

Ms. JD

Vivia Chen Digs into the Work/Life Balance Rhetoric



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Last month, the ABA released a new book "[Law & Reorder](#)" by Flex-Time Lawyers' [Debbie Epstein Henry](#). Ms. JD is no stranger to Henry's work. She has been a tireless supporter of ours and has spoken and volunteered at many of our events. Now Henry's on [a nationwide book tour](#) sharing the book with law firm and law school audiences. The first stop was at Skadden in New York for a high-profile event with Lisa Belkin, of *NYTimes* opt-out fame. Careerist's Vivia Chen attended and that's when things [got a bit more interesting](#).

In [a column on her blog](#) Chen questions the tone and substance of these and other work/life programs.

Again and again, we hear from Henry--and others in the field--that the business case for flextime and part-time work is pretty much a slam-dunk. In fact, it's become popular to argue that the economic downturn has been a blessing in disguise for those seeking balance.

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Why am I not convinced that firms are hurting for talent to fill their partnership ranks? From my vantage point, there seems to be a steady supply of able lawyers who would gladly bill 80 hours a week, plus give blood, for the privilege of being a big-firm partner. And are clients really pushing firms to be more accommodating about work/life balance measures?

After the jump, Henry's sharp response to the criticism, and my take on the back and forth...

These questions elicited a sharp response from Henry, who wrote "the theme of my book is not that we have arrived but rather that we need to make the exception the rule - that there are pioneers in the profession who have created solutions for new legal models and career paths that need to be adopted to become the new mainstream."

There are two issues here. The first is the substance of the work/life balance solutions preached by Henry and others in what has become more than just a cottage industry. The second is the pressure for women engaged in this discussion to support one another, no matter what.

First on the substance - I think Chen's skepticism about the business argument for flexible work arrangements is widely held. I have yet to see a single large law firm publicly embrace one of these initiatives on the internal numbers. "It's what our clients want" or "it's the right thing to do" may be the line, but not "it's more efficient." And that's because none of these models seem to acknowledge that the current business model doesn't just survive attrition, it *requires* it. "Up or out" is still the norm at big firms everywhere.

One of the best aspects of Henry's book is that she highlights the big-name clients who are beginning to reject the high-attrition model and demand that efficient, experienced counsel handle their substantive matters, while another kind of legal service provider altogether tackles doc review. I think Henry's point in her response to Chen is that women can leverage this shift and accelerate change within firms. And the right kinds of numbers are trickling in - just last week there was a new [report out from McKinsey & Co. on the bottom line impacts](#) of diversity initiatives.

Now on to the difficulty of challenging what Chen calls "the sacred cows." I have been struggling with this all day. Because, it's true. I can't tell you how many "off the record" conversations I've had with women who are 100% committed to advancing other women in the profession questioning the work/life balance argument of Henry and others like her. But it's never voiced.

I think partly that's because we all are hyper-aware that any "cat-fighting" will quickly distract from our common cause. I think partly it's because we're all committed to "women helping women" and truly don't want to spend time undercutting one another. Finally, I think it's because diversity is a business too. Fancy law firms won't pay to facilitate conversations about how their policies are illegally discriminatory or permit continued harassment. But a lack of work/life balance doesn't create liability. So that's what consultants can come talk about.

At the end of her response, Henry asks, "Is it better to be a mouthpiece for the status quo or be part of the solution?" I would argue that in many ways the focus on work/life balance is the status quo. It's allowed the power players to escape real responsibility for discrimination. Profitability may be part of the solution. I'm confident Henry and others will continue to make their case that diversity is profitable, and I hope it's successful.

Chen concludes with this: "Don't wait for that miracle in the legal profession. Make your own deal." And I agree, but not because law firms won't change (I think Henry's right they will change, and if we're smart they will change for the better). I agree because there's another sacred status quo cow that no one talks about, and that's that most women don't work for big law firms!!! Debate all you want about Henry, her ideas, and her clients. They're still just a tiny piece of the puzzle for women attorneys. None of the profitability models or "Best Firms for Women" are relevant to the 60% of female attorneys who work in small and solo practices, non-profits, and government.