

PAR'S MYTHBUSTERS

Project for Attorney Retention (PAR) Law School Project

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MYTH 1: WORK/LIFE BALANCE IS A WOMEN'S ISSUE. Nearly half (46%) of supervised lawyers say they would prefer to work fewer hours in return for less money.¹ A study of the graduates of five top law schools found that a nearly equal percentage of male and female attorneys—around 71%—report work/life conflict.² In the same study, 34% of male graduates cited work/life balance as one of their top three reasons for selecting their current employer.³ Younger men (Gen X, Gen Y, and Millennials) are more likely to insist on work/life balance than older men. A study of men in their 20's and 30's found that over 70% said they would be willing to take lower salaries in exchange for more family time.⁴ Men who leave for work/family reasons typically do not say that that's why they are leaving.

MYTH 2: LAW FIRMS ARE TRYING HARD, BUT THE PROBLEMS OF RETAINING WOMEN AND OFFERING WORK/LIFE BALANCE ARE TOO INTRACTABLE. Not so: When Fulbright & Jaworski, as part of its women's initiative, adopted key elements of PAR's "balanced hours" model, the firm's retention rate of senior women associates climbed sharply—from 29% in 2002 to 47% in 2006.⁵ PAR's "balanced hours" model, designed to make non-stigmatized work/life balance widely available, is set out in *Solving the Part-Time Puzzle: The Law Firm's Guide to Balanced Hours*, published by NALP.⁶

MYTH 3: LAW FIRMS LOSE MONEY ON PART-TIMERS. Due to high associate salaries, many law firms do not start making money until attorneys' third or fourth year; by that time two-third of associates have already left. Losing a single associate costs a law firm between \$200,000 and \$500,000.⁷ These costs are assumed to be an inevitable cost of doing business, but in fact they are costs of a *particular business model*—one that offers only sky-high salaries and sky-high hours. (For more on costs, see PAR's "The Business Case for Balanced Hours," at www.pardc.org.) Moreover, even if the high costs of attrition are ignored, law firms make money on part-time attorneys. James Sandman, former Managing Partner of Arnold & Porter, using standard industry figures, calculated that a firm's excess costs for a lawyer working an 80% schedule were \$11,000 (\$10,000 for rent and \$1000 for malpractice insurance). He then calculated that the 80%-time lawyer would bring in \$425,000 and would generate \$225,000 in expenses, yielding nearly \$200,000 in profits for the firm. Sandman concluded that the excess costs associated with part-time are "insignificant" when compared to profits generated by part-timers.⁸

MYTH 4: YOU CAN TELL WHETHER YOU WILL BE ABLE TO WORK PART-TIME BY CHECKING A LAW FIRM'S WEBSITE. Unfortunately, researchers have found that many part-time programs are unusable.⁹ One common problem is “schedule creep,” in which a part-time schedule creeps back up towards full time. Another is stigma. Many part-time lawyers see the quality of their assignments decline and find that few part-timers make partner (even if they remain eligible for partnership, which in some firms they do not).¹⁰ PAR is building a feature on its website, called “The Scoop,” that will provide vital statistics to help you assess whether a firm you are considering offers high-quality, non-stigmatized reduced hours work.

MYTH 5: GOING “IN HOUSE” IS THE WAY TO ACHIEVE BALANCE. Going in house is a mixed picture. Some lawyers who go in house find themselves working as many hours, often for less money, than they worked at their former law firms. Others do not. A typical schedule for an in-house lawyer is 8 a.m. to 6 p.m., with rare weekend work and vacations that don’t get cancelled.¹¹ (As a comparison, associates in San Francisco firms average 2200 billable hours per year, which means working 8 a.m. to 8 p.m. every weekday and one day every other weekend, with 15 days off a year.¹² And law firm lawyers report taking the fewest number of uninterrupted vacation days when compared to in-house and government attorneys.¹³) Yet part-time work is often more difficult to find in house than in a law firm. Job shares, on the other hand, are easier to find in house than in law firms (where they are just beginning to emerge).¹⁴

MYTH 6: GOING INTO THE GOVERNMENT OR PUBLIC INTEREST LAW IS THE WAY TO ACHIEVE BALANCE. Government and public interest jobs are even more variable than in-house jobs when it comes to work/life balance. Many government jobs offer a predictable 9-to-5 schedule. Part-time legal jobs are fairly common in the federal government, although many offices prohibit part-time work in management positions. Yet other government jobs, notably prosecutors’ jobs, require very long hours. Public interest jobs variable, too. Some public interest organizations make a point of being family friendly; in others, lack of funding and the norm of “work devotion”¹⁵ make for long hours.

