



*Presents*

# **Creating and Maintaining a Niche Legal Practice as a Women Attorney**

January 21, 2025  
1:00 pm - 2:00 pm

Presenters: Carolyn Reinach Wolf, Esq.  
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Carolyn Reinach Wolf is an Executive Partner in the law firm of Abrams Fensterman, LLP and Director of the Firm's Mental Health Law practice. She is the only attorney in the country with a family-focused mental healthcare practice. Supported by a team of expert clinicians, she specializes in guiding families through the complex landscape of legal issues that impact loved ones with serious mental illness, overall mental health issues, and/or substance abuse issues. She also represents institutions, such as major hospital systems, community hospitals, and outpatient programs, consulting on matters including capacity, mental hygiene law, end of life decision making, development and ongoing functioning of ethics committees and advance directives. She also represents mental health and healthcare professionals, and higher educational institutions.

Ms. Wolf's expertise encompasses mental hygiene law, including retention and treatment over objection psychiatric cases; mental health warrants; capacity determinations; informed consent and medical treatment cases; confidentiality and release of records matters; interaction with law enforcement in family matters, health care facilities and institutions of higher education; Kendra's Law applications (Assisted Outpatient Treatment Orders); Article 81 and 17-A guardianship proceedings; civil and criminal litigation and negotiation specific to mental health issues; consultation and advice in navigating the mental health and health care systems, and legal interventions in the inpatient and outpatient treatment settings as well as mental health issues in the higher education setting.

Ms. Wolf is a Past President of the National Behavioral Intervention Team Association (NaBITA), a membership association serving more than 1,500 professionals in schools, colleges and workplaces whose role is to support individuals in need of mental health intervention and to minimize the potential for school and workplace violence. She is also a frequently invited speaker and consultant to healthcare and mental health organizations, as well as institutions of higher education. She also provides mental health legal advice to administrators, and professional associations throughout the country regarding mental health law issues and many of the above-mentioned topics. She has been selected to the New York Super Lawyers list since 2013 and the Best Lawyers of America since 2018. Ms. Wolf has also been selected as an honoree of the City and State of New York's 2024 Above & Beyond Women.

Ms. Wolf holds a J.D. from the Maurice A. Deane School of Law at Hofstra University, an M.S. in Health Services Administration from the Harvard School of Public Health and an M.B.A. in

Management from the Hofstra University School of Business. She is admitted to practice in New York State and Federal Courts as well as the U.S. Supreme Court. In addition, Ms. Wolf is an adjunct professor at Maurice A. Deane School of Law at Hofstra University, teaching “Law and Psychiatry.” Prior to practicing law, Ms. Wolf was a hospital administrator and Director of Hospital Risk Management at City Hospital Center at Elmhurst in New York, from 1980 until 1984.

*New York Times* Article: Front page, Metro Section, February 12, 2013, “A Guide in the Darkness”, available [here](#).

## **Bar Admissions**

- New York
- U.S. Supreme Court
- U.S. District Court Eastern District of New York
- U.S. District Court Southern District of New York
- U.S. Court of Appeals for the Armed Forces
- U.S. Court of Appeals Federal Circuit
- U.S. Court of Federal Claims

## **Education**

- Maurice A. Deane School of Law at Hofstra University, Hempstead, New York – J.D.U.S. Supreme Court
- Harvard University, School of Public Health, Boston, Massachusetts – M.S., Major: Management
- Hofstra University School of Business, Hempstead, New York – M.B.A. Major: Management
- University of Maryland, College Park, Maryland – B.A. with Honors, Major: American History

## **Recent Published Works and Media Interviews**

### **Contributor/writer: Psychology Today blog entitled “*From the Desk of a Mental Health Lawyer*”:**

- When Parents of School Shooters Face Legal Liabilities (September 2024), Author
- Analyzing the Latest Legal Outcome for a Shooter’s Parents (September 2024), Author
- Reflecting on School Shootings in 2024 (August 2024), Author
- 10 Realities for Those Living With Serious Mental Illness (May 2024), Author
- Conviction of School Shooter’s Mother Sets a Key Precedent (February 2024), Author
- Focus Also on Your Well Children This Holiday Season, (December 2023), Author
- We Need to Do Better Removing Weapons From Those in Crisis (November 2023), Author
- Retired NFL Player Puts Conservatorships Back in the News (September 2023), Author
- The Legal Case Against a School Shooter’s Parents (July 2023), Author
- Mental Health Crisis Among Teens Demands a New Approach (March 2023), Author
- The Dire Need for Mental Health Expertise for Families (January 2023), Author
- NYC Plan to Hospitalize the Mentally Ill: Risks v. Benefits (December 2022), Author
- September is Back to School But Also Suicide Awareness Month (September 2022), Author
- Red-Flag Laws Show the Limits of the Legal System, (July 2022), Author
- Student Athletes Need Better Mental Health Support, (June 2022), Author
- Why We Need More Awareness of Serious Mental Illness, (April 2022), Author
- Expanding Kendra’s Law to Help Those Affected by Mental Illness, (March 2022), Author
- Family Members Can Play a Role in Suicide Prevention, (February 2022), Author

- Five Key Lessons from Britney Spears' Conservatorship, (January 2022), Author
- #FreeBritney News Coverage Deters Those Needing Conservatorships, (October 2021), Author
- Parity Laws Curb Bias Against Mental Illness When Enforced, (August 2021), Author
- Can Fire Departments Better Handle Mental Health Crises?, (July 2021), Author
- Some Public Figures Have It All Wrong About Mental Illness, (June 2021), Author
- The Mental Health Reforms Police Departments Should Adopt, (May 2021), Author
- Post-Pandemic Stress Reaction Awaits Many As COVID Subsides, (May 2021), Author
- What to Know About Conservatorships and Mental Illness, (April 2021), Author
- Preventive Approaches Can Help Reach Children in Distress, (March 2021), Author
- Young Adults Remain at Serious Risk of Mental Health Crises, (January 2021), Author
- A Mental Health Attorney's Reflections on 2020 (December 2020), Author
- There Is No Vaccine for Mental Illness (December 2020), Author
- Counselors Can Build Resilience to Meet Rising Demand (November 2020), Author
- COVID is Limiting Access to In-patient Psychiatric Care (October 2020), Author
- A Lesson from Britney Spears' Conservatorship (September 2020), Author
- Legal Tools Can Help Families Prevent COVID-era Suicides (August 2020), Author
- Re-imagined Policing Helps Protect Those with Mental Illness (July 2020), Author
- Liability Concerns When Practitioners Return to the Office (June 2020), Author
- Virtual Platforms Are Helpful Tools but Can Add to Our Stress (May 2020), Author
- Coronavirus Stress Can Trigger Those With Mental Illness (March 2020), Author
- Preventing Workplace Shootings Requires Proactive Measures (March 2020), Author
- Buttigieg Mental Health Plan Would Fund Needed Community Programs (February 2020), Author
- Families Enduring Mental Illness Need Hope for the Holidays (November 2019), Author
- Mental Health Needs Are Often Inseparable from Work (October 2019), Author
- Counselors, Please Consider Your Own Mental Health Needs (September 2019), Author
- Trump is Wrong About Institutionalizing Mentally Ill (August 2019), Author
- Some College-Bound Students Face a Trifecta of Challenges (August 2019), Author
- Murder Trial Shows Our Mental Health System's Limitations (July 2019), Author
- Mental Health, Addiction and The 2020 Presidential Race (May 2019), Author
- Mental Health Laws Afford Key Legal Protections (May 2019), Author
- Not All Survivors of School Shootings Survive (April 2019), Author
- We Need More Housing For People With Mental Illness (February 2019), Author
- To Prevent Mass Shootings, Believe the Women (January 2019), Author
- Aided by Celebrity Candor, Mental Health Coming to Forefront (December 2018), Author
- Erasing Stigma, One Vote at a Time (October 2018), Author
- Families of Those in Crisis Have Distinct Emotional Needs (September 2018), Author
- One Flew Over the Cuckoo's Nest to Silver Linings Playbook (August 2018), Author
- Language is Key to Easing the Stigma of Mental Illness (July 2018), Author
- Preventing School Shootings Requires Additional Measures (June 2018), Author
- How to Stage a Mental Health Intervention (June 2018), Author
- Guardrails for the College-Bound With Mental Health Needs (May 2018), Author

**Contributor/writer: *Other Published Works and Media Interviews:***

- myLawCLE, "Substance Abuse Issues Within the Legal Profession" (August 2024), Presenter
- Civility Panel Discussion: Please and Thank You are Still "Magic Words" (May 2024), Moderator
- New York Women's Bar Association Lunch and Learn Series Presents: Mental Health Issues in Guardianships (May 2024)
- Crain's New York Business Op-Ed, Conviction of School Shooter's Mom Emphasizes the Need for Law Expansion, (March 2024), Author

- New York Law Journal, ‘Long Overdue’: New York Executive Budget Would Bolster Mental Health Courts, (Jan. 2024), Quoted
- New York State Bar Association Journal: The Unique Role of the Guardian in Inpatient Psychiatric Care, (March/April 2023), Contributing Author
- Qumibee CLE Course, The Ethics of Dealing with Capacity and Mental Health Issues in the Practice of Law, (October 2022), Presenter
- Qumibee CLE Course, Guardianship/Conservatorship for a Mentally Ill Person, (October 2022), Presenter
- Qumibee CLE Course, Impact of Covid 19 on Law Practice Management, (October 2022), Presenter
- Latte With a Lawyer, Episode 75, (August 2022), Interviewed
- NY Daily News op-ed, To stop mass shootings, engage with parents, (July 2022), Author
- CGTN America segment, What to know about ‘red flag’ gun laws, (June 2022), Interviewed
- The Hill op-ed, Biden should appoint a mental health czar, (April 2022), Author
- New York State Bar Association Women in Law Section (“WILS”) 3.1 Connect 14-15, Legal Tools to Respond to Mental Health Crises, (February 2022), Co-Author
- CBS News segment, Judge Terminates Britney Spears’ Conservatorship, (November 2021), Interviewed
- Rolling Stone article, Is Britney’s Legal Battle Really Over?, (September 2021), Quoted
- CBS News segment, Britney Spears’ father suspended as her conservator, (September 2021), Interviewed
- CBS News segment, Britney Spears’ father agrees to step down as conservator, (August 2021), Interviewed
- CBS News segment, Britney Spears allowed to choose her own attorney in conservatorship case, (July 2021), Interviewed
- NY Daily News, When conservatorships save lives: The Britney Spears case spotlights an important part of the law, (July 2021), Author
- CBS News segment, Britney Spears: “I’m Traumatized, I’m Not Happy”, (June 2021), Interviewed
- NY Daily News article, Britney Spears ‘enjoying’ herself ahead of meeting with conservatorship judge this week, (June 2021), Quoted
- Nassau Lawyer article, Impact of COVID-19 on the Mental Health Legal and Clinical Systems, (May 2021), Co-Author
- Nassau Lawyer article, Mental Health Services for Incoming Legal Professionals, (April 2021), Co-Author
- Risk Management Journal of The Association for Healthcare Risk Management of New York, Inc. (AHRMNY), Mental Health Concerns and the Importance of Self-Care During COVID-19, (February 2021), Co-Author
- KCEN-TV Texas, Mental Health Experts Weigh in on Patrick Warren Sr. Shooting Incident, (January 2021), Interviewed
- NYSBA Real Property Law Section Journal, Fall 2020 Edition, Alternatives to Evictions: Legal Remedies When Faced With a Mentally Ill Tenant (November 2020), Co-Author
- Good Morning America, Britney Spears heads to court to remove her father from conservatorship(November 2020), Interviewed
- Nassau Lawyer article, Self-Care in Time of Uncertainty (October 2020), Co-Author
- Washington Post article, Houston Chief: Officers Ignored Training in Fatal Shooting (September 2020), Quoted
- Mom.com article, Moms, Let’s Come Together and Demand That People Wear Masks (August 2020), Author
- CTPost.com article, Opinion: Police Reform Needs Mental Health Provisions (August 2020), Author
- Nassau Lawyer article, Enduring the Aftermath of a School Shooting: When Survivors Take Their Own Lives(June 2019), Co-Author.
- WealthManagement.com Op-Ed article, When Clients Loved Ones Experience Mental Health Crises (May 2019), Author

- Nassau Lawyer article, Gun Control Is Not Enough: Early Identification and Intervention for Those At Risk Means Safety and Security Before It's Too Late (June 2018), Co-Author
- New York Times article, His College Knew of His Despair. His Parents Didn't, Until It Was Too Late (May 2018), Quoted
- Nassau Lawyer article, Guardianship Proceedings and Mental Illness (March 2018), Co-Author
- Wall Street Journal article, Documents You Need When A Child Turns 18 (November 2017), Quoted
- Huffington Post article, Holiday Season Support: A Must for Shooting Survivors and Others in Crisis(November 2017), Author
- The Risk Management Quarterly Journal article, The Increased Threat of Hospital Liability After *Munsey v. Delia* (August 2017), Co-Author
- Bloomberg Law article, Improving Mental Health Care in America (April 2017), Author
- Distinguishing Dementia from Mental Illness and Other Causes of Decline, 89.1 NYSBA Journal 22-27 (Jan. 2017), Co-Author
- New York Law Journal article, 'Munsey' Changed Landscape of Involuntary Psychiatric Admissions (June 2016), Co-Author
- The Risk Management Quarterly Journal article, How High is the Risk to Your Organization? Risk Management and Medical Marijuana (April 2016), Co-Author
- Best Interests of the Special Needs Child: Mandating Consideration of the Child's Mental Health, 54 FAM. CT. REV. 68 (Jan. 2016), Co-Author.
- Missing the Mark: Gun Control Is Not the Cure for What Ails the U.S. Mental Health System, 104 J. CRIM. L. & CRIMINOLOGY 851, Co-Author
- Representing Clients with Mental Illness, 64.10 NASSAU LAWYER 19 (June 2015), Co-Author
- New York Times profile/article, A Guide in the Darkness (February 2013), Interviewed

## **Honors and Awards**

- 2024 Honoree of the City and State of New York's Above & Beyond Women
- 2021 Outstanding Women in Law, Maurice A. Deane School of Law at Hofstra University
- 2019 Greater New York Community Service Award Breakfast Recipient
- 2017 UJA Federation of New York L.I. Business and Professional Leaders Connect and Celebrate!
- 2016 Long Island Power Women in Business
- 2014 Long Island Power Women in Business

## **Professional Associations and Memberships**

- Association for Healthcare Risk Management (ASHRM), New York State, President, 2007-2008
  - ASHRM, New York State, Board of Directors, 1983-Present
  - Nassau County Bar Association (NCBA), Hospital and Health Law Committee, Member
  - NCBA, Lawyers Assistance Program Committee, Member
  - New York State Bar Association (NYSBA), Health Law Section, Member
  - NYSBA, Health Law Section Subcommittee on Mental Health Law, Co-Chair
  - National Center for Higher Education Risk Management (NCHERM), Affiliated Consultant
  - National Behavioral Intervention Team Association (NaBITA), Advisory Board Member, 2010 – Present
  - NaBITA, President Elect, 2015-2016
  - NaBITA, President, 2016-2017
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Lisa Herman is a partner at Abrams Fensterman, LLP and a member of the firm's Mental Health Law Practice Group, the only family-focused mental healthcare practice in the country. Ms. Herman focuses her practice on Mental Health Law and Elder Law with a particular concentration in working with individuals and families facing psychiatric diagnoses, substance abuse issues, and other disabilities to help them navigate the complex legal and mental health systems that impact them.

