

Work In Balance



Deborah Epstein Henry

Comeback Lawyers: A Look at Why Re-Entry is a Hot Work/Life Balance Topic

By Deborah Epstein Henry

This column is the first of six articles that will be written this year about the balancing and juggling act that we all experience as busy lawyers trying to keep our work and personal lives in order and balance. It is our hope that this series of articles will spark a meaningful dialogue and assist our readers with balancing their busy lives.

In October 2003, work/life columnist Lisa Belkin started a national debate when she authored a *New York Times Magazine* cover story entitled: "The Opt-Out Revolution." The article triggered an outpouring of discussion and criticism about well-credentialed career women who have left their professions to stay home with their children.¹ The most positive outcome of the article was the realization of the untapped value of women who have left their professions. The *Wall Street Journal* reported in quick succession in December 2003 on a burgeoning trend of companies "Luring Moms Back to Work." The article profiled companies such as Deloitte & Touche LLP, Citigroup Inc., IBM Corp., and KPMG LLP, which were offering programs to enable departing women to keep up ties with their companies in the hopes of rejoining their former employers later. In March 2005, the Center for Work/Life Policy put authority and research to the re-entry trend in a *Harvard Business Review* article entitled: "The Hidden Brain Drain: Off-Ramps and On-Ramps in Women's Careers."

The business community was the first to take ownership of re-entry. Consulting firm Booz Allen Hamilton offers a Ramp Up/Ramp Down program that "unbundles" assignments so that former consultants can work as "adjuncts" on discrete projects and be trained with the option to re-enter if their performance meets the firm's satisfaction. Through Deloitte & Touche LLP's Personal Pursuits program, the firm pays for former employees to keep current on organizational news, educational developments, and certification requirements for up to five years, as long as they intend to come back and do not seek other employment while enrolled in the program. These former employees also have access to company resources and are invited to networking events.

Additionally, Lehman Brothers launched Encore, a one-day program targeting financial service professionals who were formerly vice presidents or higher and out of the workforce for less

than three years. The program included two sessions, "Since You've Been Gone," which focused on substantive issues on Wall Street and with clients; the second session focused on softer skills and included a storyteller who demonstrated how to convey a story of interest about a non-linear career path. Attendees were invited to submit resumes, and 20 percent of the participants were hired. The same program was subsequently rolled out in London, with even greater success, and Lehman plans to unveil Encore in Tokyo and will run it again in the United States.

At IBM, selected employees are allowed to take unpaid leaves up to three years, while maintaining their health benefits and having the option to return to a comparable job, if not the same one. Companies like Merrill Lynch are sponsoring conferences and job fairs targeting women re-entering their professions. Also, a new crop of recruiters has been born, targeting the re-entry demographic.

Meanwhile, business schools are developing curriculums aimed at women who have left the workforce and are trying to return. Pilot programs at Harvard Business School and Dartmouth College's Tuck School of Business, among others, focus on practical and substantive skills to position women for a successful return to work. At Tuck, these programs are partly funded by companies like Citigroup Inc.

Who is the Re-Entry Market Impacting? What has the Legal Profession Done to Respond to the Trend?

The greatest criticism of the re-entry focus is that it is an elitist issue: It is only about those who have the luxury to leave their professions in the first place. However, according to the Center for Work-Life Policy, 42 percent of female attorneys take time off apart from maternity leave, and they stay out of the workforce for an average of three years.² Additionally, 24 percent of female attorneys leave the workforce for six to nine years.³ Thus, re-entry is not just impacting a few isolated and privileged attorneys: The 42 percent statistic reveals that nearly half of all women lawyers have an untraditional career trajectory.⁴

The momentum on re-entry has coincided with alarming attrition figures in the legal profession. According to a 2005 report of the National Association for Law Placement (NALP) Foundation tracking associates in years 2002 through 2004, 78 percent of female and male associates leave their law firms by their fifth year of practice.⁵ For women associates of color by their fifth year of practice, the figure is the highest at 81 percent (compared to 78 percent for women generally).⁶ In response to the increasingly tight market for trained legal talent, law firms nationally are focusing more on their alumni talent pool and taking steps to enhance their alumni relations programs.⁷

The legal profession has responded to the re-entry trend for women with its own initiatives. The American Bar Association (ABA) started a pilot program in New York, with plans for expansion elsewhere, entitled, "Back to Business Law," providing a series of continuing legal education seminars on substantive business law to keep attorneys current and to facilitate networking. The New York State Bar Association has formed the Special Committee on Lawyers in Transition to be a resource for lawyers as they leave the profession, while they are not practicing, and when they are seeking to return. Although the re-entry emphasis has been mainly on women with children, the Special Committee will also be a resource for men and those who leave the profession for reasons other than parenting. The Massachusetts Bar Association has developed a Lawyers in Transition Task Force and other bar associations are considering similar committees, task forces, and outreach.

