

THE CASE FOR FLEX-TIME AND PART-TIME LAWYERING

WHY IT CAN BE A WIN-WIN ARRANGEMENT FOR LAWYERS,
THEIR FAMILIES — AND LAW FIRMS AND THEIR CLIENTS

BY
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Flex time generally means working a full-time schedule with some of the work scheduled to occur outside the office. Part time means working reduced hours.

Over the years, other terms have been used to refer to part-time work because the term "part time" is a misnomer, particularly in the law firm setting. "Part-time" lawyers often work in excess of 40 hours a week (combining billable and non-billable hours). For that reason, other terms have evolved, including "alternative work schedules." Part-time work in government or in-house positions often means working three or four days in the office rather than working a traditional five-day week.

In a law firm, most part-time attorneys work a reduced percentage of the billable-hour requirement. The most common percentages range from 60 percent to 85 percent. Thus, in a law firm requiring 2,000 billable hours a year, part-time attorneys typically work 1,200 to 1,700 billable hours a year. As a result of working the reduced percentage, part-time lawyers usually have their pay reduced in proportion to the percentage they are required to bill. Similarly, their caseload is reduced to accommodate the change in the billable requirement. Another form of part-time work at law firms is contract work. Contract attorneys usually are paid on an hourly basis rather than on a reduced percentage and often are not entitled to benefits.

It seems that those who take advantage of part-time work are mostly working mothers. There are, however, others who work part time, including fathers and those with disabilities or those who take

care of elderly, sick or disabled relatives. The focus of this article is on working mothers because they dominate the flex-time and part-time populations. The issues and challenges raised do, however, generally apply to all part-time and flex-time attorneys.

NEED

There is a group of women raised in a generation where they have competed and made tremendous strides professionally. Suddenly, they have children and face the challenge of balancing career and family.

In a society that increasingly accepts working mothers, the professional complexion of women in the workforce has changed. For financial, personal or professional reasons, some choose never to work part time or flex time. For others, flex-time and part-time work are popular solutions to the struggles of balancing career and family. For that reason, employers that do not offer these options run the risk of losing valuable, well-trained talent.

PREVALENCE

In September 1999, findings were released on an analysis of the 1997 *National Directory of Legal Employers*, the annual compendium of employer data published by the National Association for Law Placement.

The 1997 directory lists mostly large firms and includes information on part-time lawyers from more than 1,000 law offices, representing over 500 firms and almost 84,000 attorneys nationally. The evidence showed that despite part-time



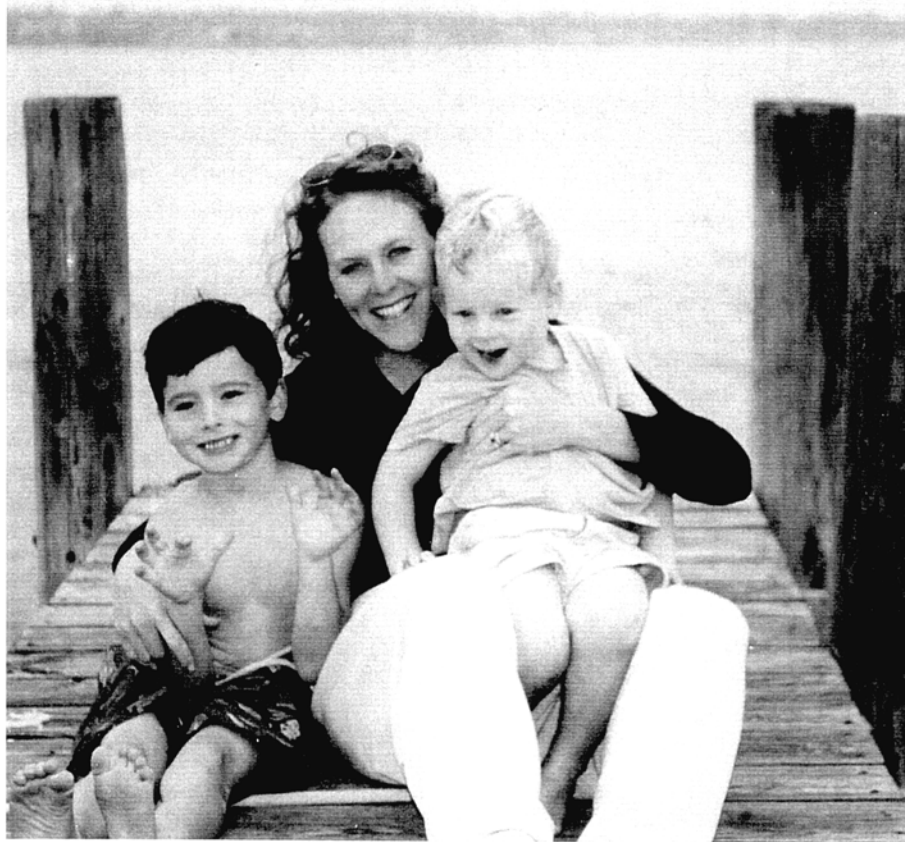
work being offered in 92.5 percent of the firms surveyed, only 2.7 percent of the attorneys worked part time. Of this 2.7 percent, 4.5 percent were associates and 1.3 percent partners. The study showed that Pennsylvania had above average availability of part-time schedules.

