

## The Mismeasure of Success

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# THE MISMEASURE OF SUCCESS

ALISSA RUBIN GOMEZ<sup>†</sup>

## INTRODUCTION

Large law firms evolved to serve major corporations by offering them “lawyers who were white males comfortable with the business elite, with wives at home to free up work time . . . .”<sup>1</sup> After decades of advancing these same lawyers, the result has been a widespread belief that the ideal big firm lawyer is one who is committed to professional life at all hours of the day and night, and whose personal life is either nonexistent or handled by someone else.<sup>2</sup> Women at large law firms have been expected to act accordingly.<sup>3</sup> That is, to act like men. It hasn’t worked.

In November 2019, the American Bar Association released the results of its latest survey of over 1,200 senior attorneys at NLJ 500 law firms as to why women have been “fleeing law firms and the legal profession in droves.”<sup>4</sup> Specifically, why women consistently make up between 45% and 50% of entering law firm associates but account for only 21% of equity partners.<sup>5</sup> The ABA

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<sup>1</sup> Bryant G. Garth & Joyce S. Sterling, *Diversity, Hierarchy, and Fit in Legal Careers: Insights from Fifteen Years of Qualitative Interviews*, 31 GEO. J. LEGAL ETHICS 123, 135 (2018).

<sup>2</sup> See, e.g., ANNA JAFFE ET AL., STANFORD LAW SCHOOL WOMEN IN LAW POLICY LAB PRACTICUM: RETAINING & ADVANCING WOMEN IN NATIONAL LAW FIRMS 19–20 (May 2016) [hereinafter RETAINING & ADVANCING WOMEN WHITE PAPER], <https://law.stanford.edu/publications/retaining-and-advancing-women-in-national-law-firms/> [https://perma.cc/7JJ4-NJ82]; Russell G. Pearce et al., *Difference Blindness vs. Bias Awareness: Why Law Firms with the Best of Intentions Have Failed to Create Diverse Partnerships*, 83 FORDHAM L. REV. 2407, 2444–45 (2015).

<sup>3</sup> Pearce et al., *supra* note 2, at 2437 (citing CECLIA L. RIDGEWAY, *FRAMED BY GENDER: HOW GENDER INEQUALITY PERSISTS IN THE MODERN WORLD* (Oxford University Press 2011)).

<sup>4</sup> ROBERTA D. LIEBENBERG & STEPHANIE A. SCHARF, *Foreward* to WALKING OUT THE DOOR, THE FACTS, FIGURES, AND FUTURE OF EXPERIENCED WOMEN LAWYERS IN PRIVATE PRACTICE iv (A.B.A., Nov. 2019) [hereinafter ABA Report], [https://www.americanbar.org/content/dam/aba/administrative/women/walkoutdoor\\_online\\_042320.pdf](https://www.americanbar.org/content/dam/aba/administrative/women/walkoutdoor_online_042320.pdf) [https://perma.cc/RRX4-7QV3].

<sup>5</sup> *Id.*; see also NATIONAL ASSOCIATION OF WOMEN LAWYERS: 2020 SURVEY REPORT ON THE PROMOTION AND RETENTION OF WOMEN IN LAW FIRMS 4–5 (2020), <https://www.nawl.org/p/cm/ld/fid=2019> [https://perma.cc/LP9F-PVB5] (reporting that

concluded that experienced women leave private practice because of “the stress and time needed to ‘do it all.’”<sup>6</sup> The report then makes a number of recommendations for firms to increase the retention of women, including encouraging women to take advantage of part-time and flex-time policies and concierge services for child care and errands.<sup>7</sup> But these solutions are also unlikely to work.<sup>8</sup>

I left an AmLaw50 law firm a year after making partner. I got engaged the week after I left, took a job in legal aid, and started a family at the age of 36. I loved my law firm; I loved my colleagues; I loved my work. I made a choice to put motherhood first because that was what I wanted.<sup>9</sup> My firm had robust family leave and reduced hours policies, but it wasn't enough. I attribute this to the fact that, at the end of the day, whether I had taken a lengthy maternity leave or gone part-time, my success still would have been measured in sixth-of-an-hour increments. My competition within the firm would have been against lawyers without prominent roles at home. And given that time is finite, it just did not seem possible to have it all.

