparison of hours ignores the impact of technology on the work environment. “[L]awyers today are on call 24/7. Associates are no longer shackled to their desks, but they now sleep with their cell phones close at hand.”<sup>33</sup> Ms. Rikleen explained: “Lawyers have always worked hard, but older partners could leave work at the day’s end. The intense pressures from today’s technology really may be one of the most significant factors facing the practice of law today and its impact on individuals and their stress level.” She continued, “When a senior partner who has been in practice for many decades talk[ed] about how difficult it was,...[he said] to me, ‘nonetheless, whenever I left work, I could come in the next day and know that things would be exactly as I left them.’ And that’s quite different today from the pressures of global practices with cell phones and e-mail that go on throughout the night.”



Moreover, in today's fast-paced workplace, lawyers have little time to plan ahead. Without sufficient planning, "everything is a crisis looking for a place to happen."<sup>34</sup> This sense of impending crisis affects everyone in the chain of command, from the partner down to the first-year associate. And it affects them at home, on vacation, at dinner with their families, anywhere.

**Men and women alike, and partners as well as associates, are seeking balance.** A Catalyst study of the graduates of six elite law schools found that 71 percent of law graduates with children — both men and women — report work/life conflict. Another study found that slightly over 70 percent of men in their twenties and thirties said that they would be willing to take lower salaries in exchange for more family time.<sup>35</sup> In a survey of senior male executives in Fortune 500 companies, 73 percent said senior management jobs could be restructured to improve both productivity and work/life balance, and 87 percent believe that such changes would enhance a company's ability to attract talent.<sup>36</sup>

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*"Firms that don't pay attention to these  
generational changes today are really going forward  
at their own peril. This is not about kids coming out  
of law school and not appreciating how hard life is  
or not willing to be able to do what they need to do.  
This is about profoundly different people with  
different life experiences who are looking at life  
right now in law firms and saying,  
you've got to be kidding me."*

*— Lauren Stiller Rikleen*

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Thus, although a failure to confront work/life balance issues disproportionately affects women lawyers, the issues also are important to men.<sup>37</sup> Bill Lee, WilmerHale's co-managing partner, emphasizes that the discussion of work/life balance should extend farther than increasing the number of women partners: "It's really addressing the broader question of how we're going to help people adjust to the work/life balance.... It's not just a question of women — it's women and men."<sup>38</sup>

Even if firms could retain individuals with no outside interests or commitments, the value of these lawyers would diminish over time. Mr. Mills explains:

We want our lawyers to have friends. We want our lawyers to have husbands, wives, girlfriends, boyfriends, dogs. We want them to go to

the theater, go to the ball game, get on an airplane and go abroad. We want them to go to the museum. Lawyers sell experience. You don't get experience by, year after year, spending 3,500 billable hours in your office or in a courtroom or in a conference room or yet another hotel, in another city....

Working with lawyers on various schedules or at unconventional times may present unique challenges. But Ms. Schmidt, herself a manager of nearly 30 professionals who use flexible schedules, notes that with regard to handling many different schedules, "Management is a minor inconvenience in comparison to the benefit gained by having a stable and happy workforce."

## Implement "Balanced-Hours" Programs

Ms. Calvert recommends that firms adopt the term "balanced hours" to signal a commitment not only allowing "part-time" or "reduced hours," but also the broader concept of balance. She explains, "balanced-hours programs allow attorneys to work individually-tailored full or reduced hours that are designed to meet the business needs of a law firm while maintaining the lawyers' ability to work and develop professionally without stigma." The term "balanced hours" incorporates the active management of workloads, emphasizes client service, and promotes values of the firm. The change is necessary for two reasons. *First*, the "part-time" and "reduced" hours nomenclature is inconsistent with the experience of many lawyers who find themselves working hours and schedules that would constitute a full-time job for many non-lawyers. *Second*, part-time and reduced-hour programs, in the past, rigidly focused on reducing hours without thought to such problems as schedule creep — when a part-time schedule creeps back towards full time — and professional development. Lawyers had negative experiences under traditional part-time arrangements, necessitating a different model that lawyers can use as a viable alternative to leaving their firms.