Ms. Herman has over 26 years experience in the fields of Mental Health Law and Elder Law having represented thousands of clients in psychiatric treatment proceedings, civil commitment hearings, retention hearings and jury trials, Kendra's Law applications (Assisted Outpatient Treatment), Mental Hygiene Law Article 81 guardianship and turnover proceedings, and Surrogate's Court Procedure Act Article 17A guardianship proceedings. Ms. Herman has lectured extensively on issues related to guardianship proceedings for the New York State Bar Association, the Westchester County Bar Association, The Judicial Institute, New York Law School, and Pace Law School.

Prior to joining Abrams Fensterman, Ms. Herman was employed as a Deputy Chief Attorney with the Mental Hygiene Legal Service, Appellate Division Second Judicial Department where, in addition to representing and advocating for clients with psychiatric and other disabilities, she was responsible for overseeing the staff and legal operations of the Mental Hygiene Legal Service's offices located within the 9th Judicial District.

Ms. Herman is eligible to receive court appointments in Bronx County, New York County, Westchester County, Rockland County, Orange County, Dutchess County and Putnam County as Court Evaluator, Attorney for the Alleged Incapacitated Person, Counsel to Guardian and Guardian Ad Litem pursuant to Part 36 of the Rules of the Chief Judge of the New York State Unified Court System.

Ms. Herman earned a J.D. from New York Law School and a B.A. from the University of Maryland. She is admitted to practice law in New York State.

**Bar Admissions**

- New York

**Education**

- New York Law School, J.D., Cum Laude
- University of Maryland, College Park, Maryland – B.A.

## **Professional Associations and Memberships**

### New York State Bar Association

- Elder Law and Special Needs Section, Member
- Women in Law Section, Member

### Westchester County Bar Association

- Adult Guardianship Committee, Member
- Elder Law Committee, Member
- Health Law Committee, Member
- Task Force on Attorney Well-Being and the Post-COVID Practice of Law, Member
- Women in the Law Committee, Member

### Westchester Women's Bar Association

- Women's Bar Association of Orange & Sullivan Counties



# The New York Times

"All the News That's Fit to Print"

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## Metropolitan

### A Guide in the Darkness

For families with children who have mental illnesses, a lawyer offers assistance.

By JOHN LELAND

**W**hen a life starts to unravel, where do you turn for help?

Melissa Klump began to slip in the eighth grade. She couldn't focus in class, and in a moment of despair she swallowed 60 ibuprofen tablets. She was smart, pretty and ill: depression, attention deficit disorder, obsessive-compulsive disorder, either bipolar disorder or borderline personality disorder.

In her 20s, after a more serious suicide attempt, her parents sent her to a residential psychiatric treatment center, and from there to another. It was the treatment of last resort. When she was discharged from the second center last August after slapping another resident, her mother, Elisa Klump, was beside herself.

"I was banging my head against the wall," the mother said. "What do I do next?" She frantically called support groups, therapy programs, suicide prevention lines, anybody, running down a list of names in a directory of mental health resources. "Finally," she said, "somebody told me, 'The person you need to talk to is Carolyn Wolf.'"

That call, she said, changed her life and her daughter's. "Carolyn has given me hope," she said. "I didn't know there were people like her out there."

Carolyn Reinach Wolf is not a psychiatrist or a mental health professional, but a lawyer who has carved out what she says is a unique niche, working with families like the Klumps.

One in 17 American adults suffers from a severe mental illness, and the systems into which they are plunged — hospitals, insurance companies, courts, social services — can be fragmented and overwhelming for families to manage. The recent shootings in Newtown, Conn., and Aurora, Colo., have brought attention to the need for intervention to prevent such extreme acts of violence, which are rare. But for the great majority of families watching their loved ones suffer, and of-

ten suffering themselves, the struggle can be boundless, with little guidance along the way.

"If you Google 'mental health lawyer,'" said Ms. Wolf, a partner with Abrams & Fensterman, "I'm kinda the only game in town."

On a recent afternoon, she described in her Midtown office the range of her practice.

"We have been known to pull people out of crack dens," she said. "I have chased people around hotels all over the city with the N.Y.P.D. and my team to get them to a hospital. I had a case years ago where the person was on his way back from Europe, and the family was very concerned that he was symptomatic. I had security people meet him at J.F.K."

Many lawyers work with mentally ill people or their families, but Ron Honberg, the national director of policy and legal affairs for the National Alliance on Mental Illness, said he did not know of another lawyer who did what Ms. Wolf does: providing families with a team of psychiatrists, social workers, case managers, life coaches, security guards and others, and then coordinating their services. It can be a lifeline — for people who can afford it, Mr. Honberg said. "Otherwise, families have to do this on their own," he said. "It's a 24-hour, 7-day-a-week job, and for some families it never ends."

Many of Ms. Wolf's clients declined to be interviewed for this article, but the few who spoke offered an unusual window on the arcane twists and turns of the mental health care system, even for families with money. Their stories illustrate how fraught and sometimes blind such a journey can be.

ONE RAINY MORNING LAST MONTH, Lance Sheena, 29, sat with his mother in the spacious family room of her Long Island home. Mr. Sheena was puffy-eyed and sporadically inattentive; the previous night, at the group home where he has been living since late last summer, another resident had



PHOTO COURTESY OF ABRAMS FENSTERMAN

Carolyn Reinach Wolf, Esq., Mental Health Law Attorney, Senior Partner, Abrams, Fensterman, Partner-in-Charge Mental Health Law Practice.

been screaming incoherently and was taken away by the police. His mother, Susan Sheena, eased delicately into the family story.

"I don't talk to a lot of people because they don't get it," Ms. Sheena said. "They mean well, but they don't get it unless they've been through a similar experience. And anytime something comes up, like the shooting in Newtown, right away it goes to the mentally ill. And you think, maybe we shouldn't be so public about this, because people are going to be afraid of us and Lance. It's a big concern."

Her son cut her off. "Are you comparing me to the guy that shot those people?"

"No, I'm saying that anytime there's a shooting, like in Aurora, that's when these things come out in the news."

"Did you really just compare me to that guy?"

"No, I didn't compare you."

"Then what did you say?"

"I said that when things like this happen, one of the first things you hear about

is somebody being mentally ill." She added that her son, like most people with mental illness, has never been violent.

Ms. Wolf, a neighbor who attended the same synagogue, was one of the few people Ms. Sheena talked to about her son. Ms. Wolf started her career as a hospital administrator, then after law school represented hospitals in commitment hearings. Families of mentally ill people, she said, heard about her and began to turn to her for help.

A popular, athletic child, Lance started showing signs of obsessive-compulsive disorder at age 11 and began using drugs around the same age.

"I never had trouble buying drugs because I sold drugs," Mr. Sheena recalled. "And when I wasn't buying drugs I got them from the doctor. Valium, Xanax, Adderall, Ritalin, Seroquel. Finished a bottle of Adderall in 12 hours once. That's like 30 pills, 20 mg. each. I was lying under the air-conditioner listening to my heart beat. Finally I woke up, took some Xanax."

Eight years ago, after taking "a lot of prescription drugs and Ecstasy," he said, he landed in the psychiatric ward at North Shore Hospital in a state of drug-induced psychosis. It was the first of several such stays, some by his volition, others against his will. Three years ago, Ms. Sheena came home to find him in the woods behind the house, wearing only shorts and a T-shirt in the January cold.

"The level of life I had in me that was productive was so low," he said. "I was almost homeless, I was a complete bum, and I decided to clean the woods. It was the only thing I could do."

Finally, at a psychiatric hospital upstate, he received a diagnosis of schizophrenia.

"It was tearing us apart," Ms. Sheena said. Her son's three younger brothers were angry at him for the turbulence in their home, she said. His youngest brother, who is now in high school, had never known a normal home life. After that hospitalization three years ago Lance Sheena stopped using drugs — for his mother, he said.

Mr. Sheena returned to school and earned an associate's degree. But his illness follows its own agenda. Last summer, he became flooded with thoughts of death and was hospitalized twice in quick succession, the second time against his will. He left his mother angry messages, which she saved.

"Nasty messages," she said. "'I hate you. Get me out of here.' Nasty."

"Why'd you save them?" he asked.

"I don't know."

"No really, why?"

During that time, Ms. Sheena began turning to Ms. Wolf for help. Ms. Wolf said she could petition to have Mr. Sheena released from the hospital and into a different kind of supervised involuntary commitment, known as assisted outpatient treatment, that would be less restrictive. But she also



MICHAEL KIRBY SMITH FOR THE NEW YORK TIMES

Lance Sheena and his mother, Susan, went through many tumultuous years coping with his psychiatric problems; they turned to Carolyn Reinach Wolf for help.

advised the Sheenas not to let their son move back into the family home.

"We were at a breaking point," Ms. Sheena said. "He would come home and we'd be back in the same roles where I'm looking to see if he's going to his meetings, if he's taking his medicine. What is he doing? Is he sleeping? Is he bouncing off the walls all night?"

It was too much, Ms. Wolf said. "I try to get people off of that, because I have found over these 20-plus years that it works better when you put the professionals in place

started to write about his experiences, with help from his mother.

"Now, he's the best he's been in the last 10 years," she said. "He's come to accept that he's mentally ill, that he has an illness and that it needs to be treated. And I hope he can be better than he is now, but who knows?"

NOT ALL OF MS. WOLF'S CLIENTS can report even that much hope.

In a Midtown financial services office, a consultant whose son suffers from bipolar schizoaffective disorder described an almost unbroken series of setbacks, with his son now living in an efficiency hotel in Georgia, refusing to take medications or acknowledge that he needs care. To avoid causing more pain to family members, the father would be identified only by his first initial, J., and his son by the initial R.

"It tears your heart out as a parent, believe me," J. said.

J. first met Ms. Wolf more than a decade ago at New York-Presbyterian Hospital, where he was visiting his son and she was representing the hospital in commitment hearings. By that time, R., who is now in his early 40s, had been hospitalized involuntarily several times, each time ceasing treatment after he was released. He lost apartment after apartment, sometimes for harassing the owners or other residents.

Then he took a bigger step, going to the home of a film executive and harassing the man's wife. When he was arrested and charged, his father called Ms. Wolf.

"The D.A. wanted to put him in jail for two years," J. said. His son's criminal lawyer was ready to take a plea deal, which

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***"If you Google 'mental health lawyer'...I'm kinda the only game in town."***

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and the family members go back to being the loved ones," she said.

Ms. Wolf helped Mr. Sheena move to a group home, where he has a case manager and social worker and takes the bus to court-mandated therapy appointments and group meetings. Now, when he returns home to visit, "there's a real sense of calmness in the house," his mother said. "It's wonderful, it's peaceful, it's loving, he sleeps home often on Friday night. And he's doing better because he's not as stressed, because we're not watching him like that."

Mr. Sheena said he was unhappy about not being allowed to move back home. But his life is more stable, he said, and he has

would involve prison time, the father said.

Instead, Ms. Wolf negotiated with the prosecution to allow him to be committed involuntarily to Bellevue Hospital Center. When R. petitioned to go home, saying he did not need treatment, Ms. Wolf argued that he was still a danger to himself and others.

"She went to court for us every Tuesday," the father said, "and we were able to show cause why he should be kept there. And the doctors helped us, but only because Carolyn spoke to them and assisted us."

After nine months in Bellevue, R. was finally discharged, against the efforts of Ms. Wolf and his father. Ms. Wolf engaged a psychiatrist, a case manager and someone to live with R. to make sure he took his medications. But soon he stopped complying again; nothing was different.

Now, J. would like to see his son in a residential psychiatric center or a hospital. But R. will not go voluntarily, and unless he commits a serious crime, the courts will not commit him long-term.

"I've gone through a fortune, and the system stinks," J. said. "It can be shown by some of these recent killings in Sandy Hook and in Aurora. Or Virginia Tech. These are people who are mentally ill and they've proved that they're mentally ill, who the court system fails and the mental health system fails. You can see the glary, starey eyes of this killer from Aurora in court. I've seen that expression from my son when he's been locked up. And it's because he's totally psychotic."

**THE DAY MELISSA KLUMP**, now 28, tried to kill herself, in April 2011, she woke with a sense of overwhelming serenity, knowing what she wanted to do. She had fought with her brother the day before, when he blamed her for destroying their parents' marriage.

"I was calm," she said. "I went upstairs, I showered, I did my hair, I put on a nice little cute outfit, I wrote a letter to my grandmother apologizing for what I was about to do, and I wrote that I wanted to be cremated. I lined up all my pills and took a picture and sent it to my brother and I said, Happy Easter. And I downed 20 Xanax and 10 Trazodone, and took it all with a warm Corona."

"Just then my dad started pounding on



MICHAEL KIRBY SMITH FOR THE NEW YORK TIMES

### Melissa and her mother, Elisa Klump.

the door. I opened the door and said, 'This is what you guys wanted, so here you go.' I threw my bottles down the stairs."

At a recent appointment in Manhattan, she arrived early, with polished nails and crisp eye makeup, eager to talk — about her suicide attempt, about her future, about her serial medication regimens: Lexapro, Effexor, Cymbalta, Xanax, Trazodone, Prozac, Klonopin, Lamictal, Ativan. She showed the delicate script tattoos on her wrists, reading "Carpe Diem" on one arm and "La Bella Vita" on the other, covering the places where she'd cut herself with a hot safety pin.

After she was sent home from the treatment center for slapping another resident, her mother took her to see Ms. Wolf, who asked her what her goals were.

"I didn't think she would ask me that," Melissa Klump said. "It seemed nice that she was interested in me as a person. She said she had someone who could help. She also said I was one of her few clients who have goals and plans."