My story is neither novel nor unique. Using feminist standpoint theory, this Article explores the idea that solutions proposed by big law firms to retain women miss the mark because they are still framed from the viewpoint of a white man.<sup>10</sup> This is not because the white male perspective is bad; it is simply not the lived experience of the women for whom the proposed solutions are intended:

The study of “difference” is not the problem; of course people differ. The problem occurs when one group is considered the norm with others differing *from* it, thereby failing to “measure

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in 2019, women made up approximately 21% of equity partners, and 31% of non-equity partners).

<sup>6</sup> ABA Report, *supra* note 4, at 12.

<sup>7</sup> *Id.* at 18–20.

<sup>8</sup> Kimberly Jade Norwood, *Gender Bias as the Norm in the Legal Profession: It's Still a [White] Man's Game*, 62 WASH. U. J. L. & POL'Y 25, 43–47 (2020).

<sup>9</sup> Paula Schaefer, *On Balance: Leading by Leaving*, 83 TENN. L. REV. 931, 940 (2016) (“When lawyers leave big law in search of more balanced lives—whether they seek time to parent or to pursue other personal interests—they are demonstrating leadership.”).

<sup>10</sup> Dr. Dorothy E. Smith originally proposed feminist standpoint theory to remedy the failure of sociology to recognize its masculine assumptions. DOROTHY E. SMITH, *THE EVERYDAY WORLD AS PROBLEMATIC: A FEMINIST SOCIOLOGY* 85–86, 98 (Northeastern University Press 1987). *See also* Britta Wigginton & Michelle N. LaFrance, *Learning Critical Feminist Research: A Brief Introduction to Feminist Epistemologies and Methodologies*, FEMINISM & PSYCHOL. 1, 7–8 (Sept. 2019).

up” to the ideal, superior, dominant standard, and when the dominant group uses the language of difference to justify its social position.<sup>11</sup>

Reframing the measure of success using a feminist standpoint would have us reconsider whether the primary reason women leave big law firms is actually a “problem.” Instead, having multiple demands on one’s time outside work might be viewed as both normal and an indication of well-roundedness.<sup>12</sup> Building workplace cultures using personal fulfillment as a baseline has the potential to make for happier workers who stay in their jobs longer, and in the time of COVID-19, we may just be at an inflexion point that makes such a culture shift possible.

Part I of this Article discusses the current measures of success at big firms, and the reasons women leave them. Part II reviews feminist standpoint theory and offers it as an explanation for the mismatch between the reasons women leave and the most oft-proposed solutions for assuaging them. Finally, Part III considers what measuring success might look like if we shrugged off century-old notions about what success “should” be, and looked at the problem in a new light.

## I. THE MEASURE OF SUCCESS

Large law firms are not evil. With good intentions and express goals to increase diversity, almost all large law firms view equality—that is, identical treatment of all of the lawyers in their ranks—as a fair, nondiscriminatory way to operate.<sup>13</sup> Scholars have long characterized the way that elite law firms train and promote their associates as a tournament system: one in which the players must meet a set of known benchmarks to succeed.<sup>14</sup> More recently, the law firm tournament has been described as a “difference blind” one, meaning that because all of the players are

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<sup>11</sup> Carol Tavis, *The Mismeasure of Woman*, FEMINISM & PSYCHOL. 149, 151 (1993) (emphasis original) (citing Joan W. Scott, *Deconstructing Equality-Versus-Difference: Or, the Uses of Poststructuralist Theory for Feminism*, 14 FEMINIST STUD. 33 (1988)).

<sup>12</sup> Richard Collier, *Naming Men as Men in Corporate Legal Practice: Gender and The Idea of “Virtually 24/7 Commitment” In Law*, 83 FORDHAM L. REV. 2387, 2398 (2015).

<sup>13</sup> Pearce et al., *supra* note 2, at 2444–45.

<sup>14</sup> David B. Wilkins & G. Mitu Gulati, *Reconceiving the Tournament of Lawyers: Tracking, Seeding, and Information Control in The Internal Labor Markets of Elite Law Firms*, 84 VA. L. REV. 1581, 1608 (1998).

measured using the same standard, those who succeed claim they do so based on merit alone.<sup>15</sup>

But in a difference-blind system, if the ultimate measure of lawyer success within a law firm remains what it has always been, from a time when there were fewer differences among lawyers to consider, then difference blindness can inadvertently reinforce traditional white male norms:

In such a system, the white male identity becomes normalized as background, as not an identity at all, merely an accidental descriptor of the identity of the meritorious individuals who have won the partnership tournament. And if women and people of color are underrepresented it is only because people in those groups have failed to demonstrate merit.<sup>16</sup>

