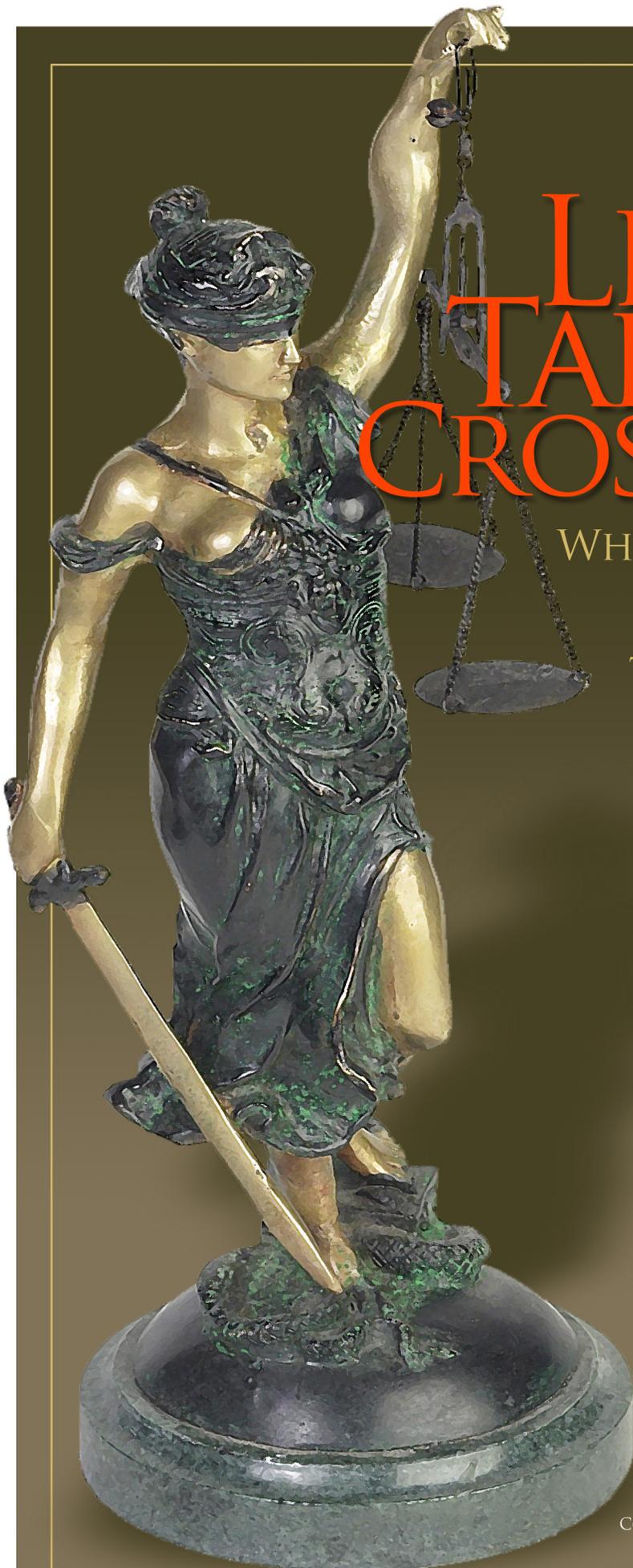


APRIL 2009

# LEGAL TALENT AT THE CROSSROADS

WHY NEW JERSEY WOMEN  
LAWYERS LEAVE THEIR  
LAW FIRMS, AND WHY  
THEY CHOOSE TO STAY



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A REPORT OF THE NEW JERSEY  
STATE EMPLOYMENT & TRAINING  
COMMISSION  
COUNCIL ON GENDER PARITY  
IN LABOR AND EDUCATION

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**LEGAL TALENT AT THE CROSSROADS: WHY NEW JERSEY WOMEN LAWYERS  
LEAVE THEIR LAW FIRMS, AND WHY THEY CHOOSE TO STAY**

**Prepared for**

**New Jersey State Employment and Training Commission  
Council on Gender Parity in Labor and Education**

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**APRIL 2009**

## **The New Jersey Forum on Workplace Practices in the Law**

In late 2006, the New Jersey Council on Gender Parity in Labor and Education formed the Forum on Workplace Practices in the Law. Forum members are a select group of New Jersey law firms that are committed to women's leadership, workplace diversity, and organizational effectiveness in the legal community. Firms were selected based on their demonstrated commitment to building an organizational culture where women are encouraged to be effective and successful and to become leaders.

The Council would like to extend special thanks to the Forum's founding partners for their support of this research. Their insight, advice, and financial support were integral to its success. Special thanks are also extended to Christine Amalfe of Gibbons, PC, for her leadership on the creation of the Forum and her contributions as a member of the Council on Gender Parity in Labor and Education.

### **Founding Partners:**

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## Foreword

By Dianne Mills McKay, Council Chair

The New Jersey Council on Gender Parity in Labor and Education is proud to present *Legal Talent at the Crossroads: Why New Jersey Women Lawyers Leave Their Firms, and Why They Choose to Stay*. Established by legislation in 1999 as a committee of the New Jersey State Employment and Training Commission, the Council's mission is to address gender-based barriers in education and the workplace in the state of New Jersey. The Council's 2002 report *Women at Work: Achieving Gender Parity on the Job* identified gender inequities in five economic sectors that are pivotal to New Jersey's economic growth: building trades, financial services, health care, technology, and law.

*Women at Work* revealed that women in the field of law faced challenges related to time demands, the integration of work and family, workplace climate, and unequal access to labor-market rewards. These factors prevented many of New Jersey's women lawyers from enjoying true equity in their jobs. With the support of the founding partners of our Forum on Workplace Practices in the Law, the Council commissioned the Center for Women and Work at Rutgers University to conduct a study that focused on the current climate for women lawyers in New Jersey to see if a business case could be made to support family-friendly arrangements in this traditionally not-so-family-friendly field.

Hundreds of New Jersey's attorneys participated in the research by completing an online survey, participating in interviews or focus groups, and speaking openly about their work and private lives. Many took time from their busy schedules to reveal personal stories of their progress and setbacks—stories that were both poignant and memorable.

This report, prepared by the Center for Women and Work, provides a current picture of how New Jersey women lawyers are progressing in their professional lives. The results present an ambiguous picture, filled with successes and triumphs on the one hand and frustration and stalled careers on the other. One of the study's key findings—and one that is new to this area of research—is that women are now willing to leave an employer to seek a more flexible work environment. It appears that women no longer feel trapped or helpless in their pursuit of a successful career in the law. Women clearly indicated that where—and, oftentimes, for whom—they work matters. Given this finding, the business case for family-friendly policies and women's initiatives could not be more compelling.

In addition, the research illustrates that there are best practices that law firms can adopt and strategies that individual women lawyers can implement to increase the retention and advancement of women in legal careers. The New Jersey Council on Gender Parity in Labor and Education hopes this report will be an important resource for law firms in New Jersey, one that helps them to develop and share innovative workforce practices that will make the work/life balance easier for all New Jersey's attorneys regardless of gender. Without a doubt, some law firms have already made dramatic advances in retaining and advancing women within the legal workplace; sharing their strategies will help other firms strengthen their workplaces by creating more women-friendly environments.



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## Executive Summary

Over the past several decades, women have made tremendous progress in the legal profession. It is now common to see women and men in equal numbers in law schools and to see female faces as partners in prominent law firms and on the benches of our courts. In recent years, across the country and in New Jersey, law firms have made significant strides in their efforts to attract and retain women lawyers. They have done so not only because it is beneficial to the legal profession but also to meet client demands for greater diversity and to address their most fundamental management objective: attracting and retaining the best legal talent.

Despite these important advances, however, women in law firms continue to face unique challenges. At the same time that women are entering law firms in greater numbers than ever before, many women are choosing to leave their law firms. This is problematic for women and for the firms that have invested in preparing them to be successful lawyers. But retention isn't the only problem. According to the National Association for Law Placement (NALP), women comprise close to half (45%) of the associates in law firms in New Jersey, but they hold only 17% of the partnerships. These issues speak to broader concerns about workforce development, especially with respect to the access and upward mobility of the best talent to senior positions in New Jersey law firms.

Through the use of a broad survey administered to women lawyers in New Jersey along with interviews and focus groups with managing partners and successful women attorneys, this study seeks to shed light on the reasons women choose to leave their employers and to provide concrete recommendations of best practices that can help law firms achieve greater success in the advancement and retention of women employees.

Clearly, advances have been made within New Jersey law firms. Almost two thirds of respondents indicated they were satisfied with their ability to integrate their work and personal lives, and almost the same proportion said they were satisfied with the predictability of their hours. Yet while many women were satisfied with the compensation, professional autonomy, job security, and recognition they received from their current employers, other women expressed frustration with the biases they felt were still present. These women often changed careers to seek a workplace with policies and an environment that better supported their own personal goals. The data point to several general reasons for respondents' dissatisfaction with their former employers, including an unsupportive work environment, poor promotion opportunities, and issues related to work/life balance. These findings reinforce much of the existing literature on women in the legal profession.

An important new finding of this study is that women lawyers often choose an exit strategy when faced with the dilemma of choosing between work and family obligations. Many respondents left their former employers due to a lack of flexible work arrangements and chose new employers based on whether they offered access to those arrangements. Of the



respondents who changed employers in the last five years, over 70% indicated their former employer was not supportive of full-time flexible alternatives, whereas only 30% described their current employer as unsupportive of such arrangements. The business case for more family-friendly approaches to the practice of law could not be more clear.

The second section of this report focuses on women lawyers who have made it to the top. Successful women lawyers participated in in-depth interviews about their career paths, the reasons for their success, and the advice they would give to women lawyers just beginning the practice of law. Many of the women interviewed cited the importance of role models and mentors, and some described having champions of both sexes that gave them essential information, opportunities, and encouragement. Some felt that their firms were supportive in their quest for work/life balance, while others felt they succeeded in spite of their firms' lack of support in that arena. The recommendations in this section of the report focus on what the individual woman can do to influence her own career path and reach her goals. Most respondents advised new women lawyers to set a firm career plan, work hard, develop and rely on strong interpersonal relationships inside and outside the firm, and clearly articulate their needs.

The third and most important section of the report shifts the focus from individual women lawyers to their employers. The survey results, interviews, and focus groups reveal specific steps New Jersey law firms can take—and that some have already taken with great success—to retain and advance women lawyers. The best practices described in this section are drawn from respondents' comments and from the practices of various New Jersey firms as they were described in focus groups and interviews. This section presents a full discussion of best practices, policies, and implementation strategies and makes the business case for adopting them.

Employers that follow best practices that provide effective work/life programs benefit from better recruiting, greater productivity, improved client service, and reduced expenses associated with turnover. The practices that New Jersey law firms can use to retain women lawyers highlighted in this report fall into four categories; assist with work/life balance, monitor advancement policies, develop resources, and remove bias.

In the work/life category, the most important practice is to define the business case. Managers and partners interviewed in the study consistently emphasized this over-arching best practice as critical to any successful change in policy implementation. Without the support of key stakeholders who accept the business case, programs and policies to advance women struggle for justification. Best-practice firms were able to iterate how a firm's bottom line is affected by the inclusion of flexible work arrangements, and the results of this study provide additional evidence for any firms that are looking to implement it.

Other best practices in the work/life category reflected directly on the importance the study's respondents placed on flexible work arrangements (FWAs). This includes allowing customizable



FWAs to best fit the needs of the individual, and making them available to all attorneys at the firm, not just women, mothers, or other specific populations. Having written policies for part time and flexible work arrangements was also highlighted as a best practice because they can ensure equitable implementation. Best-practice firms also have an individual or department assigned to monitoring FWAs at the firm level, reviewing its impact among different practice areas at the firm, and to reaffirm that the arrangement is beneficial to both the firm and the individual employee.

The second best practice category focused on advancement policies. The results of the study show that many women lawyers were unsure of the pathways to advancement in their firms, and “poor promotion opportunities” was cited as one of the leading reasons for leaving a former employer. Best practice firms that attract and retain top women lawyers make their advancement policies transparent, and also review their assignment and evaluation systems regularly to identify gender and other types of bias.

Developing resources that are proven to retain and advance women was also important in best-practice firms. Those firms that highlighted this best practice often had programs like a “Women’s Initiative” that provided opportunities for formal or informal mentoring, business and professional development, and visibility in the social fabric of the firm. Another key resource was access to appropriate technology. Study participants often cited excellent technological assistance through at-home access to firm systems, hand-held devices, and similar technologies, as critical to their ability to serve their clients as needed while maintaining life balance.

The final best practice category is removing bias. A positive finding of this study is that much of the blatant gender bias that was prominent in the workplace in the past is not as evident among our respondents. However, there were still examples of bias affecting career advancement that firms should be aware of, and about which they should make the effort to educate their entire organization. Managers in best-practice firms often saw this as an important part of their role as the public voice of their firm’s policies, and felt it went hand-in-hand with defining the business case.

In conclusion, the legal profession is one where the best talent means the best business. As women’s involvement in the field becomes more important, law firms are seeking to increase their bottom line by stemming the tide of attrition and dissatisfaction. This report provides firms with a clear guide to the steps they can take to increase retention and advancement of the talented women lawyers on their staffs.



## Introduction

*Why is it important to retain and advance women? There are three reasons in my view. The first . . . component of the business case is that 50% of the available lawyers are women coming out of law school, so if you want to have the best available talent, you need women. Second, the decision makers in corporate America are changing; it is not just the old boys club anymore. So you have . . . many women advancing in corporate America, and they may feel more comfortable with a woman lawyer. And the third component is the thing that is always discussed when talking about diversity within any organization, and most importantly law firms: that having diverse opinions provides better solutions to the client's problems.*

-Managing Partner, New Jersey Law Firm

Women have advanced tremendously in the field of law over the past several decades. According to a recent study of the American Bar Association, women continue to make advances in their representation among law school entrants, tenured positions at law schools, general counsels in Fortune 500 companies, partners at major law firms, and the federal judiciary.<sup>i</sup>

As the managing partner quoted above indicates, women's advancement in the legal profession, and particularly in law firms, benefits the business of law as a whole.

Yet women in law firms continue to face challenges. While women are entering law firms in greater numbers than ever before, substantial numbers of women are also choosing to leave their firms. This is problematic not only for women but also for the firms that have invested in their work. Law firms have twice the turnover of similar industries.<sup>2</sup> While some attrition is expected in the typical business model of the law firm, losing top talent represents a waste of resources. Research has indicated that replacing a single attorney typically costs between \$200,000 and \$500,000.<sup>3</sup> Because many attorneys leave before their firms have begun to make a profit on them, strategies that help firms retain attorneys even two to three additional years could greatly benefit overall profitability.