Comparatively, the Bureau of Labor Statistics showed that in 1997, approximately 11 percent of those age 25 and older employed in non-agricultural industries worked part time and approximately 13 percent of those employed in professional jobs worked part time.

BENEFITS

The benefits of flex-time and part-time work are fairly simple. Flex-time or part-time work enables lawyers to continue practicing law while tending to the needs of their families. Rather than feel that their kids are growing up and they are not enough a part of it, flex-time and part-time attorneys can play an integral role in their children's upbringing and be more responsive on a daily basis.

A flex-time schedule allows lawyers to get the same work done but often from home. It enables these lawyers to be more available to their children, when necessary. It also allows flex-time attorneys to work unconventional hours, i.e., very early in the morning or late at night, to maximize the hours in the day with their children.



Lawyer and mom Deborah Henry with sons Oliver, 5, and Spence, 2 1/2

Similarly, part-time attorneys work to maximize their time with their children. Working a reduced schedule, they are able to give more time to their families during the stages in their children's lives where it is appropriate.

Whether part time or flex time, these attorneys have more flexibility in their jobs to accommodate the often unpredictable demands that come with parenting.

CHALLENGES

Working part time has a stigma that is hard to overcome. The image is that these lawyers are taking the easier path and are less committed. The best way to overcome this stereotype is to prove otherwise. In other words, flex-time and part-time attorneys should show they are equally committed by always meeting deadlines, being responsive to

clients and other attorneys, and turning out top-notch work.

In law firms, for those who choose the part-time or flex-time route, they are challenging the traditional path of advancement to partnership. Firms vary in whether they will allow part-time or flex-time lawyers to advance to become both income and equity partners. Some firms clearly delineate their guidelines on this issue and others do not. In addressing this concern, it is best to choose a progressive employer from the outset, one that, most important, values a committed lawyer who turns out a good work product.

Flex-time and part-time lawyers who want to advance (Not all of them do.) should also show their commitment to their firms by con-

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tributing non-billable time to committee work and business development. As with beating the part-time stigma, the best way to combat the obstacles to advancement is for flex-time and part-time attorneys to make themselves valuable enough to their firms that the firms will want to promote them to avoid their own loss.

Another risk in part-time and flex-time work is that the work assigned will not be as exciting, rewarding or high profile. To address this concern, flex-time and part-time attorneys should once again show their commitment, responsiveness and value to their employers. As a result, the employers will want to continue to staff these attorneys on interesting and challenging cases, despite the changes in work schedule.

One more risk of part-time work is that schedules will not be honored and compensation will not reflect the work performed. With respect to having schedules honored, it is essential to communicate with colleagues and clients to have an understanding of which things can and cannot wait. Compensation is a related and controversial issue for all attorneys because of the nature of practice and the natural ebb and flow of workload. The risk of disproportionate work and pay can be much more acute in the part-time setting, however, because there are many more hours of the uncommitted work week that can be eaten up in times of need. One

potential solution for firms with a bonus structure in place for full-time lawyers working in excess of their hourly billable requirements is for part-time lawyers to qualify under the same bonus structure, with an adjustment made proportionate to the reduced percentage of work hours.

EFFECT ON CLIENTS AND CO-WORKERS

If the part-time or flex-time arrangement is done right, clients and co-workers do not suffer in the least. With the advent of home computers, faxes, voice-mail and cell phones, it has become much easier to be in touch with the office, even when not physically there. In fact, many full-time attorneys are often out of the office and unavailable due to court appearances, closings, meetings, depositions, travel, etc. Improved technology enables part-time attorneys to be responsive to pressing needs of clients and colleagues so that their demands are met. When deadlines need to be met, part timers and flex timers should be flexible to accommodate their employers' needs. For their part, employers should accommodate flex-time and part-time lawyers' needs when work and meetings are not time sensitive and can be scheduled when convenient for all attorneys.

WHY EMPLOYERS SHOULD COOPERATE

Why should law firm management support alternative work schedules?

First, it is a great expense to employers to train junior attorneys and then ultimately lose them due to an unwillingness to be flexible. In a law firm, the mid-level to senior-level associates become increasingly valuable and profitable to a firm. The cost of losing these attorneys is much greater than allowing them to work fewer hours with a reduced salary. In a law firm environment where associate retention is a heightened concern, law firms should be all the more sensitive to this issue. For that reason, it makes good economic sense for employers to work hard to retain good attorneys who want to work a reduced schedule because of family needs.

Second, employers will gain unquantifiable good will for being flexible and accommodating. Employers willing to hire and advance part-time and flex-time attorneys will find these employees that much more committed and loyal in the long run. Also, these lawyers tend to be more efficient because they have other priorities in their lives that they must balance.

Third, clients have more confidence in the law firms they employ that are successful in retaining their lawyers. Clients routinely are

frustrated by having to work with newly assigned attorneys and establish new relationships with them. Clients also have the concern that they are being overcharged for paying for new attorneys to learn a case and obtain background information about a client. If law firms are successful at retaining attorneys who want to work a flexible or reduced schedule, such frustration from clients will be diminished.