As others have noted, the playing field is not actually level.<sup>17</sup> And when it comes to women, billing hours and the generation of new business both require something that women disproportionately lack: time.<sup>18</sup>

In the ABA's most recent study, 54% of the women lawyers surveyed said that arranging childcare is their full responsibility.<sup>19</sup> Only 1% of men said the same.<sup>20</sup> Only 4% of men reported bearing the sole responsibility to leave work due to childcare or to handle children's extracurricular activities, whereas 32% and 20% of women reported the same responsibilities, respectively.<sup>21</sup> These numbers are staggering. If a woman is 54 times as likely to have to arrange childcare alone, and 8 times as likely to have leave work

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<sup>15</sup> Pearce et al., *supra* note 2, at 2434.

<sup>16</sup> *Id.*

<sup>17</sup> Wilkins & Gulati, *supra* note 14, at 1677–78.

Law firms are not the ultimate meritocracies, as the comparison to a tennis tournament might seem to suggest. Instead, the tournament of lawyers more closely resembles a figure skating competition in which factors such as a contestant's ethnicity (are you from the United States or Bulgaria?), looks (are you Katerina Witt or Debi Thomas?), style (do you skate like Oksana Baiul or Surya Bonaly?), and social class (are you Nancy Kerrigan or Tonya Harding?), as well as the judges' identity (has the Russian judge ever ranked an American skater over a Russian, or vice versa?), strongly influence the outcome of the competition. Like a figure skating competition, the promotion-to-partner tournament is still a tournament. . . . But the terms on which associates compete, and their ability to influence the outcome simply by the quality of their work, is, like the skaters at the Olympics, a far cry from the meritocratic image conveyed by tournament theory.

*Id.*

<sup>18</sup> ABA Report, *supra* note 4, at 12.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

to handle childcare, then she faces nearly impossible odds at having the enough time available to perform legal work (much less bill for it) at the same rate as her male peers, which makes advancement pretty challenging.<sup>22</sup>

In their 2018 article reporting the results of 15 years of qualitative, longitudinal interviews with over 200 lawyers, Bryant Garth and Joyce Sterling recount the experience of one woman who tried to make partner while remaining part time at a regional Midwest law firm.<sup>23</sup> The firm wouldn't have it, and eventually, the woman herself proposed a contract-basis arrangement because nothing else the firm offered would work in light of her desired family life.<sup>24</sup> As Garth and Sterling note, the firm wanted this woman to be a partner, "[b]ut they believed that a partner must be full-time and demonstrate a full commitment to the firm. . . . The historical path was placed in her way."<sup>25</sup>

The situtaion this woman faced is a telltale example of difference blindness preventing a woman from advancing because she refused to act like a man, even though the firm likely was trying to be fair. Indeed, the idea that difference blindness might be *unfair* is a tough pill for law firms to swallow. As a product of BigLaw myself, I, too, pushed back against this notion when I first encountered it. The reason is not difficult to imagine: lawyers are justice seekers. Idealists who champion unpopular causes and pride themselves on being at the forefront of the evolution of individual rights. Lawyers also understand how institutions work, and how hard it is to effectuate institutional change. As a result, the idea that a difference blind system might be perpetuating norms that are not inclusive for all is not only

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<sup>22</sup> Notably, the ABA's most recent study may undercount the effect of time pressure on women's reasons for leaving big law firms. The survey was sent to a sample of managing partners and individual men and women attorneys at the National Law Journal top 500 law firms who had practiced law for at least 15 years and were still practicing at those firms. In other words, the lawyers surveyed about why women leave big firm law practice are not lawyers who themselves have left. See Law Journal Editorial Board, *Contradictions Revealed in ABA Report on Women Leaving Big Law*, N.J. L.J. ONLINE (Jan. 26, 2020), <https://www.law.com/njlwjournal/2020/01/26/contradictions-revealed-in-aba-report-on-women-leaving-big-law/> [<https://perma.cc/VS72-4QR2>].

<sup>23</sup> Garth & Sterling, *supra* note 1, at 154–56.

<sup>24</sup> *Id.* at 156 (“What is it to be a partner in a firm and be miserable and hate your life and have your kids prefer the nanny? . . . I knew that . . . was kinda the death [knell] . . . for my career, as far as advancing. But, honestly, best move I ever made.”).

<sup>25</sup> *Id.*

jarring, but it is also disheartening. If we can't be difference blind, what is the alternative?