**Table 1: Women's Representation in Law Firms, 2008**

	<b>Total Lawyers</b>	<b>Summer Associates</b>	<b>Associates</b>	<b>Partners</b>
Northern NJ/ Newark area	32%	45%	46%	17%
Other areas of New Jersey	31%	50%	45%	18%
Nationally	33%	46%	45%	19%

SOURCE: National Association for Law Placement<sup>4</sup>

The increase in the number of women entering the legal field has not been met by a corresponding increase in the number of women advancing to leadership positions. Table 1 shows that women's proportional representation at law firms dwindles as they move up the ranks.<sup>5</sup> This trend is not unique to New Jersey firms—the data for New Jersey are in line with national trends. The loss of women lawyers, either from the profession as a whole or through a lack of advancement to the most productive levels of the workforce, is a problem that many law firms recognize and have sought to address.

Retaining and advancing women in the profession strengthens firms by helping them meet client demands for greater diversity while also addressing a fundamental management objective: attracting and retaining the best legal talent.

## **Factors Influencing Women Lawyers' Choices to Stay or Leave**

*I really feel that [my firm] has allowed me to flourish. To look around and see there is a critical mass of women who have been successful here for more than twenty or twenty-five years, and to see people who are getting promoted who have little kids and have managed to do that, and to feel supported myself and to be able to have flexibility and opportunities that I feel that I need.*

*I have raised three children and worked full-time for the past 21 years in the legal field, but for brief maternity leaves. Although I have enjoyed each of my three jobs and have earned a good living, I feel that I have not been rewarded with the appropriate promotions in light of my loyalty, work ethic, and capabilities.*

*My current firm seems to have some issues with [leave and flexible work arrangements] but is at least trying to address the problem. To me that's a part of [why it's] worthwhile to stay here rather than earn twice as much in New York City.*

To address women's attrition from law firms, a significant portion of this study focused on women lawyers' perceptions about their careers and their reasons for staying with or leaving their employers. A surprising finding was the variation among the perceptions of the women lawyers who participated in this study. Similar to findings of studies of women in other professional occupations, almost two thirds of respondents indicated they were satisfied with their ability to integrate their work and personal lives, and almost the same percentage said they were satisfied with the predictability of their hours. But other respondents emphasized problems related to women's advances in the profession.

While many of the participants indicated that they were satisfied with the compensation, professional autonomy, job security, and recognition they received from their current employers, other women expressed frustration with the biases they felt were still present. The women who expressed frustration often changed careers to seek a workplace with policies and an environment that supported their goals and advancement. The data point to several reasons for this dissatisfaction. While these findings, detailed below, reinforce much of the existing literature on women in the legal profession, an important new finding is that women lawyers often choose to leave their employers because of a lack of flexible work arrangements and choose their new employers based on the availability of those arrangements. Women are no longer willing to stay and "get along"; instead, they look for what they perceive to be better opportunities with firms that offer a more balanced and supportive culture. For that reason, the data discussed in this section are critical to employers; by strengthening areas that influenced respondents' satisfaction and addressing those factors that led them to leave their employers, firms have a better chance of retaining their best employees.

At the time of the survey in early 2008, attorney attrition was as high in New Jersey as it was nationally. About half (49%) of respondents had changed employers since 2002. Nearly two thirds (63%) of those who had changed jobs since 2002 did so once, 23% changed employers twice, 9% changed three times, and 5% had changed employers more than three times. In a legal market in which associates typically are unprofitable until their third year, over one quarter (27%) of respondents had changed jobs within their first three years. Another 17% left during their fourth through sixth years. Attrition among partners was small (between 4% and 5%). These numbers are consistent with national attrition figures reported by the National Association for Law Placement (NALP).<sup>6</sup>

Table 2 displays women respondents' reasons for leaving their prior employers. The top two reasons respondents gave for leaving their prior firms were "unsupportive work environment" (41%) and "poor promotion opportunities" (40%). These were followed by a desire for better wages and benefits (33%) and more challenging work opportunities (30%). Explicit work/life concerns appeared next: long work hours (30%), difficulty integrating work with one's family or personal life (29%), and a lack of flexibility in work hours (29%).

**Table 2: Respondents' Reasons for Leaving their Former Employer**

Reason for Leaving	Female Respondents (N=130)	All Associates (N=118)	All Partners (N=19)	All Counsel/ Staff Attorney/ Other (N=72)
Unsupportive work environment	41%	47%	36%	13%
Poor promotion opportunities	40%	37%	15%	25%
Better wages/benefits offered in next job	33%	32%	15%	19%
More challenging work offered in next job	30%	32%	0%	25%
Long work hours	30%	39%	15%	6%
Difficulty integrating work with family/personal life	29%	33%	26%	9%
Lack of flexibility in work hours	29%	29%	15%	5%
Unfriendly work environment	29%	30%	26%	11%
Reputation for friendly environment in next job	25%	29%	10%	8%
Work load pressures	23%	29%	15%	8%
More flexibility in work hours offered in next job	22%	26%	10%	2%
Lack of job security	12%	11%	0%	15%
Other ( <i>position elimination, end of temporary position, hostile work environment, not enough women lawyers, long commute, and discrimination</i> )	44%	21%	68%	48%

Notes: Respondents could select more than one reason. Respondents included males and females unless otherwise indicated in the column heading.

These findings are consistent with those of Pamela Stone's study of highly trained women who had left the workforce to stay home. That study concluded that 86% of the women who left the workforce did so due to unfavorable workplace conditions rather than an affirmative desire to be home full time.<sup>7</sup>

In the remainder of this section, we highlight three key reasons women respondents left their former employers: unsupportive work environment, poor promotion opportunities, and work/life concerns.

### **Unsupportive Work Environment**

Forty-one percent of respondents attributed their choice to leave their former employer to an "unsupportive work environment." This category is subject to wide interpretation, but our qualitative research gave us a good sense of what it meant to our respondents and their careers. We found little evidence of the blatant sexual harassment and discrimination that was common in the past, so it appears that work environments for women have changed substantially in the last decades. Instead, our respondents often pointed to more subtle biases in their descriptions of unsupportive work environments. Survey responses and focus group and interview data suggest that unsupportive work environments are now characterized by glass-ceiling problems (gender bias that prevents women from advancing to the upper levels of their profession simply because they are women), maternal-wall problems (gender bias women encounter because they are or may become mothers), and gender bias in the generational conflicts that emerge in the work environment. (We look more closely at each of these factors below.) Respondents also attributed such issues as lack of mentoring, lack of role models, and lack of encouragement to the unsupportive work environment.

#### ***The glass ceiling***

Several respondents used the term "glass ceiling" in interviews, focus groups, and survey comments, while others discussed feeling isolated from their firms' networks and reported not having strong personal relationships with male attorneys in their firms. These respondents believed their weak social bonds ultimately affected their advancement.

*There are some firms that are actually making an effort to advance women, but they are an exception to the rule. . . . [At my former firm, if] you weren't, like, a good ole boy, and you weren't out there hanging out with the guys, they weren't comfortable with you, and they didn't know if you could handle their clients and dealing with the responsibilities of being a partner.*

"[L]aw firms are hotbeds of camaraderie among men," said another respondent, noting that in her experience male partners actively mentor male but not female associates and were more likely to introduce male associates to current and prospective clients. The same respondent commented that partners at her firm shared origination credit more readily with male associates than with female associates, a practice that affected women's chances for partnership.

Other comments pointed to perceptions of differing standards for men and women:

*I had been bringing in more business than two thirds of [the men], and they would not put me on a committee. . . . I tried to just take the women out for drinks, and I got called to the senior partner's office for that.*

That respondent left the firm she describes here for another, commenting that her current employer offers an environment that is much more supportive of women's advancement—a factor that has considerably increased her career satisfaction.

### ***The maternal wall***

Surveys and interviews also indicated gender bias surrounding motherhood: the “maternal wall.” This is in keeping with recent research that indicates discrimination against mothers is probably the strongest form of gender bias in the workplace today.<sup>8</sup> The following comments about the maternal wall are representative:

*Women who go into the law profession are not slackers. It is a difficult profession to get into, it is a difficult thing to maintain and it [is] . . . a male dominated profession. . . . [B]ut the way they treat us even though we work that 2100, 2200 or 2300 hours a year for the first 5, 6, 7 years, and you get to that 8th year and you want to have a child and it is, “she is a slacker.” [“]She has no brains, she can't do the work anymore, we don't need her[”] and it is just like, I worked 8 years for you.*

*[T]here is a group of [three] associates going out on maternity leave and the kind of conversation that engenders makes it clear that men resent that and they think it is a vacation and think it [is] something that women go off and go “[W]oohoo! [W]e don't have to work for [three] months[”] and not fully appreciating [or] understanding [w]hat goes into that and . . . make comments related to pregnancy.*

*[Y]ou get to a point where you just don't feel like you are relevant and you have worked this hard and just because you want to have kids and be a mom, you are made to feel less than what you should be or what you are worth and it [is] so intangible and it is frustrating and it is a horrible, horrible feeling and I remember feeling that.*

*At my prior law firm, I took a maternity leave as an equity partner. When I came back, I was told “[D]on't take another leave if you want to remain a partner at the firm.” I waited two years, then took another maternity leave. The firm first told me that I would be de-equitized. I told the firm I would leave if I were de-equitized. The firm did not de-equitize me. But, the year after I took my second maternity leave, I lost 10% of my shares in the firm. The following year, I lost another 10% of my shares. I then left the firm and took an in-house position.*

Some women expressed a change in their career trajectory at the announcement of pregnancy or becoming a mother.

*Since becoming pregnant last year, I feel that my career advancement has completely stalled and I have been informed that I will probably not be promoted to partner. Prior to becoming pregnant, I was specifically told that I was on the partnership track. No reason has been given for this shift in my future here.*

*[I w]ent from partner track to a questionable future in the six months following my announcement that I was pregnant. [I w]ill probably not be promoted to partner as expected. And I don't have a flexible arrangement—I resumed working full-time following my maternity leave.*

Other respondents indicated a change in their work environment when they returned from maternity leave. One respondent reported that after her maternity leave, as a 10th-year associate, she got her lowest bonus ever—the equivalent to that of a second-year associate. Another respondent described deteriorating working conditions after returning from maternity leave: “When I returned to work after the birth of my child, I heard too many discouraging comments from male and female partners.”

A final trigger for maternal-wall bias is requesting or adopting a flexible schedule. One respondent noted that after she shifted from full-time to part-time employment, the assignment partner gradually stopped giving her work. After her second pregnancy, she was told that her hours were too low,

*. . . and I would have to drum up work for myself because he wouldn't force anyone to work with me. I decided to leave after my maternity leave, rather than subject myself to trying to meet [an] impossible standard with little probability of success and even less possibility that I would be promoted to the partnership.*

Said another:

*There are many here who are very supportive of my reduced hours schedule as a partner/director. Other[s], partners AND associates, are less supportive and it has negatively affected their view [of] my work and my commitment. The lack of respect from associates is very troubling.*

It should be noted that these attorneys' difficulties may have stemmed from their own performance problems. The data collected in this study cannot provide a direct link, but these respondents felt the negative assumptions regarding their competence and commitment were linked to their status as mothers.<sup>9</sup>

Respondents provided many other examples that indicated the women perceived gender bias as contributing to an unsupportive work environment. This is in keeping with numerous other studies.<sup>10</sup> The examples above contrast starkly with women who were working in supportive environments. As we will discuss later in this report, study participants cited the advantages of relationships and policies that counteract glass-ceiling and maternal-wall bias as key reasons that they stayed with their firms, clearly emphasizing the importance of these policies for retention of talent.

### **Generational conflict**

There is a significant body of work documenting the challenges of managing the generational differences between Baby Boomers and the generations that have succeeded them: Generation X, Generation Y, and the Millennials.<sup>11</sup> These differences were reflected in the data collected for this study, particularly as they related to women. Older respondents readily acknowledged that the profession was very different than when they entered it.

*I lived through the years where women lawyers were still considered a bit of a novelty. Women would go to court and there would be a bit of disdain by your male counterparts. They didn't like the fact that we were eager beavers, overly prepared [with two] briefcases and instead of doing 100% we were doing 110% because we didn't want to be criticized for being young, inexperienced and a woman.*

*It was a real reality shock for me the first time I went to court because most of the judges were Neanderthals, most of the attorneys were Neanderthals—I can't think of any other name to describe those people. But at that time I started a[s] the legal services attorney, so I had 100 strikes against me from the beginning. So it really didn't matter what I said. That was good because it made me very thick skinned and it made me more cognizant of the importance of being one step ahead of those guys. That is how I have done it; I have been one step ahead of those guys.*

Clearly, the older women lawyers received the message that to succeed, they needed to become “one of the guys.” They did what they needed to do, often working twice as hard to get half as far, only to find younger women lawyers questioning the trade-offs the older women had made along the way. Being questioned by younger generations of women was often a painful experience for the older women. The following comments represent three common responses of the older women attorneys surveyed:

*My group, we were . . . empowered. I don't know what the women going to law school now expect; I really don't know what they expect.*

*I never in 18 years before missed one day of work because of my kids. I had plan A, plan B, plan C, and I might have gotten into work at 10 a.m. instead of 9 a.m., but I got there. And so between health crisis, housekeeper crisis, you name it—I was there. You just did what you needed to do. When I ask younger women attorney[s] with families, they will quite honestly admit to me, they said to me, “I can't count the number of days I missed because of my [two] year old.” . . . This isn't working, you are not making this work for me. And again, I am probably nuts because I set so high a bar, and now I sort of regret it because I missed a lot while my kids were growing up, and I think it probably made it more difficult for the women behind me. But at the same time, I think there has to be probably a balance between where I was and the standard that I set and what I see now as “what I am entitled to,” so I think there has to be a balance between those two ends of the spectrum.*

*I think it is a healthy thing for the younger women attorney to say "I am out of here." I didn't think I had the choice. I was going to grin and bear it and do it because that was the only path to being a lawyer and practicing law.*

The comments above, from a focus group of study participants, show that older women attorneys vary in their responses from being judgmental of the younger generation, to admiring them, to believing that each generation has something to teach the others. In the anonymous survey, respondents were less measured in their comments:

*The irony of working at my firm is that the few women partners that we have are even more terrible than the men partners at times. They are definitely the Iron Ladies, who became partners in the late 80's when they had to be more men than the men. They are harsh, expect more, teach less, and are very critical. . . . They went through it, now we have to go through it, and look here, they were able to have children too.*

*I have found that a strange phenomena thrives in law firms—namely, female partners do not mentor young female associates while male partners offer tremendous mentoring to only young male associates (whether informal or formal). In fact, female partners often have (and blatantly exhibit) the attitude that "I had to work harder than anyone else to make partner and so should she."*

*They did it working 18 hour days and they had their kids, but they basically have that attitude that our generation is whiny and we shouldn't really expect that. It is fine if we want to work part-time but why do you think we should be partnered too? Why do we think we should have it all when they clearly weren't able to?*

One study documenting gender and generational differences at work found that younger women tend to be more family-focused than older women.<sup>12</sup> In other words, older women (whether by personal choice or career strategy) behaved in ways traditionally associated with masculinity, whereas younger women expect to be able to lead their lives in more traditionally feminine ways. As this description highlights, generational conflicts include conflicts over what are to be considered suitable gender roles for women. Similar conflicts can arise among women of the same generation who have adopted divergent strategies to juggle career and family.

