

BOOK REVIEW

Law & Reorder: Legal Industry Solutions for Work/Life Balance, Retention, Promotion & Restructure

By Deborah Epstein Henry and reviewed by Colonel Maritza Sáenz Ryan



Colonel Maritza Sáenz Ryan, since September 2006, is the Professor and Head of the Department of Law, United States Military Academy at WestPoint. Upon graduating from the United States Military Academy at WestPoint in 1982, she was commissioned as a Lieutenant in the Field Artillery. Colonel Ryan received her Juris Doctorate, Order of the Coif, in 1988 from Vanderbilt University Law School. Among her positions with U.S. Army, Colonel Ryan served as Senior Trial Counsel (Prosecutor) at Fort Sill, Oklahoma. In 1990, she deployed to Operation Desert Shield/ Desert Storm as a Brigade Legal Counsel, returning to Fort Sill to be the Senior Defense Counsel. Other assignments include Assistant Professor, Department of Law, WestPoint; Chief of Military Justice and Officer-in-Charge, Fort Shafter Branch Office, 25th Infantry Division (Light), Hawaii; Deputy Staff Judge Advocate for the Army Medical Department Center and School, Ft. Sam Houston, Texas; and Academy Professor and Deputy Head, Department of Law, West Point. Colonel Ryan, a member of the New York State Bar, holds a Master of Laws in Military Law from the Army Judge Advocate General's School, and a Master of Arts in National Security and Strategic Studies from the Naval War College. She is a cancer survivor, and is married to a West Point classmate and retired Army officer and has two children.

At first blush, the moment doesn't seem right for an ambitious book like this: we are still feeling the pain of a pro-may indeed be over, but many sectors of the economy still appear to be mired in a jobless recovery, and nowhere is that more evident than in law, or the "legal industry," as author Deborah Epstein Henry refers to it in her new book, *Law & Reorder*. After all, the Sunday New York Times recently led its Business section with an article entitled, "Is Law School a Losing Game?"¹ According to the Times, "a generation of J.D.'s face the grimmest job market in decades." The article cites a Northwestern Law study that, in the last two years, large law firms have shed 15,000 attorney and legal staff jobs. Unprecedented lay-offs of associates, summer law student internships abruptly cancelled, partners encouraged to retire early or leave the firm, and recruitment of new talent reduced or cut altogether are no longer shocking developments. Previously stalwart corporate clients, also busy tightening their belts, are balking at rising legal fees, and have actually begun outsourcing basic legal work to temporary employees in the U.S. as well as in India and other countries.

Is this the time to be talking about completely re-structuring the profession—to include radically changing how attorneys work, are compensated and promoted—so that women lawyers can compete, contribute, and succeed? With the economic outlook as bleak as it seems now, is this the moment to be suggesting that the legal industry treat initiatives to promote diversity in the profession and in its top leadership as business necessities, rather than luxuries they can do without? Most emphatically "Yes!" replies Ms. Henry—in fact, the time has never been better. "I see today an unprecedented opportunity to empower not just women lawyers, but all lawyers, to take charge of their careers, to improve the control they have over their lives, and to change how and where work gets done," she continues, "I also believe that the time is ripe for employers to re-vamp their traditional models or invent new ones." Law firms and legal employers who fail to innovate and adapt in a changed and still rapidly changing business

environment—who don't strive to stay ahead of the competition in terms of the work/life balance, retention, promotion and organizational structure that the author lists in her book's subtitle— not only forego the chance to create “a more hospitable, productive, and profitable environment for all,” but risk extinction in the very near future.

“Change is good.”