Ms. Wolf arranged for a care manager and a life coach to see Ms. Klump several

times a week at her grandmother's house.

Christopher Mooney, the care manager, said he was working with her to meet her goals: to pay down her five-figure credit card debt — the result of a few manic sprees — to set a budget, to make a financial plan; then they will start to look for apartments. "She's got the capability, but she needs someone there to help her make it happen," he said.

Mr. Mooney bills \$150 an hour for his time. The life coach, who meets with Ms. Klump more regularly, charges \$50 an hour. Ms. Wolf would not discuss her fees.

It adds up, Elisa Klump said, especially on top of all the other expenses. "We're coming to the point where there's going to be no more money left," she said. And still she knows that her daughter could slide back, as could any of the others. Their lives remain subject to powerful forces, both internal and external, for which a lawyer can do only so much.

"We're in baby steps," Elisa Klump said. "She's lost many years of her life. Carolyn put her down the right road. We'll see where she goes."

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**Carolyn Reinach Wolf**  
From the Desk of the Mental Health Lawyer

# Counselors, Please Consider Your Own Mental Health Needs

Respite and self-care is critical for those whose job is to help others.

Posted Sep 24, 2019

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Source: Shutterstock

In conversations with my colleagues, clients and the college counselors with whom I often consult or lecture, I have for many years, mentioned – usually in passing – challenges inherent in the work of mental health professionals.

Interactions near-always carry high stakes. Progress can be slow and difficult to measure. The urgency of working with individuals and families in crisis makes it difficult to remember one's own mental health needs.

This thinking was tragically brought home when I learned of the [suicide](#) of Gregory Eells, most recently the director of [Counseling](#) and Psychological Services at the University of Pennsylvania, one of the most passionate and respected experts on mental health in higher [education](#). His death should serve as a warning and call to action for all who interact with mental health professionals – clients/patients, fellow counselors within and outside educational settings and colleagues in other professions – such that a community comes together to emphasize the importance of helpers helping themselves and those similarly situated.

It should serve as no surprise that individuals focused on the care of others – treating illness, offering behavior alternatives, providing case [management](#) support and designing legal roadmaps – can pay a heavy price for their [attention](#) and devotion. Problems and stresses, both on the job and at home, can feel small and insignificant in the face of those in crisis. It's easy to overlook the importance of taking a vacation, or even just a break, when the work inevitably begins to take a toll.

As a mental health attorney – a “counselor-at-law” – who works closely with families desperate to help loved ones who have serious mental illness, I understand this challenge all too well. I want to do everything I can to help my clients. Move every mountain. Look for solutions under every rock. I take enormous pride in what I give of myself. And often at the end of the day, I put aside my caseload to watch “chick flicks” and read lawyer novels and cozy mysteries. The fact that these films and novels aren't the most intellectually stimulating is precisely the point. Through them, I can easily immerse myself in a world of fiction and escape reality, such that when I go back to the real world, I am refreshed.

We all need to identify our preferred means of [stress](#)-management and self-care, investing in activities and relationships that provide comfort and support, allowing us a chance to reboot. This doesn't make us weak, but stronger and more fit to help those who depend on our support and expertise. We must be more direct and insistent about this need to take care of ourselves – with our colleagues, supervisors, patients/clients and ourselves.

sadness and fear and generate stress. This impacts all types of people, from K-12 and college/university students to myriad mental health professionals, family caregivers, stay-at-home parents, and others. Society's growing emphasis on mental health care will (hopefully) lead these individuals to seek help from counselors. How will they deal with the onslaught, especially with the lack of outpatient and community programs, school-based services, supportive housing, and mental health/substance abuse treatment teams? Our broken mental health system is contributing to the crisis.

Unless and until mental health services become a priority, whether in education, mental health, clinical practice or beyond, we will sadly and tragically see these trends continue. We must make this a priority now before we learn that yet another of our highly respected professional colleagues, clients or friends is suddenly gone.

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## About the Author



**Carolyn Reinach Wolf** is a mental health attorney guiding families through the complex landscape of legal issues that impact individuals with serious mental illness and/or substance abuse.

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## HEALTH

# Mental Health Needs Are Often Inseparable from Work



Carolyn Reinach Wolf

From the Desk of the Mental Health Lawyer

**More than ever, our society has sought to destigmatize mental illness**, promoting awareness of mental health issues and the need for high-quality treatment. Our social media networks brim with stories from individuals who battled depression, survived suicide attempts, or simply made it through difficult life chapters. Such anecdotes allow for solidarity with others, offer messages of affirmation, and promote self-care. Yet they rarely tackle the practical issue of how to take concrete steps to improve mental health while navigating the realities of work.

Employers today demand a great deal from their employees. Fewer and fewer of us work 9 to 5 jobs or enjoy regular breaks. We work more hours, have longer commutes, and are expected to be available and connected for all manner of responsibilities, with little ability to establish boundaries between the hours spent at work or at home. Is it any wonder that rates of anxiety and other mental health issues are trending upward?

Given the time we all spend at our jobs and the spillover between our professional and private lives, it's not unusual for work responsibilities to contribute to mental health challenges or to make it difficult to find solutions. Crucially, conditions can also impact our ability to perform on the job, jeopardizing our professional success. Ultimately, many people in such scenarios consider whether to discuss their challenges with their employers. And while the law protects those with mental health issues from workplace harassment and discrimination, individuals planning these conversations should still proceed with caution and understand a few important realities.

*For example:*

- **Employees with mental health conditions that impact their job performance often have a legal right to an accommodation.** However, the law specifies these as "reasonable" accommodations, meaning reasonable for the employer. This is a highly subjective distinction. The Equal Employment Opportunity Commission (EEOC) provides examples of possible, reasonable accommodations, including altered work schedules (to accommodate therapy appointments), quiet office spaces, changes in supervisory methods, specific shift assignments, and permission to work from home. These are highly dependent on the nature of one's job. It is unlikely that a school teacher will be offered the ability to telecommute, though that option might be open to an office worker. Employees seeking accommodations should think carefully about what might be reasonable, while still improving their ability to work, and be specific when they make requests. This approach is far more effective than sitting down with an employer with no solution in mind.
- **Employees have a legal right to keep their mental health conditions private – most of the time.** This right does not extend to employees requesting workplace accommodations. Employers fielding such requests have the legal ability to ask an employee to put their request in writing, generally describing the condition and how it affects his or her job. They might further ask for a letter from a health care provider documenting the condition and the need for an accommodation. Individuals who don't want their employers to know their specific diagnosis can ask their provider to describe it in general terms.
- **Employers cannot legally discriminate against employees because of a mental health condition.** This includes termination, rejecting someone for a job or promotion, or forcing them to take leave. That said, they don't have to hire or keep people in jobs they can't perform, or employ people who pose a "direct threat" to safety (a significant risk of substantial harm to self or others.) This requires objective evidence that an employee is unable to perform their work assignments or creates a significant safety risk even with reasonable accommodation. Objective evidence is vastly different from relying on myths or stereotypes associated with mental health issues.

Workplaces vary as much as people. Some are flexible and some are rigid. Some are extremely supportive of the needs of their employees, and sadly some are not. Sometimes one great boss is all it takes to find a job-specific solution to a mental health issue. Individuals looking to find ways to help succeed at work, while improving their mental health, must consider the individual nature of their jobs and the attributes of their supervisors. But they should also know their rights while understanding the rights of their employers.





**Report and  
Recommendations  
of the WCBA Task Force  
on Attorney Well-Being  
and the Post-COVID  
Practice of Law**

**May 2023**



**Report and Recommendations of the WCBA Task Force on  
Attorney Well-Being and the Post-COVID Practice of Law**

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## **Introduction**

**By Co-Chairs Andrew Schriever and Brian Cohen**

For over a century, lawyers have lived according to a profession-wide standard of how we practice: we work long, stressful hours, and try to have some kind of life while always staying accessible. This is rooted in the noble values of self-sacrifice and client service. Many of us have assumed this is what it takes to be high-achieving and acquiesced to the idea that the level of burnout we endure is a given. But this must change. Members of our profession face challenges with stress and anxiety at disturbing rates, and this often results in substance abuse, depression, or even suicide. Even worse, they do so *alone*, as concerns about the stigma around mental health and the fear of “looking weak” engender a reluctance to seek help. It doesn’t have to be this way.

The Westchester County Bar Association cares deeply about the mental health and well-being of its membership and all practitioners in Westchester County and is proud to have been ahead of the curve on these issues. One year *before* the pandemic, we started what has long been a taboo conversation in our profession. To facilitate an open dialogue, begin the process of destigmatizing mental health issues, and help improve the lives of members of the Westchester County legal community, we had planned a comprehensive symposium called *Swept Under the Rug: An Important and Honest Discussion About Mental Health and Well-Being in the Legal Profession*, which was originally scheduled for March 9, 2020. Postponed due to COVID-19, it was held virtually one year later. The highly attended program was a powerful presentation about depression, anxiety, and stress and eliminating the stigma around mental health in our profession. It included success stories, provided tips on how Westchester County lawyers, judges and law students can cope with these issues, and demonstrated that dealing with mental health is not a weakness, but a sign of strength.

But that was just the beginning. In the past three years, everything has changed. The world has emerged from an experience that forced us (at least for a time) to change the way we live and work. Faced with a global pandemic, we appreciated that the needs of the profession do not stop and had to still be met even though we could no longer physically work together. Technology advanced at an alarming rate and suddenly we found that all the hallmarks of the traditional mode of practice – for example, that the job could not be done without significant “face time” in the office – were not necessary. We also found that just because we have worked certain ways until now doesn’t mean that it always must be that way.

We now see that there are different ways of practicing where we can still be effective and collaborative with our peers and capture more time for friends, family and experiences that are essential to defining what makes us human. The pandemic made us take stock in how we want to live. It led us to be self-critical about how we can practice with distinction and dedication while also making room to be healthy individuals who recognize that success is measured not only by the value of our work while in the office, but the value of our lives when outside the office.

This past year, these issues have been front and center for us as we had the privilege of Co-Chairing the WCBA’s Task Force on Attorney Well-Being and the Post-COVID Practice of Law.

We pulled together viewpoints from every facet of practice: from law school to private, public, and not-for-profit law. We had representatives of major stakeholders in the county, including from affiliate bars, The Elisabeth Haub School of Law at Pace University, the District Attorney's Office, The Legal Aid Society of Westchester County, the County Attorney's Office, Legal Services of Hudson Valley, the judiciary, and private law firm principals and practitioners. We met twice a month to discuss a topic that has taken on new urgency in the profession.

The focus of our meetings was to identify what it is about our profession, including day-to-day work methods and environment, that creates unnecessary stressors, to discuss ways in which traditional facets of the profession have made the practice more difficult, and to come up with practical solutions to eliminate these stressors and improve our overall well-being. After all, enhanced mental health and wellness and a better quality of life will bolster our ability to facilitate the administration of justice and elevate the standard of competence and courtesy in the profession.

The topics we started with, and which form the basis of each section of this Report, were: (1) examining what works best comparing virtual to hybrid environments; (2) the need to set professional boundaries; (3) continuing challenges that are unique to women in the law (which raises larger issues warranting further review concerning implicit bias in other areas, such as race and gender identity, for example); (4) the problems inherent in commoditizing time and posed by the billable hour; and (5) practical, concrete ways that we can recognize and reduce our stress, including an addendum with an article by Task Force member Michele Kern-Rappy.

This Report explores these topics and presents a menu of concrete ways that we can make our work life better. You are invited to implement any of the solutions we propose.

Some ideas we offer about how to change our practice are institutional, such as by offering a more flexible approach to how and when we work in the office, or by agreeing to set and honor boundaries that promote downtime and allow ourselves to recharge.

Other approaches can be purely personal. It can be as simple as promising yourself to take a daily half-hour break (not just for lunch or to check email but to relax, call a friend, go for a walk or do anything else that is good for you), or it can be committing to take that vacation you've been putting off and making arrangements to obviate the need to check your email (or at least minimize the need) while you're away.

The goal is to make the lives of all members of our Westchester legal community better, and to do so, we must continue these discussions. In that regard, the list of topics addressed in this Report is not exhaustive. There is so much more to cover, and we need your help. We invite you to join the conversation as the Task Force becomes a standing WCBA Committee. With greater participation and the involvement of as many stakeholders as possible, we can not only implement the recommendations discussed throughout Westchester, but we can consistently work to increase our job satisfaction and change the culture so that we can administer the ends of justice at the highest level while also taking care of our mental health and wellbeing and enjoying our lives.

We want to thank the members of the Task Force who volunteered their time, focus and energy to do this important work: Brian Belowich, Hon. Karen Beltran, Hon. Lissette Fernandez, Rachel Halperin,

Lisa Herman, Kapila Juthani, Michele Kern-Rappy, Andrea Loigman, Livia Rodriguez, Natalie Panzera, Michelle Tarson, and Russell Yankwitt. Special credit and appreciation to those who authored the Report's individual sections (and who are credited in the bylines) and to the authors who contributed their anonymous pieces in the section containing practical pointers about how to decompress.

Special thanks to WCBA Past President Hon. James L. Hyer for forming this Task Force (and for placing your confidence in the undersigned to Co-Chair this project), WCBA Immediate Past President Dolores Gebhardt, for not only nurturing and highlighting the Task Force's work throughout the past year, but also for her foresight in converting the Task Force into a Committee in recognition of the ongoing importance of the topic, and WCBA Executive Director Isabel Dichiara, for all of her support and valuable contributions.

On behalf of the Task Force, we look forward to working with all Westchester County practitioners to improve the way we practice and to hopefully make our lives better for the effort.

*Andrew Schriever and Brian Cohen*

**Section 1**  
**“Live” From New York! In-Person v. Hybrid v. Remote Work**  
**By Andrew Schriever**

Let’s start with a basic premise: there is no substitute for human interaction. The pandemic painfully brought that home. Regular face-to-face contact was a pillar in the foundation of pre-pandemic legal practice. As the saying goes, 90% of success in life is just showing up. That hasn’t changed. But what *has* changed is what “showing up” means. As lawyers, judges, court personnel and support staff, it is critical that we be present and ready to work at the highest level. This means being prepared. This means having read the judge’s rules and submitted pre-appearance materials. This means knowing your case and ensuring that every detail has been addressed in advance of any closing. What it no longer *necessarily* means is that we must be in-person to be successful.

We were all surprised to learn that many of us can work remotely and still be efficient. We learned how to close deals, notarize documents, conduct depositions, and even try cases online. Virtual mediations have had similar success rates as those conducted live. There has also been a sharp decrease in time spent waiting, delayed appearances and meetings because someone is stuck in traffic, downtime during long calendar calls, and for routine matters which could mean waiting hours for what amounts to a few minutes of actual time spent providing legal services.

