The Diversity and Complexity of Work Life Balance Issues in the Legal Profession

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I. Introduction

Several years ago, a lawyer and friend told me about a study conducted by the Boston Bar Association that addressed issues attorneys face in balancing their professional life with their family obligations. At the time, my two children were very young, ages 3 and 5, and I was intensely feeling the pull of my competing roles as lawyer and parent as so many practitioners in similar circumstances have felt. The study had immediate and significant personal impact. It relayed with insight and precision the work life balance conflict I faced. It gave description to that conflict in a detailed report of tangible findings.

At that same time, many of my colleagues were expressing a real dissatisfaction with the practice of law and seemed to be facing a similar crossroads. These colleagues were both new and experienced attorneys, male and female, transactional and trial attorneys, big firm and small firm attorneys. Certainly then, the pull between work and family obligations was not the only issue challenging lawyer satisfaction. I decided that the broader issue of work life balance rather than work family balance should be addressed. And so, naively, I set out to discover what might lie at the core of attorney dissatisfaction -- particularly since that dissatisfaction seemed to encompass such a diverse group of practitioners.

I have now chaired both a task force and committee on work life balance issues, undertaken statistical analysis of the issues, studied numerous articles, surveys and reports and engaged in countless discussions with other attorneys about these issues. What I have discovered is that work life balance issues are extremely diverse and complex. What I have learned is that there is an inevitable change taking place in our profession and work life balance is the buzz phrase crafted to embody the scope of that change.

A. What Is Work Life Balance?

Before going any further, it is important to set out what is meant by work life balance. At its core, work life balance is the ability to be a committed and effective professional without risk to one’s essential self. Extrapolating from this core definition, one organization has defined it as follows:

Work-life balance is about people having a measure of control over when, where and how they work. It is achieved when an individual’s right to a fulfilled life inside and outside paid work is accepted and respected as the norm, to the mutual benefit of the individual, business and society.²

Work life balance, then, is about changes in how work is perceived and practiced in the twenty-first century.

B. Workplace Statistics and a Changing Workforce

If you type the phrase “work life balance” into a Google search, nearly 3 million results appear. Work life balance is an issue that sweeps virtually every workplace both in the United States and internationally. Why the popular interest in this issue? Primarily it is due to the need for a restructuring of the workplace. The 40-hour work week was established in 1938 by the Fair Labor Standards Act. At that time, men were the predominant breadwinners. Very few dual income families existed. Today, changes in the workforce and in technology set us drastically apart from the twentieth century workplace model that structures our current workplace. More Americans are working and they are working more hours. Statistics help to illustrate this point:

- Americans work an average of 1,966 hours annually. That’s nearly two weeks more per year than Japan – and more than any other industrialized country.

- Working couples lost an average of 22 hours a week of family and personal time between 1969 and 1999.

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3The governments of Canada and the United Kingdom have taken a particularly active role in addressing how the workplace can be improved through work life balance initiatives. In Canada, such efforts have been undertaken by the Department of Human Resources and Skills Development. See [http://www.hrsdc.gc.ca/en/lp/spila/wlbiwlb/02summary.shtml](http://www.hrsdc.gc.ca/en/lp/spila/wlbiwlb/02summary.shtml) (last visited October 6, 2005). In the United Kingdom, efforts to support work life initiatives are undertaken by the Department of Trade and Industry. In 2003, the DTI published a report entitled: *Balancing work and family life: enhancing choice and support for parents*. The report sets forth the Government’s strategy for helping parents achieve work life balance. The report can be found at: [www.dti.gov.uk/er/individual/balancing.pdf](http://www.dti.gov.uk/er/individual/balancing.pdf) (last visited October 6, 2005).
• The typical, middle income married couple family works 3,885 hours – that’s an increase of 247 hours, or nearly six weeks, more than their counterparts ten years ago.

• The National Sleep Foundation reports that “a majority of American adults (63%) do not get the recommended eight hours of sleep needed for good health, safety and optimum performance. In fact, nearly one-third (31%) report sleeping less than seven hours each week night.”