*[The women who get ahead] work like the men want them to work. They work the 18 hour days and everything else and they play golf and that is why they are partners and there are so few in that firm. I know from when I worked there, every female associate left, every single one left and the male associate who was there is now partner.*

*[S]ometimes there are women that ruin it for other women. In other words, I am working part-time and I have had comments addressed to me, "oh I have to get knocked up so I can work part-time."*

Yet another survey comment counters with an acknowledgement of the support that older women have provided her:

*They have been supportive of me through three pregnancy leaves and I am in a position of leadership now where I can have an impact on the work/life balance of other women lawyers.*

As women who have not had to face the blatant discrimination witnessed by their predecessors rise through the ranks, conflicts among women can be expected to ease. In the meantime, our data indicate that employers are developing strategies to bridge these generation gaps. A best practice highlighted in this report includes the use of women's initiatives in law firms, where women employees of all generations participate in activities designed to encourage mentoring and dialogue about women's experiences.

### **Poor Promotion Opportunities**

Forty percent of respondents cited poor promotion opportunities as a reason for leaving their former employer. Only slightly more than half of female respondents are satisfied with their opportunity for career advancement in their current firms. More than two thirds of the female respondents either did not expect to be promoted (34%) or said they did not know whether they would be promoted (34%). The path to equity partnership tended to be between seven and eleven years, with some striking outliers—including one firm where equity partnership took 15 years. Particularly striking was the degree of uncertainty about the track to equity partnership. The question, "How long is the average equity partnership track (in years)?" was frequently met with responses such as "Unknown," "Unsure," "Unclear," "I don't know," "Not sure," and "No idea." Many fewer respondents were unclear about the path to income partner, which was more likely to be around eight years (again, with outliers, this time ranging as low as three years to as high as "15 plus" years).

One interesting quote highlights the way that partnership decisions have changed over time, from the Baby Boom generation to today—a point too rarely acknowledged:

*[In 1989 making partner was] different than making partner now. There was less of an emphasis on your book of business, there was still that recognition of your contribution to the firm, the firm had work, they recognized that, it helped them by giving you the title of partner at that time for client perception. . . . notwithstanding that they recognized that in my case that. . . I did not come to the table at that point with a book of business.*

Our interview data shed some light on this issue. Those women who were most satisfied with their positions often attributed it to being able to talk to a mentor, practice leader, or someone else in their firm who provided insight into the paths to promotion. With 40% of our respondents indicating that lack of promotion was a reason for leaving an employer, firms that can better communicate their promotion policies and career-advancement options to their female lawyers will have a better chance of retaining them. Our data indicate many women were looking for career empowerment when they changed employers; providing better information about career advancement allows the individual attorney the opportunity to choose which direction she wants her career to move in.

## Work/Life Issues

*I see a lot of [younger women] just overwhelmed with “how do I balance, how do I have a life and how do I put in 2000 [hours] at a minimum, at my firm anyway, and be able to have a life outside of this office and be productive here and be wanted and be respected by my peers and make a difference?” . . . I think if you can’t have that balance, it is sort of like “Well I have to look for other options and see what else is out there.”*

### **High billable-hour requirements**

Respondents reported working long hours.<sup>13</sup> Eighty-five percent of respondents were currently employed full time, and 13% were employed part time. (Two percent were not currently employed.) Forty-six percent worked 51 hours per week or more, and another 36% worked between 41 and 50 hours per week. In other words, 82% of those surveyed worked more than the 40-hour week that is considered traditional for full-time jobs outside the legal field. This is in line with national figures. The NALP reports that the average lawyer works 49 hours in a typical work week; for new lawyers in private firms with more than 250 attorneys, the average rises to nearly 53 hours.<sup>14</sup> In a profession in which profitability often depends on how much time is billed and which has seen an increase in the starting salaries for its associates, it is no surprise that the billable-hour requirements have increased as well.

### **Family lives of New Jersey women lawyers**

Seventy-eight percent of female respondents were married or living with a partner. One quarter stated that they earned all of their household income; 25% of those sole breadwinners were married or living with a partner. Over half (53%) of respondents stated that they earned between 40% and 60% of their household income.

Most female respondents were responsible for family care. Nearly two thirds (60%) had children (less than the 81% of women nationally<sup>15</sup>).<sup>16</sup> Ninety-three percent of respondents had parents or in-laws still living, of which 13% had significant responsibility for their care. An additional 38% did not currently have significant elder-care responsibilities but expected to face that challenge during the course of their careers.

Seventy percent of female respondents said their career commitment was the same or greater than that of their spouses. This statistic, when combined with the family-care responsibilities described above, quantifies what many know anecdotally: Women lawyers face high-pressure time demands as they commit themselves both to their profession and to their families. This finding mirrors a 2007 study by Mona Harrington and Helen Hsi of the MIT Workplace Center that revealed that twice as many men as women reported earning all or most of their household incomes and described their spouses as being less committed to their own careers.<sup>17</sup> In survey comments, focus groups, and interviews, study participants echoed the MIT finding, noting that male partners typically had stay-at-home wives and that this set expectations within their law firms that put women at a disadvantage.

*A lot of the men I know don’t have wives that work, and I feel like it is somewhat different because they are the sole earner and I am not. So that seems to make some difference. They all*

*have a wife . . . who cooks the meals and does the laundry and does the errands. I don't have a wife; I wish I had a wife.*

*The vast majority of male lawyers have stay-at-home wives. Women with children generally continue to be the primary care-givers for their children, even when they work, which means they have less flexibility in their work hours. . . . This puts female lawyers at an inherent disadvantage, without even taking into account subtle (or overt) gender discrimination which may exist due to the predominantly male environment.*

Lawyers with stay-at-home spouses often have little appreciation of the needs of lawyers with employed spouses. “[I]t is really ‘ignorance is bliss.’ . . . [I]f they have a stay-at-home wife, they don’t really understand how difficult it is to try to truly balance it all,” noted one woman attorney. As Harrington and Hsi commented, “The traditional division of family labor is strong among attorneys in law firms.”<sup>18</sup>

### ***Use of flexible work arrangements***

Flexible work arrangements (FWAs) are a key source of support for employees trying to strike a work/life balance. For the purposes of this study, FWAs were defined as: “[A]ny alternative work arrangement in which you work or have worked full-time or part-time hours on a flexible schedule—e.g., 7 a.m. to 3 p.m.—and/or telecommuted—e.g., 3 days in the office, 2 days from home—**on a regular basis.**”<sup>19</sup> The range of responses we received with regard to FWAs indicated that some New Jersey law firms provide more support than others provide.

*The firm offers flexibility as needed. The key is to be there when needed, get quality work done, and meet/exceed billable hours standards with quality work (e.g., limited write-offs). I have had excellent career progression. I took a four-month maternity leave. Worked 12 months part-time and a year later was elected an equity partner. I am on a firm-wide committee and my work and client generation activities are supported.*

*I am currently pregnant, and have great concerns about returning to work with an infant at home. If I could go back, I would not become a lawyer because I think the profession is too demanding. I am very discouraged as a young female attorney and have many friends who have left the practice of law after having children. I hope to eventually find a job in which I can be happy without sacrificing my commitment to my family.*

The vast majority (96.4%) of NALP-member firms in the Northern New Jersey/Newark area have part-time policies.<sup>20</sup> Our survey responses showed mixed perceptions of the effectiveness of those policies.

Some legal employers have very good part-time policies that are well implemented.

*The ability to work part-time has been a blessing (20 hours a week). Along with this flexibility I get to handle very interesting and challenging legal issues and matters. I am learning a great deal with my current General Counsel. [I am Associate General Counsel.] He understands that*

*family comes first but knows that I am a diligent worker who will meet all my deadlines and produce high level results even if I have to do it from home.*

A few firms have provided flexibility through cultures that do not emphasize face time.

*My firm does not have policies specific to [work/life balance]. Instead, the firm culture is founded on the principle that we are all professional adults and that, as long as our work commitments are being satisfied and our clients are pleased . . . each attorney has the flexibility to manage work/life balance issues. For example, I am not able to arrive until 9:45 each morning because my son's nursery school does not begin until 9. No one in the firm questions my arrival time because I remain at the office (or take work home) as needed to fulfill my workload commitments.*

On the other hand, some respondents perceived their firms' policies as more theory than practice.

*My firm does not support any long-term flexible work arrangement. I wanted very much some flexibility in my work schedule, especially since I live very far away. I would have preferred coming in very early to avoid the traffic and leave earlier. However, I know it's not possible. A question was once asked of our managing partner at a town hall meeting if the firm would support flexible working hours. He just laughed and said "no." I never asked because I fear of what will be said to me.*

*I want a flexible arrangement, but I know it's not possible here.*

*Because there is no flexible work arrangement at my firm, I have considered leaving this firm even though I believe that long-term this firm is good for my career and a great place to work.*

*The firm I was with at the time was not amenable to a flexible schedule, and so I left.*

*I never asked [for a flexible schedule] because I fear what will be said to me or how it will affect my career. Instead, I will be searching for a job closer to my home.*

*Attorneys who have asked for reduced hours . . . have been denied such options. As a result, they have all left the firm.*

Surprisingly, almost half (49%) of the female respondents reported using FWAs in their current employment. The responses showed a clear trend in the increasing use of FWAs. Of those using FWAs, 48% work part time, 39% work full time and adjust their daily hours, 31% have used leave, and 18% work full time but not traditionally (e.g., they regularly work from home). Twelve percent said they used a different type of FWA, including "general flexibility in schedule, no set schedule required," "adjust work hours during school vacation and summer," and "informally working from home as needed." Two attorneys who did not need to reduce hours but did need flexibility commented:

*I am the primary breadwinner, and for me to go out and open my own firm knowing that we rely on my check to pay the mortgage was a scary prospect. So it is more about the flexibility . . . [I]t*

*is about having those opportunities, not so much working part time because my schedule is not part time.*

*I am the primary breadwinner of my family and . . . I want to raise my family in nice, comfortable living. I have two kids, and I want to put them in college at some point, and I don't feel that I am financially able to do less than full time. . . . I would like to see some of the discussion [cover whether] full time is also a viable option for a woman to advance and retain and still be able to deal with her family life.*

Respondents who worked part time had schedules that varied widely from 8 to 40 hours a week, although most worked 28 to 32 hours a week. Full-time flexible schedules also varied. One pattern often used by women who work full time is to leave work in the late afternoon to attend children’s activities and spend the evening with their families and then to work from home later in the evening.

*I have a good deal of control over my own schedule barring court motions and trials. I therefore often leave work to go to my children’s athletic and school events and then log on remotely from home after the kids go to sleep. . . . I get a good deal of work done between 10 p.m. and midnight and it allows me to be at events that other working moms miss.*

Of the 51% of female respondents who had not used FWAs in their current employment, when asked “why not?,” 46% said they were not interested, and 15% said they feared the consequences for their careers. The remainder cited a variety of reasons, including “[I]t is clear it would not be approved,” “No need,” “I don’t qualify,” “Too busy,” “Too new,” “Not willing to make financial sacrifice while still carrying full work load,” and “Programs not designed for and are generally not used by male employees.” It is clear that FWAs are becoming more commonplace in the legal workplace given the variety of FWAs described by respondents and the relatively small percentage of women citing concerns that such arrangements would have negative consequences on their careers.

We asked respondents who work in FWAs at their current employers why they chose to do so; their responses are detailed in Table 3.

**Table 3: Reasons for working in FWAs at current employer**

<b>Child care</b>	<b>Control work hours</b>	<b>Vacation/travel</b>	<b>Elder care</b>	<b>Health</b>	<b>Spouse wanted them to work less</b>
64%	21%	9%	9%	8%	8%

Most female respondents who used flexible work arrangements in their current position did so to have more time with their children (64%).<sup>21</sup> The specific circumstances sometimes emerged in comments, including:

*Learning issue with child*

*Provided transportation for a child who otherwise could not have remained in school and would have been at risk (1 academic year)*

*[C]hild with chronic illness*

The second most common reason for using FWAs was a desire to control working hours (21%). Relatively few respondents used FWAs for elder care (9%) or for personal health reasons (8%).

***Flexible work arrangements as recruiting and retention tools***

As has been well documented elsewhere, well-designed flexible work programs are effective tools for recruiting top talent and for retaining valued lawyers in whom the firm has invested.<sup>22</sup> This study confirmed that respondents tended to leave employers with ineffective work/life balance policies in favor of employers with more effective programs. Specifically, they reported leaving employers that discouraged use of leave and flexible scheduling for firms where the work culture was more supportive of those arrangements.

Data from the survey support this conclusion. Female respondents who changed employers presented an overwhelmingly negative view of the extent to which their prior firms inhibited the use of various FWAs. Over 70% of female respondents disagreed with the statement that their former firms “supported the use of regular full-time alternative schedules, such as working from home one day a week.” Over 60% of female respondents disagreed with the statement that their former firms “supported the adjustment of regular working hours, such as leaving work for time with children and then resuming work later.” Over 64% of female respondents disagreed with the statement that their former firms “supported part-time schedules.”

In contrast, female respondents gave very different reports of the extent to which their *current* firms supported the use of FWAs. The group of respondents who answered questions about their current firms included both those respondents who had changed jobs since 2002 and those who had remained in the same job, indicating that support for the use of FWAs may be a factor not only in recruiting laterals but also in retaining lawyers. As shown in Table 4, the percentages of female respondents who disagree that their current firms support the use of various FWAs is only a third to a half of those who reported such support in their former firms.

