

# THE BALANCE BEAM

A Newsletter for Members of New York *Flex-Time Lawyers LLC*  
2005 – 2006 Season

## *Competition as an Instrument of Change*

By Deborah Epstein Henry



In 1999, when I was a lawyer and mother-of-two working a 75% schedule at a Philadelphia law firm, I e-mailed six other women lawyers who were working reduced hours, saying I was starting a brown-bag lunch group for lawyers interested in work/life balance issues. I proposed running monthly meetings where we would discuss a designated topic. I encouraged recipients to forward the invite to anyone who they thought might be interested. Within days, one-hundred and fifty lawyers e-mailed me back in response. I was thrilled and shocked at the level of interest, and after running that first brown bag lunch meeting, I knew that this innocent little support group would be much more.

Soon to be incorporated as Flex-Time Lawyers LLC, the organization became a network where lawyers could derive support and career guidance as well as find clients, jobs, board placements and even nannies. But it also became a vehicle for change. Up until then, working flexible or reduced hours or even indicating an interest in a life outside of the law was virtually taboo.

Now there was a forum to compare notes about challenges and successes, about which employers were receptive to progressive work/life policies, and about how policies were being implemented.

Case in point: One member was a senior associate at a top Philadelphia law firm whose partnership policy would not allow her to be considered for promotion to partner, given her reduced-hour schedule. So, I ran a meeting with the topic Part-Time Partnership<sup>1</sup> and attendees came from the large Philadelphia firms armed with written policies, ad hoc procedures, and anecdotes to share. The senior associate took the information, drafted a part-time partnership policy and informed her colleagues about competitors who were elevating their reduced-time lawyers to partner. Her draft policy was adopted – and she became the first reduced-hours lawyer in her firm to be elevated to partner.

My mission became clear: Make work/life balance and women's issues<sup>2</sup> a basis of competition among law firms (and other legal employers), like salary or pro bono work. Historically, when a top law firm raises its first-year salary and that salary gets published in a city's legal publication, within a week, that firm's top 10 competitors match the raise. I believed the same principle would work for work/life balance and women's issues. Given that law firms are so similarly structured and therefore

easily comparable, the ability to create competition for female legal talent existed as long as there was a forum to share information and make it public.

That's where the press came in. After *The Legal Intelligencer*, the Philadelphia daily legal publication, reported on Flex-Time Lawyers LLC, I solicited press from 50 top news organizations. When NPR decided to feature a Flex-Time Lawyers LLC meeting and broadcast excerpts of interviews with myself and the Chairman of my law firm, the landscape changed. We had clients and law students calling from around the country. The public relations benefit of being known as a progressive law firm became readily apparent. The copycat response in the press also magnified the attention with top news organizations around the country picking up on the story, both in the mainstream and legal press.

Initially, I had hoped getting press would help to dispel misconceptions about the motivations of lawyers seeking work/life balance and to inspire other lawyers by letting them know they were not alone. The unanticipated benefit of the press that I garnered, however, was to up the ante on the competition. It created a wake-up call to management, diversity, and professional development representatives signaling them that some firms were making strides in the work/life and women's arena – and convincing them that in order to stay competitive, they needed to start changing their policies before they lost the race.

When I launched the New York chapter of Flex-Time Lawyers LLC in

2002, the audience changed and I was no longer preaching to the choir. New York law firms purchased corporate memberships (in addition to individual lawyer memberships) and started sending management, diversity and professional development representatives. A dialogue ensued between those seeking balance and those employer representatives required to ensure that work/life and women's policies benefited the bottom line.

What employers learned contradicted age-old assumptions that law firm lawyers must work around the clock to be valued. In June 2003, *The American Lawyer* ran a story entitled "Cracks in the Ceiling" featuring the top 20 grossing law firms' weak statistics on women partners. That same month, I ran a meeting entitled "A Briefing of the Best Practices" headlined by seven large New York law firm partners who participated in a panel. The discussion focused on which firms required the return to full-time status of their reduced-hours lawyers before partnership consideration and whether this requirement was hindering retention and promotion of women.

The law firm representatives went back to their employers and began changing policies. Indeed, the article and meeting invigorated a growing trend that elevated reduced-hours lawyers to partnership without requiring a return to full-time status, with the goal to improve retention and promotion of women.

In my consulting practice, I see employers eager to use work/life balance and women's issues as a way to gain a competitive edge. When I work with law firm diversity committees, the

partners want to know what their top competitors are doing with respect to work/life and women, what the progressive firms are doing, and what they need to do to stay competitive. As they see movement from their competitors, they make their moves accordingly.