• The total percentage of women employed has doubled from about 30% in 1950, to 60% in the year 2000.⁴

Some companies are beginning to restructure the workplace and are doing so in innovative ways. Two years ago, 60 Minutes aired Working the Good Life⁵ featuring SAS Institute, a privately held, analytical software company in North Carolina with an employee base of 9000. The CEO of the Company, Jim Goodnight, implemented work life balance initiatives after taking to heart some rather obvious observations like:

• employees are investments (as Goodnight says “95 percent of my assets drive out the front gate every evening [and] it’s my job to bring them back”);

• long-term thinking is key to stability and profitability;

• productivity increases when work life balance issues are addressed; and

• if employees are happy, they make the customers happy.

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⁴These statistics were part of the research used in the PBS documentary, Juggling Work and Family. For additional statistics see http://www.pbs.org/workfamily/discussion_snapshots.html.

⁵The complete story is archived at http://www.cbsnews.com.
SAS *conservatively* estimates that its work life balance initiatives save the company millions each year in recruiting and training costs. Turnover for SAS averages three percent compared to twenty percent for its competitors. SAS employees are encouraged to complete work within a 35-hour week. The Company actively seeks ways to promote creativity and has designed the workplace to foster the imagination. The Company also offers a myriad of work life balance benefits. Morley Safer says about SAS: “If there is a heaven on earth on the job, it is at SAS Institute -- a design for living and working the good life.”

Other companies are also paying attention to the issue. The PBS documentary, *Juggling Work and Family*, featured Hewlett-Packard for its innovative job-sharing arrangements. Marriott Corporation’s employee hotline was also a subject of the documentary. The hotline helps employees with a range of issues from finding childcare to recommending a realtor to assist with a home sale.

Texas Instruments is another company that pays significant attention to work life balance. Like Marriott, TI employees receive resource information and referral services through a program called LifeWorks. TI also offers family counseling services, prenatal care, flexible work arrangements and a number of other innovative work life balance benefits.6

Law firms, too, are now paying much more than lip service to the issue of work life balance. In a revolutionary step, Kirkpatrick & Lockhart Nicholson Graham recently appointed a former partner, Jeannine M. Rupp, to be “Director of Professional and Personal-Life Integration.”7 Ms. Rupp comments on the purpose behind this position as follows:

It is increasingly difficult to separate the many identities – lawyer, wife, father, baseball coach, community volunteer – that we all attempt to maintain. By developing and fostering cultures and policies that respect employees’ multiple life roles, support various commitments, and encourage participation in both paid work and personal life, we expect to improve the quality of working life for all employees and, in turn, enhance their overall productivity and satisfaction.8

Work life balance is a recruitment tool for law firms as demonstrated by the many firm websites that include a webpage devoted to work life balance issues.9 Numerous state and local bar associations also have focused on the issue through committees, long-range studies, surveys and continuing legal education. Further evidence that work life balance is encroaching as a mainstay in the culture of the legal profession is found in the emerging

7The firm’s website feature of the position can be found at the Newsstand article, K&L’s Innovative Leadership Continues with Addition of Jeannine M. Rupp, Director of Professional and Personal Life Integration, September 13, 2004. See http://www.klng.com/newsstand/newsstand_detail.asp (last visited October 6, 2005).

8Id.

attorney-fueled web blogs on the issue. Closer to home, a work life balance survey conducted in 2002 by the Oklahoma County Bar Association Work/Life Balance Task Force (OCBA survey) demonstrated that work life balance is at the forefront of our minds. One out of every four attorneys responding had, within the preceding six-month period, consulted a friend, family member or spiritual advisor about lack of work life balance.

Following is a discussion of the diverse and complex work life balance issues that face the legal profession. We have been arriving at a crossroads for at least the past decade and we are now at a place where structural changes to the way we practice law are inevitable. If we accept work life balance as part of the culture of our profession, we will be much better suited to address these changes.

II. Identifying the Issues

A. The Business versus Profession Debate

The American Film Institute announced in 2003 that Atticus Finch was the number one film hero of the last century. I’m quite certain if Atticus were a real lawyer, he would profess that the practice of law is a profession, period. Atticus defended an unpopular client, heeding to the higher calling of justice. He did so on a pro bono basis. And, Atticus was well-rounded. He was a model parent to his children and a model citizen to his community.