**Table 4: Current and Former Firms’ Attitudes Toward FWAs and Leave**

<b><i>Disagree that the work culture of the firm supports:</i></b>	<b><i>Regular full-time alternative schedules (e.g., telecommuting one day a week)</i></b>	<b><i>Regular full-time adjustment of daily work hours (e.g., leave early and resume work later)</i></b>	<b><i>Part-time employment</i></b>	<b><i>Use of leave</i></b>
Prior employer	72%	62%	65%	39%
Current employer	36%	20%	23%	13%

Similarly, the lawyers surveyed were more likely to move away from firms where they felt that using leave and flexibility programs would have hurt their careers towards firms where using such programs would not hurt their careers. As shown in Table 5, nearly two thirds of female respondents agreed, many strongly, that working an alternative full-time schedule (e.g., telecommuting one day a week) would have hurt their careers at their prior employer. Nearly two thirds also agreed that their careers would have been hurt at their prior employer if they adjusted their hours (e.g., by leaving to care for children and resuming work later). Seventy percent agreed that their careers would have suffered at their former employer if they had worked part time. Finally, 56% believed that, at their former employer, taking leave would have hurt their careers. The percentages of female respondents reporting that their career would be hurt by the use of FWAs at their *current* firms (again, a group composed of both those who have switched jobs and those who have not) were dramatically lower.

**Table 5: Career Impacts of Using Flexible Work Arrangements or Leave at Current and Former Firms**

<b>Agree that using this program would hurt my career:</b>	<b>Regular full-time alternative schedules (e.g., telecommuting one day a week)</b>	<b>Regular full-time adjustment of daily work hours (e.g., leave early and resume work later)</b>	<b>Part-time employment</b>	<b>Use of leave</b>
Prior employer	65%	64%	72%	56%
Current employer	41%	33%	49%	31%

One comparison between former and current employers provided further evidence that respondents moved away from firms where they felt they could not access FWAs without penalty: Only 19% of female respondents had used FWAs at a former employer, whereas 49% had used FWAs at their current employer.<sup>23</sup>

Additional survey data underscore the finding that FWAs enhance employers’ ability to retain and motivate women lawyers. Forty-six percent of female respondents said their current firm’s flexible work program positively affected their decision to remain in their current job. One quarter said their employers’ flexibility programs increased their involvement with their firms. When asked whether they expected to be with the same firm in five years, some respondents’ comments shed further light on the connection between work/life issues and retention.

*Yes [I expect to be here in five years]. I like my hours and have been here 20 years. If something comes along that would allow me to work part time, I would take it. Otherwise, I will probably stay.*

*Yes. They provide flexibility, opportunity, and excellent benefits.*

*Yes—I would never dream of leaving. I don’t know if I would find this level of support and flexibility anywhere else.*

*Yes—wonderful group, supportive female practice group leader, excellent flexibility, opportunity for advancement and business development.*

*Yes. The firm offers me competitive compensation, a relaxed work environment, support in my business development activities, and flexibility when I need it to address family-related issues.*

*With a child in daycare, and the length of my commute and that of my husband, working 7:30 to 3:30 was the only way my husband and I could both continue to work. This way, I could be at the daycare to pick up my son before it closed at 6:00 p.m. It was that or quit my job altogether.*

#### *Compensation for part-time work*

On a national level, best-practice firms pay part-time attorneys a proportional salary for proportional work.<sup>24</sup> In this study, survey and interview data showed that attorneys who worked reduced or part-time hours were more satisfied with their firms when they felt their compensation arrangement was equitable. One interviewee who managed the compensation component of her firm emphasized the importance of equity when discussing the process of developing their part-time compensation policy:

*We have struggled with this because we want to get it right. . . . We know it is very important, and our numbers of attorneys on reduced-hours schedules are increasing. . . . Getting a fair policy will be important for them and for the partners who are on the [compensation] committee.*

While a majority of respondents (57%) were either “satisfied” or “very satisfied” with their compensation, some survey respondents indicated that part-time work was affecting their pay:

*They penalize you for part-time status by a disproportionate reduction in salary versus hours worked and no compensation for hours beyond target.*

*It has been made clear to me that the partners are not happy with my arrangement, and they would prefer I resume work full time. I am paid less than others similarly situated based on my flexible work arrangements and not based on the hours I work or the money I generate.*

*[I pay an] actual 5% penalty for part-time status.*

*I have not been paid as much as others in the same position in an effort to discourage me from continuing my current flexible arrangement. I think an analysis of the hours and bills will show that even though [I work four days in the office and one day from home] I produce just as much work and profit for the firm as others who work full time.*

Proportional compensation should include proportional bonuses as well. Two thirds of survey respondents reported that they remained eligible for bonuses when they worked part time, while 12% reported that part-time workers were precluded from bonuses entirely.

On a national level, most firms provide either full or proportional benefits for part-time lawyers.<sup>25</sup> In New Jersey, 15% of respondents said their current firms provide full benefits for part-timers; 11% said benefits were pro-rated according to part-time attorneys’ schedules; and 10% reported that their

employers did not offer benefits to part-time workers. (Fifty-eight percent did not know whether part-time workers received benefits, and the benefits at the firms of the remaining respondents had various other arrangements.)

An additional piece of the compensation picture for part-time lawyers is the mechanism by which firms compensate them for working extra hours. For some firms, that mechanism is a “look back” provision in the event that a reduced-hours attorney ends up working longer than the agreed-upon schedule. For example, at the end of the year, the lawyer’s proportional pay will be increased to match the proportion of a full-time schedule he or she actually worked the year before. Only 8% of respondents said that their firms had a look-back provision, although an additional 39% said that they were compensated financially through a bonus (with no guarantee that they would be paid for all the additional hours worked). Another 3% of respondents said they could take off additional hours.<sup>26</sup>

Schedule creep—the tendency of part-time hours to creep back up to full-time levels without a corresponding pay increase—is cited in earlier research as another reason that attorneys choose to leave law firms rather than reduce their hours.<sup>27</sup> In this study, only 11 respondents answered with usable data when asked whether the number of hours they are scheduled to work is the same as the number of hours they actually work. Of these, three indicated that their agreed-upon hours and actual hours were the same. Four said they worked five to ten hours over their agreed amount on a weekly basis. The remaining four said they worked more than ten hours above their scheduled hours weekly. Due to the low number of responses in this area, the data in this study do not support any conclusions about the status of schedule creep among respondents.

### ***Stigma***

As has been noted in many other studies,<sup>28</sup> stigma is a major reason attorneys who struggle with work/life balance leave their firms rather than change their work schedules. Stigma can take many forms, including receiving only undesirable work, losing mentor relationships and business-development opportunities, being snubbed or subjected to snide remarks by colleagues, losing one’s office or secretary, or being forced to change practice areas. Stigma can also be created by structural aspects of a firm’s flexible work program, such as removal from the partnership track, a salary that is proportionally less than one’s schedule, loss of benefits, and ineligibility for bonuses.

Survey data on this topic were relatively encouraging. Nearly three quarters (71%) of female respondents reported that their use of FWAs had had no effect on the way members of their firms viewed their abilities and commitment to the firm—a direct contrast to earlier studies and an indication that New Jersey firms may be incorporating FWAs into the fabric of their organizations. The survey responses contained many examples of lawyers who are thriving under FWAs that offer ample opportunity for professional development and high-quality work. When asked about the long-term career impacts of working flexibly, we received some reassuring responses.

*[My FWA] keeps me happy and committed to my work.*

*It enabled me to spend an entire day with my child, which is precious, while staying a productive member of the firm's work force.*

*[I]t is typical for attorneys in my practice group to have flexibility as needed.*

*My ability to leave when I want, work at home if I wish, come in later and/or leave early has allowed me to continue to work full time despite being a single mother with a toddler.*

*My ability to work part time has allowed me the opportunity to be both the mother and the lawyer I have wanted to be. My career has not suffered because my firm ensures that I am given the resources to do it successfully.*

*I don't think that it has had any [negative effect]. I joined this firm with the understanding that they were not looking for someone to work long hours, because I was not that person, or rather, was no longer in that stage of my life. The firm, moreover, is very much "work/family balance" oriented. We work hard and do our jobs, but our families and other social/community obligations [are] understood to be an integral part of our lives and are respected.*

*I am a full-time lawyer in private practice with a young child. I do not believe my need for flexible work arrangements had a long-term impact on my career. I have worked flexible hours, as needed, in order to address family issues. For example, I left work early, for several months, when my mother was in rehabilitation from a knee replacement surgery. Other women at the firm work 80% so that they can be with their children in the later afternoon/evening without negative impact.*

Survey comments also highlight that the availability of non-stigmatized FWAs is important not only to lawyers who currently use those arrangements but also to younger lawyers who expect to use them in the future.

*As a female attorney at the beginning of my career, my greatest fear is the day that I will have to choose between my working and starting a family.*

*I have not worked on any flexible work arrangement. I am a 6th year associate with no kids. I do, however, hope to work part time when I do eventually have kids.*

*I . . . used to be concerned that I would never be able to see the kids I want to have one day, considering that my work schedule, on a good day, [is] from 9–7, and frequently much longer. Basically, I envisioned only being able to drop them off at daycare, and then come home to see them sleeping in their cribs. However, I was recently hired at an amazing law firm with very progressive policies on flexible work arrangements. I now have a lot more hope that I can one day juggle work and family. I don't really expect to make equity partner, though. . . .*

*I am very apprehensive about starting a family in the near future and the effect that will have on my career. . . . I do not feel that it is possible to advance my career in private practice if I worked a flexible schedule.*

*No need yet, but would fear consequences for career.*

*I am . . . a litigation associate and I am not married, so for the most part I have just been one of the guys on my way coming up the ladder and I am terrified of what they will think once I am married and I need maternity leave and all that stuff. That is something that scares me because we have only [two] women that are part time in our firm and not that they are dismissed in any way, but I just don't see them count as much. . . .*

Some residual stigma was evident in survey responses. Twenty-three percent of female respondents stated that their decision to use FWAs has negatively affected how others view them and their commitment to the firm, and 15% reported that they did not use FWAs because they feared negative consequences for their careers. Importantly, these respondents were speaking of their experiences at *their current firms*—which, as shown above, were generally viewed to be more supportive of FWAs than were respondents' former firms.

The question “What long-term impact has your flexible work arrangement had on your career?” elicited a flood of comments, including “[N]o promotion,” “No chance of promotion,” and “Viewed as not eligible for partnership until recently.” More detailed comments include:

*I felt I could not continue it because there was no support from above—in fact, I was taken to task. I felt that it was not worth “rocking the boat.”*

*At my current firm I made partner as a part-time attorney. However, much of my success has been due to my very high origination—if that was not present I clearly would not have advanced in terms of pay and “equity” status.*

*I love the autonomy and ability to plan my hours. . . . I love that this firm has a decent amount of mothers who work part time. However, I do feel as if it will set back someone's career to a certain extent.*

*Both the law firms I have worked at part time have made it clear they will not consider making anyone partner/shareholder while they are on an alternative work schedule. These firms are both AmLaw 100 firms and the pressures are intense to maximize profits per partner, etc. . . . Neither firm has had a concise, written, uniformly implemented policy for flexible work schedules, instead leaving the crafting of each schedule up to the individual attorney and approval up to the discretion of supervising partners and management. The message at both firms has been clear: you cannot have it all.*

Some comments highlight a common pattern: Even within a single firm, part-time workers encounter stigma from some partners or practice areas but support from others. For example:

*My health law colleagues are great about it, and my firm has a pay-by-the-hour arrangement in place for me (which is the ultimate in flexibility), but outside my department I would say that maybe 1/3 of the partners don't get it. Unfortunately, they are the 1/3 with the most clout.*

*Some partners are better to work for part time than others.*

*Our programs appear to be department-specific. . . . There's no firm-wide policy.*

*If I didn't have a very valuable skill set I probably would have been let go. Within my department my arrangement has had no negative impact. Outside my department there are many who think that I am not "serious," or sufficiently devoted to the practice of law. It has adversely affected the ability of my department to hire extra help—the response always is: ["W]hat about her—she isn't working to full capacity.["]*

The most common form of stigma reported was that going part time cut lawyers off from partnership. As is discussed in more detail below, fully 44% of respondents reported that associates could not make partner at their firms while working part time.

*You can achieve your short-term goal of working part-time, but it will at least temporarily—and possibly permanently—derail your career advancement.*

*My part-time work status is great but for the fact that there is no opportunity for partnership despite satisfaction with work product and client service.*

*I feel as though I am viewed as someone who cannot commit 100% to getting a job done. . . . The general culture is that the flextime associates are not really true lawyers (litigators in particular).*

*At my current firm there are no part-time partners, and it has been made clear that I will not be considered for partnership until I become a full-time attorney. The current arrangement works for me with my lifestyle and my family. I have three children, from elementary through high school, and right now I need the flexibility to be more available for their schedules. When the youngest is in high school I expect to go to full-time status. I am happy to have the flexibility and options that I have, and am not anxious to move into partnership at this time, but am also happy to know that it is a possibility down the road when it works for me.*

Respondents reported feeling only low to moderate amounts of other kinds of stigma. About 17% of respondents reported that the quality of the cases they received was "worse" or "very much worse" after they reduced their hours, while 80% said their assignments were about the same. Only about 5% reported having to change departments after they went part time.

### ***The effect of flexible work arrangements on promotion***

When female respondents were asked, with respect to their present firms, if an associate can make partner while working part time, more than half (54%) responded that they could. The number dropped substantially, however, when the element of "family reasons" was added to the question. Only 37% of respondents agreed with the statement "The culture of the firm supports flexible work arrangements for family reasons without adversely affecting promotion." That number dropped even further when female respondents were asked about their own careers: Only about 18% of respondents who were

working part time said they expect to be promoted. (Approximately one third did not expect to be promoted, one third did not know, and the remainder did not answer.)

The survey then changed the focus from whether a part-time lawyer *could* be promoted to whether a part-time lawyer actually *had* been promoted at the respondent's current firm in the last five years. Slightly more than half of respondents answering the question (52%) said no part-time lawyer had been promoted during that time period. Slightly more than a third (35%) said one part-time lawyer had been promoted. Only about 14% said two or more part-time lawyers had been promoted.

### **Summary**

Survey data outline clear factors that influence women lawyers' choices to remain in or leave their firms. The results show that some firms have made significant progress in the legal workplace with regard to attracting and advancing women lawyers. They also demonstrate that many women lawyers will choose to leave unsupportive employers for those firms with better policies when given the chance.

