



The Complete Lawyer

FOCUS ON



Deborah Epstein Henry is Founder and President of Flex-Time Lawyers LLC, a national consulting firm advising law firms, corporations, lawyers and law students on work/life balance and the retention and promotion of women attorneys. Debbie is a commercial litigator turned consultant, focusing on work/life balance and attorney retention, with a particular emphasis on women. In September 2006, Flex-Time Lawyers LLC and the New York City Bar Committee on Women in the Profession released "The Cheat Sheet," the ultimate guide to selecting, creating and ensuring a woman-friendly employer. Flex-Time Lawyers LLC has also teamed up with *Working Mother* magazine to conduct an annual national survey and list of the Best Law Firms for Women. Additionally, Debbie released in late 2007 a new work/life methodology she developed called FACTS that has received national recognition. Visit: Flex-Time Lawyers

What Makes A "Best Law Firm For Women?"

We have taken an important first step in measuring where we are.

As the adage goes, "What gets measured, gets done."

By Deborah Epstein Henry

In 2007, Flex-Time Lawyers LLC conducted a national survey with *Working Mother* magazine (the "Survey") on work/life and women's issues at law firms and created a list (the "List") of the best law firms for women (the "Best Law Firms for Women"). The ultimate objective of the Survey and List was to invigorate a dialogue, measure where we are, arm firms with information to change, and create competition and a compulsion among firms to raise the bar of what makes a Best Law Firm for Women.

The Best Law Firms for Women initiative began in September 2006 with invitations to firms with 50 or more lawyers to register to participate in a free Survey. In November 2006, those firms that registered for the Survey received an invitation to access the Survey. The applicant pool was self-selected and firms had until February 2007 to submit the completed Survey online in order to be eligible for consideration for the Best Law Firms for Women List.

The Survey had approximately 500 questions and was completed by employer representatives who reported on their representation of women and their policies, programs and usage rates for all United States offices in 2006. The Survey had six main sections:

- workforce profile (concentration of women at the different levels)
- benefits and compensation

- parental leave and related benefits and policies
- child care
- flexibility
- retention and advancement of women

Within these sections, the Survey addressed topics including: female representation at all levels of the law firm; benefits; compensation; parental leave; child care; flex-time; reduced hours;¹ re-entry; billable hours; workplace culture; vacation; partnership and advancement; presence and leadership in committees and departments; mentoring; business development and networking; women's initiatives; training; and best practices.

Surveys were scored based on an algorithm that gave different weight to specific Survey sections and questions. The firms we identified as the 50 Best Law Firms for Women in 2007 (the "Winning Firms") were the top scoring firms generated in response to the applied algorithm.² In September 2007, we published a summary of the work/life and women statistics (the "Statistics") we identified from the Winning Firms.³ This summary of the Statistics is the basis for the insights provided herein.

The Statistics reported were aggregate, based on the answers reported from the Winning Firms; however, not all Winning Firms answered all questions. The purpose of this article is to explore the Statistics and highlight some of the more notable findings to enable firms to compare themselves against a national standard and empower lawyers to make change within their firms by demonstrating how their firms compare to objective data.

How Well Are Women Represented In Winning Firms?

Of the Winning Firms, 20% were based in New York, 16% were based in Washington, D.C., 16% were based in Chicago, 8% were based in San Francisco and the remaining firms were scattered across the country. The average number of lawyers at the Winning Firms was 687.

Women represented, among the Winning Firms, 47% of associates, 37% of counsel,⁴ 22% of non-equity partners and 16% of equity partners.⁵ A 2007 survey of the National Association of Women Lawyers ("NAWL") found that women equity partners comprise approximately 16% of law firm lawyers nationally and this number is comparable with prior surveys by NAWL and others.⁶ For the 2008 Best Law Firms for Women initiative, we will be weighting the questions relating to representation of women equity partners more heavily because it is such an important indicia of whether women have equal opportunities to succeed and whether women are thriving at firms. However, as in 2007, the questions relating to women

equity partners in 2008 will be part of a series of questions, among hundreds of others, assessing whether a firm is woman-friendly. Many women lawyers do not want or aspire to be equity partners and therefore, we believe that the percentage of equity partners cannot be the sole decisive criteria on whether a firm is woman-friendly.

The other significant representation finding of the 2007 Survey was the concentration of mothers versus fathers at the Winning Firms. Out of the 500-survey questions in the 2007 Survey, the questions relating to percentages of mothers and fathers were the ones we got the most pushback about from participating firms; in many ways, these findings are the most elucidating. At the Winning Firms, mothers represented 11% of the women associates, 19% of the women counsel, 14% of the women non-equity partners, and 11% of the women equity partners. In contrast, fathers represented 17% of male associates, 37% of male counsel, 58% of male non-equity partners, and 66% of male equity partners. The fact that only 11% of the women equity partners are mothers whereas 66% of the male equity partners are fathers demonstrates how acute the challenges are for women once they have children and practice law.