But does that mean that we should be all or mostly virtual? The short answer is probably not, because not all aspects of a virtual world are positive. Working virtually can often be efficient, but technological barriers still exist to make meetings clunky, and in various situations, there is no substitute for human contact. Sometimes parties need to be in the same room to settle a case.

In criminal proceedings, the accused’s ability to be in the courtroom with counsel and the prosecution can have a profound impact on due process rights. It is easier to understand what is happening to you when all are physically together. It is comparatively harder and often anxiety-triggering to be physically disconnected, even if the client can follow along remotely.

Similarly, in evictions, it may be critical for landlord and tenant to meet in the courthouse to negotiate; after all, it is often through human contact that we achieve empathy. Litigators and judges have also come to appreciate even more the value of assessing a witness’s credibility based on full body language. Conventional wisdom pre-COVID was that body language and tone (as opposed to the words themselves) constitute 90% of communication.<sup>1</sup> We now wonder whether that is still true based on how we’ve learned to “read” each other through a screen.

This section of our Report incorporates notes from the Task Force members’ discussions, as well as supporting research on the topic, and identifies pros and cons of living and working in virtual and live environments. We also offer concrete approaches to the live-vs.-virtual question that may serve to not only improve personal wellness, but also ensure that efficiency and the important benefits of working in live environments together are not compromised as a result.

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<sup>1</sup> <https://online.utpb.edu/about-us/articles/communication/how-much-of-communication-is-non-verbal/>.

## The Elements of Virtual Work

It would seem counterintuitive, but it appears that work in a virtual environment has led to increased efficiency. Locally, some Westchester firms are experiencing higher-than-average profits, and in 2020, some had their best year ever financially. This was not an anomaly. According to *Forbes*, working remotely added an extra hour of productivity.<sup>2</sup> Although that study noted that the increase in overall productivity was marginal,<sup>3</sup> working remotely did not have an adverse impact on productivity. Studies also found that employees were more grateful for their autonomy, which forged mutual respect with employers and motivated employees to do better.<sup>4</sup>

People also worked on a schedule that best suited them, respecting our own individual circadian rhythms, recognizing that some can be just as productive starting their day at 11 a.m. and working later hours compared to early risers who are more productive in the morning. Others appreciated the greater flexibility of their work environment. While focused working for 10 hours behind a desk can be productive for some, we learned that for others, a couch, a kitchen table, or an ergonomic chair made work more comfortable and productive.

Virtual work also upset the expectation that being in-person would make meetings more productive. When we meet virtually, there is less small talk while waiting to get started and fewer breaks. This atmosphere lends to virtual meetings being more deliberate – more likely to start and end on time (likely thanks in part to the fact that free Zoom meetings must end after 45 minutes).

There is a theory that we use whatever time we are given to accomplish the task, so if two hours are allotted, that's what it will take to finish, but if we only have one hour, we work more efficiently within the time allotted without compromising work product compared to a task completed in two hours.<sup>5</sup>

Virtual meetings demonstrate the point, highlighting perhaps one of the core takeaway benefits from virtual meetings – intentionality. When online, we cut to the chase. This saves time and increases efficiency and productivity. Time spent traveling to a live meeting and then waiting 10-15 minutes to start and then chatting after the meeting can be captured to attend to other tasks or even for reflection, meditation, or an exercise break (which, pre-pandemic, was a largely unheard-of and unacceptable proposition).

This is not to say that virtual meetings are always the way to go. As discussed in the next section, there are tangible lost opportunities that only present themselves at live meetings. But again, a key takeaway for either format is the importance of intentionality. COVID taught us to respect each other's time by using it to work together on the task at hand (and also taught us how precious time can be). Carrying that theme into any meeting – whether live or virtual – will likely make the day more productive and, in turn, less stressful because it frees up more time to get things done (or to take a breath), which can make us feel better (or less anxious).

There are also cons which are unique to virtual environments, starting with loneliness. During the

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2 <https://www.forbes.com/sites/forbesbusinesscouncil/2022/03/18/in-office-vs-remote-vs-hybrid-work-two-years-later-the-impact-on-employee-efficiency/?sh=27e950262a25>.

3 *Id.*

4 *Id.*

5 <https://www.bbc.com/worklife/article/20200824-why-the-future-of-work-might-be-hybrid>.



pandemic, we all felt periods of isolation (extreme at times for some). We found that when we got back together, we yearned to return to live collaboration and real time in-person interaction. Bar Associations exist in part to promote comradery, and while in our case, the WCBA did a tremendous job creating online opportunities to connect (the virtual “coffee talk” format being a staple for many of us to stay in touch and shoot the breeze during our loneliest days), we all felt the difference once we were able to get together again, and it was meaningful.

Another important thing lost (or which can be easily lost if we are not careful about how we navigate a virtual environment) was the opportunity for mentoring and real-time, spontaneous collaboration. Many who espoused a butt-back-in-your-seat-return-to-full-time approach once restrictions were lifted invoked a legitimate point: you never know what you’re going to learn or what idea you’re going to come up with when you have the benefit of being in the office next door to bounce ideas off your colleague as they arise.

But this also begs the question of whether that really is the day-to-day atmosphere of a full-week-at-work environment, or if it ever was. It’s true that great ideas can spontaneously take life in the context of a chance office encounter. But for many of us, the number of these interactions represented a small percentage of time spent in the office. For most, our time is spent doing the work: the quiet and solitary task of research, brief writing, drafting contracts, and the like.

While the intention of an always-live atmosphere is laudable – a firm may genuinely believe that a live atmosphere facilitates more collaboration – many times we also fall into ruts where hallway interactions do not lend to a collaborative spark. Instead, they devolve into empty salutations as we pass each other or water-cooler small talk. On many days, it may be the case that we show up, work, have no interactions at all (at least not substantive), and then leave. When we see each other day in and day out, we risk falling into routines where we miss the potential benefits of live interaction. Whether intended or not, we may tend to take each other’s presence for granted and engage in shallow interactions in a breakroom with no professional or health benefits.

This is where intentionality again becomes useful. When time in the office is planned for coordination/interaction, as opposed to for the purpose of showing up “just because,” we can again start to appreciate each other’s presence. We can plan for office time to be more meaningful. Just as we learned to make virtual conferences goal-oriented and fixed times for meetings to accomplish those goals, live meetings with the same focus can mean all the difference to someone who is otherwise tired of showing up for its own sake.

The overall takeaway for a virtual environment is that it works; we have shown we can be responsible professionals and achieve the necessary tasks remotely without compromising quality and efficiency. This creates game-changing possibilities. We can work from anywhere with a Wi-Fi connection. If employers are concerned that allowing for virtual environments (or at least partially) will result in decreased productivity, we learned that this is not necessarily so.

We also posit that in a more flexible environment where not everyone needs to be there full time, employers may find themselves happier because their employees who are more appreciative are more

likely to invest in the work, because they've been allotted more flexibility and can choose the time and manner of work in a way that is best for them.

A mostly virtual environment can also improve the bottom line because it can lead to renting smaller spaces, thereby lowering leasing costs.

Of course, there are down sides to shifting to a completely virtual world. Where opportunities for spontaneous collaboration may not have presented frequently in live environments pre-COVID, such opportunities did and still exist. The key is to create a workplace atmosphere where we don't go back to taking such opportunities in live environments for granted.

### **The Elements of Being "Live"**

As noted above, we can't ignore the benefits of a virtual environment. Employers do so at their own risk, particularly as data shows that younger professionals consider flexible environments to be a primary factor in whether to take or stay at their jobs.<sup>6</sup>

We also know that an all-virtual world is not ideal. Real-time face-to-face collaboration is important for mentoring, case management (team collaboration leads to better solutions), and professional development; those who work in the office have more mentoring opportunities and are more likely to be recognized for advancement.<sup>7</sup> We must also recognize that while these opportunities may spontaneously develop by physically showing up, all too frequently, a sense of malaise can set in for practitioners whose day may consist of 80% of working individually at their desk, while 20% of their time may consist of productive interactions. What if the reward for showing up was closer to 50% of the time at the office consisting of these types of meaningful interactions, and is that something that can be realized if we apply the concept of intentionality?

In the scenario above, if 80% of a practitioner's time is devoted to individual work and 20% encompasses collaboration/mentoring, then in a 60-hour week (10 hours a day at the office from 9 to 7 regardless of how much is billable),<sup>8</sup> 12 hours would be spent on collaboration/mentoring – the equivalent of 1 full day plus 2 hours. So, for 4 out of 5 days, the professional is getting their work done, and we know from studies of workflow during the pandemic that whether the work takes place at home or the office, productivity will remain constant (or, as reported in Forbes, there might be a productivity uptick based on work done from home).

This leads us to ask, if 80% of the work is done individually, what, if any benefit, does the employer gain by that person being in or out of the office when, either way, the work is getting done? Conversely, does the employer lose something by compelling the employee to be in the office 5 days a week, when in reality, the time spent on collaboration and mentoring amounts to just 1 out of those 5 days? Would an employee be happier (and would retention and recruitment be easier and less costly) if the workplace were structured based on intentionality?

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6 <https://www.bbc.com/worklife/article/20200824-why-the-future-of-work-might-be-hybrid>;  
<https://envoy.com/blog/what-is-a-hybrid-work-model/>.

7 <https://about.gitlab.com/company/culture/all-remote/hybrid-remote/>.

8 The Task Force is not necessarily endorsing that amount of weekly working hours but is using this as a realistic metric of many lawyers' workweeks.

For example, specific days can be designated to be in-office and on those days, meetings are scheduled for collaborating, mentoring, handing out assignments, etc.

Of course, every workplace is different, and where the norm may be that 50% of the time is invested in mentoring and collaboration, that office may benefit from a workplace schedule where the environment is live for 2 or 3 days/week. Conversely, if an employer's realistic assessment is that 60-80% of a practitioner's time is spent doing the solitary (but necessary) work to advance a matter, then allowing employees to work remotely 3 or 4 days a week may strike the right balance to ensure continued employee productivity while also contributing to an employee's mental well-being (without discouraging any employee who wants to be at the office more frequently if it better suits their own work style).

What we learned from the pandemic, however, is that a one-size-fits-all approach won't work. An all-or-nothing structure, such as a purely virtual or purely live environment, misses opportunities for deliberate interaction and for allowing employees to have a measure of autonomy to get the work done. An employer can validate their employees' autonomy and show respect with the message that the employee does not need to be watched in the office. This increases employees' sense of self-worth and dignity, which likely leads to higher employee retention (with lower conversion costs) and a stronger platform for recruiting young talent.

Lastly on this point, it is important to consider how one's physical work environment can impact one's emotional and mental health. We spend most of our lives working. Before the pandemic, we showed up to sit all day in one room (or cubicle) for the whole day, with nowhere to go but the bathroom, breakroom, and cafeteria. Remote practice presented the opportunity to work in our most comfortable environments at home. We were also able to steal time during the day with our families, like taking a break after 3:00 p.m. to spend a half hour with kids when they were done with school or making it to the dinner table since the commute didn't get in the way.

Being in the office means leaving that behind and going back to the feeling of being expected to stay at your station for the full day. That can feel demoralizing for those who benefited from remote work. This can be mitigated if we give ourselves flexibility to redefine our space at work to suit our comfort and way of working. Again, it is not one-size-fits-all. For some, the feeling of working in a traditional office set-up is preferable and presents a comfortable environment. Others might choose to personalize their space to create or partially simulate the feeling of a work-from-home environment.

By way of illustration, consider these side-by-side options for an office with the same rough amount of square footage (and with the cost of furniture being roughly the same):



Compared to the more traditional model on the left, we can see how for some, the space on the right would be more comfortable by comparison, because this type of setup might more closely mirror the personal feel of a work-from-home environment. There is a desk (which is two adjustable height levels and on wheels so that you can work sitting or standing and be flexible where you're facing for Zoom calls, etc.), a mini kitchen-table with chairs, a couch, a coffee table, lamps for softer lighting, and a smart TV in lieu of a monitor (which are roughly the same cost) so the attorney can beam the work from their laptop and collaborate in-office on a large screen, and where guests also have different and more comfortable seating options.

Employers should consider whether the same amount of money invested differently in an employee's workspace to suit the employee's sense of comfort and work habits can make the difference between an employee being happy to show up in a space that reflects (and embraces) their individuality and ability to be comfortable during their work day, and an employee who simply does not feel good sitting in one position in a traditional office setup for the entire workday.

All this boils down to the proposition that if we are going to be in the office, we have an opportunity to discard some of the old ways to make ourselves happier. We can ensure that time spent in the office is intentional – for collaboration, mentoring, and bonding. We can make our surroundings comfortable – suited to make us *want* to come into work and to be productive. Contrast this with an uncomfortable environment, which can be distracting, stressful, and for some, make us feel that we would simply prefer to be home if given the choice. The proposition is simple: happier lawyers are more productive lawyers.

### **What's the Solution?**

Like everything else in this Report, the answer to the question of live-vs.-virtual turns on the unique settings of each workplace. It's apparent that managers should seriously consider the issues that stem from both approaches and determine how the best of each can be utilized to maximize productivity, while helping workers better achieve work-life balance.

As with other aspects of this Report, there is a menu of options, from full-time in-person to full-time remote to something in-between. It seems that the best benefits lay somewhere in that in-between category, and perhaps the best starting point is an honest no-consequences dialogue between employer and employee, accounting for the pros and cons discussed in this Report (and based on personal experience). This way, solutions can be personalized and strike an appropriate balance between live and virtual workplaces.

We note that some who have studied the topic before us have concluded that a three day live-at-work week presents a sweet spot, balancing employees' desire for autonomy and flexibility with the need for meaningful on-site interaction.<sup>9</sup>

It is also vital that, whatever workplace setting you determine to be the best fit, you promote an atmosphere where people do not act competitively, or breed resentment based on the choice to work live or remotely when that choice is available. For a flexible environment to succeed, mutual respect is essential,

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<sup>9</sup> <https://www.businessinsider.com/return-to-work-wars-hybrid-remote-permanent-work-2022-6#kate-burke-the-chief-operating-officer-of-alliancebernstein-10>.

and employers cannot show bias based on people's elections to work in a way they feel makes them most productive and well-adjusted.

We do not recommend going back to the pre-pandemic status quo, however, particularly when accounting for the fact that unhappy employees tend to leave their jobs, and the cost of attrition for employers who don't create ideal work environments not only means a less happy workforce, but ultimately a lower bottom line.