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*"[W]hat works best about [our reduced schedule program] is the fact that it's flexible. It really is adaptable on a per-individual basis."*

— William S. Eckland

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Mr. Cooper reported that a recent survey of his entire firm found that at least 85 percent of the firm's lawyers believe that "adopting balanced-hours policies has opened up opportunities which they did not think that they had before."



**Measure hours and productivity over a period of time.** When flexible work arrangements are going well, lawyers remain accessible to their clients and work longer hours when client needs demand. Given the nature of legal work, balanced hours often can't be achieved in a day, week, or even a month. Mr. Eckland explains, "Common sense dictates that in the service business, a 70-percent schedule doesn't mean 70 percent every day or every week or sometimes even every month. The goal must be measured over a period of at least six months or a year."

**Provide for advancement opportunities.** To be successful, balanced-hours programs should not limit career advancement — formally or informally — regardless of the lawyers' specialization, client relationships, and professional development. Michael Cook, former chairman and CEO of Deloitte & Touche explains:

When we started this initiative we already had the programs. But we did not have the culture to support them. Women were leaving because when they...asked if they could work flexible schedules, they got the message that this was a career-limiting move. The big turning point here came when women were promoted to partnership while on flexible schedules. That showed we were really serious.

Mr. Gorrell agreed: "It's important that people are not perceived as being second-class citizens within the law firm, and that as long as everyone is viewed as the same, treated the same, treated fairly, I think that that is absolutely a key to making sure that those types of arrangements work for the people, whether it's having a balanced life or just practice style."

In fact, a report by the New York Bar Association finds that the highest percentage of part-time lawyers are in indeterminate "special-counsel" slots.<sup>39</sup> The report concludes that firms should (1) make clear whether special counsels have the potential to become partner at a later time in their career, (2) consider whether women are steered toward special counsel designation rather than being considered for partnership, and (3) research whether the reasons for being a special counsel vary by gender.

**Prepare balanced-hours lawyers for advancement.** Non-billable work and committee memberships, along with business development and other career development opportunities, are as important for balanced-hours lawyers as standard-hours lawyers. In proposing a balanced-hours schedule, and in evaluating the effectiveness of a balanced-hours schedule, it is important to consider these elements in addition to billable work.

**Employ a program coordinator.** Old-fashioned part-time arrangements sometimes founder when a part-time lawyer becomes rigid in insisting that a schedule be observed regardless of client needs. Similarly, a firm needs to honor the commitment to the reduced-hour lawyer by preventing "schedule creep" into part-time pay for full-time work.<sup>40</sup> Schedule creep, whether caused by firm's

failure to honor the schedule or the attorney's desire to avoid stigma by proving she is still a valuable team player,<sup>41</sup> is a primary factor influencing these lawyers' decisions to leave law firms.<sup>42</sup> "Without appropriate monitoring safeguards in place, the firm may be unable to determine that a lawyer is overloaded until the lawyer's dissatisfaction with the arrangement results in his or her departure from the firm."<sup>43</sup>

Balanced-hours programs, too, are more likely to succeed when they are managed by program coordinators who monitor the balanced-hours lawyers' workload, quality of assignments, and career advancement, and who help balanced-hours lawyers formulate new proposals and manage existing schedules effectively.<sup>44</sup> Coordinators can run interference by bringing the problem to the attention of the supervising lawyers and offering ways to realign a lawyer's hours with the planned schedule. Initiative participants agreed that purposeful coordination by the firm is essential to support the stability and development of a balanced-hours lawyer's career.