Where are the other competitive pressure points? There is no faster way to drive change in law firms than to have clients demand it. As a result of two initiatives, the 1998 "Diversity in the Workplace: A Statement of Principle" and the 2004 "A Call to Action: Diversity in the Legal Profession," clients have come together and collectively stated that they are using diversity as a decisive criteria in the selection of their outside law firms to represent them. Some clients require that women and people of color be the client managers and some insist that invoices show hours worked by women and people of color. Also, the number of women in-house is increasing and as more women become the clients, they expect the law firm lawyers who represent them to look more like them.

Law students have, thus far, been an untapped competitive pressure point. But that will soon change. On September 14, 2006, Flex-Time Lawyers LLC will co-sponsor a forum with the New York City Bar Committee on Women in the Profession focused on training women law students about how to select women-friendly employers and educating them about workplace flexibility, mentoring, networking, business development, partnership and advancement. Attendees will leave the forum with "The Cheat Sheet" designed to give them the tools to

make educated decisions about prospective women-friendly employers. When I brought the forum and "The Cheat Sheet" concepts to the Bar, my goal was to help women law students avoid the traditional stumbling blocks of their female predecessors before those same patterns repeat themselves. All New York area law schools will be invited to participate in the forum to eliminate the anxiety of one school (or students from that school) standing out and being afraid to take a stance. Large law firms, corporations and other legal employer representatives will be invited to participate to create a venue for information sharing. Practicing lawyers will also be encouraged to attend to enable them to improve their employers' existing policies or help them with lateral moves.

My thinking behind organizing women law students around these issues is to capitalize on their power in numbers. These numbers are a means to shape how law firms and other legal employers re-focus their women-friendly efforts and programs. The objective is also to enable law schools to compete on these issues in order to attract the most talented students. I hope to extend the impact beyond New York by initiating similar law school symposiums across the country, once again, creating change through competition and collaboration.

But two important questions remain. First, is this anti-employer? The answer is no. Women comprise about 50% of graduating law school classes and legal employers can no longer afford to operate without maximizing their intellectual brain power. The current legal environment is not conducive to many women seeking

balance and otherwise succeeding and legal employers need to change to remain competitive. With many top law firms already recognizing the business case for retaining and promoting talented women, their competitors have no choice but to compete or lose the game.

The remaining question is whether this issue is unique to the law and the answer, again, is no. The most analogous professional service industries to law – consulting and accounting – have demonstrated considerably more strides with respect to women and work/life. The sheer numbers of women in the accounting field, for example, was a significant catalyst for the big accounting firms to start changing policies and competing on these issues.

In law, like any other profession, the key is focusing on the business case. Law firms and companies cannot maximize their potential when half the players are either not picked for the team or are sitting on the bench. It's time to recognize that every day is game day.

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#### Footnotes

1: The term “part-time” is commonly used but is a misnomer. Part-timers in law firms typically work a 40-hour week and work in excess of those hours when crises arise or when clients or colleagues require it. Other terms used to describe part-time arrangements are reduced-time, alternative work schedules, or balanced-hours. Working flex-time means working full-time hours flexibly, with some of the work scheduled to occur outside the office.

2: The Flex-Time Lawyers LLC attendees are predominantly women and the work/life discussions quickly morphed into meetings about women's employment issues generally and overall diversity in a range of jobs in the legal profession. As the work/life issues become less about “mommies” and more about overall corporate culture, the stigma associated with working reduced hours will be minimized. In the meantime, work/life issues remain a significant reason why a disproportionately large number of women leave the law or are not promoted within the profession.

*Deborah Epstein Henry is the Founder and President of Flex-Time Lawyers LLC, a networking and consulting firm designed to help law firms, corporations and individuals address work/life balance concerns and other issues impacting the retention and promotion of women. For more information, please visit [www.flextimelawyers.com](http://www.flextimelawyers.com).*

#### **Resources**

What follows are some recent work/life and diversity resources for lawyers.

- ✓ New York City Bar, Committee on Women in the Profession, “Best Practices for the Hiring, Training, Retention, and Advancement of Women Attorneys,” [www.nycbar.org/Diversity/WomenLawyers.htm](http://www.nycbar.org/Diversity/WomenLawyers.htm) (2006).