**Section 2**  
**Law Practice Culture and Setting Boundaries**  
**By Natalie Panzera and Hon. Karen Beltran**

**Do Stressors Lead to Quiet Quitting?**

Undoubtedly, the nature of the legal profession is stressful. The demands, expectations, and constant reminders of the never-ending tasks are exponentially compounded by the growing presence of technology in the world. Specific to Westchester County attorneys, the suburban region is often labeled as one of the most expensive areas to live and raise a family, placing even greater stress on attorneys to make a sustainable living.<sup>10</sup> Over all else, the nature of the profession rests on the forward movement of society, and with that comes stress.

It's no secret that the profession is often best known for "the grind" – attorneys putting their all into their work. While practitioners experienced burnout long before COVID-19, the concept of "quiet quitting" has grown in popularity due to the "mental trauma of surviving lockdown."<sup>11</sup> While the phrase's definition varies from source to source, for purposes of this Report, the phrase identifies the concept of burned-out and stressed employees doing the bare minimum. The rationale for "quiet quitting" is "that work is not the most important thing in people's lives, they shouldn't put in any extra time without compensation, and they should have freedom to pursue other endeavors outside of their employment."<sup>12</sup>

Employee stress levels are at all-time highs, and people are still suffering.<sup>13</sup> While stress touches all professions, stress in ours is "well-documented."<sup>14</sup> In 2021, the ABA released its "Profile of the Profession 2021" survey results, which compiled data from several surveys, most of which were conducted in 2020 and 2021.<sup>15</sup> The results show that not only were lawyers stressed before COVID-19, but that the pandemic "only made things worse."<sup>16</sup>

The responding lawyers were asked whether the pandemic added to their work stress levels.<sup>17</sup> 40% reported that their overall work-related stress levels had increased.<sup>18</sup>

The following statistics were also reported by this survey:

- 48% of lawyers of color reported that work-related stressors had increased;

10 <https://www.marketwatch.com/story/10-most-expensive-places-to-raise-a-family-in-the-us-2015-08-26>;

<https://dailyvoice.com/new-york/whiteplains/lifestyle/westchester-ranks-among-nations-10-most-expensive-places-to-raise-family/703101/>; <https://westchestermagazine.com/life-style/how-to-live-westchester-dont-make-a-lot-of-money/>.

11 <https://www.forbes.com/sites/allbusiness/2022/09/01/what-is-quiet-quitting-and-how-should-leaders-respond/?sh=3616f37c6de0>.

12 <https://www.forbes.com/sites/allbusiness/2022/09/01/what-is-quiet-quitting-and-how-should-leaders-respond/?sh=3616f37c6de0>.

13 <https://www.nytimes.com/2022/09/13/opinion/burnout-quiet-quitting.html>.

14 [https://www.americanbar.org/groups/lawyer\\_assistance/resources/stress/](https://www.americanbar.org/groups/lawyer_assistance/resources/stress/).

15 <https://abovethelaw.com/2021/08/aba-survey-lawyers-are-stressed-out/>.

16 <https://abovethelaw.com/2021/08/aba-survey-lawyers-are-stressed-out/>.

17 <https://abovethelaw.com/2021/08/aba-survey-lawyers-are-stressed-out/>.

18 <https://abovethelaw.com/2021/08/aba-survey-lawyers-are-stressed-out/>.

- 52% of female lawyers reported that their stress levels had increased, while only 34% of male lawyers reported that their stress levels had increased;
- 38% indicated that they often work long hours;
- 25% indicated that they do not take adequate breaks during the workday; and
- 32% said that they feel pressure to not utilize their vacation time.<sup>19</sup>

The survey also reported that “many law firms fail to provide adequate mental health support for their employees.”<sup>20</sup> Only 26% reported that their firms provide mental health resources.<sup>21</sup>

Additionally, the results of ALM’s 2021 Mental Health and Substance Abuse Survey strongly support the high stress levels in the legal profession.<sup>22</sup> The survey responses consisted of more than 3,200 law firm attorneys and staff members.<sup>23</sup> Unfortunately, a greater percentage of those who responded reported “mental health troubles across the board” in comparison to ALM’s survey conducted in 2019 and released in early 2020. Specifically:

Thirty-seven percent of respondents said they felt depressed in 2020, an uptick of nearly 6 percentage points from [the] last year; 71% said they have experienced anxiety, up 7 percentage points over the previous year; and 14% said they have a different mental illness, up a little over 2 percentage points.<sup>24</sup>

Notably, 54% of those responding to ALM’s 2021 Mental Health and Substance Abuse Survey indicated that “their firm has made a greater commitment to mental health in the pandemic.”<sup>25</sup> However, this number strongly suggests that there is still work to be done in addressing stress and mental health concerns in the profession.

Considering the above, the question arises: are stressors leading to “quiet quitting” in our profession? In September of 2022, Gallup, a “global analytics and advice firm that helps leaders and organizations solve their most pressing problems,”<sup>26</sup> published its poll results on “quiet quitting” in the U.S. workforce.<sup>27</sup> According to Gallup, “quiet quitters” make up *at least* 50% of the workforce.<sup>28</sup> With respect to younger employees, they “have declined significantly in feeling cared about and having opportunities to develop – primarily from their manager.”<sup>29</sup>

19 <https://abovethelaw.com/2021/08/aba-survey-lawyers-are-stressed-out/>.

20 <https://abovethelaw.com/2021/08/aba-survey-lawyers-are-stressed-out/>.

21 <https://abovethelaw.com/2021/08/aba-survey-lawyers-are-stressed-out/>.

22 <https://www.law.com/americanlawyer/2021/05/03/lawyers-were-already-struggling-with-stress-and-isolation-and-the-pandemic-has-made-things-much-worse/>.

23 <https://www.law.com/americanlawyer/2021/05/03/lawyers-were-already-struggling-with-stress-and-isolation-and-the-pandemic-has-made-things-much-worse/>.

24 <https://www.law.com/americanlawyer/2021/05/03/lawyers-were-already-struggling-with-stress-and-isolation-and-the-pandemic-has-made-things-much-worse/>.

25 <https://www.law.com/americanlawyer/2021/05/03/lawyers-were-already-struggling-with-stress-and-isolation-and-the-pandemic-has-made-things-much-worse/>.

26 <https://www.gallup.com/corporate/212381/who-we-are.aspx>.

27 <https://www.gallup.com/workplace/398306/quiet-quitting-real.aspx>.

28 <https://www.gallup.com/workplace/398306/quiet-quitting-real.aspx> (emphasis added).

29 <https://www.gallup.com/workplace/398306/quiet-quitting-real.aspx>.

In November of 2022, Bloomberg Law addressed “quiet quitting” in the legal profession. For nearly two years, Bloomberg Law collected data that gauged “hours worked, work-related experiences, and the overall well-being of attorneys.”<sup>30</sup> Data indicated that:

Since Q1 2021, there’s been a trend of in-house and law firm attorneys reporting working fewer hours per week—from an average of 53.5 hours per week in Q1 2021, to an average of 48.9 hours per week in Q2 2022, according to the surveys. In fact, Q1 2022 is the first time since the initial fielding of the survey that attorneys have reported working an average of fewer than 50 hours per week.<sup>31</sup>

Unsurprisingly, the data also indicated that increased average hours worked per week correlated with the likelihood of experiencing at least one adverse work-related issue (*e.g.*, anxiety, depression, and increased substance use).<sup>32</sup> Further, as hours increased, “so did the likelihood that attorneys reported that their well-being had worsened – either slightly or significantly.”<sup>33</sup> According to Bloomberg Law, “the survey data indicates that the profession is ripe for change, and that in the next year, we’ll likely see attorneys working less and engaging in more self-care.”<sup>34</sup>

It’s clear that “quiet quitting” is affecting our profession. So, how should we combat it? The solution must come from all stakeholders. But, overall, “quiet quitting” should be viewed as an “an opportunity for law firm management”<sup>35</sup> and all leaders in the legal industry.

On the employer’s side, the billable hour model set forth by law firm partners (depending on the employer at hand) should be reconsidered. (This topic is discussed more extensively later in this Report.) In certain employer-employee relationships, the model may be a stressor leading to “quiet quitting” – forcing attorneys to feel they cannot take a break or take personal time to attend to family matters in fear of failing to meet their requirements. In certain instances, firm leaders may benefit from a thorough review of their respective billable hour models.

Burning out talented associates is straight up inefficient. You invest major time and resources into training them, teaching them exactly how you like things done, and building relationships between them and your clients—and then they quit, and you have to pour more time and resources into new associates with the gamble that they may not be as good.<sup>36</sup>

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30 <https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-more-quiet-quitting-less-hustling-next-year-in-legal>.

31 <https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-more-quiet-quitting-less-hustling-next-year-in-legal>.

32 <https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-more-quiet-quitting-less-hustling-next-year-in-legal>.

33 <https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-more-quiet-quitting-less-hustling-next-year-in-legal>.

34 <https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-more-quiet-quitting-less-hustling-next-year-in-legal>.

35 <https://www.linkedin.com/pulse/quiet-quitting-law-firms-cry-help-jeff-cunningham-esq->

36 <https://firsthand.co/blogs/vaults-law-blog-legal-careers-and-industry-news/dear-lawyers-don-t-quietly-quit-set-boundaries-instead>.



In some cases, requiring fewer billable hours from desirable associates may be “a far more efficient, sustainable, and humane strategy for extracting the same [desirable] profit.”<sup>37</sup>

Further, on the employer’s side, communication is key, and is often overlooked by employers due to the swamped schedules of firm leaders. “Communication, mentoring, and quality supervision and encouragement are keys to managing and motivating employees to do their best, exceed company and individual goals and expectations, achieve and enhance job satisfaction, avoid underappreciation, and quell employees’ compulsion to quietly quit.”<sup>38</sup> Consistent and effective communication can alert an employer to a high-performing employee’s changing needs before they “check out” from their dedication to the job. Communication among supervising attorneys and employees should be consistent, open, and easily accessible. Available incentives and benefits should also be made widely known to attorneys by employers, including wellness and health programs and initiatives, recognition efforts, bonuses, and professional trainings.

In addition to the abovementioned suggested employer efforts, an attorney has a personal obligation to set appropriate boundaries in the workplace, which can provide a healthier and happier relationship with one’s work, clients, and colleagues. Setting boundaries can allow for a fulfilling legal career, and ultimately avoid burnout in the legal industry.

### **Setting Boundaries**

Setting boundaries is essential for attorneys to foster their mental health and well-being. Effective and professional boundary setting can lead to “a long and prosperous legal career” with the ability to maintain “an identity outside of the office.”<sup>39</sup> While there are many concepts to be contemplated, this section focuses on setting boundaries as it relates to balancing client needs and attorney wellness. Undoubtedly, setting boundaries looks different for everyone – it can be limiting the hours of checking one’s emails at night, learning to say “no” to a new task when the “to-do list” feels suffocating and others are available to help, or designating time for a lunch break.

Attorney wellness should not be taken lightly. According to the ABA, by the time a student graduates from law school, they are four times more likely to develop depression or other mental illnesses.<sup>40</sup> This downward trajectory continues into the profession, as lawyers have the unsettling distinction of being among the most depressed professionals in the U.S.<sup>41</sup> We actually rank fifth in incidence of suicide by occupation.<sup>42</sup>

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37 <https://firsthand.co/blogs/vaults-law-blog-legal-careers-and-industry-news/dear-lawyers-don-t-quietly-quit-set-boundaries-instead>.

38 <https://www.natlawreview.com/article/quiet-quitting-ahttps://www.jdsupra.com/legalnews/setting-boundaries-an-essential-skill-16576/nd-what-employers-can-do-about-it>.

39 <https://www.jdsupra.com/legalnews/setting-boundaries-an-essential-skill-16576/>.

40 *Law Student Mental Health Resources*, ABA FOR LAW STUDENTS, <https://abaforlawstudent.s.com/events/initiatives-and-awards/mental-health-resources/> (last visited Jan. 1, 2023).

41 *Legal Education Needs a Wellness Reckoning*, BLOOMBERG LAW (Apr. 7, 2021), [https://www.bloomberglaw.com/product/tax/bloombergtaxnews/us-law-week/X2C3VF0G000000?bna\\_news\\_filter=us-law-week#jcite](https://www.bloomberglaw.com/product/tax/bloombergtaxnews/us-law-week/X2C3VF0G000000?bna_news_filter=us-law-week#jcite).

42 *Lawyers & Depression*, DAVE NEE FOUNDATION, <http://www.daveneefoundation.org/scholarship/>

Failure to set appropriate boundaries in the workplace undoubtedly affects all areas of one’s life. Thus, new attorneys should set boundaries from the start. While new attorneys do not always have the “leverage” to ask about firm culture or boundaries already set in place, setting some degree of professional and appropriate boundaries is *always* appropriate – whatever that may look like in one’s individualized circumstance. A recently published article by the ABA recommends “start[ing] with healthy boundaries from the beginning so you don’t put your physical and mental health at risk.”<sup>43</sup> It further stresses that:

In the beginning, we tend to give our all to our clients ... our patience, our empathy, our sympathy, and our passion. When that much of ourselves is given to our clients, what is left over for ourselves, our friends, and our families? Nothing. But, you can stop this by establishing boundaries now.<sup>44</sup>

Attorneys are notorious for being perfectionists. The never-ending chase for perfection on every single task at hand will undoubtedly lead to burnout and exhaustion. Letting go of it is a personal boundary that all attorneys can implement early on. This in no way means that attorneys should put less effort into their craft. Instead, it means they should accept that not every task will always play out exactly as planned; not every motion or trial will be won, and typos will happen. Coming to terms with this is key; mistakes will happen, and each is a learning experience.

Finally, as a new attorney (and as one progresses through their career), setting boundaries with non-emergencies can be efficient. Of course, as a new attorney, it will take time to be able to identify what does and what does not constitute an emergency circumstance. Supervisors, mentors, or other attorneys can aide in one’s identification of whether an issue is urgent and requires immediate attention, even after “normal” work hours.<sup>45</sup> Over time, the ability to identify emergencies versus non-emergencies will allow appropriate boundary setting with clients and aide in time management with respect to how immediate an issue or question must be addressed.

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lawyers-and-depression (last visited Jan. 1, 2023).

43 [https://www.americanbar.org/groups/young\\_lawyers/publications/after-the-bar/professional-life/even-new-attorneys-need-to-set-boundaries/](https://www.americanbar.org/groups/young_lawyers/publications/after-the-bar/professional-life/even-new-attorneys-need-to-set-boundaries/).