## II. FEMINIST STANDPOINT THEORY

Justice Ruth Bader Ginsburg famously quipped that there would be enough women on the Supreme Court “[w]hen there are nine.”<sup>26</sup> When listeners expressed shock, she retorted: “But there’d been nine men, and nobody’s ever raised a question about that.”<sup>27</sup> RBG was explaining, in a nutshell, feminist standpoint theory.

Feminist standpoint theory challenges the idea that knowledge—scientific, social, or institutional—is objective.<sup>28</sup> Rather, feminist standpoint theory recognizes that all “knowers” bring with them a subjective standpoint that shapes their reality.<sup>29</sup> Feminist standpoint theory looks critically at existing norms—that is, things that are known and thus taken for granted—and asks whether such norms fit the female experience.<sup>30</sup> If not, feminist standpoint theory asks that we consider who is framing the debate and who benefits from the perpetuation of that framing.<sup>31</sup>

In her 1993 article, *The Mismeasure of Woman*, Tavis provides a telling example of feminist standpoint theory regarding women and job interviews.<sup>32</sup> Tavis relays how researchers have shown that women’s modesty hurt them in job interviews because the women appeared insecure and lacking ambition.<sup>33</sup> Then, applying a feminist standpoint, Tavis questions the conclusion of

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<sup>26</sup> Jay Croft, *10 Quotes That Help Define the “Notorious RBG” legacy of Ruth Bader Ginsburg*, CNN (Sept. 20, 2020), <https://www.cnn.com/2020/09/19/politics/best-ruth-bader-ginsburg-quotes-trnd/index.html> [<https://perma.cc/TL2D-G7LK>].

<sup>27</sup> *Id.*

<sup>28</sup> Susan Hekman, *Truth and Method: Feminist Standpoint Theory Revisited*, 22 SIGNS: J. OF WOMEN IN CULTURE & SOC’Y 341, 356 (1997) (“Feminist standpoint theory defines knowledge as particular rather than universal; it jettisons the neutral observer of modernist epistemology; it defines subjects as constructed by relational forces rather than as transcendent. As feminist standpoint theory has developed, the original tension between social construction and universal truth has dissolved. But it is significant that this has been accomplished, not by privileging one side of the dichotomy, but by deconstructing the dichotomy itself.”).

<sup>29</sup> Wigginton & Lafrance, *supra* note 10, at 5, 7–8.

<sup>30</sup> *Id.* at 8.

<sup>31</sup> Tavis, *supra* note 11, at 151; Catherine MacKinnon, *Feminism, Marxism, Method and the State: Toward Feminist Jurisprudence*, 8 SIGNS: J. OF WOMEN IN CULTURE & SOC’Y 635, 636 (1983).

<sup>32</sup> Tavis, *supra* note 11, at 151–53.

<sup>33</sup> *Id.* at 151–52.

the research, suggesting that framing at the outset influenced the outcome:

But had these studies used women as the basis of comparison, the same findings might lead to a different notion of what ‘the problems’ are: men are more conceited than women; men overvalue the work they do; men are not as realistic as women in assessing their abilities . . . . Most people will see at once that this way of talking about men is biased and derogatory, but that is the point: Why has it been so difficult to notice the same negative tone when we talk about women? *The answer is that we are used to seeing women as the problem, and to regarding women’s differences from men as deficiencies or weaknesses.*<sup>34</sup>

The view of women as the problem epitomizes why large law firms continue to struggle to retain women lawyers. It is not because the firms intend to view women as problematic. It is simply that women are expected to act like men to succeed—a mostly impossible and often unhappy task—and the law firms then try to solve the challenge of women leaving by giving them more tools to (wait for it) act like men.

In its 2019 report, the ABA lists nine recommended best practices for retaining women lawyers.<sup>35</sup> These include setting gender diversity targets, monitoring gender metrics, committing to hold leadership accountable for hitting gender diversity targets, owning the business case for diversity, adding more women partners to key firm committees, reviewing origination and compensation policies, conducting implicit bias and sexual harassment training, increasing lateral hires of women partners, and “provid[ing] resources to relieve pressures from family obligations that women more often face than their male colleagues.”<sup>36</sup> As to the last of these, the report suggests on-site child care and concierge services to help with personal tasks like picking up dry-cleaning and ordering groceries.<sup>37</sup> “Management,” the ABA says, “is recognizing that in order to attract and retain lawyers, firms need to help them deal with their responsibilities outside the office.”<sup>38</sup>

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<sup>34</sup> *Id.* at 152 (emphasis added). See also Leslie Bender, *Sex Discrimination or Gender Inequality?*, 57 *FORDHAM L. REV.* 941, 945 (1989).