## Educate Supervisors, Practice Group Leaders, and Others

The horizontal structure of law firms requires that all partners understand and buy in to the firm's policies regarding use of balanced-hours or reduced-schedule programs. In addition, because the issue of balance is and will remain a matter of managing client and family expectations, it is imperative that the firm and the lawyer be able to maximize productivity through efficient work and teaming. Training lawyers in the management of these programs will benefit the firm, satisfying its clients' needs while making the balanced-hours program effective. If it works, it benefits all lawyers, male and female, full- and part-time, and helps to retain and advance women at all levels.

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*"When [practice group leaders] say that flexible hours would not have worked in our group, I say, 'We have to try. If it works for litigators, if it works for transactional groups, it is going to work for your group, but you have got to work on it.'"*

— Andrea Bear Field

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**On the business case for work/life balance initiatives.** It is essential that law firms educate supervisors and practice group leaders on the business case for effective programs. The Appendix contains a model business case showing how business-based flexibility helps the bottom line.





**On strategies for respecting the individual lawyer's schedule while managing the work and communicating expectations accurately.** Supervisors and balanced-hours lawyers must clearly communicate about schedule and expectations. Among the issues to be clear about are partner expectations — when an e-mail arrives at 10:30 pm, is an automatic immediate response favored or does it simply reflect the partner sharing a thought for the associate to absorb the next day? Each particular client matter carries a level of urgency, ranging from “the normal course” to “crisis mode.” Are these client needs fully conveyed to all team members so that associates can interpret properly whether an important family meeting should be interrupted to perform an hour of research? To develop management skills and show their good judgment, attorneys require full information. Strategies to insure this can be learned and communicated among the entire team.

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*“Are we being sensitive to people who choose to try to work a less-than-traditional-full-time schedule?...Are we willing to go back every couple of months and ask if the arrangement is working? Is the attorney getting good training, exposure to clients and others within the firm, the kinds of assignments needed to progress within the firm? Or is the lawyer sitting there doing document reviews because that's our concept of the kind of thing that can be done by those working less than full-time?”*

— Andrea Bear Field

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**On the need to separate a lawyer's ability from the lawyer's schedule.** Ms. Calvert emphasized that one key to a successful balanced-hours program is for firms to teach supervisors to distinguish between “face time” at the office, and quality of work and client relationships, skills, and judgment. As one former managing partner explains, supervising lawyers need to understand that “the person who needs to be home at a fixed time is not uncommitted, or unprofessional, or suffering from some other character defect.”<sup>45</sup>



## Provide Benefit Programs Tailored to Help Lawyers Meet their Multiple Commitments

In addition to offering balanced-hours programs, firms should offer benefits to all lawyers that help them to stabilize their schedules when out-of-the-ordinary events occur. These programs can vary in degree and cost. For instance, many firms offer emergency childcare either on-site or by reserving “slots” at private back-up care providers.<sup>46</sup> Some firms offer on-site full-time childcare.<sup>47</sup> Mr. Hebert noted the significance of childcare to women lawyers: “Until we conquer childcare we’re at a plateau. We’re not going to reach that next level of improvement until we figure it out.” Various firms offer other things such as free access to a childcare development specialist to assist parents in handling normal developmental issues, employee assistance programs to counsel with lawyers or families in circumstances that are otherwise emotionally draining, and health advocates who interface with health insurance companies on complicated claims issues.

Creating these pathways enhances the actual achievement of women lawyers, increasing their satisfaction, and advancing the firm’s practice.

### Endnotes

1 This focus is expected to increase as more law schools encourage students to “carefully investigate the details of the policies offered by the employers with whom they are interviewing.” Katherine C. Reilly, *The Professional Parent: Work-Family Balance in American Law Firms* 68 (Apr. 4, 2005) (unpublished A.B. thesis, Princeton University) (on file with Mudd Library). For example, the Yale Law School Career Development Office highlights Alternative Work Options and Family/Parental Leave as two key factors in “Finding the Right Law Firm.”

2 See Catalyst, *Women in Law: Making the Case, Executive Summary* 7 (2001) (“women respondents who plan to stay over two years with their current employer report higher satisfaction levels than their counterparts who anticipate leaving earlier with respect to [these factors]”).