44 [https://www.americanbar.org/groups/young\\_lawyers/publications/after-the-bar/professional-life/even-new-attorneys-need-to-set-boundaries/](https://www.americanbar.org/groups/young_lawyers/publications/after-the-bar/professional-life/even-new-attorneys-need-to-set-boundaries/).

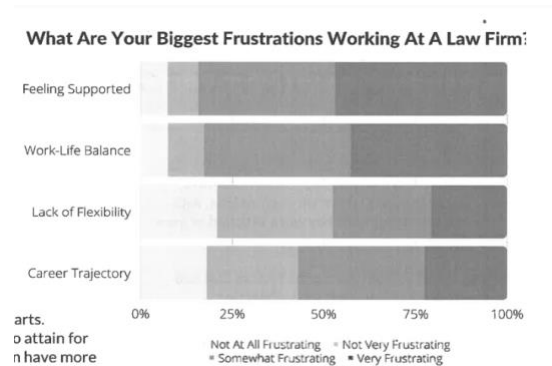
45 [https://www.americanbar.org/groups/young\\_lawyers/publications/after-the-bar/professional-life/even-new-attorneys-need-to-set-boundaries/](https://www.americanbar.org/groups/young_lawyers/publications/after-the-bar/professional-life/even-new-attorneys-need-to-set-boundaries/).

**Section 3**  
**Issues of Wellness for Women in the Legal Profession**  
**By Rachel Halperin and Livia Rodriguez.<sup>46</sup>**

The Task Force examined several issues faced by women in the law which contribute to their stress and overall lack of wellness. Specifically, male culture that is ingrained in preconceived measures of success, lack of female role models, lack of flexibility, overt sexism and discrimination, and the stigma of motherhood, were some of the issues discussed by the Task Force in this section. Although the Task Force focused on women in the law, other factors such as race, class, sexual orientation, disability, and gender identity tend to intersect with this topic and are in and of themselves important stand-alone topics as they relate to attorney wellness. We acknowledge that this section is only the “tip of the iceberg” and is not meant as a comprehensive review and encourages future exploration of these additional items by the Committee.

**Male Culture of the Legal Profession**

A study conducted in 2022 by Leopard Solutions showed that there are various “hidden” issues women in the law face, which play a large role in increasing stress on female attorneys and cause many to shift career paths.<sup>47</sup> These issues include a male structure of law and a lack of support, work-life balance, and flexibility. (See Figure 1).<sup>48</sup>



<sup>49</sup> **Figure 1**

Leopard Solutions surveyed approximately 200 lawyers representing 36 states, including D.C.<sup>50</sup> “59% of respondents were associates at big law firms (22% being partners and 15% being counsel)”<sup>51</sup> and “89% of the respondents were over 35 years old and held mid-level/senior associate positions.”<sup>52</sup>

<sup>46</sup> Teresa Piccolo, Pro Bono Scholar at Legal Services of the Hudson Valley and 3L at Pace University School of Law, contributed invaluable to the researching and writing of this section. Her strong intellect, writing and analytical skills will be a great asset to the legal profession. The Task Force is grateful for her assistance.

<sup>47</sup> *Women Leaving Law*, Leopard Solutions (July 20, 2022), <https://www.leopardsolutions.com/index.php/women-leaving-law/>.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

The survey found that many women in the law feel unsupported both in their career and professions overall.<sup>53</sup> In fact, over 70% of respondents indicated that the trajectory of their careers played a role in their decision to leave their employment as “many women felt they were shut out of advancement opportunities.”<sup>54</sup> But it is vital to note that these career trajectory issues stem from a much larger systemic issue: the male structure of law.

Many female Task Force members echoed the sentiments of these findings. They shared feeling like they had to be assertive and aggressive to be successful and fit into the culture in their firm and with colleagues during negotiations and in court. The male structure of law refers to the ideology that the legal field is and has always been structured to fit a career path for men rather than women. This is supported by the fact that many advancement tracks are predominantly male and that the system of law itself is not structured to accommodate female attorneys (as oftentimes they feel unheard and experience lacking opportunities).<sup>55</sup> This theory is further supported by the Leopard survey: “while more than 50% of law students are women and nearly half of new associates at law firms are female, the equity partnership ranks remain overwhelmingly male.”<sup>56</sup>

In addition, regardless of the data showing a far smaller number of women in partnership roles, the Leopard survey showed that this was not due to women being less interested in making partner than men.<sup>57</sup> Rather, two-thirds of the women surveyed said that early in their careers, making partner was very important to them, but as their careers developed, the survey showed a disenchantment and decline in importance.<sup>58</sup> The survey also showed that various women agreed that the workplace culture at firms was the most significant barrier to success.<sup>59</sup>

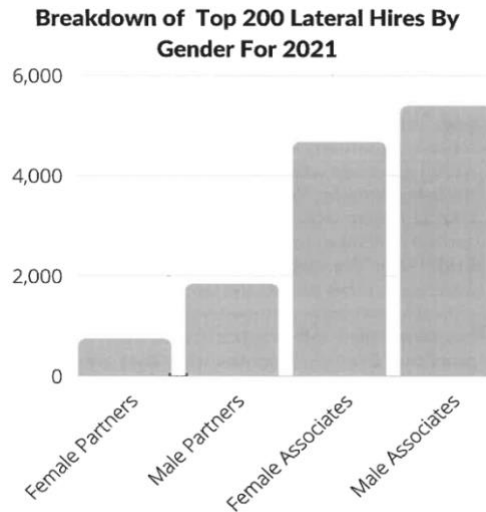
A possible solution to the male structure of law which can ensure equality is to give women a seat at the table, figuratively and literally, by awarding them key leadership and committee positions.<sup>60</sup> This will allow women leaders’ unique perspectives to be heard.<sup>61</sup> Firms can ensure that there is a culture within the workplace which helps recognize the work of female lawyers as well, to ensure that their ideas are implemented and they are credited for their contributions.<sup>62</sup>

Moreover, firms should emphasize fairness in promotions in the early stages of a career and when making lateral hires.<sup>63</sup> This is vital because data shows that even though more partners are hired laterally than promoted internally, an abysmal 28.6% of lateral partners hired by U.S. firms were female, making

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53 *Id.*  
54 *Id.*  
55 *Id.*  
56 *Id.*  
57 *Id.*  
58 *Id.*  
59 *Id.*  
60 *Id.*  
61 *Id.*  
62 *Id.*  
63 *Id.*

over 70% of hired lateral partners/positions men. (See Figure 2).<sup>64</sup>



**FIGURE 2**<sup>65</sup>

Women Task Force members also expressed feeling an overall lack of support for their professional development and growth. This is echoed in the Leopard Survey, which reported that despite the respondents' variations in career paths and different levels of seniority, they consistently report a lack of support as one of the main issues in their careers.<sup>66</sup> They feel unheard and lack role models in leadership positions and sponsors who can provide them with opportunities for career growth.<sup>67</sup> These feelings are further amplified for attorneys of color.<sup>68</sup>

Data from a recent report by Vault and the Minority Corporate Counsel Association showed that in the legal field, approximately 8.57% of all attorneys are women of color and 1.73% are black women, which is a significant underrepresentation.<sup>69</sup>

The harshest penalty to women of color in the legal field (and women in general), however, is the prevention of building mentor relationships with key partners.<sup>70</sup> This is further supported by the study, which showed a strong discontent among female lawyers as a result of lacking mentorship opportunities.<sup>71</sup>

For firms which offer mentorship opportunities but do not have a program in place, the pattern is often that partners choose which associates to work with based on personal choice. Oftentimes, unconscious bias plays a role in that partners will choose to mentor individuals with whom they are more similar

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64 *Id.*

65 *Id.*

66 *Id.*

67 *Id.*

68 Tsedale M. Melaku, *Why Women and People of Color in Law Still Hear "You Don't Look Like a Lawyer,"* Harvard Business Review (August 7, 2019), <https://hbr.org/2019/08/why-women-and-people-of-color-in-law-still-hear-you-dont-look-like-a-lawyer>.

69 *Id.*

70 *Id.*

71 *Id.*

and share commonalities.<sup>72</sup> This report was further supported by a recent report published by the ABA, which outlined that partners are “generally mentoring those most like [them].”<sup>73</sup> In addition, the report found that white males were the most satisfied with mentoring opportunities, while black females were the least satisfied.<sup>74</sup> Thus, the BIPOC lawyers and more specifically female BIPOC lawyers are at a severe disadvantage, since data has shown that there are fewer female partners and even fewer BIPOC female partners.<sup>75</sup>

Women of color on the Task Force shared examples of lack of support and mentorship. Many of us were the first in our positions, whether at firms or in the public sector. Or if there were other women of color at our places of employment, all felt they had to work twice as hard to be considered half as good as their male counterparts. Latina lawyers gave examples of often being asked if they were a translator, court reporter, or clerk when they walked into a courtroom. To overcome these pre-conceived prejudices, we must have more women of color in leadership roles mentoring the next generation. Additionally, we must continue to educate members of our profession that preconceived prejudices undermine women of color and should not be tolerated.

To address this problem, firms should create well-structured mentorship programs.<sup>76</sup> These programs should pair individuals at random, so that unconscious bias cannot affect a mentor’s decision to choose a mentee.<sup>77</sup>

In addition, by having a structured program, a significant difference can be made in an associate’s chances for success.<sup>78</sup> By having a mentor, associates gain more confidence to ask questions and can seek assistance from their mentor without fear.<sup>79</sup>

Finally, the Task Force discussed the negative impact that the profession’s lack of flexibility and work life balance have on female attorneys. These topics are also addressed in other sections of this Report, so this section will focus on how they may uniquely impact women.

Traditionally, women have borne the burden of domestic responsibilities, including childcare and caring for aging parents. The COVID-19 pandemic shifted this imbalance for some as both partners had the opportunity to work from home. But now that the pandemic has ended and firms are shifting back to being fully in-person, the flexibility and balance that female attorneys were able to enjoy is in jeopardy of regressing. Allowing flexible work arrangements to continue post COVID-19 is the easiest solution for

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72 *Id.*

73 Robert J. Derocher, *Mentoring Helps New and Experienced Lawyers Make the Connection*, American Bar Association (2006) [https://www.americanbar.org/groups/bar\\_services/publications/bar\\_leader/2005\\_06/3006/mentoring/](https://www.americanbar.org/groups/bar_services/publications/bar_leader/2005_06/3006/mentoring/).

74 *Id.*

75 *Id.*

76 *Women Leaving Law*, Leopard Solutions (July 20, 2022), <https://www.leopardsolutions.com/index.php/women-leaving-law/>.

77 *Id.*

78 *Id.*

79 *Id.*

firms to implement.<sup>80</sup> These flexible arrangements must remain equal across all attorneys to be successful.<sup>81</sup> Thus, a viable model for implementing flexible work hours is to mandate a set number of flex hours per week to avoid any stigmas and allow face to face time as well.<sup>82</sup>

### Sexism

Almost every woman on the Task Force shared a personal experience of sexism or harassment at some point in her career. A national survey conducted in 2019 found that “[a] broad spectrum of sexual misconduct and harassing behaviors – from criminal or civilly actionable to simply unconscionable – continues to plague all walks of the legal profession.”<sup>83</sup> This is further supported by a 2018 survey which found that “bullying and sexual harassment are rife in the legal profession.”<sup>84</sup> The survey further indicated that sexual harassment is a leading cause of anxiety, depression, trauma and reduced productivity and ability to focus at work.<sup>85</sup>

One Task Force member shared an experience of a Westchester Family Court Judge cutting her argument short during a custody case by raising his hand to her and saying “down girl” after the other two male attorneys had completed their arguments uninterrupted. Another Task Force member had a judge tell her that her argument was based on hysterics instead of legal reasoning when she responded to a male attorney’s argument.

Many women have horror stories of being marginalized, ignored, or outright disrespected by judges and other attorneys in ways that men do not face. For example, one female Task Force member described a judge who, on multiple occasions, made inappropriate comments about her clothing and other female attorneys’ clothing in front of a courtroom full of lawyers consisting of mostly men. There are various theories and suggestions to help decrease sexism within the legal field; one is to ensure that colleagues speak up for one another when sexism arises. But this theory is imperfect, as statistics have shown that men are unlikely to interrupt sexist behavior and lack confidence in their ability to address people who engage in sexist behaviors at work.<sup>86</sup>

Thus, a possible solution which puts more emphasis on education could be the best path.<sup>87</sup> For firms to ensure that sexism does not occur in the workplace, they should provide staff members with continuous education on what is defined as sexism and the details behind implicit and unconscious bias.<sup>88</sup> Firms can also internally fight unconscious bias by developing criteria to assess the impact of contribu-

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80 Lauren T. Katz, *Tearing Down The Maternal Wall In The Legal Profession: A Perspective Inspired By Difference Feminism*, Georgetown Journal of Gender and the Law (2021), <https://www.law.georgetown.edu/gender-journal/wp-content/uploads/sites/20/2021/08/Tearing-Down-the-Maternal-Wall.pdf>.

81 *Id.*

82 *Id.*

83 Sheryl B. Galler, *Sexual Harassment and Retaliation in the Legal Profession: How to Stop It*, New York State Bar Association (Dec. 15, 2021), <https://nysba.org/sexual-harassment-and-retaliation-in-the-legal-profession-how-to-stop-it/>.

84 *Id.*

85 *Id.*

86 *Women Leaving Law*, Leopard Solutions (July 20, 2022), <https://www.leopardsolutions.com/index.php/women-leaving-law/>.

87 *Id.*

88 *Id.*

tions in performance evaluations as well as developing and utilizing structured interviews and objective evaluation criteria for hiring.

If we can keep more women in the profession, particularly in leadership roles and in positions of power, including as judges, partners, general counsels, etc., sexist behavior will naturally decrease.

### **Stigmas Surrounding Motherhood**

Most women on the Task Force felt that they experienced some type of penalty or stigma surrounding childbearing and motherhood. There is a recognition that times have changed, and the current modern family often encompasses both working parents, yet often women partners still bear the main burden of childcare in relationships.

Lawyers with children experience unique challenges because a legal career is demanding and requires long hours. In general, successful lawyers with children prepare daily routines to ensure the familial needs are accounted for as well as employment tasks.<sup>89</sup> Lawyers with children often need healthy habits such as not over multitasking to ensure that work is performed properly the first time, which allows more focus on family time as well.<sup>90</sup> However, it is vital to note that the burden of arranging child caregiving disproportionately falls on women.<sup>91</sup>

In a 2019 report by the ABA, female attorneys reported that they “bear a disproportionate brunt of responsibility for arranging for care, leaving work when needed by the child, coordinating children’s extracurricular activities, and arranging for evening and daytime childcare.”<sup>92</sup> In fact, 54% of the women said arranging childcare is their full responsibility, compared to 1% of the men.<sup>93</sup> A Task Force member shared an experience in which she was chastised by a supervisor because she couldn’t work late one day because she had to pick up her child from day care, even though she had already completed the task he was demanding. Experiences like this are blatant examples of sexism and the lack of compassion that fosters a female attorney’s stress at work.