11 See AFI’s 100 Years . . . 100 Heroes & Villains, http://www.afi.com/tvevents/100years/100yearslist.aspx (last visited October 6, 2005).
Atticus aligned his value system -- who he was -- with the practice of law -- what he did for a living.

There is no question that Atticus exhibits the ideals for which we should all aspire. A successful trial attorney in Florida, Mike Papantonio, has written a motivational book for lawyers: *In Search of Atticus Finch*. In this book he stresses that lawyers should take a step back from the grind and churn of the practice of law to identify their values and realign their practice with those values. In other words, to become more Atticus-like.¹²

In stark contrast to Atticus is the contemporary transactional attorney who is likely to view the practice of law as exclusively a business venture. And, there is good reason for this view. The territorial encroaches by other professionals and the continued prohibition against multi-disciplinary and multi-jurisdictional practices has created a competitive environment unmatched by times past. In addition, most law firm management, while perhaps conceding that a lawyer should hold onto professional ideals, will stress that bottom-line thinking is paramount.

Of course, the sensible approach is to recognize that the practice of law is both a business and a profession. And the type of practice you have likely determines where on the continuum of the debate you are situated.

However, too few lawyers are well-equipped to effectively manage the business side of the practice of law. With limited exception, under current law school curriculum, students

are not taught the business skills necessary for a successful legal practice. Indeed, many law students have liberal arts backgrounds and have never had any formal training in the skills needed to operate a successful and profitable business. Those starting their own legal practice learn by trial and error. Those coming into a firm structure accept existing practices some of which are truly outdated and ill-fit to the modern practice of law. As our profession continues to evolve, we need to search for innovative ways to cater standard business practices to the legal profession model. And, we need to do so without compromise to our professional duties and obligations.

**B. Generational Views**

I recently experienced one of those “rude awakenings” while reading a news article reporting that this year Generation X begins turning 40. My illusions of Generation X as a “younger generation” have been shattered. Generation X, it seems, is “all grown up.” This generation is shaping the workplace, emerging into management roles and recruiting younger talent. So, who are the Generation Xers and what are their values?

Generation Xers (born between 1965-1980) are identified as needing feedback and flexibility but resenting close supervision. They are adept and comfortable with change. They are very clear about their desire for work life balance. They work to live not live to
work. Their core values have been defined to include: diversity, thinking globally, balance, technoliteracy, fun, informality, self-reliance and pragmatism.  

Because Generation Xers value work life balance we can expect to see more inroads towards work life balance as they rise to the “power” positions. The OCBA survey of our own Oklahoma practitioners reflects this generational trend. Forty percent of the associates (as opposed to only twenty percent of the partners) agree that their employer could help reduce the stress that impacts their job performance.

From the outset of my study of work life balance issues I have heard the Baby Boomers (born between 1946-1964) refer to their younger colleagues as “slackers,” particularly when those individuals seek work life balance. I think this is a very short-sighted and harmful accusation. For the most part, these younger attorneys work differently, even smarter than their senior counterparts. They are not lazy and they do not lack the drive to be effective professionals. They do, however, want time for family or other personal interests. They are willing to be creative in finding ways to achieve these goals. Understanding the value system of this generation and the critical importance work life balance plays can open the door to more meaningful workplace innovation.

Generation Xers must also be mindful of the value system of lawyers from other generations with whom they practice. The typical law firm today includes nearly forty years

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of generational differences with lawyers admitted to the bar as early as 1960 and as recent as 2005. Therefore, Generation Xers must respect the values of the more senior Baby Boomer attorneys and seek to understand the values of Generation Y (born between 1981-1999), the younger attorneys whom they recruit and mentor. Generation Y it seems, however, is also intently focused on work life balance issues. The topic is more politically correct for this generation and they are not timid in voicing their expectations for a workplace that values work life balance.

I am an individual born in 1966. I am technically, therefore, a Generation Xer, but I am at the cusp of the demarcation lines between the Baby Boomers and the Generation Xers. Therefore, I often find myself identifying with the values of both these generations. To me, it seems natural that workplace policies should be developed around the concept of *tolerance* for the different value systems these generations hold. It is critical that we find ways to utilize our differences as a strength rather than as a reason for blame, accusation or criticism.