## Why Women Lawyers Stay: Conversations with Successful Women Lawyers

*I am on a part-time schedule and have been for the last eight years. [M]y career has gone a long way to the top. . . . I have had the benefit of excelling in my field as well as seeing my kids and being heavily involved in their lives, so to me it has been the best of both worlds.*

*I really feel that [my firm] has allowed me to flourish. To look around here and see there is a critical mass of women who have been successful here for more than twenty or twenty-five years, and to see people who are getting promoted who have little kids and have managed to do that, and to feel supported myself and to be able to have flexibility and opportunities that I feel that I need, to have a future that is like this.*

Successful women lawyers who work in New Jersey law firms participated in interviews designed to gather information about why they are successful and whether their success can be replicated by other women lawyers. The women we interviewed are successful by traditional measures: They have been with their firms a long time—some for 20 or more years—and have earned their own clients and a reputation for excellence in their practice areas. They are also successful by a more personal measure: They are satisfied with where they are in their careers and their personal lives.

How have their experiences been different from those of other women lawyers who feel frustrated and disillusioned? What have they done, received, or learned that has allowed them to be successful? Researchers asked respondents to describe their career paths, identify the factors that contributed to their success, discuss work/life issues, and provide advice to others seeking success.

One theme common to all our interview responses on this topic was hard work. Every woman lawyer we interviewed described how hard work had laid the foundation for her eventual advancement, helping her to build not only skills and experience but also credibility and a reputation for being able to get things done. Yet many women candidly admitted that hard work alone is not enough to get ahead. Women lawyers, they said, face obstacles that men do not.

*Here, they definitely look for men for advancement over women. . . . It is definitely still a man's world, and there is definitely still a glass ceiling.*

*The guys I work with work very hard, but they are accepted far more easily. They can make a couple of mistakes, and they get, "Ah, he's a good guy." Women make a couple of mistakes, we are criticized, and you're held back for it. . . . There is absolutely a different standard.*

These comments reflect that working hard and doing one's best does not inevitably lead to promotions and rewards. Yet the women we interviewed persisted because of their love of their jobs and other motivators for success.

Several of the women lawyers in our study had strong women role models early in their careers:

*I think that a lot of the success that I have today is a direct result of women role models. The judge that I clerked for was a woman. I worked for a woman partner here for many years who was an accomplished woman attorney in her field and an accomplished rainmaker in the sense that she was responsible for a very significant client for the firm. And I also worked on site at a pharmaceutical company with a client of the firm, and the client of the firm was a woman general counsel at a pharmaceutical company, and for me that has had a huge effect in providing very valuable guidance and insight into how to manage. I have a daughter who is going to be two, and it has taken quite some time to get to the point where we have kids, but it really has been very valuable to me to have women role models in the profession who have helped me, even before I had children, to figure out how to sort of balance everything.*

*[I met] a dynamic female attorney from this firm who I spoke to at great length about what she did and the career path she took, and I was just . . . She just knocked my socks off. . . . I was so impressed with her that it was a no-brainer: I wanted to be her. Whatever she had done, I wanted to be close to her. I wanted to be her. So two weeks later, I was working here at this firm because of her. She is a working mother, and she was making it all work, and she was an incredible attorney, very impressive.*

Several also had mentors:

*I can also look to men attorneys who have invested in me and guided me in becoming a good lawyer and becoming a good business developer, and there's a man here who is a partner who I worked quite closely with who was instrumental—critical—to me in teaching me how to manage expectations with clients, teaching me the business of the practice, which doesn't get anything from law school.*

Success does not mean striking a perfect balance between work and home. With respect to work/life issues, most reported a sense of struggle, of doing the best they could with the resources available to them.

*Child care is the biggest nightmare for a working woman, period. I had different babysitters and . . . I had au pairs for a while. So, to try to juggle a lawyer's working schedule, to be home to relieve the babysitter—even now, when it comes to after school, the babysitter runs my life. I am apologizing to my babysitter while I am speeding home last night because I had a major tax issue, and I was at my tax partner's office for another 45 minutes, and I couldn't get out.*

*I am constantly feeling like I have to jam 34 hours into a day.*

Many of the women we interviewed reported that they have a supportive husband who shares child care and chores. Yet almost all the interviewees reported a substantial difference between the experiences of male attorneys and female attorneys: The men tend to have wives or partners who handle all of their family-related needs, whereas women do not.

*Even some of the younger partners here, their wives . . . are home. Some of their wives work—don't get me wrong, some do—but most of their wives are home.*

*For male colleagues who have stay-at-home spouses, I think they have a more open and free schedule, although I think a lot of males in our generation, especially professionals, are just as involved in their kids' lives as their wives, and most of them have stay-at-home wives, so most of them don't have those same situations where they have to juggle.*

*If I look at most of the men at this firm who are married, they all have stay-at-home wives, all of them, and I'm a firm believer that behind every good man is a good woman. And so I think that is our difference is that women have to be everything to everyone at all times. They are moms, they're dads, they're attorneys, they're accountants, and they are everything. A lot of men can come to work and can just focus on work.*

*Almost all of [the men] have wives that don't work. There are men here that say to me, "I was up at 5 a.m., and I worked out for an hour." And I look at them, and I say, "Well, I was up at 4:30 a.m., and I got this ready, and I packed all the lunches, then I got everybody clean and dressed, and then I got them all to their schools, and I still got here at the same time as you." I mean, it is great that you went for a two-mile run, like "don't I wish."*

While many successful women lawyers had firms that supported work/life balance, some did not. A handful of women made their success by following traditional male patterns—working traditional full-time schedules, either not having children or relying on others who played active roles in raising their children. Other women had very supportive firms, which they believe made their success possible. Some reported that they were able to work flexibly on a full-time schedule, usually after they had established their reputation as a hard worker and their value to the firm.

*I have always worked full time. . . . [I] work in a very flexible group, and if people have proven themselves, it is flexible to the extent that it can be, and I have really had to take advantage of that in between caring for two kids, and there have been a lot of times that I needed that. . . . I work from home, pretty much every night for an hour or so, and I work from my home frequently early in the morning or on the weekends, and I can do that because we have really good systems for that technologically. . . . I couldn't do this work if I didn't have the ability to do that.*

*My firm has been nothing but supportive in my decision to be a full-time attorney while raising a child, and when I need to leave, I need to leave. . . . [M]y managing [partner] is an incredible mentor, and he is a strong believer in family, and it is important to him that I am happy.*

*What I really needed was that informal flexibility and to work with people who know that I am working full time, and I need significant flexibility to do that. I will work the hours, the work will get done, it will be done in a timely way, and it will be done really well.*

Others were able to work part time without any negative repercussions on their careers.

*I know that I have discussions with some of our clients, and they think it's great. I think they look favorably on our firm because it's an opportunity, and it works, and we don't miss a beat, and everybody likes to be progressive, and we have a pretty progressive thought process. . . . There has never been a time where something couldn't get done that needed to get done because of a life balance. . . . Again, it works here because the partners don't put themselves on pedestals. I mean, if I can't cover something, I do a lot of work for [name deleted], and he covers it, and it is not an issue. He knows I sort of torture myself to be able to not have to ask him to cover, so if I say to him that I need it, he knows that I have done everything possible. It is no different than a lawyer who has two depositions to cover: Something has to give. But those situations are very rare . . . where something can't be covered.*

One managing partner of a firm with supportive work/life balance policies described the firm's women's initiative, parental leave, and gradual-return-to-work policies as well as a flexible work program that includes reduced hours. Equally important, the firm has established a supportive culture:

*The other thing is there is an attitude here, you didn't punch a clock, you are a professional here, and the truth is . . . that face time isn't necessarily that important. . . . Business has grown by \$40 million over the past four years . . . and we have doubled our profitability. I think that is due in part to the attitude that we treat you like professionals, and so the women understand that here. It is a unique culture element where they are not required to be here on a Saturday or Sunday simply because the senior partner is going to be here.*

A few others seemed to achieve success in spite of their firms' lack of support in achieving work/life balance, as illustrated by this woman lawyer's experience:

*So I'm on a reduced schedule, partner schedule, and I feel like I'm working full time. . . . I spoke with a woman attorney who was counsel [who] left to become a reduced-schedule partner at another firm. She would not get advanced here toward counsel. None of our counsel have gotten advanced with a reduced schedule. . . . [It was] made pretty clear that it wouldn't be welcome if somebody came back if they had a child and said, "Oh I want to be on a reduced schedule." That wouldn't receive a warm reception in [this] office. With that being said, we do have a reduced-schedule attorney who has a special arrangement . . . I think he's counsel. And he has a very a la carte schedule. [W]e have a poor track record for advancing women. We've had a lot of reduced-schedule women leave.*

What follows is a compilation of advice these successful women lawyers would give to junior lawyers.

## Advice

### ***Know what you're getting into.***

Several interviewees have known people who became lawyers because they didn't know what else to do, and many of them ended up miserable because they did not understand the demands of the legal profession. They advise new lawyers to research both the law and law-firm life.

*You should try and work at a law firm to see what it is all about. And then if you decide it is what you want to do . . . [O]ne of the things I think a lot of the younger lawyers do is that [they] don't realize how much work you have to put in early on.*

*I think they [new female associates] should go in with their eyes open and realize that it is still a boys' club, and if you want to be successful, you have to play a lot of the game, work full time and get your name out there. It takes a long time to develop business, but these are the things you have to do to be successful. You have to work hard, you have to be smart. Just go in with your eyes open and realize it's not television.*

### ***Have a plan.***

Few of the women interviewed left their careers to chance. Most had known where they wanted to be professionally from the time they finished law school, and their career decisions were made carefully to ensure that they brought the women closer to their goals. Our respondents advise new lawyers to not only know where they're going but also to know when they want to arrive:

*I would tell a young woman: Have a long-term plan. . . . Knowing what you want and having a timetable will definitely be helpful for your career path.*

*Establish your own values early on, kind of map out what you want in your life. Do you just want to become a partner? Do you want to have work/life balance? What is it that you want to do? If you know that early on, you might want to tailor your career in that direction. . . . You have to think about long term. No matter where you are, you should always have a five-year and a ten-year plan.*

*Figure out what you genuinely want out of your practice, what lifestyle you want to lead.*

### ***Work hard and well.***

While hard work alone does not ensure success, virtually all of our interviewees agreed that hard work is a necessary ingredient of achievement.

*[My success] is attributable to just hard work as much as anything else. Keeping my eye on the ball and just working as hard as I can and as best as I can.*

*I have worked hard, I have been loyal.*

*Do your best, and try really hard, and learn as much as you can. Know that if one opportunity doesn't work out, there are a thousand more.*

*I think [I am successful] because I work very hard. I don't get any breaks or special considerations. . . . I learned to prioritize, and you have to have basic organization skills.*

***Develop strong interpersonal relationships.***

A key piece of advice most interviewees would give young lawyers is to build personal connections both inside and outside their firms. These connections can serve dual functions by helping to advance careers and to develop business.

*Everything is based on personal relationships, whether it's with clients, whether it's with business, who you like to work with, who you get along with, mentor/mentee relationships . . . . There's so many lawyers who want formal mentors assigned because they think that's going to kind of be the magic bullet that's going to help them get from here to there. It doesn't happen that way. It's based on personal relationships. And it's whether you just put it off or whether you work together or form this relationship over the years. . . . And I don't mean that you have to become one of the guys and take up golf. That's not going to get you included in the golf outing. Or you don't have to start drinking beer to become invited for drinks. But again, it has to be people that they are comfortable with you. You found some kind of common ground, whether it's on the business basis or professional basis, or you are talking about your kids, or you both coach a team. Whatever it is, there has to be sort of personal connection.*

*I know a lot of other women, for example, that work through lunch every day so that they can get out in the evening, but again going out to lunch with people, making small talk at lunch—that's sometimes where those relationships are formed. . . . And I've actually talked to some women that do work part time, and they feel very disconnected. They feel very frazzled in their careers, and part of it is because they're always rushing to get into the office. They're rushing to get out of the office. They're staying at their desks the entire time, and they don't take that time to become involved in the firm culture, and then they realize: "I'm not being asked for a new case. I'm not being asked to sit on this committee. Everybody forgets about me when it comes time for whatever." Why is that? You need to sometimes have a step back and think. You have to focus on developing those relationships.*

***Look for people who can point you in the right direction.***

Formal and informal mentors are extremely important. But many people struggle with how to find those special people. One partner emphasized that associates need to develop relationships with partners:

*[W]hen I became a partner, I quickly learned that it's not a male or female issue, but it's relationship driven. You know, there are things that I know as partner that associates or counsel make assumptions about that aren't correct, and it depends what my relationship is as to*

*whether associates or counsel get guided appropriately, and it's not a male–female issue, but it's a matter of relationships, a comfort level. . . . I definitely think that there is some truth to this [idea] that people do want to—do find comfort in people who are similar to them.*

*I had another associate, when I was a brand new associate, who would work with me, help me with my work, review things, befriend me, explain some of the ropes and politics, anything you need to know in any organization, things like that.*

*I think what you need to do is to take another way around it because there are so many successful women out there, so many, and I think what somebody needs to do is to align themselves with a mentor. What is it that they want to do in their life? And then find a woman that has done that—because clearly there is somebody who has done that—and follow their path. Introduce yourself to them and find out what it is that they did that worked and what it is that didn't work, and sometimes that is more powerful to find out what didn't work than what did.*

### ***Develop business.***

Although having one's own clients is essential to success, client development is a mysterious process for most young lawyers. Most interviewees advised developing a niche practice, which gives lawyers a product to sell. The interviewees were generous with other suggestions for promoting one's practice.

*Understanding the business of law is critical. You can toil for many hours in your office and do great legal work, but you need to have a network, and you need to have a sense of how to develop the skill that you need to market effectively because if you're not an effective developer of business, then your career in a law firm may be short term. . . . [I]t really requires effort at the front end and laying the groundwork to develop the ability to speak well and to make contacts and to market, to be in an organization, to maintain a visible position.*

*You have to understand now that the practice of law is as much a business as anything else is, and it is like selling telephone books: You are going to be selling. You have to have a personality that you don't mind selling, you don't mind selling yourself, your practice, your business, your firm—you have to be comfortable doing all of that.*

*You need something to sell, you need a hook or a specialty, and that is what I have been able to develop. . . . I have developed a network of particularly, in this county, of other women attorneys or other attorneys that have become a tremendous source of referring cases back and forth.*

*Most of your client development and business development comes from what it is that you are passionate about outside of the law.*

*I still laugh when I ask people, "What do you do?" and they say, "I am a litigator." I would never hire you, I don't know what that means, I don't know what you do, and I am a lawyer 10 years, and you're going to tell me you are a litigator? That is a stupid answer. Well, what do you*

*litigate? So we have a women's forum here, and we went around the table, and I said, "Well, what it is that you do?" and five women said they were a litigator, and I said, "well, no one will hire you because no one knows what that means." So I said, "Think about what it is that you love about litigation, taking into consideration that it is our job, what is it about it that gets you excited? And that's what you do. Is it construction litigation? Is it employment litigation?" So I have been fortunate in that I have a specialty, I have a very limited but broad area of practice that I try to become the best at and do the best that I can.*

***Speak up about what you want.***

Many of the women we interviewed felt it was important that the individual take responsibility for their own careers as professionals. Finding one's own voice and being willing to express what one needs for career advancement is critical. Interviewees conceded that women who are demanding may get criticized for not conforming to stereotype, but they felt that should not prevent women from asking for opportunities.

