

By Lizzy McLellan **Published:** Apr 14, 2017

## Big Law Bends to Challenge Midsize Firms on Flexibility



Credit: Rawpixel.com/Shutterstock.com

Amid an expanding arms race in Big Law over who has the most flexible workplace policy—at least on paper—some lawyers at smaller firms may be wondering what all the fuss is about.

Last month brought a [wave of flexibility policy announcements](#) at big firms, first from [Morgan, Lewis & Bockius](#), followed by Jackson Lewis and Baker McKenzie. But by putting work-life balance in the spotlight, these large firms are highlighting a benefit that many lawyers at midsize and smaller firms [already take for granted](#).

“The ability to be able to do the work in the way that works best for them, it’s attractive at our firm,” said David Pudlin, managing partner of midsize Philadelphia firm Hangley Aronchick Segal Pudlin & Schiller. “I think big firms are probably moving in that direction because they have to from a recruiting point of view.”



Deborah Epstein Henry.  
(Courtesy photo)

Thanks to the billable hour, flex scheduling gives lawyers greater job satisfaction without a revenue impact on their firms, said Deborah Epstein Henry, consultant and founder of Flex-Time Lawyers. And it’s allowing firms to retain lawyers who may otherwise have left due to personal obligations.

“Work life and women’s issues have become a basis of competition for large firms,” Henry said. “If competition is an effective driver and it’s working, that’s certainly better than no driver at all.”

So some firms are becoming more methodical about how their lawyers use flexible scheduling. That’s a “win-win,” she said.

“Once they formalize their policy, they’ll actually gain more control over their workforce rather than less,” she said.

## **New Policies, Old Idea**

At many large firms, the idea of working remotely or on an alternative schedule is [nothing new](#).

Lisa Casey Spaniel, a partner at Blank Rome, has been working a flexible schedule for more than a decade. The firm had a formalized process, even then, in which she requested an 80 percent schedule. At the time, she was a sixth-year associate preparing for maternity leave and expecting twin girls, who are now 10 years old. Despite the program’s requirements, she said, the firm was accommodating.

The approval process “was a little more like window dressing,” Spaniel said. “People at the firm were really supportive.”

Spaniel made partner a few years later, after another maternity leave. She was in her tenth year as a lawyer, she estimated. Since then, she became the vice chair of the intellectual property and technology practice and co-chair of the firm’s women’s forum.

Virginia Gibson, head of Hogan Lovells' Philadelphia office, said there has long been an informal acceptance of flexibility at her firm, because the law, in many practice areas, lends itself to working remotely. Lawyers used that flexibility "to varying degrees," she said.

Still, Hogan Lovells implemented a more formalized program last year, which is available to all lawyers and staff. She said the program creates transparency, helps in avoiding schedule confusion and allows for a fairer system in determining flex arrangements.

"This is making it acceptable for people to fit in their personal lives, and you don't have to pretend you're not," Gibson said.

Gibson said she can't speak to what other firms are doing. But, she noted, associates have told her that Hogan Lovells' flexibility was a major reason for staying with the firm.

## **Competing With Smaller Firms**

One reason many smaller firms haven't advertised flexible work policies is because they don't need to.

Hangley Aronchick has allowed lawyers to work flexible hours or remotely for years, likely almost from the firm's founding, Pudlin said.

"I always say, 'We want you to get your work done well, and on time, but you don't get points for being here physically at a certain time of day,'" Pudlin said. "Do we have a written policy about it? No. But it's certainly been the practice here for some time."

Likewise, Obermayer Rebmann Maxwell & Hippel has long provided flexibility for its lawyers, managing partner Mathieu Shapiro said.

"I think we do differentiate ourselves in the market with associates when we say, 'There's no such thing as face time,'" Shapiro said.

Law firm consultant Jeff Coburn said midsize firms tend to be more relaxed overall, so creative scheduling fits in more naturally. Bigger firms seem to be catching on so they can retain talent—particularly young people and women, he said.

"When you're talking about flexibility, there's informal flexibility, then formal flexibility," Henry said. "With smaller and medium-sized firms, often there's just more of an informal culture that allows people to come and go."

Henry said the real test of the new flexible scheduling programs will be in usage rates. If they appear to be effective, she said, small and midsize firms may need to find more ways to differentiate their workplaces.

Pudlin and Shapiro seemed unconcerned about losing a competitive advantage in recruiting. Pudlin said the large firms may still have other rigid requirements, such as billable hour minimums, that his firm doesn't have.

Coburn agreed. Despite their new programs, he said, large firms could never fully mimic the nimble nature of their smaller counterparts.

"It'll never be like a midsize firm," he said. "One of the reasons midsize firms don't like to get acquired by big firms is that they're afraid they'll lose that flexibility and work-life balance."

*Lizzy McLellan writes about the Pennsylvania legal community and the business of law at firms of all sizes. Contact her at [lmclellan@alm.com](mailto:lmclellan@alm.com). On Twitter: @LizzyMcLellTLI*