Extinction, evolution, adaptation, survival of the fittest— these terms figure prominently throughout this lively, inspiring, and ultimately very practically-oriented book. But this is not a biology text, an argument against creationism, nor even an argument for some sort of Social Darwinism. Ms. Henry uses the language of evolution to describe what must go on at the legal employer level if the organizations they lead are to be successful now and especially later, as the economy recovers more fully. Many of her suggestions are particularly directed toward law firms, but the author also provides timely advice to all sorts of entities that employ lawyers. Whether they are firms of any size, companies, government agencies, or non-profits, each will need to adapt to a “new norm,” in which the exception will become the rule. Thus, the author directs Part I of her book at employers, providing a keen-eyed description of today's legal environment, and identifying what the catalysts are for change. Among these are: dissatisfaction on all sides with the traditional, oppressive billable hour; sustained business retrenchment and lowered firm profitability; and the accelerated loss of legal talent and diversity, particularly at the higher levels of leadership. Ms. Henry then offers some innovative ideas for striking changes in the way lawyers are hired, compensated, and retained, and examines a number of firms and companies, old and new, that are already applying and profiting from the proverbial thinking outside the billable-hour, partner-track-filled box.

“Change cannot take hold if only one party changes.”

Ms. Henry minces no words in calling for what amounts to visionary new leadership for the legal profession. A mere collection of half-measures in policies and procedures will not do, but rather a radical restructuring—“a realignment,” “a makeover”—of the legal industry is the only adequate response to pending developments in the near future, as well as those that are already underway. But legal employers are not the only ones needing a makeover in their world view: attorneys at every stage must likewise change their perspectives, career goals and self-management styles to succeed in this brave new world. In Part II of her book, Ms. Henry provides sage advice for lawyers and law students as well. Nugget of Wisdom #1 in Part II? Read and study Part I of this book. “[A] lawyer cannot thrive in today's legal environment,” warns the author, “without understanding the economic and managerial issues his or her employer is facing.” Her “how-to” strategies for enhancing personal and group productivity and business development, rising to and succeeding in leadership roles, and attaining satisfaction and accomplishment in one's work while still having a life, are thus all couched in this very reality-based context.

Fortunately for all concerned, the business case for developing more “women-friendly” (and “family-friendly”) work-places, as Ms. Henry illustrates in various ways throughout the book, can be found in the positive numbers on the bottom line. These legal organizations are not just more rewarding personally and professionally for attorneys, and more responsive and cost-effective for clients, but they are also proving quantifiably more profitable for all concerned.

“The key to the future lies in embracing reorder.”

Returning to our evolutionary change analogy, when what appear to be errors occur in the replication of genomes from one generation of organisms to the next, “the phenomenon of evolution” results.² Given a constantly changing natural environment—with often starkly different conditions and potential threats and opportunities appearing without warning—some of those errant mutations turn out to be beneficial over time, allowing “species to evolve into forms better able to survive in their environment, a process called adaptation.” The days when success or failure rested almost solely on the cold, hard numbers of billable hours logged; when expressing concerns about work/life balance, or inquiring about working flexible or reduced hours while caring for a child or ailing spouse or parent, signaled a career-dampening lack of commitment; and when steep attrition rates in the ranks of high-performing women, minorities, and talented but burned-out men was economically sustainable and professionally acceptable—those days are long-gone, according to Deborah Epstein Henry.

These challenging times call for intelligent, thoughtful flexibility in attitudes and approaches to legal work; seeking win-win solutions for clients, attorneys and employers alike; and creating and promoting hospitable and profitable workplaces for everyone. To survive and thrive in our new legal environment (indeed, Ms. Henry notes that many of her observations and suggestions are not limited to the profession of law, but cut across many industries), both organizations and individuals must adapt and evolve, and they must do so through their own well-informed initiative, rather than through chance or knee-jerk reaction. As the author incisively notes, the legal profession is one naturally attuned to looking backwards in search of precedent on which to rely, even as forward-looking, trail-blazing, and highly creative solutions are urgently needed. Reading and thinking about the concepts presented in this immensely well-written, thoroughly researched and provocative book is a highly recommended step in the right direction.

¹ David Segal, “Is Law School a Losing Game?” January 8, 2011, Business Day, The New York Times, http://www.nytimes.com/2011/01/09/business/09law.html?_r=1&src=me&ref=homepage

² “Genetic Change,” News-Medical.Net - Latest Medical News and Research from Around the World, accessed at <http://www.news-medical.net/health/Genetic-Change.aspx>