MYTH 7: “I’LL JUST TAKE OFF A YEAR OR TWO WHEN I HAVE MY KIDS, AND THEN I’LL GO BACK TO PRACTICING LAW.” PAR and others are working to make “on-ramping” more the norm; in the meantime, however, working part-time may be a better solution than “off-ramping” entirely. While legal employers are beginning to be more receptive to lawyers who want to return to practicing law after taking time off, the current picture is less rosy. For example, at a recent program on glass ceiling issues,¹⁶ an attorney in the audience asked how taking a year or two off to care for her family would impact her career. One of the panelists said she didn't think it would be a problem, but a recruiter in the audience disagreed, saying she'd been trying to place a Harvard Law School graduate who was out of the workforce for one year and was having no success. For women, working part-time carries a penalty in hourly wages of approximately 10%.¹⁷ Taking time off from work entirely, however, carries a much steeper penalty: 20% of lifetime earnings for one year out of the labor force and 30% for two or three years out.¹⁸

A 2005 study found that, although 93% of highly qualified women who left the workforce wished to on-ramp, only 40% ever returned to full-time, mainstream jobs.¹⁹ Job barriers are one reason lawyers find it hard to re-enter professional life; another is that, when a mother leaves the workforce, her husband's work hours tend to rise sharply while his household contributions fall.²⁰

MYTH 8: WORK/LIFE BALANCE IS INCONSISTENT WITH THE PRACTICE OF LAW AT THE HIGHEST LEVELS. The high billable hours required by many law firms today reflect that firms feel caught between a rock and a hard place. The “rock” is firms’ desire to keep their profits per partner high, for fear of losing their rainmakers. The “hard place” is firms’ desire to keep raising salaries for first-year associates, on the theory that such salaries are the key to attracting the best and the brightest law students and to signal that they are a “top firm.” These are the forces driving high billables: In the 1960s, a full-time schedule was 1300 billable hours.²¹ In many cities, highly profitable firms are emerging (typically composed of “refugees” from large firms) where 1600 hours per year is full time. (These firms will soon be featured on PAR’s website under “New Models for Legal Practice.”) In addition, some firms now offer two tracks, both of which lead to partnership, with one offering lower hours and a lower salary. In some firms, the lower track carries stigma; in others, it doesn’t.

MYTH 9: YOUNG LAWYERS SAY THEY WANT WORK/LIFE BALANCE, BUT WHEN THE CHIPS ARE DOWN THEY REALLY WANT THE HIGHEST POSSIBLE SALARY. Despite the high demand for work/life balance, few lawyers reduce their hours: Nationwide, only 3 to 4% work part-time.²² Why? Many lawyers feel that existing part-time programs do not work because of stigma and schedule creep (discussed in Myth 1, above). The usage rates of high-quality part-time programs are much higher: In one San Francisco law firm—Folger, Levin & Kahn LLP—20% of both partners and associates work part-time. (Usage rate, an important statistic in assessing the quality of a part-time program, is one of the factors included in PAR’s “The Scoop”.)