<sup>35</sup> ABA Report, *supra* note 4, at 18–20.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 12–13.

<sup>38</sup> *Id.* at 13.

All of these ideas are well intended. Some of them might work.<sup>39</sup> But of the nine recommended best practices, only one—the last on the list—is aimed at the central reason that the ABA itself identified as why women leave: because there are too many demands on their time.<sup>40</sup> And from a feminist standpoint, it misses the mark. Helping women “deal with” personal and family obligations simply does not address the fact that the end goal—the measure of success—still requires 24/7 devotion to work with outside life rendered invisible. The measure of success continues to be the male ideal.

### III. A NEW MEASURE: THE FEMINIST PERSPECTIVE

Reframing the measure of success using a feminist standpoint would have us reconsider whether the primary reason women leave big law firms is actually a “problem.” Instead, having multiple demands on one’s time outside work might be viewed as both normal and an indication of well-roundedness.

First, we need to stop pretending that lawyers do not have lives outside the firm. Rather than asking lawyers to outsource their personal lives, firms can support their lawyers by acknowledging that they might want to pick up the dry-cleaning themselves, or perhaps their children from school, or attend an event to further a hobby that has nothing to do with law. Doing away with “face time”—requiring that lawyers be physically present in the office—helps, as does staffing cases or deals in such a way that colleagues can easily step in for one another.<sup>41</sup>

The COVID-19 pandemic is bringing this front and center. With work and home life now inextricably intertwined, the messy, human side of lawyers across the country—of both genders—is quite literally on full display. When a child or a pet interrupts a

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<sup>39</sup> Several scholars have made similar recommendations. See Pearce et al., *supra* note 2, at 2441–54; Deborah L. Rhode & Lucy Buford Ricca, *Diversity in the Legal Profession: Perspectives from Managing Partners and General Counsel*, 83 *FORDHAM L. REV.* 2483, 2503 (2015) (proposing monitoring metrics and “making people aware that their actions are being assessed”). *But see* Joyce S. Sterling & Nancy Reichman, *Overlooked and Undervalued: Women in Private Law Practice*, 12 *ANN. REV. L. & SOC. SCI.* 373, 388 (2016) (suggesting that decades of exposing implicit bias within law firms has not moved the needle and proposing instead to rework compensation and reward systems within BigLaw).

<sup>40</sup> ABA Report, *supra* note 4, at 12.

<sup>41</sup> Laura Mazza, Katie Bain, & Katie Debski, *Feminist Firms and the Pursuit of Happiness for Lawyer Parents*, *PLAINTIFF MAG.* (June 2016), <https://www.plaintiffmagazine.com/recent-issues/item/feminist-firms-and-the-pursuit-of-happiness-for-lawyer-parents> [<https://perma.cc/7LE5-RP6L>].

Zoom call, most have reacted with compassion. Dress codes are relaxed. The world has slowed down and done away with extracurricular activities and client happy hours, and many big firm women lawyers are actually reporting an increase in job satisfaction.<sup>42</sup>

What remains to be seen is whether it will stick. As women are leaving the workforce entirely due to the pandemic, there are certainly fears that the same will happen to women in BigLaw: “Many firms have not adjusted their billable hour requirements, which seems pretty hard to sustain if you have no child care or home schooling.”<sup>43</sup>

Second, firms should take a hard look at the billable hour. Leaders across various legal sectors have been calling on firms to do so for some time.<sup>44</sup> Billable hours disproportionately impact the retention of women lawyers, although both men and women alike find that billable hour pressure is a key driver of unhappiness.<sup>45</sup> Many hope that the rise of millennials, who are said to value work-life balance and meaningful work more than prior generations, will hasten the devolution of the billable hour.<sup>46</sup>

Alternatives do exist, but even if client bills continue to be calculated using time, that does not mean that internal firm

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<sup>42</sup> Staci Zaretsky, *Women Associates More Satisfied with Their Biglaw Jobs in Post-Pandemic World*, ABOVE THE LAW (May 28, 2020), <https://abovethelaw.com/2020/05/women-associates-more-satisfied-with-their-biglaw-jobs-in-post-pandemic-world/> [https://perma.cc/4YRZ-XU2T].

