



# Cashing In on Part-Time

By Lisa Carney Eldridge and Deborah Epstein Henry

Law is a challenging profession. The pressure to bill hours, bring in business and service clients immediately leaves little time for a personal life. Balancing a full professional career and preserving time for one's personal life is difficult, especially for lawyers who want to provide "hands-on" attention to children, sick or elderly family members, or pursue outside endeavors. With the increasing number of women entering law and many male attorneys having working spouses, the issue of lifestyle and flexibility are of paramount concern to many in the legal field.

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Working a "part-time" schedule is one way for lawyers to meet their personal needs and the organizational needs of law firms. If done well, both the law firm and lawyer benefit.

What follows are tangible suggestions of how to implement flexible and reduced schedules and the economic reasons that make them feasible.

## **Making Flexible and Reduced Schedules Work**

There are five necessary components to successfully implement flexible and reduced arrangements at law firms. Most important is that there be a mutual understanding between the law firm and lawyer; the arrangement will only work if both parties are willing to do their share and meet in the middle. The key components to a successful flexible or reduced work arrangement are: flexibility, communication, contribution, compensation, and advancement.

### **Flexibility**

A flexible or reduced work arrangement requires mutual flexibility. From the lawyer's perspective, this means that she is staffed on cases 100% of the time but is staffed on proportionately less of them. For example, consider a flex-time lawyer who works an 80% schedule and who does not ordinarily work on Fridays. If a case she is staffed on goes to trial, she undoubtedly will have to work on Fridays during the course of the trial. In turn, law firms need to be flexible to accommodate the lawyer working a flexible or reduced schedule. For example, if a flex-time lawyer is on a litigation team with weekly team meetings, the meetings should be scheduled for a day she is regularly in the office.

The underlying assumption is that the firm treats the lawyer as a professional with the expectation that she will be responsive and available on her cases when crises or deadlines arise, even when she is not scheduled to be working. Correspondingly, the law firm should work in good faith to not compromise her schedule for routine matters.

### **Communication**

Good communication is essential for a successful flex-time work arrangement. For law firms, good communication ensures that flex-time lawyers be responsive in times of need. For lawyers, good communication ensures that law firms be respectful of their schedules when matters are not pressing. For example, if a lawyer is not scheduled to be in

the office on a Wednesday, her employer needs to be confident that it can reach her if a matter becomes pressing. While the firm can expect that a flex-time lawyer will check in with the office regularly, the law firm should not make demands on her time outside the office unless necessary.

### **Contribution**

Lawyers working flexible or reduced schedules should continue to contribute to the operation of their firm as a whole by serving on committees, mentoring junior lawyers and expanding the firm's business. It is important that the flex-time lawyer meaningfully participates in some of the firm's internal operations rather than simply punch the clock. For example, the lawyer may cut back her committee work from two or three committees to one committee but take on significant responsibility in that one committee. The firm should accept the fact that the

flex-time lawyer will reduce her commitments but recognize that a contribu-

tion still is being made. Moreover, the contribution of new or expanded business benefits everyone—the firm's bottom line and the lawyer's own professional advancement within the firm.

### **Compensation**

In order to motivate lawyers working a flexible or reduced schedule to produce above their target hours, they need to be eligible for pro-rata bonuses, on the same compensation schedule as their full-time colleagues. Flex-time lawyers understand that during some weeks, their regular schedules will change due to various work crises and deadlines. At year's end, they hope that their hours are near their target percentage for the year. However, if lawyers who are working a reduced schedule exceed their proportionate billable targets, they should be eligible for proportionate bonuses on the same scale as full-time lawyers. This is particularly important for lawyers who work a reduced schedule as there are many more uncommitted hours in the work week and the potential of working significantly in excess of the required hours is greater. Compensating reduced-time lawyers for hours worked in excess of their targets under the same bonus structure as full-time

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lawyers also avoids creating resentment, stigma, and second-class status.

### **Advancement**

The opportunity to advance to partner or shareholder within a firm is key to retaining excellent lawyers who work a flexible or reduced schedule. Partnership policies that are determined by billable hours often allow the lawyers who work a reduced schedule to advance to partnership at a delayed rate. The reduced-time lawyers are considered for partnership after meeting the same requisite number of hours as their full-time colleagues. Thus, if the partnership criteria is eight years full-time, a flex-time lawyer could fulfill that through five years of full-time work and four years on a 75% schedule so that she will be considered after her ninth year of practice.

At other firms, where experience gained or amount of business produced determines partnership, it may not be necessary to delay advancement for lawyers who work a reduced schedule. Regardless of a firm's advancement policy, the key is that there be a fair system in place for the advancement of flex-time and reduced-time lawyers that evaluates them by the same criteria as their full-time colleagues.

### **Why Reduced-Hour Schedules Make Economic Sense**

#### **Economic Incentives for Law Firms**

*Increasing Retention and Minimizing Costs—*When law firm management is asked about the economics of reduced schedules, they often assert that reduced schedules reduce profits. The rationale is that lawyers are more profitable if billing 100% of the required billables as opposed to, say, 75%. This assertion is true but it is not the proper economic comparison. The comparison should be the profitability of 75% of a lawyer's time versus 0%, not 75% versus 100%. Simply put, law firms who are unwilling to accommodate lawyers with flexible or reduced schedules risk losing them. According to the 2002 report, "Balanced Hours: Effective Part-Time Policies for Washington Law Firms: The Project for Attorney Retention," it costs a law firm, by conservative estimates, at least \$200,000 to replace a second-year associate. Typically, lawyers do not ask to work a flexible or reduced schedule

until they have been practicing law for several years and have become profitable to their firms.