*We have to be honest with what we want for ourselves and . . . we cannot be afraid to ask. Men will ask for things that they have no rational basis for asking for: They are not afraid to ask. Women don't ask, so if you want to be a partner, you have to tell somebody about it: "I see myself becoming a partner by Year X; if I am not on that track, tell me now." [Or,] "What are my steps to get there?"*

*Probably I'm on more committees at the firm, and I'm afraid it is because I've clamored at one point that I wanted to be on more of the committees. . . . I want the opportunity to participate, and I want to be part of the firm's focus, vision, and strategy, but there's got to be recognition and care given to, I think, ensuring that women are given opportunities to be on significant committees but not overwhelmed by that responsibility.*

***Create support at home and in the office to help balance work and life.***

Having a well-thought-out plan for managing your home life and your work is essential, according to the interviewees.

*I am fortunate that I am at a firm that doesn't necessarily require face time. So now I work very early in the morning when my daughter is sleeping, and the minute she goes to bed, I get her ready for the next day by packing lunches . . . . So it is, it's a balance. . . . Many women here at the firm are on my back-up list, and I have a wonderful secretary and paralegal. To be successful, you just need a network of people that surround you and that are as invested in you as you are in them for your success. . . . I have also learned to become a delegator.*

*When my daughter was first born, my husband and I actually moved further south so that we were closer to family because I was very much sort of on the fence about what I wanted to do about child care. I have never been at the point where I felt comfortable about having a nanny at*

*my house. . . I will work early in the morning, and I will work late at night. I don't eat lunch a lot during the day, I tend to just run and run to get things accomplished.*

*I lived close to the office which was a huge, in my view, saving grace, because I was able to do those runs to the school play. My big thing when I started my career was "I'm not going to sacrifice my family and my personal values for my career." . . . So living close by really helped me. My husband was also very supportive, which I think is key in any profession.*

*You just have to make sure you schedule things appropriately, and you know as much as you can about what you have coming up, and when curves come your way, you are able to fit them in and are able to move them. My husband and I are very good about that; we probably don't talk too much, but we e-mail constantly, and when we schedule things, we [let each other know about] dentist appointments and those things. And we plan as much as we can and so when something comes up, you have things covered.*

### ***Be flexible.***

Flexibility, whether working full-time or reduced hours, helped the interviewees address their most pressing needs at the office and at home. Flexibility on the part of one's employer helps, but the women also noted that they had to demand flexibility of themselves as well.

*I think in order to do well, I think you have to have a great skill set and enjoy what you are doing and be flexible.*

*If you are a woman and you have other family issues, be them children or parents, you have to be very flexible, you have to appreciate that work has to get done, and you have to be able to balance in very stressful situations a lot of competing demands and not let anything fall off the charts, but try to keep everything at a basic minimum and then devote attention where needs require.*

*That is the key, that is what these guys don't get, that if you are going to do flex time, it is not every single Friday you want off, it means that you get a day a week off, or there may be no day a week off and then 2 days the following week. So as long as you coordinate your work flow, coordinate your people you are working for, get your schedule aligned, and you see you get the hours off.*

*So I am always encouraging . . . because people say, "Oh, how do you do it?," and I always say, "First of all, some days work better than other days, and you have to be very flexible, and you have to go with the flow, and you have to realize that there are always tradeoffs. There is going to be the day that there is going to be a meeting that you can't reschedule, and that is going to be the same day as your kid's trumpet concert. What are you doing to do?" Obviously it is easier the more senior you are, but with me, I will tell one of my colleagues or my partners that "I am not going to the meeting. You go to the meeting and fill me in. I am not going to the meeting."*

**Be responsive to clients.**

A big part of success, according to the interviewees, is returning client calls and e-mail messages promptly:

*Part of what made me want to be a lawyer was that I understood that when you are at a company and you are getting sued, it may be one of fifty cases your attorney is handling, but is it the most important thing going on? And it is all [you] can focus on. . . . I kind of just made a pledge to myself that I thought I could empathize with clients and what they were going through . . . and could give people better client service just for the willingness to respond as promptly as possible and put in extra work.*

*I don't think our clients know I am part time because I am 100% accessible. Probably because I appreciate the fact that I have this part-time position, I am more accessible than people who are full time because with the added cell phones, Blackberries, and computers, it doesn't really matter where you are at. In fact, I am definitely more accessible than some of the lawyers who go on golf courses because they can't take their cell phones, Blackberries on the golf course, but I can and have taken the cell phone and Blackberry on field trips, and teacher-parent conferences, and waiting in line, and driving. I really haven't missed a beat.*

*We have clients who pay us our rates because they want us to be sort of on call and at their ready, and I am very much of the mindset that I expect that I will be on call and ready, and I always have my Blackberry with me. I am sure my husband wants to throw it out the window.*

*I think it is also helpful to understand what it is to be in the business so that you carry with you into law that we are a service industry. I think the most important thing that you can remember is that you work for somebody, you work for a client, and everything you do needs to be about managing their expectations, making them happy, being prompt in communications, being responsive. They are paying you for the service, you should be at their service, and you need to have the mindset where it is the most important thing in the world what is going on with them in their head. It might be one of X many of cases going, and you may have a lot of other things on your plate, but you should always just stay focused on your client, and if your client calls and you're swamped so you can't get back to them, a 30-second phone call, "I have got your message, I am on it, as soon as I am available, let's set up a time to talk." Just keep getting back to people right away, make it feel like you are giving them the kind of attention they want. . . . You know, it is helpful that you are [a] very smart and creative and aggressive person who can be the devil's advocate, yes, but remember who you work for.*

## What New Jersey Law Firms Can Do to Retain Women Lawyers

Legal employers have as big a stake in their women lawyers' success as do the lawyers themselves. This study outlined factors that influence women lawyers' decisions to leave their employers and discussed the attitudes and policies that help women succeed in the legal workplace. The data revealed that some New Jersey law firms have already begun putting certain practices into place that are designed to attract and retain the best women lawyers. One of the major goals of this study is to provide a list of these best practices to help other firms address this issue.

Although the following best practices in the areas of work/life balance, advancement policies, resources, and removing bias are culled from research on what has worked for law firms and corporations across the country, here they are tied specifically to the issues and concerns raised in this study of women lawyers in New Jersey.

### Assist with Work/Life Balance

#### ***Define the business case.***

*[It] is all part of communicating the firm's [message] so that our young lawyers who happen to be female believe that they are in a family-friendly firm or a firm that understands about work/life balance issues and women's issues, then they are more inclined to stay, even if they are ticked off at some of the things that they do or if they want to tinker with our policies or improve our policies. . . . There is a lot of communication.*

The managing partner quoted here touched on the business reasons for addressing work/life issues. It is clear from our interviews and survey data that some firm managers understand the value of retaining women for their firms' profitability and are working toward that in their organizations. Many benefits accrue to employers that provide effective work/life programs, including:

- Better recruiting: The applicant pool grows in tandem with the employer's reputation for being a desirable employer;
- Greater productivity: Trained and experienced employees are retained, and employees are able to address personal matters outside the office;
- Improved client service: Attrition wanes, solidifying client relationships, preserving institutional knowledge, and increasing diversity; and
- Reduced expenses: Firms save on the expenses associated with recruiting, hiring, and training.<sup>29</sup>

The specific benefits will vary from employer to employer; each firm can quantify many of the benefits after examining its own situation.

There are two main reasons for employers to clearly define their business case for work/life programs. First, it provides motivation for partners, supervisors, and managers to support the employer's work/life

policies. Second, it changes the conversation in the workplace about work/life balance from an accommodation for mothers to a business initiative designed to support the long-term financial success of the employer. The business case becomes a powerful tool when it is paired with information about the demographics of today's workforce (e.g., the divergent interests and expectations of Baby Boomers, Generations X and Y and the Millennials<sup>30</sup>) and when it is communicated consistently and frequently to everyone in the organization.

One managing partner interviewed for this study provided evidence that his firm had a strong grasp of the business case and, as a result, had developed an effective women's initiative and work/life program that allowed his firm to successfully recruit and retain women lawyers. This respondent felt that because his firm viewed these programs as business initiatives that made business sense, the policies that emerged enabled his firm to retain its investment in associate training and to develop business through former associates who left on good terms and went in house.

***Make flexible work arrangements available to all.***

When we asked survey respondents why they used FWAs, a majority (64%) cited child care, but there were other statistically significant reasons as well. They included control of work hours (21%), elder care (9%), health (8%), and others. These responses show that there are reasons for firms to extend the option of FWAs to more than just mothers. A number of firms have extended FWAs to support staff members as well as lawyers with considerable success.<sup>31</sup>

One survey comment highlights the risks of instituting a flexible work policy and then—formally or informally—only making it available for mothers.

*No [I do not expect to be here in five years]. The main reason is lack of control over my life and my schedule, and absolutely no consideration for any commitments I might have outside of work. It seems that lawyers with spouses and/or children are given a lot of flexibility that the single/childless among us do not have. In fact, more work falls on us . . . while those with kids are able to leave at a reasonable hour. . . . I have worked Thanksgiving, Christmas Eve, Christmas Day, and New Year's Eve (on top of working 12–24 hour days).*

Allowing flexibility only to mothers or parents creates several potential problems. First, it runs the risk of being discriminatory. Second, it feeds stigma: A flexible work program available only to mothers can reinforce maternal-wall stereotypes that mothers are less committed than other workers. Third, making children a prerequisite for eligibility for a flexible schedule overlooks the fact that flexibility can be a retention tool for all valued attorneys. Fourth, it may be a source of resentment for lawyers who do not have children, like the lawyer who commented above. Survey commentary from non-mothers also included statements like these:

*I am single and as such I am expected to work more than my married colleagues and I am sure that if I wanted a flexible work arrangement, because I have no spouse or children, it would be frowned upon. . . . Part of the reason I have no spouse or children is that work has had to be a priority and relationships have had to come second.*

*I have been a summer associate at this firm and feel that the atmosphere and environment are a perfect fit for me. The firm is all about lifestyle and thus, I anticipate being able to have children, while still succeeding in my current position.*

*Though I am only 27 years old (single without children), I still find it hard at times to try to balance the other priorities in my life (boyfriend, family, personal time, exercise) with my job. I would prefer to have a flexible work arrangement [and feel that my] productivity would increase.*

***Allow customizable flexible work arrangements.***

*I value [my firm's part-time policy], but that is not what I need. What I really needed was that informal flexibility and to work with people who know that I am working full time and I need significant flexibility to do that.*

Each employee's obligations outside the office are different, so the FWAs necessary to allow each individual to meet those obligations must be equally diverse. The woman quoted above stated elsewhere in her interview that one of the reasons she was originally attracted to her current firm was the more structured part-time policy it offered, but in the end it was the flexibility of her schedule that keeps her at the firm. There are many different types of FWAs that can be used alone or in combination. These include full-time schedules that provide the freedom to come and go or work from home as needed; compressed work weeks in which the employee works full time in fewer but longer days; reduced hours that can be worked in fewer hours per day, fewer days per week, or fewer hours per year; full-time work with some hours worked regularly from another location; and job sharing. It is important to recognize that employees' obligations may change over time (e.g., an employee may have a newborn at one point in time and then have an ailing elderly parent at another). Having the flexibility to change the type of FWA that employees can use to meet these changing obligations will allow valued employees to continue working productively and prevent attrition.

***Have a written policy.***

Some survey responses indicated that respondents were not familiar with the terms of their own employers' flexible work policies. Having a written policy that is available to all employees demonstrates the employer's support for the policy as well as for making the policy fair. Model policies are available online,<sup>32</sup> but it is important for each firm to customize or develop its own policies in cooperation with its various stakeholders and to include in the development process a discussion of the employer's goals and priorities to ensure that the policy is effective for everyone. Several of the managing partners interviewed for this study reported that their firms were in the process of creating written work/life policies and that associates and partners were involved in the effort. While these were often difficult discussions, with some of the women expressing fear that a written policy would have the countereffect of actually limiting their flexibility, the process provided both the employer and employees with a clear understanding of the parameters of the policy.

***Provide proportionality.***

*[One thing that has kept women at the firm has been] the reduced-hours policy. Keeping them on track to be a partner if it's an associate, keeping them on the same pay scale, keeping them on the same benefits—because then they feel that the work that they're doing is just as important. . . . You can't tell someone "We're going to pay you 80%" and then expect them to work 100%, okay?*

Fair treatment is essential to making FWAs work. For those who are working full-time-but-flexible schedules, the issue of proportionality doesn't come into play: They should be paid as any other employee. For those who reduce their hours, it is important to make sure that their compensation — including benefits and bonuses—along with their workloads, assignments, and advancement opportunities are proportional to the hours they actually work.

The concept of proportionality is firmly embedded in the firm discussed by the respondent quoted above. The same respondent also reported that her firm has proportional bonuses: "We couldn't give the same dollar amount because it wasn't the same contribution, but you could give the same percentage so, if it was a 4/5ths attorney that hits 4/5ths of the requirement, they get 4/5ths the bonus, and it was received very, very well."

***Focus on implementation.***

As recounted in this report, a number of respondents noted that their firms did not really have FWAs in practice despite the existence of flexible work policies. To prevent a flexible work policy from becoming just another initiative that can be easily ignored, careful implementation is necessary.

Implementation includes:

- Benchmarking where the firm is at the time the policy is put into effect;
- Periodically reviewing the employer's position with respect to the benchmarks;
- Getting all the key players behind the policy;
- Communicating support for the policy from the highest levels of the organization;
- Disseminating full information about the policy to all employees;
- Creating procedures for proposing and approving FWAs; and
- Providing training for all lawyers on how to succeed in FWAs and how to supervise those who are working in FWAs.

Additional implementation steps include:

- Holding managers or practice heads accountable for making FWAs work;
- Providing an internal database of different FWAs that employees are using and tips the employees have for making the arrangements work; and

- Communicating the firm’s successes, such as recruiting a sought-after applicant because of the availability of FWAs or bringing in a new client that was impressed by the firm’s proactive FWA program.

