

THE DAILY RECORD

LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

Law Firm Project Report: Balanced Hours For Attorneys

BY DENINE K. CARR
DAILY RECORD COLUMNIST

It seems only fitting that I should write about work/life balance one more time in the waning weeks of my presidency, given that the Greater Rochester Association for Women Attorneys' Family and Careers Committee is publishing four articles in *The Daily Record* related to its survey results on this very topic.

I recently discovered the website for the Project for Attorney Retention (PAR), an initiative of the Center for WorkLife Law at University of California at Hastings College of the Law, www.pardc.org. The self-described mission of PAR is to "seek to improve recruiting and retention of talented attorneys through the use of work schedules that allow attorneys to better balance the competing demands of their work and their lives outside the office."

PAR distinguishes traditional part-time work from "balanced hours" programs and defines "balanced hours" as "allow[ing] attorneys to work individually tailored, reduced schedules that are designed to meet the firms' business needs while maintaining the attorney's ability to work and to develop professionally without stigma." In addition, the balanced hours program stresses the importance of "active management" of workloads, emphasizes client service and promotes the values of the firm.

The PAR website includes a "usability" test that law firms can take in order to measure how effective their part-time policies are, as well as a quiz to determine whether the law firm has a "real" part-time program.

Most interesting to me was the Law Firm Project, a comprehensive report that PAR completed in 2001 and conducted to determine the effectiveness of Washington D.C. law firms' part-time policies.

At the outset of the Law Firm Project Final Report, PAR noted that most Washington firms had part-time policies in place. Despite this, those firms disclosed that they continued to suffer from high attrition, had few women partners, lower profits and clients were "increasingly dissatisfied with high turnover."

PAR's final report concluded that most of the existing part-time policies were ineffective because they were neither "user friendly" nor effective. As a result, the report found that even with part-time policies available to them, attorneys still chose to leave their firms rather than opt to work part-time.

The balanced hours report asserted that while many attorneys don't want to work part-time because of the perceived lack of com-

GRAWA PRESIDENT'S MESSAGE



DENINE K. CARR

"[M]any attorneys ... want to have 'balanced lives.' They want to work fewer hours, and at the same time, continue to enjoy challenging, rewarding work and professional growth."

mitment working part-time brings, many male and female attorneys alike, want to have "balanced lives." They want to work fewer hours, and at the same time, continue to enjoy challenging, rewarding work and professional growth.

The report provides three key "best practices" recommendations for the implementation of effective "balanced hours" policies.

The first recommendation is that of proportionality. By that, PAR means that attorneys working balanced hours should be paid in proportion to the billable and non-billable work they do, that they should continue to be assigned interesting and challenging work, and that they should be promoted to partnership based upon the same criteria as other attorneys.

The second recommendation is that the policies should be flexible and fair. Elaborating on this issue, PAR stated that the issue of attorney retention may only be addressed if the policies are offered to all attorneys who present "a viable business plan." PAR further recommends that the balanced hours plan be tailored to suit the individual attorney's needs.

Third, PAR recommends that the policies be effectively implemented. The report asserts that without effective implementation, balanced hours policies are meaningless. PAR emphasizes that top management must be clear about supporting balanced hours policies.

To monitor whether the program is working, the report strongly encourages law firms to appoint a coordinator of the program and, importantly, to train the coordinator. Ostensibly, the coordinator would be responsible for

monitoring certain set criteria to determine whether the program is successful or not, whether it is fair and effective, and the coordinator would be responsible for ensuring that the program meets the needs of the firm and attorneys alike.

In evaluating whether a balanced hours program is "usable," PAR proposes that the following criteria be reviewed: (1) Usage rate of the program, broken down by sex; (2) Median number of hours worked by the attorneys with balanced hours schedules and duration of the schedule; (3) Schedule "creep"; (4) Comparison of the assignments of balanced hours attorneys both before and after they reduced their hours; (5) Comparative promotion rates of attorneys on standard and balanced hours schedules; and (6) Comparative attrition rates of attorneys on standard and balanced hours schedules.