Although women bear a disproportionate amount of responsibility for childcare, women in law still face obstacles regarding childbearing. One such obstacle is called the “maternal wall.”<sup>94</sup> A woman’s “key career building years” are ages 25-44,<sup>95</sup> which directly coincide with a woman’s healthiest childbearing years.<sup>96</sup> Due to this, women in professions with extensive hours must decide whether to remain working or take time

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89 *A Day in the Life of a Lawyer with Children*, Thomson Reuters (June 8, 2022), <https://legal.thomsonreuters.com/blog/a-day-in-the-life-of-a-lawyer-with-children/>.

90 *Id.*

91 *Id.*

92 Roberta D. Lienberg and Stephanie A. Scharf, *Walking Out The Door*, American Bar Association (2019) [https://www.abajournal.com/files/WALKING\\_OUT\\_THE\\_DOOR\\_-\\_FINAL\\_AS\\_OF\\_NOV\\_14\\_2019\\_pm.pdf](https://www.abajournal.com/files/WALKING_OUT_THE_DOOR_-_FINAL_AS_OF_NOV_14_2019_pm.pdf).

93 *Id.*

94 Lauren T. Katz, *Tearing Down The Maternal Wall In The Legal Profession: A Perspective Inspired By Difference Feminism*, Georgetown Journal of Gender and the Law (2021), <https://www.law.georgetown.edu/gender-journal/wp-content/uploads/sites/20/2021/08/Tearing-Down-the-Maternal-Wall.pdf>.

95 *Id.*

96 *Id.*



off to become a parent.<sup>97</sup> The “maternal wall” refers to the discrimination that working mothers face in which employers view them as less committed to work.<sup>98</sup> Due to the caretaking responsibilities and mental burden of both working and being a full-time parent, women suffer greatly when trying to balance work and life.<sup>99</sup>

In addition, there is a phenomenon called the “second child syndrome,” which has shown that mothers suffer from career setbacks for each additional child they conceive because employers assume that more children will make women less committed to their careers.<sup>100</sup> Studies cited by The Official Journal of Minnesota Women Lawyers show that, on average, women get a 4% decrease in compensation for each child they rear, whereas men receive a 6% increase for each child.<sup>101</sup> This penalizes both working mothers and families because in 41% of households with children, women are the primary breadwinner.<sup>102</sup>

Many employers (such as large firms and companies) offer a “solution” of egg freezing (“IVF”) as an incentive for female lawyers who wish to have children, providing them<sup>103</sup> the option of freezing their eggs to focus on their career earlier in life.<sup>104</sup> But this is not a solution.<sup>105</sup> This ideology adheres to the equity feminist philosophy of making women do the work of reaching male-defined standards and does not account for the flaws in the egg freezing solution.<sup>106</sup> Said solution is flawed not only because it is subjecting female professionals to a risky procedure to advance their career, but it may also pressure women to delay childbirth.<sup>107</sup>

In addition, women who want to have children may ultimately have to forfeit that option if they freeze their eggs and fertility procedures are later unsuccessful.<sup>108</sup> Thus, although egg freezing allows women to attain better career advancements, it comes at the cost of delayed childbirth and forces women to reconfigure their reproductive timeline to be successful.<sup>109</sup> This is another example of women trying to fit into the male structure of the legal profession. Such a “solution” is not really a solution at all, but an example of an option that is offered but not expected to be utilized.

To truly address the problem of women bearing the burden of all childcare, the maternal wall, and the caregiver penalty, law firms should combat these issues.<sup>110</sup> They should talk openly about children,

97 *Id.*

98 *Id.*

99 *Id.*

100 *Id.*

101 Sonia Miller-Van Oort & Demetria Dyer, *Combatting the Caregiver Penalty*, The Official Journal of Minnesota Women Lawyers (June 11, 2020), <https://mwlawyers.org/page/WERSpring2020Feat4>.

102 *Id.*

103 Lauren T. Katz, *Tearing Down The Maternal Wall In The Legal Profession: A Perspective Inspired By Difference Feminism*, Georgetown Journal of Gender and the Law (2021), <https://www.law.georgetown.edu/gender-journal/wp-content/uploads/sites/20/2021/08/Tearing-Down-the-Maternal-Wall.pdf>.

104 *Id.*

105 *Id.*

106 *Id.*

107 *Id.*

108 *Id.*

109 *Id.*

110 Sonia Miller-Van Oort & Demetria Dyer, *Combatting the Caregiver Penalty*, The Official Journal

aging parents, and different needs employees have in relation to them.<sup>111</sup> In addition, firms can shift their compensation models away from billable hours to other clearly defined result-based metrics.<sup>112</sup> Family-friendly policies, including those addressing flextime, telecommuting, part-time schedules and child care assistance in the workplace, are also helpful to women with children and can be the next step in the direction toward true equality.<sup>113</sup>

Finally, to ensure that the burden of childcare is fairly shared by both partners, firms and other employers should offer equal parental leave.<sup>114</sup> Numerous studies have shown that paternal leave for six months is the most effective and beneficial to both parent and child.<sup>115</sup> But allowing parental leave for women alone does not suffice, because women feel stigmatized and oftentimes do not take the full leave because they fear stigma and judgment upon their return.<sup>116</sup> Thus, allowing all genders to take parental leave is essential to female lawyers' future success.<sup>117</sup>

### **Conclusion**

There is much intersectionality in the issues identified in this section by the Task Force. Addressing the issues negatively impacting women attorneys will benefit the wellness of the entire profession. We are hopeful that, with conversations like these and the recognition of the importance of both the mental and physical health of attorneys, women attorneys will have the opportunity to flourish and reach their true potential in the legal profession.

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of Minnesota Women Lawyers (June 11, 2020), <https://mwlawyers.org/page/WERSpring2020Feat4>.

111 *Id.*

112 *Id.*

113 *Id.*

114 Lauren T. Katz, *Tearing Down The Maternal Wall In The Legal Profession: A Perspective Inspired By Difference Feminism*, Georgetown Journal of Gender and the Law (2021), <https://www.law.georgetown.edu/gender-journal/wp-content/uploads/sites/20/2021/08/Tearing-Down-the-Maternal-Wall.pdf>.

115 *Id.*

116 *Id.*

117 *Id.*

**Section 4**  
**Time Management and Billable Hours**  
**By Brian Belowich**

When you were an associate at a law firm, how many hours were you expected to bill each year? For many, the answer to this question has long been at least 1,800 depending on the size of the firm, as associates at large firms are often expected to bill 2,200 or more.

In 2011, Yale Law School published a study entitled “The Truth About the Billable Hour,” with a chart showing how many hours an associate would have to work each year to bill 1,800.<sup>118</sup> The chart was created before the COVID-19 pandemic and, thus, assumes that the associate would be working in an office fulltime rather than remote or hybrid. Nevertheless, the chart is highly instructive as it accurately reflects the amount of time an associate has to “work” to bill a minimum of 1,800 hours per year.

According to the Yale Law School study, to bill at least 1,800 hours a year, an associate would have to “work” over 2,400 hours, taking into account lunch, bathroom and coffee breaks, vacations, and holidays, but not including commuting time, sick days or personal days.

To put this in context, for an associate to bill more than 1,800 hours a year, they would have to work from: (i) 8:00 a.m. to 6:20 p.m. Monday through Friday; or (ii) 8:00 a.m. to 6:00 p.m. Monday through Friday, plus one Saturday a month from 10:00 a.m. to 5:00 p.m.<sup>119</sup> The first option would give the associate 1,832 billable hours with a total of 2,420 hours spent “at work.” The second would give the associate 1,834 billable hours with a total of 2,434 hours spent “at work.”

In October 2021, the New York State Bar Association Task Force on Attorney Well-Being (“NYS-BA”) issued a comprehensive report in which NYSBA recommended, among other things, that law firms “cap billable hours and bonus availability no higher than 1800 hours” and “consider alternative billing arrangements and client expectation of value.”<sup>120</sup>

In making this important recommendation and others, NYSBA presented a “Business Case for Change,” explaining to “stakeholders in the profession” (*i.e.*, owners of law firms) that “lasting and meaningful change will benefit law firms’ collective bottom lines as it will improve:

- (i) *performance*, as clients are demanding efficiency in the way their matters are staffed and billed;
- (ii) *retention*, as that creates efficiencies and the continuous relationships demanded by clients; and,
- (iii) *recruitment*, particularly as younger millennial and Generation Z lawyers – who prioritize

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118 [http://www.law.yale.edu/documents/pdf/CDO.../cdo-billable\\_hour.pdf](http://www.law.yale.edu/documents/pdf/CDO.../cdo-billable_hour.pdf).

119 An associate with a one-hour roundtrip commute to the office would need to “work” from 7:00 am to 7:20 pm Monday through Friday or from 7:00 am to 7:00 pm Monday through Friday plus one Saturday a month from 10:00 am to 5:00 pm.

120 NYSBA Report p. 105; <https://nysba.org/app/uploads/2021/10/Report-on-Task-Force-on-Well-Being-APPROVED-HOD-no-comments-or-staff-memo.pdf>.

mental health and well-being – enter the profession.”<sup>121</sup>

Regarding performance, NYSBA stated: “[T]he billable hour model is one that is antithetical to productivity and efficiency; clients are now demanding firms move away from this model, and will instead award their business to firms that demonstrate they can perform the work productively, efficiently, predictably and cost-effectively. Accordingly, firms that prioritize lawyers’ well-being will be better equipped to meet demands for exceptional yet efficient service.”<sup>122</sup>

With respect to retention, NYSBA found that, in general, attrition rates among lawyers at law firms are high and that the cost of replacing an associate is roughly 1.5 to 2 times the annual salary of that associate.<sup>123</sup> NYSBA also found that law firms which “promote lawyer well-being will see improved retention rates,” noting that “businesses that promote employee well-being typically operate with much lower levels of employee turnover, which avoids the replacement cost of new employee hiring and training.”<sup>124</sup>

And as for recruitment, NYSBA pointed out that younger attorneys “prioritize work-life balance when choosing employment, even more than salary.”<sup>125</sup>

For each of these reasons, this Task Force adopts NYSBA’s recommendation that law firms cap billable hours and bonus availability no higher than 1,800 hours and consider alternative billing arrangements and client expectation of value.

In addition, this Task Force recommends that Westchester County law firms consider offering associates a choice in terms of the number of billable hours they want to work each year by implementing a three-tiered compensation structure based on whether the associate chooses to bill 1,200, 1,500 or 1,800 hours per year as demonstrated in the charts below, which assume blended hourly rates of \$300, \$350 and \$400 respectively after collection:

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121 NYSBA Report pp. 47-50.

122 NYSBA Report pp. 48-49.

123 According to an article published by the Harvard Law School Center on the Legal Profession: “[T]he cost of replacing a departing associate ranges from \$200,000 to \$500,000, or roughly one-and-a-half to two times the annual salary of that lawyer. This cost – which could include advertising, recruiter’s time and salary, interviewing expenses, and training does not account for implicit costs. Such costs, including lost productivity time, covering the work of the departing lawyer, and disrupted intrafirm and client relationships can dwarf the explicit expenses.” <https://clp.law.harvard.edu/knowledge-hub/magazine/issues/approaching-lawyer-well-being/capitalizing-on-healthy-lawyers/> at p. 19.

124 NYSBA Report p. 49.

125 NYSBA Report pp. 49-50.

	<b>Total @ \$300/Hour</b>	<b>Salary (1/3)</b>	<b>Overhead &amp; Profit (2/3)</b>
<b>1,800 Billable Hours/Year</b>	\$540,000 (1800 x \$300)	\$210,000	\$420,000
<b>1,500 Billable Hours/Year</b>	\$525,000 (1500 x \$300)	\$175,000	\$350,000
<b>1,200 Billable Hours/Year</b>	\$420,000 (1200 x \$300)	\$140,000	\$280,000

	<b>Total @ \$350/Hour</b>	<b>Salary (1/3)</b>	<b>Overhead &amp; Profit (2/3)</b>
<b>1,800 Billable Hours/Year</b>	\$630,000 (1800 x \$350)	\$210,000	\$420,000
<b>1,500 Billable Hours/Year</b>	\$525,000 (1500 x \$350)	\$175,000	\$350,000
<b>1,200 Billable Hours/Year</b>	\$420,000 (1200 x \$350)	\$140,000	\$280,000

	<b>Total @ \$400/Hour</b>	<b>Salary (1/3)</b>	<b>Overhead &amp; Profit (2/3)</b>
<b>1,800 Billable Hours/Year</b>	\$720,000 (1800 x \$400)	\$240,000	\$420,000
<b>1,500 Billable Hours/Year</b>	\$600,000 (1500 x \$400)	\$200,000	\$350,000
<b>1,200 Billable Hours/Year</b>	\$480,000 (1200 x \$400)	\$160,000	\$280,000

Based on these figures, if a senior associate billing at a blended rate of \$350 per hour bills 1,200 hours per year, the associate will earn a base salary of \$140,000, leaving time to focus on life outside the law. But if the associate chooses to bill 1,800 hours per year (which should be the maximum), the associate will earn a higher base salary of \$210,000 per year.

While some associates may choose to bill 1,800 hours per year, we expect that a significant number would opt to bill 1,500 hours or 1,200 hours in exchange for a lower base salary. That is a discussion that law firms will need to have with their associates on an individual basis at the beginning and end of each year. Law firms will need to make clear that associates can decide whether they want to work 1,200, 1,500 or 1,800 hours and effectively choose their salary. But if the associate chooses to bill 1,500 hours, the associate will be expected to bill that many hours. If the associate bills more or less than 1,500 hours, there may need to be an adjustment in compensation the following year.

Law firms that implement a tiered compensation structure like this will earn: (i) the same profits with three associates billing 1,200 hours as they would with two billing 1,800; (ii) more profits with three associates billing 1,500 than with two billing 1,800; and (iii) more profits with four associates billing 1,200 than three billing 1,500. Below is a chart illustrating these points showing overhead and profit generated based on a \$350/hour rate:

<b># of Associates</b>	<b>1800 Hours/Year</b>	<b>1500 Hours/Year</b>	<b>1200 Hours/Year</b>
1	\$420,000	\$350,000	\$280,000
2	\$840,000	\$700,000	\$560,000
3	\$1,260,000	\$1,050,000	\$840,000
4	\$1,680,000	\$1,400,000	\$1,120,000
5	\$2,100,000	\$1,750,000	\$1,400,000

The success of a tiered compensation structure such as this depends on at least some associates choosing to work fewer billable hours in exchange for lower compensation. It also depends on associates billing the agreed upon number of hours as discussed above.