Law firms are also becoming engaged in the re-entry issues. For the ABA Back to Business Law initiative, all of the New York-based law firms that were asked to participate in the Advisory Board agreed. While law firms nationally are entertaining re-entry programs, Skadden Arps Slate Meagher & Flom LLP has announced a formal law firm re-entry program entitled "Sidebar," where attorneys in good standing are eligible to leave the firm for up to three years with the expectation they will return. During that time, attorneys will stay connected with the firm through firm functions, alumni events, and continuing legal education. These attorneys also may continue to work on small firm projects, but they are not allowed to pursue other employment while participating in the program.

Two law schools are developing re-entry programs, and others are considering the same. At University of California's Hastings College of the Law, the Center for WorkLife Law has launched a re-entry program focused on practical issues such as accounting for gaps in a resume, networking, negotiating flexibility, and ensuring support from family members for a smooth transition. At Pace University School of Law, a re-entry program is being developed that focuses on both practical skills and family law. The program will include career counseling, interview training, and possibly an externship component.

Steps to Respond to the Re-Entry Trend

Legal employers need to respond to the re-entry trend by doing four things:

1. Securing the relationship with talented lawyers who are considering leaving;
2. Maintaining the relationship with talented lawyers who have left;
3. Investing in bringing both alumni and other women lawyers back to work; and,
4. Ensuring the successful transition of re-entry lawyers back to practice.

Securing the Relationship with Women Considering Leaving

When a talented lawyer gives notice or indicates an inclination to leave, the employer should consider cultivating the relationship and offering an alternative, mutually beneficial work arrangement. Is the lawyer looking for greater flexibility or reduced hours? Does the lawyer want to switch practice groups or transition to contract work or discrete assignments from home? Legal employers should determine answers to these questions to pursue the lawyer's continued affiliation with the firm.

Maintaining the Relationship with Lawyers After Leaving

According to the Center for Work-Life Policy, only three percent of the women lawyers who left their jobs wanted to return to their former employers.⁸ When legal employers lose valuable talent, they need to secure the relationship with those lawyers to facilitate their return. A formal program like Skadden's Sidebar is the most natural way to maintain the relationship. Formalizing re-entry policies enables legal employers to develop a decisive plan on how to target, maintain, and cultivate the re-entry talent pool. Such policies also create predictability and security for lawyers who want to plan their futures and know the variety of options available to them. Law firms have expressed fear of the costs of such programs and the opening of the floodgates. The cost and usage rates of Deloitte's Personal Pursuits program should allay those fears. Deloitte's program costs approximately \$2,500 per person, per year, and of the 35,000 Deloitte employees, only 30 were enrolled in the program in 2006.

For legal employers considering formal programs, it would be best to target lawyers for up to five years after they leave the firm. Employers should stay connected with the lawyers who

left and keep their credentials current by paying for them to attend firm functions, alumni events, firm-sponsored training, continuing legal education, and bar association programs and dues. It would also be helpful to assign a partner mentor to whom the departing lawyer already has a close relationship. Another bonus is to have the attorneys continue to work on a contract basis on discrete assignments. Although legal employers may not be able to promise lawyers that their jobs would be there if they wanted to return, if the relationship is an ongoing one, ideally, it would facilitate a natural transition to re-entry into the same or a comparable job.

Bringing Women Back to Work

Legal employers also need to target resumes from re-entry lawyers and solicit talent from that demographic. One challenge is finding these lawyers, but legal employers can start by looking to their alumni and to their lawyers for help. Law firms have begun to sponsor conferences that aim at re-training and recruiting re-entry lawyers back into the market. Legal employers can also sponsor bar association, law school, and other organizations' initiatives focused on re-entry.