C. The Role of Parenting

As I mentioned at the outset, work life balance became an issue for me as a result of my dual role as professional and parent. Perhaps this work life balance “conflict” more than any other has fueled my interest in the issue. As a new parent, one of my biggest frustrations came from feeling the need to make excuses for my role as a parent. It felt awkward to be on maternity leave -- so awkward, in fact, that it was difficult to embrace that time as
legitimate. When I returned to work, it felt almost shameful when the need arose to care for a sick child or to take time off for a family vacation. Our legal culture frowned upon these things. The message was that addressing these issues detracted from the commitment to one’s professional obligations.

A regret I continue to hold is that the role of parenting is so often viewed as a burden to the workplace. Parenting is critical to the health and success of our culture. The workplace then, should be flexible and contribute to this health and success.

As my children have grown, so too it seems has the workplace tolerance for parenting obligations. I believe this is, in part, due to the increased role men now play in child-rearing. Significantly, men are beginning to feel more free to express their desire to have an active role in caregiving. In a very moving article, What a Difference a Dad Makes, Jim Sandman, Managing Partner of Arnold & Porter, describes the six-month sabbatical he took when he and his wife had their first child. I found it extremely gratifying to have a man share his insights about the realities of child-rearing. For instance, Sandman observes that caring for a baby full-time can be isolating. As he explains, at the end of a day he craved adult contact and relied on the predictability of his wife arriving home when scheduled. He states: “I came to realize that good management of people requires recognizing the importance of predictability of schedule, to the maximum extent possible, particularly for people with

14The article contains excerpts from Remarks for Working Mother WorkLife Congress, October 1, 2003. The article can be found at http://www.thirdpath.org/lawconference/conference_research.htm (last visited October 6, 2005).
Mr. Sandman believes that fathers do not make greater use of family-friendly benefits due to “societal and workplace pressures and prejudices.” As he explains: “Fathers who reduce their professional hours to spend time with their families risk being perceived as less committed, less hard-working, less successful than their counterparts who do not.” Yet he feels confident that fathers would make greater use of family-friendly policies if they thought they could do so without damage to their careers. Certainly his experience in caring for his newborn son, now age 14, was a life-changing experience. He says: “At an age when many kids are at odds with their parents, he tells me every day that I am the best dad in the world. And he means it. I am convinced that the strength of our relationship today is attributable

\footnote{Id.}
in some significant measure to the boost my employer gave me when I was just starting out as a dad.”

Women have been more outspoken in expressing the desire to take advantage of family-friendly policies without compromising their career aspirations. With men joining the front, perhaps the ability to utilize family-friendly policies will finally become a reality. As Sandman says: “I think there are few things more effective in improving work/life balance for working mothers than to permit and encourage working fathers to spend more time on parenting.” As Sandman’s remarks demonstrate, it is critical that men and women together appreciate the benefits that accompany a workplace that both makes available and encourages the use of family-friendly benefits.

While I have focused on parenting obligations, I would be remiss if I did not mention that those members of our profession who are not parents are equally entitled to the benefits and protections work life balance initiatives offer. As one work life balance advocate has framed it: “When work-life issues are labeled work-family issues, this creates immediate divisiveness between lawyers with and without families. Simply shifting the burden of unrealistic [work] expectations from parents to non-parents undermines change efforts. Everyone needs to have a life outside of work -- not just parents.”¹⁶ I stress again, therefore, that the issue is work life balance not work family balance.

D. The Demands of the Profession

I often hear the naysayers of work life balance contend that it simply does not work in the legal profession because the demands of our profession are too great. There is no question that being a lawyer requires a tremendous amount of professional commitment. Yet, I do not believe that working exorbitant hours is synonymous with commitment. Nor do I believe that face time at the office is synonymous with commitment.

Advocates of work life balance do not pretend that a trial would require anything less than late night work through the course of the trial. It is the myth that work at this rate is required on a constant basis, even when the trial is over, that work life balance advocates fight against.