If we assume that NYSBA is correct and younger attorneys “prioritize work-life balance when choosing employment, even more than salary,” it would logically follow that younger attorneys would choose to bill 1,200 or 1,500 hours per year for a lower salary instead of billing 1,800 hours and having less time to focus on life outside the law.

This type of tiered compensation structure discussed above would not only satisfy associates, but it would also benefit law firms as it would improve associate performance, retention and recruitment and potentially increase the firm’s profits. Therefore, we recommend that Westchester County law firms strongly consider implementing a tiered compensation structure like the one described in this Report.

## Section 5. Methods of Decompressing.

As discussed at length earlier in this Report, members of our profession suffer from mental illness at far greater rates than the general population. The statistics are alarming and paint the picture of an unsustainable culture that's hurting countless attorneys and their families. To solve this problem, we must prioritize self-care and promote mental health and wellbeing.

To that end, several members of the Task Force shared their methods of decompressing. We hope that these examples will inspire members of the WCBA and the broader Westchester County legal community to implement these practices into their daily lives and, in turn, help change and improve the culture of our profession.

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*Decompressing or relaxing is often a difficult concept for lawyers to comprehend, much less to accomplish. We are so used to having more deadlines and obligations to meet than there are hours in a day that we often forget to “stop and smell the roses.” But as we are aware, we need to take a break to relax, or we will suffer severe consequences like health issues or fatigue. I have tried to build a few moments to “step away” and clear my head into my daily activities.*

*Taking a lunch break is often a luxury when you are a lawyer. Many times, we take working lunches, such as eating at our desk while we prepare for court, a client meeting, or any other legal duty. To fight the weekly fatigue and stay mentally balanced, I make sure that at least once a week I walk outside for 15-20 minutes to clear my head and not think about work. Sometimes, I take a brisk 45-minute walk, or even workout at home (if I am working from home that day). This helps me relax and gives me more energy that afternoon. I have found that on these afternoons, I am more productive!*

*I also make sure I use my generous vacation time without feeling guilty about it. At least twice a year, I go away with a group of friends for a “girls weekend.” I take no work with me during these 3 days, and I do not check emails or work voicemails. Additionally, my husband and I make sure that we take at least one two-week vacation a year. During this time, we go to our vacation home in another state, go out for dinner, go to shows, hang out with friends and family, and enjoy each other's company. For the last two years, we have taken this vacation right after we drop our daughter off at college. Of course, when our daughter is free, we also take a 10-day vacation with her over the summer.*

*Finally, the most important thing I do to unwind and relax from the demands of work are weekly Friday night dates with my husband. Sometimes, we stay home, other times, we go out. But we try to enjoy each other's company over dinner, a movie, friends, live music, or just sitting at home and chatting over a bottle of wine. It's important to spend time with our loved ones and enjoy their company. This time also reminds me that my family and mental health should always take priority over my career.*

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*During the workday, I try to get outside and take a walk to decompress. Sometimes, I can walk for a longer break, and sometimes, I can only walk for ten minutes. But either way, getting some exercise, sunshine, and fresh air helps to boost my mood before I return to work. In addition, taking a step away from the minutiae of individual tasks allows me to reflect on my work and take a broader perspective on*

*what I need to accomplish. As a result, this short time away allows me to be more productive when I return to my desk.*

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*When addressing burnout, a symptom can be the refusal to address the burnout itself. We make excuses for not taking off and shutting out the professional world, often under the belief that taking off will increase stress and make it worse. I'm not burned out, I'm just busy. I have too much to do or will come back to things being worse than when I left. I have a vacation scheduled for X so why take off now? Even if you take off, there is an urge to look at emails or somehow be productive.*

*There is now a great focus on mindfulness and meditation but that does not work for everyone. Sometimes, the best break is going back to basics. Go out for pancakes. Have a milkshake. See a movie in the middle of the day. Even the mundane, if it will get a burden off your plate – get the car inspected or make the return that's been sitting in the corner for 3 weeks. Better yet, have pancakes while the car is being inspected. You do not always need to go away or take multiple days. Even a brief pause can help.*

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*I recently learned about the concept of the "joy of missing out," or JOMO instead of FOMO (fear-ing of missing). In my job, I feel pressure to attend many evening meetings, fundraisers, networking events and other obligations that can extend my workday late into the night several days a week.*

*This often leaves me feeling tired and adds to the stress of trying to balance my work and family obligations. Practicing JOMO by delegating some of these obligations to more junior attorneys in my office not only helps alleviate some of my stress but also provides professional development and growth opportunities to others. Practicing JOMO and learning to let go and delegate some of the many network-ing and out-of-office demands of my job helps me to decompress and focus on my core responsibilities.*

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*I decompress by riding my Peloton. My rides vary depending on how busy my day is, but no matter what, I try to get at least 30 minutes in, though I prefer 60 to 75. It allows me to clear my head and burn off steam, no matter what time of the day I ride. And because I ride with friends, colleagues, and other attorneys, the Peloton provides a way to connect with others. Additionally, I love the gamification aspect of the Peloton where I can challenge myself and engage in friendly competition.*

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*I decompress (or at least attempt to do so) by meditating, hiking, cycling, and going to see live music. I try to do at least one of these things every day. These days, I have been meditating and/or hiking at least a few days a week. Regardless of how I attempt to decompress, I do not look at my phone. If I go hiking, I put my phone on do not disturb, turn the ringer off, and delete the email app (temporarily of course) so I am not tempted to look at or respond to emails. I have found that I come up with my best ideas when I am not looking at my phone and not thinking about my cases or the practice of law.*

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*As a full-time working mother and a partner in a law firm, I feel like I am constantly pulled in so many directions. Time is my most valued commodity and my archnemesis. When I allow myself to stop and*



*think about the concept of time, I feel my heart start to race and if I don't quickly find another thought, anxiety begins to take root. I am always looking for healthy ways to tune out the noise, take the edge off, or at least smooth out that edge a bit. Every day, I strive to take care of myself and find some semblance of balance in my life. I have joined, and later quit, gyms, bought, and later sold, a treadmill, a Peloton bike, and lots of other exercise equipment over the years. I have spent a lot of money taking classes to learn Transcendental Meditation, yoga and Pilates.*

*I now realize that taking a walk is the simplest and most effective way to clear my mind, reduce stress, smooth the edge, and make me feel healthier and happier. And, if I bring my earbuds and phone and listen to a self-help podcast, I find that I feel even better. I walk on the weekends but it's not enough and, because of my family obligations, I have no free time before or after work. So, I keep sneakers and socks in my desk drawer and do my best not to think about how silly I must look in my suit and sneakers as I slip out the back door of the office a few days a week. Those afternoon walks have become important to me and not just for the obvious reasons.*

*Initially, when I would run into a colleague on my way out or on my way back in, I was sheepish and apologetic, but that has changed. I have come to realize that when I am seen leaving the office for a walk in the middle of the day, I feel good, and I have nothing to apologize for. Those walks help me transition between tasks, think more clearly, and be more productive. When I am seen in my suit and sneakers, rather than feel silly, I feel proud. I feel pride in the message that I am sending to my colleagues about my values and priorities, and I hope that I might be helping someone else feel empowered to do the same.*

*\*\*\**

*The destressing that allows me to work better is my practice, on days when I am working from home (as scheduling allows but I aim for at least once a week), of taking a mid-afternoon break and mountain biking in woods near my house for an hour. In the long run, breaks like this have made me more productive and happier, as well as physically healthier, which lends to a better overall mode.*

# RAISE™ From Within: A Professional Mediator's Guide to Let Go of Stress

by Michele Kern-Rappy Esq., Adela Cojab, and Anna Lelonek<sup>1</sup> | Aug 9, 2022 | Divorce Professionals, Healing, Master Your Mindset, Mediation, Navigating Divorce, Wellness



You're out of control. Your divorce has been pending before the court for over a year. You look to your lawyers for guidance, knowing that life-changing decisions lie in the hands of busy judges.

To make it worse, two years into the pandemic, we've practically normalized stress and strain. The toxic toll of divorce is affecting your work, health, and relationships, and the self-help tips you've read online just don't seem to be enough. You're feeling depleted and overwhelmed.

As a renowned mediator in the New York Supreme Court, I've seen first-hand the toll that divorce has on families, especially with a backlogged court system. Divorce is not about the numbers. It is about leading parties to realize their true interests and goals, and providing a platform for their voices to be heard. What if there was a way to not only survive, but thrive, in a high-conflict environment?

## Designing the RAISE Method

I grew up going to work with my dad, a clerk, watching judges settle cases in chambers during summer break since my travel was limited due to a childhood illness. I was encouraged to go to law school and privileged to be hired by the court immediately after graduation, and before I knew it, was sought after by our justices to help settle cases in the hallways.

The system was not working, especially for vulnerable family matters. Divorce litigation broke down not only the couples' ability to parent, but also an attorney's ability to advocate. I wondered how I could create a space where parties to a pending dispute could simply understand one another. Soon, I was given my own chambers to build the Mediation Non-Jury (Med-NJ) Program, where I designed a unique refuge within the walls of the courthouse.

Through my work with divorce mediation, a roadmap to settling high-conflict cases was born: Recognition, Active Listening, Insight, Strategies, Evolution, or the RAISE Method.

Med-NJ is now the pioneer in the world of Alternate Dispute Resolution (ADR), and RAISE is statistically proven to bring cases to meaningful settlement and shift the paradigm from confrontational to cooperative. As Med-NJ grew more successful, it was more challenging to balance my personal and professional life and I suffered a health crisis. This time, I realized I had new tools—the RAISE Method. Though RAISE™ was designed as a means to guide lawyers to train their clients to acknowledge their deeper interests during a pending high-conflict action, the skills are applicable far beyond the legal world. I began to use RAISE to look within and found a roadmap to mediate your life.

## **How to Use the RAISE Method to Let Go of Stress**

### **R – Recognize the need to refine by design.**

We all know what happens when we recognize our sense of self respect is injured. We put all our energy into survival mode—plotting revenge or suppressing our feelings. Coping takes its toll. Many times we are too exhausted to recognize that we are out of sync with our nervous system and on our way to burnout. Stress causes reactivity, memory loss, fatigue, and weight gain.

Recognize the need in this moment to pause and pay attention to breath, then retreat in your seat. Use a calendar as a visual aid to design your day, connecting your outer world with your inner world. Calendaring consistently will help set boundaries, create a space to recharge your inner resources, and allow you to recognize ways to structure your life.

#### **Mindful Mediator Moment:**

Don't wait until you've lost control to pause for presence. Use simple breath work, either seated, standing up, or on a walk. Lengthen your spine. Inhale and slowly say to yourself, "I know I'm breathing in," then exhale and say "I know I'm breathing out," for three or four minutes.

Begin your mornings with the scent of eucalyptus to focus your mind. Take a gentle walk in nature to quiet internal chatter. Walking mindfully, listening to birds, and observing subtle changes in the scenery will help open you up to the beauty, joy, and flow of life.

### **A – Actively listen to sensations, acknowledge, and adjust with trust in yourself**

Our autonomic nervous system is our brain's survival system. When we inhale, we stimulate the sympathetic nervous system (SNS), which results in an increase in heart rate. When we exhale, we stimulate the parasympathetic nervous system (PNS), which decreases how fast our heart beats. When our nervous system is out of balance, we have less control over our thinking and feeling.

When we are stressed and involved in the difficult emotions of high-conflict divorce, our autonomic system goes into flight, flight or freeze mode. Divorce requires adjustments, many of which are met with resistance. Take a deep breath and actively listen to the sensations in your body. Once feelings are acknowledged and accepted, the body relaxes back into tend and befriend mode, and there is greater access to rational thought in the prefrontal cortex. Mindfulness helps us meet change with agility.

#### **Mindful Mediator Moment:**

Before reaching for caffeine or sugar, use the stimulating breath strategy for fifteen seconds to energize, recharge, and increase alertness. Keeping your mouth relaxed, inhale quickly and exhale through your nostrils with a "HA!" three times, while optionally lifting your arms in the air to increase power.

This is a natural way to wake your body and push through difficult mornings or stressful meetings.



### **I – Insight into the inner critic.**

Acknowledging the presence and source of stress is an important step in increasing our well-being, but to truly make a change we have to dig deeper. Studies consistently show that mental noting, or acknowledging judgmental thoughts and feelings throughout the day, will clarify feelings. So many of us are caught up with over-thinking and social comparison. The insight into your thought process will help you become more attuned.

Eventually, you'll gain greater self-awareness, and illuminate the strategies needed for support.

#### **Mindful Mediator Moment:**

Before bed, keeping a pen and paper handy will give you the ability to jot down anything you want to acknowledge and release any anger and frustration you want to let go of. You can incorporate mental noting throughout the day to give you insight and, ultimately, an opportunity to express gratitude and rid yourself of negativity.

### **S – Setting strategies and finding solutions.**

While we all experience stress, it affects everyone differently. Once you know what you need within, creative solutions for your own balance are designed by you and only you. There may be chaos around you, but this is one thing you can always control.

It is important to try various strategies until you find the one that works for you. With these new skills you can create a routine and strong structure to bring you closer to a vision of self-alignment. By clearly communicating our goals to ourselves, we can better communicate with the people around us.

#### **Mindful Mediator Moment:**

Use spine rotations in a seated position to energize and release tension. Try the Cat/Dog Tilt, placing your hands gently on your knees, inhaling, opening the chest, exhaling, tucking the chin to the chest. You can twist your spine by looking over your left shoulder and looking over your right to relieve tension held in the lumbar spine.

## **E – Evolve your practice and elevate your life.**

The roadmap is made of universal principles but it is also a very personal practice. As you begin to recognize your needs, you'll steadily regain some balance of your personal and professional life. Using RAISE From Within (trademark pending), you get to mediate your own life. The deeper we delve, the greater the self-awareness.

### **Mindful Mediator Moment:**

At the end of a long day, scan your body for tension and ride the wave of sensations. Lay on the ground, rest your hand on your breathing belly, and allow yourself to feel. In order to disengage the thinking mind, pay attention to your breath and feelings. Accept all thoughts with self-kindness. You can do this in a hot epsom salt lavender bath to simultaneously release muscle tension.

Research by Amanda Pasternak and Mengxi (Claire) Xiong