Some legal employers have expressed concern about how to fit re-entry lawyers into a traditional hierarchy. For example, where does a re-entry lawyer fit in who has practiced as a litigator for eight years, left the profession for four years, and now is interested in re-entering a law firm as a trusts-and-estates lawyer? The law firm would need to assess the strength of the candidate and determine what experience as a former litigator would translate. Or, it may mean considering as a first year a candidate who has been out of law school for 20 years with virtually no legal experience. For these types of candidates to work, it is critical that legal employers become receptive to lawyers with unconventional career paths.

Ensuring Success Upon Return

Once a re-entry lawyer is hired, the legal employer needs to lay the groundwork for a smooth transition. The future of re-entry initiatives will depend on success stories of candidates who have returned and been nurtured to thrive, rather than be placed on a new "mommy track." It is helpful, once again, to have a mentor assigned to the lawyer to help work through any transition challenges and provide a network of lawyers for that lawyer to have as a support and resource. Also, internships would help law firms determine if candidates are well suited for a position and help re-entry attorneys build their confidence, become acquainted with colleagues, and be re-introduced to the practice.

Advice for Lawyers Who are Considering Leaving the Profession

For lawyers considering leaving the practice, they should reflect and reassess before giving notice. The Center for Work-Life Policy reports that lawyers who left the profession earn, on average, 41 percent less than their counterparts who never took time out.⁹ These lawyers should be sure that if they give notice, they do so from a position of strength, rather than weakness. It is helpful to talk to and observe the daily routines of lawyers who have already left the profession. It is also useful to seek out colleagues who have faced similar challenges and learn how they have reached a resolution.

Lawyers who are considering leaving should think about whether there are any terms under which they would continue to practice. If so, they should submit a proposal outlining the terms under which they would propose to work, how they would continue to satisfy the needs of clients and colleagues, and why it is in the employer's economic interest to agree to the

alternative arrangement. For lawyers willing to leave the profession, it is a wonderful opportunity to try to negotiate ways to work unconventionally, because if the employer declines the proposal, the lawyer is in the same position she otherwise would have been.

Leaving and Now Returning

The concerns of women re-entering are numerous, including:

- Access to sources and employers who would consider hiring their demographic;
- Anxiety about networking with personal contacts and tapping into the right professional networks;
- Image and how to account for the paid workforce gap;
- Intimidation about the interview process and providing a compelling resume;
- Age bias and concerns about how mature workers will be perceived as fitting into the work culture;
- Confidence about their value and ability to perform in a traditional work setting again;
- Technology and concerns about the work expectations associated;
- Apprehension about brushing up on both substantive and practical skills;
- Indecision and economic implications of changing fields or practice areas; and,
- Family dynamics and concern about how their new role will possibly threaten the former rhythm of their household.

Lawyers looking to re-enter need to research the right culture and work environment to assess where they want to work and what will be important to them upon their return. This may involve evaluating the percentages of women at all levels of the organization and, specifically, the presence of women in leadership positions. It may also involve assessing programs and policies on flexibility, mentoring, training, business development, and advancement. They will need to determine whether they will need flexibility, predictability, or reduced hours. These lawyers should assess, among other factors, the opportunities presented, the ages of their children and their own age, marital status, financial demands, and how they plan to integrate themselves into the workforce. Transitioning back to work will be an adjustment for everyone involved. These lawyers need to be prepared for that change and anticipate the pushback, as well as the support, they will receive. Also, it is important for the comeback lawyer who wants flexibility to be patient and recognize that she may need to compromise or prove herself and establish a reputation before earning greater flexibility.

The key for comeback lawyers is to convey to legal employers how they can fit into a traditionally lockstep infrastructure; in other words, they need to put themselves into a context that employers can understand. Candidates need to be clear about what they have been doing while outside of the paid workforce, what department they want to join, at what level they think they should return, and what their expectations are for salary and schedule. Resumes should not be mysterious with unexplained gaps. Comeback lawyers should prioritize, in resume location, the most relevant experience to the job for which they are seeking. They should list their volunteer experience, particularly if the skills developed are applicable and transferable to the desired job.

Comeback lawyers also need to understand the business needs of their prospective employers and be able to convey why it is in an employer's financial interest to hire them. Hiring a re-entry lawyer is not about accommodation, it is about a financially beneficial decision for the employer that also meets a lawyer's needs. For lawyers looking to re-enter on a flexible basis, it is all the more important to convey the business imperative for the employer and how the needs of colleagues and clients will not be negatively impacted. For re-entry lawyers,

volunteering and pro bono work is a great way to re-gain confidence, demonstrate talent, obtain the necessary experience and references, and network to find jobs.