Because law firms are often times hesitant to encourage attorneys

Continued ...

THE DAILY RECORD

LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

Continued ...

to take advantage of alternative work arrangements, PAR addresses seven "common myths" about balanced hours in its report. Due to space constraints, I will address only three out of the seven.

The first myth (and the one law firms most commonly use as a basis to not actively implement balanced hours programs) is that balanced hours attorneys cost firms too much money.

PAR addresses this myth by pointing out that law firms generally determine profitability by allocating the same overhead figure to both full-time attorneys and balanced hours attorneys. Not surprisingly, by using this overhead number, the balanced hours attorneys appear unprofitable.

PAR points out a number of flaws to this accounting method. It states that law firms need to look not only at revenue generated, but also at the expenses of the law firm, or the "bottom line." The report notes that firms may be surprised at the high cost of attrition when they review expenses. PAR states that "a usable part-time policy, by reducing attrition, reduces overhead."

The report also points out that overhead is not the same for all attorneys, as partners generally have larger offices and typically have much higher expenses related to business development. It further states that balanced hours attorneys impose only marginal costs, in that most firms maintain unused and empty offices for which they pay rent, regardless of whether a part-time attorney is using the office. In addition, I would note that a part-time attorney won't be using law firm staff full-time, so assessing full-time administrative costs on the balanced hours attorneys would not reflect true expenses.

PAR also notes in its discussion of this issue that law firms do not consistently require each of their departments to show equal profitability, but law firms maintain the less profitable department(s) for the long-term added value.

The report further asserts that because the attorneys who work in the practice groups that are expected to be less profitable are not measured by the same profitability formula, attorneys who work balanced hours should, likewise, not be held to a different standard. PAR also points out that it is not necessary to view individual attorneys as "short-term profit centers," and that it is appropriate to ask what an attorney, over the attorney's lifetime, will bring to the firm.

Another myth addressed in PAR's report is that everyone will

want to work part-time if given the choice.

The report examines what has happened at the law firms that have effective policies. It found that while some firms have higher usage rates than others, that even those with an unusually high percentage of attorneys working balanced hours schedules (i.e. 14 percent of the associates) remained highly profitable. The report states that consultants estimate that the percentage of those who take advantage of balanced hours policies will "top off" between five and 10 percent.

Another popular myth that PAR attempts to debunk is that some practice areas are not amenable to part-time work.

PAR noted that attorneys from various practice areas have worked part-time successfully. A common refrain that law firms voiced was that attorneys in litigation or corporate law or (fill in the blank) would not be able to work balanced hours. The conclusion of PAR is that whether an attorney is able to work a balanced hour schedule is really determined by whether the attorney has a supervisor who values the work and supports the attorney's schedule.

The report cites many examples of attorneys who work in varied practice areas and discusses how they successfully managed to work part-time schedules.

The reality is that attorneys who work balanced hours are generally able to schedule assignments within their normally scheduled working hours. However, they realize that some flexibility is necessary and are prepared to deal with the exceptions that arise.

The space of this column does not allow me to address all of the myths, nor does it allow me to elaborate on some of the interesting anecdotes and other findings of the report.

I encourage those of you who are either faced with the issue of attorneys at your firms wanting to work balanced hours or are interested in working a balanced hours schedule to read PAR's report in its entirety. It's thought provoking and deals with the gamut of alternative working arrangement issues head on.

I am hopeful that we will be able to address some of the concerns raised in the report at the public forum that GRAWA and the Monroe County Bar Association will be holding beginning in the fall.

Denine K. Carr is GRAWA's 23rd president. She has been practicing law for 16 years and is currently in-house counsel at Frontrunner Network Systems, Corp. Her e-mail address is DCarr@frontrunnernetworks.com.