ENDNOTES

- ¹ SUSAN S. FORTNEY, IN PURSUIT OF ATTORNEY WORK-LIFE BALANCE: BEST PRACTICES IN MANAGEMENT 50 (NALP Foundation, 2005).
- ² CATALYST, WOMEN IN LAW: MAKING THE CASE 18 (Catalyst, 2001).
- ³ *Id.* at 19.
- ⁴ 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.
- ⁵ Email from Joseph Small, Partner, Fulbright & Jaworski, LLP to Joan C. Williams, Director, Center for WorkLife Law, University of California, Hastings College of the Law (July 11, 2006, 01:18 P.M. PST) (on file with author)
- ⁶ JOAN C. WILLIAMS & CYNTHIA THOMAS CALVERT, SOLVING THE PART-TIME PUZZLE: THE LAW FIRM'S GUIDE TO BALANCED HOURS (NALP, 2004), available from https://www.nalp.org/store/details.php?prod_id=62.
- ⁷ Linda Bray Chanow, *The Business Case for Reduced Hours* (Project for Attorney Retention), http://www.pardc.org/Publications/business_case.shtml (last visited Apr. 1, 2007).
- ⁸ James J. Sandman, *The Business Case for Effective Part-Time Programs*, 88(2) WOMEN LAWYERS JOURNAL 16, 16-18 (NAWL, Winter 2003).
- ⁹ See, e.g., JOAN WILLIAMS & CYNTHIA THOMAS CALVERT, BALANCED HOURS: EFFECTIVE PART-TIME POLICIES FOR WASHINGTON LAW FIRMS (2ND ED.) (Project for Attorney Retention, August 2001), available at <http://www.pardc.org/Publications/BalancedHours.shtml>.
- ¹⁰ See Cynthia Fuchs Epstein, Robert Saute, Bonnie Oglensky & Martha Gever, *Glass Ceilings and Open Doors: Women's Advancement in the Legal Profession-A Report to the Committee on Women in the Profession, The Association of The Bar of The City Of New York*, 64 FORDHAM LAW REV. 291 (1995).
- ¹¹ See PROJECT FOR ATTORNEY RETENTION CORPORATE COUNSEL PROJECT, BETTER ON BALANCE? THE CORPORATE COUNSEL WORKLIFE REPORT (Project for Attorney Retention, December 2003), available at <http://www.pardc.org/Publications/BetterOnBalance.pdf>.
- ¹² See Natasha Sarkisian, *Who Says Being A Lawyer Has to Suck?*, SAN FRANCISCO MAGAZINE, January 2007, available at http://sanfranciscomagazine.com/home/view_story/1517.
- ¹³ See Fortney, *supra* n. 1, at 21.
- ¹⁴ See PROJECT FOR ATTORNEY RETENTION, BETTER ON BALANCE?, *supra* n. 11.
- ¹⁵ See Mary Blair-Loy & Amy Wharton, *Mothers in Finance: Surviving and Thriving*, 596 THE ANNALS OF THE AM. ACAD. OF POLITICAL AND SOC. SCI. 151, 153 (2004).
- ¹⁶ Breaking the Glass Ceiling: How Women Lawyers are Faring in the Profession, *The Recorder* Roundtable (Feb. 2006).
- ¹⁷ Jane Waldfogel, *The Effects of Children on Women's Wages*, 62 AM. SOCIOLOG. REV. 209, 215 (1997).
- ¹⁸ STEPHEN J. ROSE & HEIDI I. HARTMANN, STILL A MAN'S LABOR MARKET: THE LONG-TERM EARNINGS GAP 10 (Institute for Women's Policy Research, 2004), available at <http://www.iwpr.org/pdf/C355.pdf>.
- ¹⁹ SYLVIA ANN HEWLETT, CAROLYN BUCK LUCE, PEGGY SHILLER & SANDRA SOUTHWELL, THE HIDDEN BRAIN DRAIN: OFF-RAMPS AND ON-RAMPS IN WOMEN'S CAREERS 45-46 (Center for Work-Life Policy/Harvard Business Review, 2005).
- ²⁰ See JOAN WILLIAMS, JESSICA MANVELL & STEPHANIE BORNSTEIN, "OPT OUT" OR PUSHED OUT?: HOW THE PRESS COVERS WORK/FAMILY CONFLICT 20-22 (Center for WorkLife Law, 2006).
- ²¹ See Deborah L. Rhode, *Balanced Lives: Changing the Culture of Legal Practices*, 2002 ABA COMM'N ON WOMEN IN THE PROFESSION, at 14 (referring to a 1962 American Bar Association Lawyer's Handbook).
- ²² NALP, Part-Time Attorney Schedules Continue to be Rarely Used by Partners, Associates, <http://www.nalp.org/press/details.php?id=17> (Oct. 3, 2002).