<sup>43</sup> Vivian Chen, *Are Women Leaving Big Law Because of COVID?*, CONN. L. TRIB. (Oct. 26, 2020), <https://www.law.com/americanlawyer/2020/10/21/are-women-leaving-big-law-because-of-covid/> [https://perma.cc/SYD9-3WXH] (quoting Roberta Liebenberg, ABA Report author).

<sup>44</sup> See e.g., Melanie Heller, *The Billable Hour Is a Feminist Issue*, Women in Law Hackathon Keynote Address (July 2016), excerpted in Kathryn Rubino, *The Billable Hour Is a Feminist Issue*, ABOVE THE LAW (July 5, 2016, 1:30 PM), <https://abovethelaw.com/2016/07/the-billable-hour-is-a-feminist-issue/> [https://perma.cc/V54V-4443]; Yale Law Sch. Career Dev. Office, *The Truth About the Billable Hour* (2007), [https://law.yale.edu/sites/default/files/area/department/cdo/document/billable\\_hour.pdf](https://law.yale.edu/sites/default/files/area/department/cdo/document/billable_hour.pdf) [https://perma.cc/RX7W-X3K5]; Mark Chandler, Address at Northwestern School of Law’s Annual Securities Regulation Institute (Jan. 2007), <https://www.worldcc.com/Resources/Content-Hub/View/ArticleId/5827?Law-Firms-%27The-Last-Vestige-of-the-Medieval-Guild-System>.

<sup>45</sup> RETAINING & ADVANCING WOMEN WHITE PAPER, *supra* note 2, at 16–17 (citing Deborah L. Rhode, A.B.A. Comm’n on Women in the Profession, *Balanced Lives: Changing the Culture of Legal Practice*, at 19 (2001)).

<sup>46</sup> Jan L. Jacobowitz et al., *Cultural Evolution or Revolution? The Millennial’s Growing Impact on Professionalism and the Practice of Law*, 23 PROF. LAW 20, 27 (2016); Schaefer, *supra* note 9, at 946; Andrew Bruck & Andrew Canter, Note, *Supply, Demand, and the Changing Economics of Large Law Firms*, 60 STAN. L. REV. 2087, 2117–25 (2008).

success needs to be. Firms can assess lawyers by looking at case outcomes, client satisfaction, non-billable contributions to the firm, and non-billable contributions to the community—including pro bono work, bar association or other civic engagement, board service, volunteerism, and philanthropy.<sup>47</sup>

Shifting the focus away from the bottom line and more toward these qualitative metrics is likely to benefit women lawyers and may even boost morale for all lawyers.<sup>48</sup> Understandably, such a shift would be a scary proposition for most firms. If the focus is not billable hours, the fear is that revenue will decline. But losing a single associate can cost a firm between \$200,000 and \$500,000 in lost onboarding costs.<sup>49</sup> Regardless, women deserve a seat at the table that frames this debate at all.

Women ought not be satisfied with being allowed into male-created big law firm practices and playing by *their* rules, or with being given less empowered, less prestigious, less remunerative options. . . . Women should demand no less than an opportunity to redefine the meanings of lawyering, law firm practice, professionalism, and professional success, all of which were created without our input, insights, needs and gender culture taken into account.<sup>50</sup>

This quote from the Fordham Law Review is from 1989. Thirty-one years later, in the midst of a global pandemic that has forced us all to rethink what is “normal,” perhaps it is time we try something else.

#### CONCLUSION

When time is the measure of success, women—really anyone—with outside caretaking responsibilities suffer. But given that family and personal life are universal human experiences, it is time that we recognize family life as a form of success and build our work lives around that instead of the other way around.

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<sup>47</sup> N.Y.S.B. ASS'N COMM. & FED. LITIG. SEC., THE TIME IS NOW: ACHIEVING EQUALITY FOR WOMEN ATTORNEYS IN THE COURTROOM AND IN ADR, 2020 WOMEN'S INITIATIVE TASK FORCE FOLLOW-UP STUDY 51–52 (2020), [https://nyiac.org/wp-content/uploads/2020/06/ComFed\\_-WomensInitiatives\\_Report-Cover\\_5.28-merged.pdf](https://nyiac.org/wp-content/uploads/2020/06/ComFed_-WomensInitiatives_Report-Cover_5.28-merged.pdf) [<https://perma.cc/6HZ3-8NGF>].

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

<sup>49</sup> Courtney Barksdale Perez, *Burnout: The Cost of Having It All*, 82 TEX. B.J. 600, 601 (Sept. 2019).

<sup>50</sup> Bender, *supra* note 34, at 945 (emphasis original).