The economic analysis that law firms should do is to compare the costs of losing the lawyer altogether with the costs of accommodating the lawyer to work a flexible or reduced schedule. According to a 2001 study by the National Association for Law Placement, 95.9% of the approximately 625 national law firms surveyed offered reduced hours alternatives. Thus, the potential to lose attorneys is real: if law firms do not make an effort to provide alternative work arrangements, they run the risk of losing a valuable attorney to another firm across the street.

*Re-Thinking Overhead—*Another argument made by firms against allowing reduced-time

lawyers is that the firms' fixed overhead costs prevent them from being economically feasible. This assumes an economic model that divides overhead costs equally among all attorneys. This argument is a red herring. Overhead costs, which usually include building rental, maintenance and support staff, are not used equally by all firm lawyers. A senior partner with a

significant portfolio of business and high billable hours uses significantly more resources than a reduced-time lawyer who is telecommuting at times, does not use support staff as heavily and does not have as many associates working under her. The overhead argument derives from accounting convenience rather than accurately reflecting an individual lawyer's different use of economic resources.

*Client Retention and Satisfaction—*When it comes to client service, it is in the firm's best interest to minimize client frustration and disruption of service and avoid incurring costs of training new lawyers. A firm that allows lawyers to work flex- or reduced-time often does so to retain a lawyer who would otherwise leave. Even if clients are assured that they will not be charged for a new lawyer's learning curve, often clients are not convinced. Also, clients may lose confidence in law firms that are unable to retain their lawyers.

*Increased Business Development Opportunities—*Business development remains critical for lawyers to succeed and advance within their firm. For



lawyers working full-time who are also committed to spending time with their family, the time devoted to marketing often slips. The flexibility in the flex- and reduced-time lawyers' schedule may enable them to have more time to develop business in conventional and unconventional settings. By allowing for a reduction in billable hours, the firm is enabling the flex-time lawyer to have more time with her family and community, which opens up more potential business opportunities.

*Economic Cushion*—Firms also benefit economically from the built-in cushion created by reduced schedules because they conveniently anticipate the often unpredictable demands of family life. For example, there are inevitable illnesses and family emergencies that interrupt a conventional work schedule that cause lawyers to be pulled away from the office. For lawyers who already work a flexible or reduced schedule, the law firms take less of an economic hit because these lawyers can often adjust their schedules and make up the time on a day they are scheduled to be out of the office. In a slow economy, firms also can get their money's worth out of lawyers working a reduced schedule. The lawyers can more easily meet their hours while full-time lawyers who continue to receive full salaries may not be able to meet their hours.

#### **Qualitative Benefits for Law Firms**

*Commitment, Efficiency and Loyalty*—Law firms that provide flexible work arrangements foster commitment, efficiency and loyalty on the part of lawyers who take advantage of these opportunities. These lawyers become invested in their firms because of their firms' willingness to have a long-term vision of the lawyer as a contributor. According to a 2001 study "Women In Law: Making the Case" by Catalyst, 45% of current women law graduates cite work/life balance as the top consideration for selecting their jobs. Firms who offer flexible and reduced schedules are addressing a critical need. Some law firms are taking the lead by recognizing that work/life needs have become a priority. For example, in

September 2002, Eversheds, a London-based law firm and one of the largest commercial law firms in the world, launched a flexible working program called Lifestyle. Under Lifestyle, all 3,700 employees in Eversheds' UK offices (including partners) were able to benefit from a wide variety of flexible work arrangements, including annualized hours, career breaks, part-time working, remote working and shift working.

*Recruiting and Public Relations*—Firms benefit in their recruiting efforts when they offer flexible and reduced work arrangements. The recruiting benefits are not solely directed at women who one day plan to have children. Flexible and reduced schedules have much broader appeal, as they have become emblematic of employers being progressive on all sorts of issues important to women and men. In other words, an effective flexible and reduced-hour policy reflects a general tolerance and positive atmosphere that law school candidates gravitate to as an ideal work environment, even if they never intend to work a flexible or reduced schedule.

Firms also benefit from the public relations of being known as a family friendly or positive place to work. Clients often tend to be more progressive than law firms on work/life balance issues and may be more comfortable working with firms who conduct themselves as they do.

In sum, flexible and reduced work arrangements can be a "win-win" situation for the lawyer and the law firm. With the increasing number of attorneys seeking more balance in their lives, flexible and reduced schedules need to be a viable option. Law firms should recognize the economic and qualitative benefits of allowing flex-time arrangements including retention, commitment, loyalty, recruiting, public relations and client satisfaction. As long as attention is paid to the "hot spots"—flexibility, communication, contribution, compensation and advancement—the relationship is certain to be a mutually beneficial one.

*The views contained in this article are those of the authors and do not necessarily reflect the views of their law firms.*