Careful implementation was clearly evident in the description one respondent gave of her firm’s women’s initiative and flexible work policy:

*They have support from the firm from the top down. . . . The support is literally that they are a recognized initiative of the firm, so it is supported from the time standpoint [and] the time that an associate spends on an event or planning an event or participating in something is recognized as being important . . . it is part of your evaluation.*

The careful implementation described here has resulted in a shift in the firm’s culture toward prizing the retention of good lawyers, supporting FWAs for all lawyers, and seeking inclusion for all lawyers. The firm has seen impressive results in terms of the advancement and retention of women lawyers and other key indicators of long-term organizational health.

***Encourage professional development and provide advancement.***

Lawyers will view flexible work policies as usable alternatives to leaving their firms only if the policies are not viewed as career-enders. Developing and promoting lawyers on FWAs can be very effective at countering any negative perception. Some of the New Jersey firms in this study have done an excellent job with this, with one example creating a publicity campaign around the number of part-time attorneys that have been promoted to partner. This clearly sends the message to both the other employees in the firm and their clients that using a FWA will not be counterproductive to one’s professional advancement at the same time that it demonstrates the firm’s commitment to work/life issues.

An issue that frequently arises in discussions about FWAs and promotions is the schedule on which FWA lawyers should be promoted. The answer depends on the firm’s promotion policies and on the type of FWA used by the lawyer. As with the implementation of FWA policies in general, the key is to make the criteria known and to apply them equitably.

***Monitor flexible work arrangements at the firm level.***

In the ideal workplace, individuals who use FWAs would feel comfortable speaking with their practice leader or supervising attorney when they felt their FWA needed to be adjusted. Some of the women in our study felt it was their responsibility to do so as professionals, and they valued the independence and trust demonstrated in this relationship. Whereas this professionalism and open dialogue was apparent at some of the firms we visited, respondents in other firms did not feel as comfortable speaking to their practice leaders about their issues with their FWA. Twenty-two percent of survey respondents stated that someone at their firm—e.g., a firm-designated individual or a person acting informally—worked with them to develop their FWAs, but only 8% said that someone at the firm has met with them on a regular basis to discuss how the FWA is working for them and for the firm. Firmwide monitoring of FWA programs, whether through practice group leaders’ meetings or through a person appointed to review the policy on a regular basis, can increase efficiency.

## **Monitor Advancement Policies**

### ***Review assignment and evaluation systems.***

Almost a third of our respondents (30%) indicated that one reason they left their former employer was “More challenging work offered at next job.” Those who work in law firms know that assignments are the lifeblood of a lawyer’s career. They affect skill development, networking opportunities, and status. They determine whether a lawyer feels connected to her firm and fulfilled by her work. Ensuring that women lawyers get their fair share of high-profile, desirable work and are given opportunities to work with powerful partners and talented mentors is critical.

A review of a firm’s assignment system should include a check on the gender composition of the teams that are working on the most important matters and for the most important clients. The number of women on these teams should be relative to their representation in the firm’s workforce. Women in our study often cited the importance of mentors in helping them navigate their assignments and discover their personal strengths. Women who are not mentored or are not part of the right social networks when they are new to a firm may not be aware of the dual nature of the assignment system and may not be able to use it to their advantage. One of the human resources managers we interviewed stated that her firm has started to review this issue and is now holding discussions about how best to address it.

Another common theme raised by respondents in interviews and focus groups was the belief that men and women are held to different standards in the legal profession. This issue was addressed in respondents’ descriptions of gender bias in unsupportive work environments. If asked, most legal employers would likely say that they try to be gender-neutral in evaluating their lawyers. Despite these best intentions, however, research shows that glass-ceiling and maternal-wall bias can creep into a legal employer’s evaluation system,<sup>33</sup> affecting compensation, advancement, and even continued employment for women lawyers.

The best way to address these issues is to educate firm members who evaluate others about gender bias. The ABA Commission on Women in the Profession recently published information and materials to use in such training<sup>34</sup>. Several of the firms that participated in this study have already put this practice in place by, for example, having a partner or supervisor review all employee evaluations to look for evidence of bias.

### ***Make advancement policies transparent.***

Advancement is often a mysterious process to younger lawyers. Certainly that is the case in New Jersey, as we have already seen in many of the survey responses featured in this report. A significant number of our respondents reported not knowing if they were on track for promotion, and many did not even know how long their firms’ partner tracks were. Our surveys and interviews showed that the women who were most satisfied with their careers felt they had someone—a formal mentor, their practice leader, or another manager in the firm—they could talk to about their advancement. The interviews

conducted with successful women also stressed the importance of having a “career plan,” and access to information on the advancement process is critical to developing such a plan.

Publishing the criteria for partnership and intermediary positions motivates the organization to thoughtfully set those criteria and promotes a sense of fairness and objectivity in the workplace. It also can help women lawyers ensure that their performance and professional development are aligned with their career goals.

## **Develop Resources**

### ***Make sure women are part of the social fabric.***

*[Y]ou can't be expected to be here everyday from 8 a.m.–8 p.m. One of the things that I always say is that the fact that male attorneys might stay in the office until 6:30 p.m. or 7 p.m., were they still productive at 6:30 p.m. or 7 p.m. or were they simply sitting in somebody's office talking about the Yankees. . . . Don't tell me that you will see me at the end of the day and we are going to have this discussion about this client or this matter at 6:30 p.m. or 7 p.m. at night. No, I need you to do that between my hours of 9 a.m.–5 p.m., we are going to have lunch together, whether it is your office or my office or the cafeteria downstairs, I don't care, we need to do it so that we can do [it] in a timely fashion.*

Some of the female respondents reported feeling isolated within their firms. This isolation can be addressed in many ways. One of the most common practices we found in firms with environments supportive to women was the creation of a women's initiative. The full mission of this group varied from firm to firm, but most included the establishment of formal and informal mentoring relationships and circles, training on how to network and build your client base or book of business, and scheduled socializing (for example, partners and senior lawyers might make time to talk or have lunch with more junior women lawyers). By bringing together women at all levels in the firm, these initiatives can also serve as a bridge across some of the generational gulfs addressed in this study. Several of the study's participants spoke of women's initiative groups as being critical to their advancement, providing career knowledge they would not have received any other way. Other women specifically mentioned the reputation of a firm's women's initiative as one of the aspects that attracted them to the firm in the first place. Having a prominent, widely publicized program for women reinforces the firm's commitment to women and incorporates women's advancement into the culture of the firm. It is clear that these programs can be useful in attracting and retaining the best female talent.

### ***Create business-development opportunities.***

Several female respondents reported that one reason they were likely to stay with their current law firm for the next five years was because they felt their firms supported their business-development activities and that meaningful business-development opportunities existed for them. On the other hand, several discouraged female respondents reported feeling that they were not getting assistance with business development. Furthermore, this latter group felt that their male partners were more likely to share origination credit or business-development opportunities with other male lawyers than they were to

share those credits or opportunities with female colleagues. These reports underscore the importance of business-development opportunities to the retention of women lawyers.

Some of the women interviewed for this study said their firms held events designed to help their women lawyers develop relationships with women lawyers at client companies. One respondent described seminars her firm had held to teach women lawyers about business development and networking. Additional best practices included ensuring that all the firm's partners understood the value of mentoring women lawyers in business development. Such mentoring could allow more women to experience what several of the successful women lawyers interviewed experienced: an established partner of either sex making sure that they knew how to develop business, giving them suggestions and opportunities, making introductions, and giving them confidence. In addition, showcasing the women in the firm can often help with business-development opportunities, especially given the emphasis many clients are placing on diversity. Firms can take note of which rainmaking partners are helping which junior lawyers with business development and either reward those who are helping females as well as males or encourage those who are not to be more equitable.

#### ***Provide technology.***

Participants in our study often mentioned access to technology as critical to their ability to integrate their work and home lives. Comments from survey respondents show the benefits of firm-provided technology.

*Both partners and associates have benefitted from my firm's [part-time] policy. Also, my firm provides technology that allows associates/parents to telecommute.*

*Access to our computer system at home usually makes it possible to be highly productive from home.*

Many of the best-practice firms in this study provided state-of-the-art remote access for their lawyers. In addition to providing e-mail-capable phones, laptops with wireless connectivity, and remote access to the firm's computer system, firms should provide technology training to boost productivity and tech support to keep all the devices in good working order. Ineffective technology systems will undermine FWAs, which require well-functioning systems that enable attorneys working off-site to remain available to their clients. Many of the women in the study reported doing their best work from home in the evenings, either after children were in bed or after other obligations were fulfilled. The importance of access to technology was discussed by many of the successful women lawyers in this study, with several indicating that technology allowed them to be more responsive to clients regardless of their location.

#### **Remove Bias**

##### ***Educate the entire organization.***

Even in the firms with the best practices and policies, our research showed that bias can still emerge in the experience of the individual lawyer. Here is where the role of the top levels of leadership can be very

effective. As one managing partner we interviewed said, “I had an associate say to me, ‘I can’t believe she’s leaving here every day at five to five.’ I said, ‘Is she getting her work done, is she going back on at 7 o’clock at night?’” Supportive managing partners and firm leaders we interviewed often found themselves in the role of educator. They worked with other partners and practice leaders to define the business case for firm policies that support women’s advancement and explained the advantages of a diverse workforce. They held practice leaders accountable for enforcing firm policies, even when those leaders did not agree with those policies. Some of the managing partners we interviewed expressed frustration in this role but were absolutely committed to following these best practices because of the effect it had on their bottom lines—attracting and retaining the best talent in the interest of becoming the best in the profession.

## **CONCLUSION**

Many New Jersey women lawyers are at a crossroads, deciding where the next steps in their career will take them. Whereas women have made tremendous strides in the field of law, there is still work to be done to address their attrition and advancement. It is clear from this study that many women will choose the path that they think will best help them succeed and achieve their goals, even if that means leaving their current employers. This study also outlined a definite business case for law firms to address this issue. Many benefits accrue to employers that provide effective work/life programs; these benefits include better recruiting, greater productivity, improved client service, and reduced expenses associated with turnover. The voices that emerged in this study clearly outline the business advantage of best-practice policies: Women choose employers with these policies and cite them as critical to their own retention and advancement. The greatest asset of a law firm is its talent, so ensuring that the best talent is retained can boost a firm’s bottom line. This study outlined the factors that influence women’s choices to stay or leave their employers, provided advice from women who have made it to the top, and identified best practices for law firms. Armed with this information, law firms can establish and sustain a culture that is supportive to women employees, and women’s retention and advancement in the field can flourish.

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<sup>i</sup> American Bar Association, Commission on Women in the Profession. *Charting Our Progress: The Status of Women in the Profession Today* (2003). Available at <http://www.abanet.org/women/ChartingOurProgress.pdf>.

<sup>2</sup> Keith Cunningham, *Father Time: Flexible Work Arrangements and the Law Firm's Failure of the Family*, 53 STAN L. REV. 967, 970 (2001); see also Randi Lowenthal, *Firms That Fail to Retain Associates Pay High Price*, N.Y. L.J., Sept. 22, 1998, at 5.

<sup>3</sup> By conservative estimates, it costs a firm \$200,000 to replace a second-year associate. Natasha Sarkisian, *Who Says Being a Lawyer Has to Suck?*, S.F. MAG., Jan. 1 2007. Other estimates range from \$280,000–\$500,000. Lisa Gold, *How to Improve Associate Retention: Old Reward System No Longer Effective*, THE LEGAL INTELLIGENCER, Apr. 19, 1999, at 7. These costs include interviewing time spent by partners and associates at the firm, hiring bonuses, lost training costs for the departed attorney, and additional costs of training the new hire. In addition, Thomson West estimates that US law firms are spending roughly \$1 billion each year on training and professional development for their attorneys. THE HILDEBRANDT INST., CHANGING APPROACHES TO LAWYER TRAINING: THE LATEST BATTLEGROUND IN THE GROWING WAR FOR TALENT 4 (2006).

<sup>4</sup> NAT'L ASS'N FOR LAW PLACEMENT (NALP) FNDN., *Women and Minorities in Law Firms by Race and Ethnicity*. NALP BULL., Jan. 2009, available at <http://www.nalp.org/jan2009womenminorities>.

<sup>5</sup> Similarly low numbers have been reported for female in-house counsel: In 2007, only 90 companies in the Fortune 500 had female general counsels (18%). Minority Corporate Council Association, "MCCA's 2007 Survey of Fortune 500 Women General Counsel" (2007). <http://mcca.com/index.cfm?fuseaction=page.viewpage&pageid=1480>

<sup>6</sup> See, e.g., NAT'L ASS'N FOR LAW PLACEMENT (NALP) FNDN., UPDATE ON ASSOCIATE ATTRITION 11 (2007).

<sup>7</sup> Pamela Stone & Meg Lovejoy, *Fast-Track Women and the "Choice" to Stay Home*, 596(1) ANNALS OF THE AMER. ACAD. OF POLIT. AND SOC. SCI. 62.

<sup>8</sup> Shelley J. Correll et al., *Getting a Job: Is There a Motherhood Penalty?*, 112 AM. J. SOC. 1297, 1313 (2007); Stephen Benard & Shelley J. Correll, Address at the Hastings Law Journal and Center for WorkLife Law Symposium: Family Responsibilities Discrimination: Lessons for the Use of Stereotyping Evidence and Implicit Bias in Employment Cases (Feb. 8, 2008).

<sup>9</sup> See Correll et al., *supra* note 8.

<sup>10</sup> See sources cited at notes 28 and e.g., CATALYST INC., WOMEN IN LAW: MAKING THE CASE 19, 40 (2001) (reporting that "[o]ver 70 percent of both men and women—partners and associates—report they have difficulty balancing the demands of work with the demands of their personal life"); see also SIMMONS SCHOOL OF MGMT. ET AL., THE NEW WORKFORCE REALITY: INSIGHTS FOR TODAY, IMPLICATIONS FOR TOMORROW 7 (2005) (noting that 95% of *all* adults report that their life outside of work is equally or more important than their work).

<sup>11</sup> See generally FAMILIES & WORK INSTITUTE, GENERATION AND GENDER IN THE WORKPLACE 3-5 (2004), available at <http://www.familiesandwork.org/site/research/reports/genandgender.pdf>; Kirstin Downey Grimsley, *Family a Priority for Young Workers; Survey Finds Change in Men's Thinking*, THE WASHINGTON POST, May 3, 2000, at E1 (describing findings of RADCLIFFE PUBLIC POLICY CENTER & HARRIS INTERACTIVE, LIFE'S WORK: GENERATIONAL ATTITUDES TOWARD

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WORK AND LIFE INTEGRATION (2000)); Melody Finnemore, *Meet the Millennials: Young Attorneys Prompt Need for Firms to Explore New Ways of Doing Business*, OREGON STATE BAR BULL., Nov. 2005, available at <http://www.osbar.org/publications/bulletin/05nov/millennials.html>.