A common characteristic of lawyers is to continue working on a project up to the last minute. We work until we can work no more. We believe there is always more that can be done. For almost every lawyer, a significant work life balance challenge is to resist the pressure to spend more time at the office. Lawyers, by nature, internally create this pressure. A work culture that similarly reinforces the pressure to spend more time at the office can have extremely harmful effects.

Attorneys must be cognizant of the dangers of overwork. When employees feel overworked they are more likely to make mistakes, more likely to resent employers and co-workers and cast blame towards them for being overworked, and more likely to seek other
employment. They also are likely to have poorer health.\textsuperscript{17} The World Health Organization has reported that by 2020 clinical depression is expected to outrank cancer and follow only heart disease to become the second greatest cause of death and disability worldwide.\textsuperscript{18} Our profession is more at risk than others in this regard. In a survey of 105 occupations, lawyers ranked first in experiencing depression -- four times more likely to be depressed than the general population.\textsuperscript{19}

We must appreciate the dangers of overwork. Joining the forces of other industries by recognizing the value of work life balance policies will enable us to stay both healthy and competitive.

E. Profit is the Bottom Line

Law firm management backs away from work life balance policies under the belief that such policies negatively impact the firm’s profitability. But such short-sighted thinking fails to consider the significant costs associated with attorney attrition. Training associates is a significant investment. When the associate leaves, there is considerable economic impact. Other attorneys must step-in to pick up the work, client relationships are jeopardized, if not lost, and new associates must be trained to replace the departing ones. In


\textsuperscript{18}Id.

Facing the Grail: Confronting the Cost of Work-Family Imbalance, the Boston Bar Association undertakes a comprehensive study of the cost of failing to address work life balance issues and cites attrition as one of the more significant costs. The study also discusses the need for change in salary structures and the cyclical force of higher costs, higher revenues and more billable hours.

There are other costs as well. They are more difficult to demonstrate mostly because data specific to the legal profession has not yet been collected. Other industries, however, have come to appreciate these costs as real and significant. What are these costs? They are the costs associated with lost productivity, absenteeism, poor work product, and increased health care needs. On the flip side, a firm culture that embraces work life balance receives economic benefits associated with employee loyalty, increased morale, better client relationships and more efficient productivity.

Law firms need to develop methodology for accurately determining the real cost of work life balance initiatives. They also need to reexamine current bottom-line methodology to ensure it accurately reflects the economic realities of the costs associated with overworked attorneys.

F. The Billable Hour

Since the inception of my study of work life balance issues, the billable hour is most often cited as the obstacle to attorneys achieving work life balance. Certainly there is surface appeal to this proposition. But the billable hour is but one piece of the puzzle. The
billable hour is not intrinsically a bad thing. It is the abuse of the billable hour and the
tendency to become too reliant on it that gives rise to trouble. Firms continue to hike up the
annual billable hours requirements. In the 1970’s annual billings averaged around 1500
hours. Today annual billings average between 2200 and 2400 hours. Yet, last I checked the
number of hours in a day have not changed -- we’re still limited to just twenty-four.
Recognizing the “tremendous pressure” on young lawyers to record increasingly high billable
hours and the “unlivable kind of life” that produces, United States Supreme Court Justice
Stephen Breyer has stated: “I can’t think of a more important problem facing the profession
than how to maintain a life for a young lawyer that will lead to satisfaction in his or her
career, that will produce time for a family, and will produce time for some form of
community and public service . . . .”\textsuperscript{20}

Justice Breyer’s comments were made in connection with the creation of the ABA’s
Commission on Billable Hours in 2002. The Commission’s purpose is to study the negative
impact the billable hour has had on the profession. The Commission’s Report provides
results from the different studies the Commission has conducted and includes views on the
billable hour from in-house counsel and the 100 largest law firms in America.\textsuperscript{21} The Report
also provides a history of the billable hour and describes how our profession has become so


dependent on this system. In addition to addressing the impact of the billable hour, the Report explores alternatives to the billable hour such as flat/fixed fees, discounting, blended billing rate, contingent fees, and hybrid fees. The Report includes a discussion of law firms who have used alternative billing methods with success. The Report provides one of the first attempts to seriously consider different ways to charge for our services.