What Is The Status Of Parental Leave?

The most interesting parental leave findings were about men. Among the Winning Firms, 88% of firms offered paid paternity leave to lawyer fathers. What's more important, however, is to look at the usage rates. On average, 62% of lawyer fathers used paid paternity leave for an average of 2-1/2 weeks leave. These usage rates are heartening because they demonstrate that men are increasingly availing themselves of work/life benefits. However, it is important to note that these benefits are temporary; therefore, the stigma is minimized and usage is more acceptable for men. The same ease in usage is not reflected, as indicated below, in men's access to reduced hour schedules on a regular basis.

What Childcare Services Exist?

Of the Winning Firms, 16% offer onsite or near-site full-time childcare while 82% offer emergency backup corporate childcare. The emergency backup provides support when, for example, a parent's nanny is sick or unavailable to come to work. Additionally, 36% of Winning Firms offered emergency backup childcare at home and more firms are contemplating adding this benefit. This benefit helps those parents with sick children who cannot be brought into a center and who need to get to work.

How Flexible Are Winning Firms?

Among the Winning Firms, 94% had written policies for reduced hour lawyers and 92% allowed lawyers to work reduced hours for reasons other than childcare. It is important that firms allow reduced hours for reasons

other than childcare to move work/life balance away from being solely a “mommy” issue. Firms have historically put childcare references into policies in an effort to address their fear of the floodgates and to steer usage to women (who are the ones who have largely availed themselves of these policies). However, making reduced hours available to men and women, from the associate level through the partnership, for reasons other than parenting is an important step in minimizing the stigma and improving the historically low usage rates.

We also looked at firms’ flex-time policies where lawyers are expected to bill full-time target billable hours but regularly work unconventional hours or one or more days outside the office. Among the Winning Firms, 28% have written flex-time policies. I anticipate this will be a growth area, where firms will allow their lawyers to regularly telecommute more and work less conventional hours.⁷ Twenty years ago most firms did not have written reduced hour policies and it resulted in secrecy, favoritism and ad hoc treatment. As the need became more public, many firms produced written policies, as evidenced by our Winning Firms’ Statistics. I anticipate the same will be true with flex-time policies. Through flex-time, firms can offer greater flexibility and satisfaction among lawyers without impacting the bottom line. Firms are resistant to doing this because they fear the floodgates, and that affording broad-based flexibility will negatively impact training and mentoring and threaten the corporate culture. However, given the technological opportunities for all lawyers to work flexibly, the demands of “generation Y” lawyers entering the profession and the interests of Baby Boomers to gradually phase into retirement, flex-time is an issue that is not going away. I believe that firms that can harness and capitalize on the flexibility of the billable hour will be at a competitive advantage.

We also looked at the usage rates for reduced hour schedules as indicia of whether a law firm is work/life friendly. According to the National Association of Law Placement’s (“NALP”) 2007 study, only 5.4% of law firm lawyers worked reduced hours despite it being offered in 98% of the 1,500 plus law offices nationally that were surveyed.⁸ Of those lawyers working reduced hours, 3% were partners, 4.8% were associates and 19.4% were “other” lawyers including, for example, counsel and staff attorneys.⁹ The meager usage rates in the NALP study reveal that lawyers are not generally availing themselves of reduced hour schedules despite their almost universal availability. The low usage rates become even more apparent when comparing law to other industries. According to the Bureau of Labor Statistics, approximately 14% of those employed in professional specialties, e.g., engineers, physicians, architects, worked reduced hours compared to the mere 5.4% usage rate among law firm lawyers.¹⁰

Among Winning Firms, the reduced hour usage rates were higher than NALP’s figures but still very low. There needs to be significantly more

improvement to demonstrate that reduced hour arrangements are accepted without stigma. For example, 5.3% of women associates, 15.7% of women counsel and 3.5% of partners at Winning Firms worked reduced hours. Among the NALP firms, 4.3% of women associates, 11.5% of women "other" lawyers and 2.1% of women partners worked reduced hours. Among the men from Winning Firms, .5% of male associates, 8.8% of male counsel and 2% of male partners worked reduced hours. Among the NALP men, .4% of male associates, 7.8% of male "other" lawyers and .9% of male partners worked reduced hours.

The promotion rate among reduced hour lawyers is another indicator that reduced hour arrangements continue to be stigmatized. Among the Winning Firms, although 100% allow reduced hour lawyers to be eligible for partnership consideration, not every firm has elevated a reduced hour lawyer to partner while remaining on a reduced hour schedule. Indeed, the promotion rates of reduced hour lawyers to partner while remaining on reduced hour schedules are very low. In the past five years, an average of only four associates and counsel per Winning Firm were elevated to partner while working reduced hours.