- ✓ Women's Bar Association of the District of Columbia, "Creating Pathways to Success," <http://www.wbadc.org/associations/1556/files/Creating%20Pathways%20Report%20PDF.pdf> (2006).
- ✓ Georgia Association for Women Lawyers, Atlanta Bar Association Women in the Profession Committee, Georgia Commission on Women, "It's About Time: Part-Time Policies and Practices in Atlanta Law Firms," <http://www.gawl.org/gawl/docs/Its%20About%20TimeFinal.pdf> (Feb. 2004).

### ***The New York Wrap-Up***

***Flex-Time Lawyers LLC*** completed its fourth season in New York. It held five meetings during the 2005 – 2006 season. Meetings were hosted by Morgan, Lewis; Weil, Gotshal; Clifford Chance; Milbank, Tweed; and, Kirkpatrick & Lockhart.

Below are the guest speakers from the third season.

- Panelists Nicole Moser, Anne-Marie Shelley, Joanne Soslow, and Joanne Sternlieb discussed "The Nitty-Gritty of Making Flex-Time Work."
- *New York Times* Work/life columnist Lisa Belkin discussed "The Opt-Out Retrospective."

- Panelists Andrea Bernstein, Lori Leskin, Jeffrey Lewis, and Blair Soyster, discussed "The Partners' Verdict on Associate Best Practices."
- Working Mother Media CEO Carol Evans discussed her newly released book, "This is How We Do It: The Working Mothers' Manifesto."

"The Mechanics & Mastery of Mentoring" is another topic we covered in the fourth season.

In its fourth season, the New York ***Flex-Time Lawyers LLC*** mailing list grew to over 1,300. Membership is comprised of law firm, in-house, solo practitioner, and non-profit lawyers as well as legal recruiters, legal administrators, lawyers seeking to re-enter the job force, and others looking for a resource or work/life and women's issues in the law. Press coverage for the fourth season included NBC Nightly News with Brian Williams, XM Satellite Radio *Life's Work* with Lisa Belkin, *Diversity & the Bar*, *Newsday*, *The Philadelphia Inquirer*, *Worcester Business Journal*, and WPRO Rhode Island radio. ***Flex-Time Lawyers LLC*** continues to collaborate with the press as a means to dispel misconceptions about flex-time lawyers, educate management and employers, share information to effect change, and spread the word to prospective members.

### ***Upcoming Meeting***

**Date:** Thursday, September 14, 2006,  
12:30 p.m.

**Location:** Skadden, Arps, Slate,  
Meagher & Flom LLP, 37th Floor,  
Four Times Square (with entrances on  
42nd and 43rd streets, between  
Broadway and 6th Avenue), New York,  
New York.

**Topic:** Comeback Lawyers:  
Strategies for Re-Entry into the Legal  
Profession.

### ***Flexible Recruiting***

With ***Flex-Time Lawyers LLC***  
beginning its fifth season in New York,  
employers are increasingly using the  
organization as a job resource when  
looking for candidates to work a flexible  
or reduced schedule.

If you are a lawyer interested in finding  
a new position, please e-mail  
[dehenry@flextimelawyers.com](mailto:dehenry@flextimelawyers.com) and  
include in the "re" line of the e-mail  
your name and "employment position."  
Be sure to also include with the e-mail:  
1. your resume; 2. a brief description of  
the position you are seeking; and, 3.  
your preferred contact information with  
your practice area, law school graduation  
year and current title and affiliation.

***Flex-Time Lawyers LLC*** will keep  
your information on file and contact you  
if there is an employment opportunity  
that meets your credentials and interest.

If you are an employer seeking a flexible  
or reduced schedule lawyer, e-mail a job  
description to  
[dehenry@flextimelawyers.com](mailto:dehenry@flextimelawyers.com) and you  
will receive a response with further  
details about finding the right candidate.

### ***Flexible Update***

***Flex-Time Lawyers LLC*** is in the  
process of re-vamping its Web site and  
membership services. You will be  
receiving an e-mail shortly asking you to  
update your membership profile. Please  
take the few minutes to update your  
information so that we can better serve  
your needs in the upcoming season.

### ***Flexible Feedback***

***Flex-Time Lawyers LLC*** members  
should feel free to give feedback about  
the meetings and membership and  
suggestions for improvement. This may  
include topic, speaker, or format  
suggestions as well as any other  
constructive input. E-mail your  
comments and suggestions to:  
[dehenry@flextimelawyers.com](mailto:dehenry@flextimelawyers.com)

Thank you for your continued interest  
and support of ***Flex-Time Lawyers  
LLC***. I look forward to seeing you back  
on September 14.

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