<sup>12</sup> See FAMILIES & WORK INSTITUTE, *supra* note 11 (noting that 22% of Baby Boomers are “work-centric” versus 12–13% of Gen-X and Gen-Y; 50% of Gen-Y and 52% of Gen-X are “family-centric” versus 41% of Baby Boomers; and that “[a]mong college-educated women . . . 57 percent wanted to move into jobs with more responsibility in 1992 versus only 36 percent in 2002—a decline of 21 percentage points.”).

<sup>13</sup> Data based on responses to the question: “On average, how many total hours do you work per week? (include billable and non-billable hours, and hours worked at home as well as at the office).”

<sup>14</sup> RONIT DINOVIETZ ET AL., NAT’L ASS’N FOR LAW PLACEMENT FOUND., *AFTER THE JD 27* (2004) at 33, 36.

<sup>15</sup> JANE LAWLER DYE, U.S. CENSUS BUREAU, *FERTILITY OF AMERICAN WOMEN: JUNE 2004, POPULATION CHARACTERISTICS 2* (Dec. 2005), available at <http://www.census.gov/prod/2005pubs/p20-555.pdf> (stating that 19.3% of women aged 40 to 44 had no children).

<sup>16</sup> Twenty-eight percent had one child, 45% had two, 19% had three, and 9% had more than three (including 1% each with six and eight children).

<sup>17</sup> Mona Harrington and Helen Hsi, *Women Lawyers and Obstacles to Leadership: A Report of MIT Workplace Center Surveys on Comparative Career Decisions and Attrition Rates of Women and Men in Massachusetts Law Firms*, MIT Workplace Center, Spring 2007, at 16.

<sup>18</sup> *Id.*

<sup>19</sup> The full definition is:

[A]ny alternative work arrangement in which you work or have worked full-time or part-time hours on a flexible schedule—e.g., 7 a.m. to 3 p.m.—and/or telecommuted—e.g., 3 days in the office, 2 days from home—**on a regular basis**. Flexible does **not** mean that you occasionally take the afternoon off to attend to personal business and then work from home in the evening (unless you do this on a regular basis). As used in this survey, “part-time” means working on a reduced schedule—e.g., 80% of the expected billable hours.

<sup>20</sup> Press Release, Nat’l Ass’n for Law Placement (NALP), *Few Lawyers Work Part-Time, Most Who Do Are Women* (Dec. 5, 2007), available at <http://www.nalp.org/press/details.php?id=74>.

<sup>21</sup> Data based on responses to the questions: “If you used a flexible work arrangement [at your prior employment], what was your reason for doing so?” and “If you have used flexible arrangements at this firm, for what reason(s) did you do so? (Check all that apply).”

<sup>22</sup> See, e.g., WOMEN’S BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA, *CREATING PATHWAYS TO SUCCESS: ADVANCING AND RETAINING WOMEN IN TODAY’S LAW FIRMS* (2006); NAT’L ASS’N FOR LAW PLACEMENT (NALP) FNDN., *KEEPING THE KEEPERS II: MOBILITY & MANAGEMENT OF ASSOCIATES* (2003); NAT’L ASS’N FOR LAW PLACEMENT (NALP) FNDN., *BEYOND THE BIDDING WARS: A SURVEY OF ASSOCIATE ATTRITION, DEPARTURE DESTINATIONS & WORK INCENTIVES* (2000); WOMEN’S BAR ASSOCIATION OF MASSACHUSETTS, *MORE THAN PART-TIME: THE EFFECT OF REDUCED HOURS ARRANGEMENTS ON THE RETENTION, RECRUITMENT, AND SUCCESS OF WOMEN ATTORNEYS IN LAW FIRMS* (2000); NAT’L ASS’N FOR LAW PLACEMENT (NALP) FNDN., *KEEPING THE KEEPERS: STRATEGIES FOR ASSOCIATE RETENTION IN TIMES OF ATTRITION* (1998).

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<sup>23</sup> Data based on responses to the questions: Regarding employer as of 2002, “During your time at the firm/employment did you ever use a flexible work arrangement?” and, regarding current employer, “Have you ever used flexible work arrangements at this firm?”

<sup>24</sup> Project for Attorney Retention, The Scoop, [www.pardc.org/TheScoop/](http://www.pardc.org/TheScoop/) (last visited Oct. 16, 2008).

<sup>25</sup> *See id.*

<sup>26</sup> Data based on responses to the question: “If you are working a reduced schedule and work more than your agreed upon schedule over the course of a year, does your firm compensate you for the additional hours worked? If yes, how?”

<sup>27</sup> *See* Joan Williams & Cynthia Thomas Calvert, SOLVING THE PART-TIME PUZZLE: THE LAW FIRM’S GUIDE TO BALANCED HOURS 26 (NALP, 2004).

<sup>28</sup> *See, e.g.*, MONA HARRINGTON & HELEN HSI., *supra* note 17, at 28 (noting that paternity leave is stigmatized by jokes and negative comments such as “Mr. Paternity Leave”); JOAN WILLIAMS & CYNTHIA THOMAS CALVERT, THE PROJECT FOR ATTORNEY RETENTION, BALANCED HOURS: EFFECTIVE PART-TIME POLICIES FOR WASHINGTON LAW FIRMS 38–41 (2d ed. 2000), available at <http://www.pardc.org/Publications/BalancedHours2nd.pdf> (discussing how lawyers who use part-time programs often feel stigmatized and noting that many full-time attorneys leave their firms rather than going part time because of the perception that part-time programs are not effective); WOMEN’S BAR ASSOCIATION OF MASSACHUSETTS, *supra* note 22; GEORGIA ASS’N FOR WOMEN LAWYERS ET AL., IT’S ABOUT TIME: PART-TIME POLICIES AND PRACTICES IN ATLANTA LAW FIRMS (2004).

<sup>29</sup> For a detailed discussion of the business case for law firms, see Williams and Calvert, *supra* note 27, and PROJECT FOR ATTORNEY RETENTION, THE BUSINESS CASE FOR A BALANCED HOURS PROGRAM FOR ATTORNEYS (2007), available at [http://www.pardc.org/LawFirm/PAR\\_BusinessCase\\_8-23-07.pdf](http://www.pardc.org/LawFirm/PAR_BusinessCase_8-23-07.pdf) (last visited Oct. 16, 2008). For a discussion of the business case for in-house law departments, see PROJECT FOR ATTORNEY RETENTION, BETTER ON BALANCE?.

<sup>30</sup> *See* sources cited *supra* at note 29; *see also* FAMILIES & WORK INSTITUTE, *supra* note 11 (reporting that Gen-X and Gen-Y men are less likely to want to move into jobs with greater responsibility, less likely to be work-centric, and spend significantly more time with their children than do Baby Boomer men).

<sup>31</sup> Linda Chanow, Project for Attorney Retention, Flexible Work Schedules: Address at the Association of Legal Administrators 37th Annual Educational Conference and Exposition, Seattle, WA (May 5, 2008) (information on file with the author).

<sup>32</sup> *See* PROJECT FOR ATTORNEY RETENTION, MODEL BALANCED HOURS POLICY, <http://www.pardc.org/LawFirm/MODEL%20BALANCED%20HOURS%20POLICY.pdf> (last visited Oct. 16, 2008).

<sup>33</sup> *See* JOAN C. WILLIAMS & CONSUELA A. PINTO, ABA COMMISSION ON WOMEN IN THE PROFESSION, FAIR MEASURE: TOWARD EFFECTIVE ATTORNEY EVALUATIONS 20-21 (2d ed. 2008). at 15-31, 70-73.

<sup>34</sup> *Id.*



## **APPENDIX**

### **Project Overview**

Primarily through the use of a confidential online survey, researchers at the Center for Women and Work at Rutgers University gathered information on the experiences of women lawyers, including both those who have made it to the top of their organizations and those who have left the field. The study focused on the factors to which participants attributed their successes, the factors contributing to attrition, and choices regarding work/life balance. Researchers also held focus groups with women lawyers and conducted individual interviews to supplement the survey results with richer data. Interviewees included a select group of women at the highest levels of their professions as well as managing partners in law firms.

### **Methodology**

Based on current research and literature, researchers developed a survey instrument that contained 55 questions. The survey was available to participants through a website linked directly from the Center for Women and Work's homepage. To reach a broad sample, researchers used a number of methods, including referral sampling, to widely publicize the survey. The link to the survey, as well as information about the study, was shared through partner firms in the Forum on Workplace Practices in the Law and was distributed on professional e-mail lists including those maintained by the New Jersey Women Lawyers Association, the *New Jersey Law Journal*, and local and regional bar associations, along with the alumni lists of the law schools at Seton Hall University and the Newark and Camden campuses of Rutgers University. Information about the survey requested that respondents share the link with other women lawyers in the state who they thought would be interested in participating. Before completing the survey, participants agreed to a statement of informed consent that included privacy safeguards designed to protect the anonymity of the participants' answers. A total of 524 participants took the survey.

Interview participants were referred by partners in the Forum on Workplace Practices in the Law. Partners were asked to identify successful women in their firms that had "made it to the top" and who may be willing to be interviewed about their career paths and views of success. Several managing partners at these firms also agreed to be interviewed. Interview questions focused on programs and policies that were in place or in development at respondents' firms as well as their impressions of how the issues of women and work/life balance had shaped their workplaces. Researchers conducted a total of 38 interviews that were recorded and transcribed. All potentially identifying information, including any mention of specific employers or firms, was deleted from the transcripts.

Focus groups were open to all New Jersey women lawyers and were widely advertised through the New Jersey Women Lawyers Association. Participants in focus groups underwent the same protocol for informed consent that interview respondents did. The sessions were recorded and transcribed, and again, researchers deleted all identifying information from the transcripts.

## Summary of Survey Data

This section contains a summary of data gathered through the online survey.

### Demographics

#### *Race and gender*

Nearly all (95%) were female. Almost nine out of ten (86%) were white, 6% were African-American, 5% were Latino, and 3% were Asian or Asian-American.

#### *Age*

Appendix Table 1 indicates the breakdown of those respondents who chose to indicate their age.

**Appendix Table 1: Respondent's Age in Years**

<b>21-30</b>	<b>31-40</b>	<b>41-50</b>	<b>51-60</b>	<b>61 or more</b>
8%	40%	31%	15%	5%

### Employment

#### *Current employment*

Ninety-eight percent of respondents are currently employed, and nearly all (95%) who are currently employed are working as lawyers. Eighty-one percent of respondents currently worked for law firms, representing a higher proportion than the 67% of all attorneys who work in law firms nationwide.<sup>i</sup> Ten percent worked in corporate settings, which is slightly higher than the 8% of attorneys who work in house nationwide. Three percent were public interest lawyers, higher than the national average of 1%. The same percentage of respondents worked in government (6%) as do so nationwide.<sup>ii</sup>

**Appendix Table 2: Current Employment**

<b>Law firm</b>	<b>In house</b>	<b>Public interest</b>	<b>Government</b>
81%	10%	3%	6%

Respondents were much more likely than lawyers nationwide to practice in large law firms—72% of respondents worked in firms of 101 or more lawyers compared with only 8% who do so nationwide. Conversely, respondents were much less likely to be solo practitioners or to work in very small firms: Only 13% of respondents worked in firms with fewer than 25 lawyers as compared with the 51% of attorneys nationwide who work in solo practice or in firms of 20 or fewer lawyers.<sup>iii</sup>

**Appendix Table 3: Size of Law Firms**

Less than 25	25–50	51–100	101–200	201–500	501–1000	> 1000
13%	3%	12%	27%	33%	5%	7%

Note: Only respondents who work for law firms are included in this table.

***Area of practice***

There was a significant prevalence of litigators: 57% of all respondents stated that litigation was their primary practice area. Labor and employment was the next most common practice area (23%), followed by “other” (21%).

**Appendix Table 4: Top Practice Areas**

Litigation	Labor and Employment	Corporate	Environmental	Real Estate	Personal Injury	Trusts/ Estates	Tax	Family
57%	23%	15%	10%	10%	8%	8%	6%	5%

***Position within law firm***

Nineteen percent of respondents who worked in law firms were junior associates (1 to 3 years), 15% were mid-level associates (4 to 6 years), 21% were senior associates, 17% were junior or income partners, 18% were senior or equity partners, and 10% identified themselves as “other.”

**Appendix Table 5: Position Within Firm**

Junior Associate	Mid-Level Associate	Senior Associate	Junior/Income Partner	Senior/Equity Partner	Other
19%	15%	21%	17%	18%	10%

Note: Only respondents who work for law firms are included in this table.

**Vacation**

Most respondents (62%) took between two and three weeks of vacation each year.<sup>iv</sup> Optional response comments included some respondents reporting that they were entitled to take vacation but were unable to, and several reporting that they used their vacation time for maternity leave.

**Compensation**

***Annual compensation***

Half of the respondents reported earning between \$80,000 and \$150,000 annually.<sup>v</sup> Most law firm respondents (35%) earned between \$80,001 and \$150,000 per year, with 23% earning more and 42% earning less. Comparing lawyers from different sectors, respondents who worked as in house counsel earned the most, with the largest percentage of those respondents (22%) earning between \$150,001

and \$250,000. The largest earnings category for nonprofit and government lawyers was \$80,001–\$150,000.

**Appendix Table 6: Annual Compensation**

	<\$40K	\$40,001–\$60K	\$60,001–\$80K	\$80,001–\$150K	\$150,001–\$250K	\$250,001–\$400K	>\$400K
Total respondents	4%	3%	9%	50%	23%	7%	11%

***Satisfaction with earnings and fringe benefits***

When respondents were asked how satisfied they were with their compensation, a majority (58%) were either “satisfied” or “very satisfied” with their earnings. Annual income had increased since 2002 for most respondents (82%). Just over half (54%) received a bonus in 2006; the amounts of those bonuses ranged from \$1,500 to \$75,000.

**Appendix Table 7: Satisfaction with Earnings and Fringe Benefits**

Very dissatisfied	Dissatisfied	Neutral	Satisfied	Very satisfied
4%	13%	25%	43%	14%

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<sup>i</sup> National data for comparison from RONIT DINOVIETZ ET AL., NAT'L ASS'N FOR LAW PLACEMENT FOUND., AFTER THE JD 27 (2004).

<sup>ii</sup> *Id.*

<sup>iii</sup> *Id.*

<sup>iv</sup> Data based on responses to the question: "In 2006, how many vacation weeks did you take?"

<sup>v</sup> Data based on responses to the question: "In what range were your individual pre-tax earnings during the calendar year 2006?"