As we proceed into the twenty-first century, it is imperative that we pause to consider the ramifications of the billable hour on our professional growth and our personal lives. It is also imperative that we create and implement new and creative methods for charging for our services.

G. Alternative Work Arrangements

For several years now, practitioners, particularly female practitioners, have advocated for alternative work arrangements. I regret that the phrase “alternative” has been attached to these work arrangements as the word suggests an almost inferior quality about the work arrangement. Not surprisingly, those exploring alternative work options contend that the biggest drawback is they are often treated as inferior attorneys and are not given quality work assignments.\(^{22}\)

Nonetheless, alternative work arrangements are on the increase and becoming more and more accepted. In the OCBA survey, seventy percent of the women practitioners

Numerous organizations, including PAR and the ABA Commission on Women in the Profession, have undertaken significant efforts at creating written policies for alternative work arrangements. PAR’s Model Balanced Hours Policy is attached as Appendix B to the Balanced Hours Report. The American Bar Association Commission on Women in the Profession responded that they would be more committed or more likely to remain at their firm if work/family balance were really possible without personal or professional stigma or career jeopardy. Encouraging is the fact that sixty percent of the respondents (male and female) do not believe that alternative work arrangements adversely affect firm profitability nor do they believe that a lawyer with a reduced hour or nonstandard schedule is not sufficiently committed to the practice of law.

The Balanced Hours Report\textsuperscript{23} dispels common myths about the economic unfeasibility of balanced hours:

• balanced hours attorneys cost firms too much money;
• some practice areas are not amenable to a balanced hours schedule;
• balanced hours cannot work in a high-powered law firm;
• lawyers who work balanced hours are not committed to the firm;
• client’s won’t accept reduced schedules;
• a fear of floodgates: the whole firm can’t work balanced hours.

The Balanced Hours Report includes a feature on law firms that have committed to balanced hours and found success.\textsuperscript{24}

\textsuperscript{23}Id.

\textsuperscript{24}Numerous organizations, including PAR and the ABA Commission on Women in the Profession, have undertaken significant efforts at creating written policies for alternative work arrangements. PAR’s Model Balanced Hours Policy is attached as Appendix B to the Balanced Hours Report. The American Bar Association Commission on Women in the Profession...
As more practitioners experiment with alternative work arrangements, the stigma will certainly disappear. Flex-time, part-time, condensed work week and telecommuting signify the twenty-first century restructuring of the workplace. Law firms inevitably will embrace these options.

H. Defining Success in One’s Career

In the OCBA survey seventy percent of the attorneys agreed that success in their firms was defined by the number of hours billed. More telling than this statistic, however, were the responses to certain open-ended questions asking practitioners to comment on their satisfaction with the practice of law. A very common response to these questions expressed practitioners’ desire to have the quality of their work recognized and rewarded. In addition, attorneys repeatedly emphasized the desire that they be recognized for being a “well-rounded” person.

Attorneys feel deflated by their success always being tied to the number of hours billed. The OCBA survey found that attorneys most value the intellectual challenge of their jobs. Yet, the billable hour squelches this desire for intellectual challenge. It fails to attribute value to intangible contributions like creativity, knowledge, or skill and expertise.

24(...continued)
Profession also has suggested policies which can be found in appendices to their report: BalancedLives: Changing the Culture of Legal Practice, Sept. 2001, available at www.abanet.org/women/balancedlives.html.
Instead it rewards quantity over quality and repetition over creativity. One commentator has described the effects of living a life in six-minute increments as follows:

- A lawyer’s time has only extrinsic value -- to achieve the purposes of the client and to make money for the firm. Thus, the only valuable time is billable time.
- Time is a commodity with a readily identifiable monetary value. Each minute of a lawyer’s day has a price assigned to it.
- Time is fungible, *i.e.* a lawyer is always available to work.
- Non-billable time has no intrinsic value. The decision to spend time doing anything other than billable work must be justified. Time that does not produce revenue is simply wasted time.\(^{25}\)