3 Lauren Stiller Rikleen, *Ending the Gauntlet: Removing Barriers to Women’s Success in the Law* 49 (Thompson/Legalworks 2006).

4 *Id.* at 79.

5 For example, one participant reported that his firm had hosted a women-only retreat for the firm’s clients and lawyers. Another firm hosts a cooking class.

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25 McCracken, *supra* note 6, at 4.

26 McCracken, *supra* note 6, at 4 & 5.

27 McCracken, *supra* note 6, at 4.

28 Susan T. Fiske, et al., *A Model of (Often Mixed) Stereotype Content: Competence and Warmth Respectively Follow from Perceived Status and Competition*, 82 J. Personality & Soc. Psychol. 878 (2002).

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30 Interview with Sandra Day O'Connor (CNN television broadcast May 20, 2003), <http://transcripts.cnn.com/TRANSCRIPTS/030520/ldl.08.html> (last visited May 2, 2006).

31 Joan Williams explained at the Initiative that ninety-five percent of mothers work less than fifty hours a week full-time: "[I]f you define full-time as fifty or more hours a week, you have come close to wiping mothers out of your labor pool and, therefore, seventy-five percent of women."

32 Amy Kolz, *Don't Call Them Slackers*, American Lawyer, Oct. 2005, at 115.

33 *Id.*

34 See Marcia Pennington Shannon, *Multitasking in an Information-Overloaded World*, Law Practice, June 2005, at 46.

35 Survey by Harris Interactive and the Radcliffe Public Policy Center, reported in Kirstin Downey Grimsley, *Family a Priority for Young Workers; Survey Finds Change in Men's Thinking*, The Washington Post, May 3, 2000, at E1.

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41 Defense Research Institute (DRI) Task Force on Women Who Try Cases, *A Career in the Courtroom: A Different Model for the Success of Women Who Try Cases* 36 (2004), available at [http://www.dri.org/portal/server.pt/gateway/PTARGS/\\_0\\_2\\_10281\\_0\\_0\\_18/05-WomenITC.pdf](http://www.dri.org/portal/server.pt/gateway/PTARGS/_0_2_10281_0_0_18/05-WomenITC.pdf).

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43 DRI Report, *supra* note 42, at 36.

44 See also Chanow, *supra* note 24, at 13-14 (discussing the importance of having an advocate to assist reduced hour lawyers through monitoring hours and ensuring career development); DRI Report, *supra* note 42, at 37 (stressing that the business case will be undermined if part-time lawyers are not developing necessary career skills).

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47 *Id.*

# The WBA Challenge

We wish to add the matter of “voice” to substance of this report about the underlying causes, practices, and pragmatic suggestions.

Many firms, many corporate clients, and many bar associations have set goals to increase gender diversity among lawyers. These include, of course, increasing women lawyers, women partners, women on committees, women leading practice groups, and women otherwise integral to clients and the firm. The goals are terrific and many corporations and firms have signed on to them. We join and applaud those good works.

The question we heard repeatedly, even in our first session, however, was “How”? “I am looking for pragmatics.” For that reason, we took the approach of analyzing “why” first — why do women leave; what kind of careers do they want, what is it about the profession, the style of practice, or the culture that makes retention and advancement a constant issue? Having firms and women together, in sequenced discussion of the “why’s,” leveraged the dialectic to deepen the analysis.

Bringing together managers of multiple firms and all interested women, to discuss the “why,” accomplished something else — something very much needed — it created a voice. It set a new level of comfort about discussing these issues. It identified publicly that firms and women alike care deeply about these concerns. Most exhilarating, each session created a tangible air of enthusiasm among men and women, of relief at having opened the subject, of excitement about the possibilities.