Fourth, client retention and business development will improve if part-time and flex-time lawyers advance to partnership. Think, for example, about long-time clients who have been working with the same associate for eight years. After that period of time, these clients could begin to wonder why their contact at the firm is not a partner. It may cause the clients to question their importance to a law firm that continues to assign their cases to someone who has no likelihood of advancement. In that same

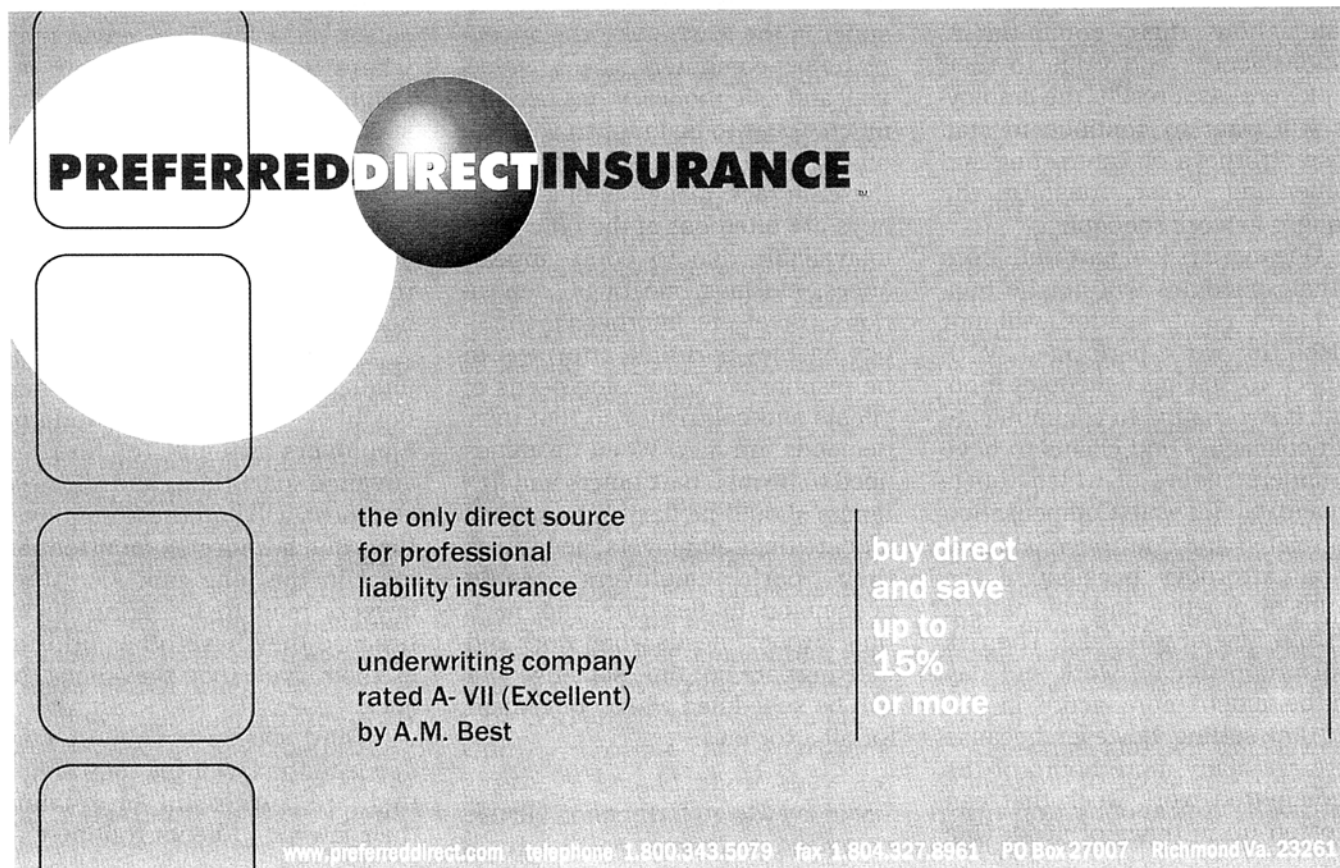
DESPITE PART-TIME
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vein, if, after eight years of practicing, that lawyer still passes out her business card without the title "partner," potential clients may be discouraged from giving business to that lawyer and her firm.

Fifth, a legal employer's willingness to hire and advance part-time

and flex-time attorneys can be critical for recruiting and public relations. This is not merely an issue of attracting women who may one day want to go flex time or part time. It is emblematic of employers generally and their willingness to be progressive. For example, if employers are flexible and advance part-time and flex-time women, they are perceived as more tolerant and accepting of issues regarding women, minorities, gays and lesbians, etc. This is a positive perception to have associated with the firm when recruiting and in the eyes of the legal community and general public.

Part-time and flex-time work arrangements can and should be a win-win situation. It takes some adjustment and flexibility. In the end, however, these arrangements should result in a more productive, profitable and contented workforce for all. ☼



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