When re-entry lawyers network, they should inform as many people as possible that they are seeking employment. In the personal context, women are often awkward about translating or expanding personal relationships to professional interactions, and they need to overcome this so that they can maximize opportunities. Additionally, comeback lawyers should re-connect with former colleagues and expand their professional networks through bar associations or other professional organizations.

The legal community needs to recognize re-entry lawyers as a demographic they need to target and facilitate back into the profession. Law schools should consider developing re-entry training programs, designating a knowledgeable representative for women graduates wanting to return, and actively engaging in programming to foster re-entry. Law schools should also consider creating special interview opportunities for re-entry lawyers and developing relationships with law firms to either entice them to interview re-entry lawyers on campus or to review re-entry resumes in a special alumni pool. In turn, legal employers should consider developing formal re-entry programs, to keep up relationships with their lawyers who leave, and also designate a contact, like at Lehman, to separately review re-entry resumes from law schools, recruiters, and other sources. Law firms can, like Lehman, offer financial incentives for their lawyers to introduce re-entry lawyers to the firm. Firms can also host or sponsor recruiting events and programs targeting re-entry lawyers. Bar associations can also play an instructive role in running programming on re-entry and continuing legal education programs, providing resources to lawyers wanting to return, and facilitating introductions and networking with lawyers and prospective employers.

The new focus on re-entry reflects an understanding that the traditional path to practicing law is no longer the norm, and the labor market demands that re-entry lawyers no longer be overlooked. The challenge for the profession is to embrace alternate paths to practice by supporting re-entry lawyers and understanding that it is in the employers' financial interest to do so. DB

The author of this column, Deborah Epstein Henry, is the founder and president of Flex-Time Lawyers LLC, a networking and consulting firm for lawyers who work a flexible and/or reduced schedule (or seek a resource on work/life and women's issues) and employers looking for a resource on work/life and other issues impacting the retention and promotion of women attorneys. Henry founded Flex-Time Lawyers LLC in 1999 in Philadelphia while practicing as a commercial litigator in Schnader Harrison Segal & Lewis LLP's Philadelphia office, where she is now of counsel. In 2002, she brought her expertise to found a chapter in New York, where she was trained as a lawyer.

The views expressed are of the author's own and do not necessarily reflect the views of MCCA®.

To suggest future column topics, please email Deborah Epstein Henry at dehenry@flextimelawyers.com and include Work InBalance in the subject line. For more information about Flex-Time Lawyers LLC, please visit www.flextimelawyers.com.

NOTES

1. The most recent criticism is addressed in "'Opt Out' or Pushed Out?: How the Press Covers Work/Family Conflict" by Joan C. Williams, Jessica Manvell and Stephanie Bornstein and published in 2006 by The Center for WorkLife Law University of California, Hastings College of the Law.
2. Sylvia Ann Hewlett, Carolyn Buck Luce, Peggy Shiller and Sandra Southwell, Center for Work-Life Policy, "The Hidden Brain Drain: Off-Ramps and On-Ramps in Women's Careers," (Cambridge Mass., *Harvard Business Review*), 2005 at 81 and 98, Exhibit L1. 11.
3. *Id.* at 98, Exhibit L1. 11.
4. The Center for Work-Life Policy's report was based on an analysis of women generally and did not separate out findings for women of color.
5. Paula A. Patton and Cynthia L. Spanhel, "Toward Effective Management of Associate Mobility. A Status Report on Attrition," (Overland Park, Kan., The NALP Foundation) 2005 at 21, Table 6.
6. *Id.* at 24, Table 12, 22, 8.
7. Leigh Jones, "A Promising Talent Pool: Alumni," *National Law Journal*, Oct. 16, 2006.
8. Sylvia Ann Hewlett, Carolyn Buck Luce, Peggy Shiller and Sandra Southwell, Center for Work-Life Policy, "The Hidden Brain Drain: Off-Ramps and On-Ramps in Women's Careers," (Cambridge Mass., *Harvard Business Review*), 2005 at 81 and 98, Exhibit L1. 11.
9. *Id.* at 102, Exhibit L1: 19.

From the [January/February 2007 issue](#) of Diversity & The Bar®