For every voice, there must be an ear. With so many firm partners, including managers in particular, concerned about the attrition and about client calls to diversify, this Initiative helped create that kind of dialogue, that kind of energy. And it has already started to reduce one of the most intractable problems, isolation. The WBA challenges the profession:

- to keep the exchange going, in our firms, in our bar associations, among men and women;
- to remain focused and positive in a way that encourages each woman to aim high without choosing between work and life’s obligations; and
- to revisit the causes as we implement further pragmatic solutions.

If we can do these most basic things, continuously, the communication these actions entail will, itself, begin to empower women lawyers. It, and they, are worth it.

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*"Our profession needs to successfully increase diversity and expand the concept of diversity. This Initiative by the Women's Bar Association is of major profession-wide significance, contributing pragmatic approaches and proving that willing minds can, together, forge new models for success. "*

*— Robert F. Ruyak, Managing Partner, Howrey LLP*

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*"There is a perception that women have some special gene that, at five years into the firm, says that we must go home today and take care of our kids. We battle — and I mean really battle — those perceptions every day." — Kim M. Keenan*

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*"We're lawyers. We're trained to look at precedent and what comes before us, what might come after us, and [women say], well, what do we see ahead of us?" — Michelle W. Cohen*

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*"[Our self-assessment proved that what women want is] really excellent lawyering and really difficult cases that attract really high-profile analysis and put you head-to-head against the best lawyers on the other side of the table.... Ensuring that our women lawyers share those same opportunities...is the best business model." — Thomas L. Mills*

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*"What kept me in private practice for 18 years before I went over to Department of Defense? To be sure, I worked really hard. But I felt valued and I felt that what I was doing was important." — Jamie Gorelick*

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*"The success stories illustrate the importance of having integrated, pervasive programs that affect every aspect of a firm, every practice group, every partner."*

*— Maureen E. Dwyer*

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# The Business Case for a Quality Balanced Hours Program

Appendix

B

## Attracting and Retaining the Best Attorneys:

- Fifty percent of law school graduates are women and 45% of women law graduates in a Catalyst study gave “Work/Life Balance” as the number one reason for choosing their current employer.
- For men law graduates, 34% reported work/life balance as one of their top three reasons for selecting their current employer.

## Satisfying Clients

“It is frustrating when outside counsel don’t provide consistent lawyers....[N]othing [is] worse than investing in and relying on someone, and then having that person pulled out. Or, even worse, the firm isn’t treating them well enough to keep them. We have tried to look at how our outside counsel treat their young lawyers...including demands in terms of billing. These are all issues that we think ultimately have an impact on the services we receive.”

— Linda Madrid, General Counsel, CarrAmerica

## Controlling the High Costs of Attrition

- It costs a firm \$250,000 - \$500,000 to replace a second-year associate.
- Recent studies of the causes of attrition show that a desire for work/life balance plays a significant role in associate departures.

## Dispelling the Myth that Firms Lose Money on Part-Timers

- James Sandman, former managing partner of Arnold & Porter, dispelled this myth using actual industry data at an ABA summit meeting reported in the Women Lawyers Journal, Winter 2003, p.16. See [www.abanet.org/nawl/private/vol88\\_2.pdf](http://www.abanet.org/nawl/private/vol88_2.pdf).

## Mismanaging a Part-Time Program is a Risk Management Issue

- There has been a 419% increase in litigation surrounding work/life issues in the past 10 years with 67 verdicts in excess of \$100,000.
- Legal employers have been sued more than a dozen times for issues related to motherhood or part-time work, with liability reaching \$1.5 million.

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**This is a distillation of a full business case, including citations, which can be obtained from PAR (Project for Attorney Retention) at: [www.pardc.org](http://www.pardc.org).**

**Other resources that can help make the business case for balanced hours are:**

- *Solving the Part-Time Puzzle: The Law Firm’s Guide to Balanced Hours*, by Joan C. Williams and Cynthia Thomas Calvert (NALP 2004), available through [www.nalp.org](http://www.nalp.org).
- The Center for WorkLife Law: [www.worklifelaw.org](http://www.worklifelaw.org).

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