Another area that we looked at in the 2007 Survey is "re-entry," where women lawyers who have left the profession (typically for one year or more to become full-time caregivers) are interested in re-entering the profession. Among the Winning Firms, 16% have programs to identify and rehire re-entry lawyer mothers. Additionally, 72% of firms make efforts to keep in touch with and provide training to women who leave the firm for family reasons. According to the Center for Work-Life Policy, 42% of female attorneys take time off apart from maternity leave, and they stay out of the workforce for an average of three years.¹¹ This means that nearly half of all women lawyers have an untraditional career trajectory. According to a 2006 article of the *National Law Journal*, in response to the increasingly tight market for trained legal talent, law firms nationally are focusing more on their alumni talent pool (including re-entry female attorneys) and taking steps to enhance their alumni relations programs.¹² I anticipate re-entry will be a growing focus for firms, in developing written policies and programs, as they recognize that re-entry lawyer mothers have thus far been a very valuable yet untapped talent pool.

How Well Are Women Being Retained And Advanced?

In the Survey section about the retention and advancement of women, we looked most closely at leadership, business development, compensation, mentoring and accountability. Sharing a few highlights of these Statistics reflects how much more work is required in these areas. For example, among the Winning Firms, 16% had female managing partners and 2% had female chairpersons. The statistics we found on female compensation and rainmakers was equally low. Women represented 11% of the top five

percent of the rainmakers at the Winning Firms. Additionally, women partners represented 10% of the top ten percent of the most highly compensated lawyers in the firm and 6% of the top five percent of the most highly compensated lawyers in the firm.

One of the more telling statistics involves accountability. An average of 23% of the Winning Firms' clients asked for their statistics on diversity when considering their firms for representation. This demonstrates that clients are increasingly using racial and gender diversity as criteria for selecting outside counsel and law firms need to improve their numbers to remain competitive and retain and grow their client base.

I hope that the Statistics and insights shared in this article will create new objective data to enable firms to compare themselves and make change. I also hope it will enable lawyers internally at firms to demonstrate whether their firms are measuring up and use competition to make change if they are not. Additionally, the information is being shared with law students and clients to create additional pressure points that motivate firms to prioritize work/life and women's issues and programming to attract and retain the best talent and clients. The Statistics reveal that we all have a lot more work to be done. But we have taken an important first step in measuring where we are. As the old adage goes, "What gets measured, gets done."

NOTES

1. The term "reduced hours" was used throughout the Survey, rather than part-time, which is a misnomer. Reduced hours refer to lawyers who bill a reduced percentage of the billable hour target of full-time lawyers, typically 60% - 80%.
2. For more information about the [2007 Survey methodology](#) and the reasons behind the Best Law Firms for Women initiative, see Deborah Epstein Henry, "[Why a Best Law Firms for Women List?](#)" (Aug. 21, 2007).
3. To review the Statistics from the 2007 Survey referenced herein, see "[2007 Working Mother & Flex-Time Lawyers Trends Identified from National Survey](#)," (Sept. 24, 2007).
4. In the 2007 Survey, "counsel" included all lawyers who are not associates and partners, including but not limited to, staff attorneys, senior attorneys, counsel, of counsel, senior counsel, and special counsel.
5. In the 2007 Survey, some of the questions differentiated between equity and non-equity partners (where applicable) and others asked for combined statistics of equity and non-equity partners for firms that have two-tiered tracks. For purposes of this article, when equity or non-equity does not

appear before the word "partner", it means that the statistics are combined for equity and non-equity partners.

6. National Association of Women Lawyers, "[National Survey on Retention and Promotion of Women in Law Firms](#)," (Nov. 2007).

7. See Deborah Epstein Henry, "[Facing the FACTS: Introducing Work/Life Choices to All Firm Lawyers Within the Billable Hour Model](#)," *Diversity & the Bar* (Nov./Dec. 2007).

8. NALP, "[Few Lawyers Work Part-Time, Most Who Do Are Women](#)," Press Release, Washington, DC (Dec. 5, 2007). In the NALP study, the terminology used is "part-time" rather than reduced hours, which is the term being used interchangeably in this article.

9. *Id.* "Counsel" in the 2007 Survey is synonymous with "other" lawyers in the NALP study.

10. *Id.*

11. Sylvia Ann Hewlett, Carolyn Buck Luce, Peggy Shiller & Sandra Southwell, Center for Work-Life Policy, "The Hidden Brain Drain: Off-Ramps and On-Ramps in Women's Careers," at 81 & 98, Exhibit L1. 11 *Harvard Business Review* (2005).

12. Leigh Jones, "A Promising Talent Pool: Alumni," *National Law Journal* (Oct. 16, 2006).