In reshaping the culture of the legal profession to one that embraces work life balance, we need to find ways to define success if not wholly separate from the billable hour, then in ways in addition to the billable hour. Attorneys need to take time out to identify what is important to them, what it is they value. Attorneys then need to make sure that what they value is a part of their every-day life. An excellent resource in this regard is Steven Keeva’s book, *Transforming Practices: Finding Joy and Satisfaction in the Legal Life.*\(^{26}\) Keeva suggests that when we do not integrate our values into our daily work we become separated or disintegrated. He identifies seven types of separation commonly experienced by lawyers: (1) separation from oneself; (2) separation from clients; (3) separation from the law firm; (4)


separation from friends and family; (5) separation from life as people live it; (6) separation from law as an expression of self in the world; and (7) separation from the larger profession. This lack of integration largely accounts for the degree of dissatisfaction that pervades the practice of law. Keeva advocates that by cultivating integration a lawyer can “have a vibrant life, one that nourishes your professional life so that what you do becomes more of an expression of who you are.”

Cultivating work life balance as part of our legal culture enables us to define success by the value of what we have contributed. What attracts many of us to the law is its history as a noble profession. As American Bar Association Past President Robert Hirshon wrote:

Most of us were attracted to the law for the nobility of its principles; the rule of law and the peaceful resolution of disputes that is so essential for any society to flourish. But, if we endeavor to be a positive force in our nation’s progress, we must also be good parents and good spouses, good friends and good neighbors. We must uplift those less fortunate. A lawyer, after all, is also a citizen. The noble life is a life of balance, with each obligation attended to. No responsibility should be completely sacrificed for the benefit of another.

Tied to a billable hour definition of success, we lose sight of the reasons we became lawyers in the first place.

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27 Id. at 20.

I. **Earnings Expectations**

Recently, more focus has been paid to the earnings expectations of attorneys as a possible contributor to the work life balance conundrum. After all, if attorneys were willing to earn less money, wouldn’t they be able to bill less hours? It is an oversimplification to assume that lawyer greed is the reason for dissatisfaction in the profession. As a starting point, consider the high-cost of a legal education today. Newly admitted attorneys will often spend a considerable number of years paying off their law school debt. This is not greed. This is survival.

Nonetheless, lawyers may have unreasonable earnings expectations or unreasonable anxieties about their earnings expectations. In one survey of lawyers, fifty-two percent responded that every year their financial obligations are increasing. In that same survey forty-seven percent responded that no matter how much money they make, they are always working to make more. Seventy-six percent responded they did not feel they were at a point in their career where they had accumulated enough financial wealth to fully enjoy life. And, an overwhelming seventy-seven percent worry about their future financial success.\(^{29}\)

It is imperative that we educate law students about real earning potential. It may also be necessary to offer money management and debt counseling services to our fellow colleagues. On an individual basis, we need to assess whether our value system would allow us to make do with less and to what extent we are overly-driven by consumerism.

J. **Client Expectations**

Does work life balance detract from the services we are providing? Do clients view negatively attorneys that incorporate work life balance practices? In the *Balanced Hours* Report,\(^\text{30}\) PAR found that most clients are not turned off by balanced hours practices. They are willing to work with attorneys who have reduced hours schedules. As PAR reports, the client’s work is not sacrificed by an attorney who works reduced hours. In fact, many reports have demonstrated that reduced hours attorneys are more efficient in the use of their time and the generation of their work product. The attorney does not skimp on services to the client, but simply takes on fewer matters.\(^\text{31}\) In addition, technology allows reduced hours attorneys to always be available to the client even when not at the office. Therefore, responsiveness to the client is not jeopardized.

At the beginning of this paper I addressed the wide-spread attention given to work life balance. Corporations are increasingly finding ways to accommodate work life balance practices in the workplace. Therefore, we are certainly not isolated from our clients in seeking ways to change our workplace to accommodate our workforce.

K. **Technological Advances**

Is technology a leash or a liberator when it comes to work life balance? Certainly, technology has made us more accessible and, therefore, has made it more difficult to escape

\(^{30}\text{See supra, note 22.}\)

\(^{31}\text{Id.}\)
from work. We can access our work from virtually anywhere at virtually anytime. And, clients can access us just the same.

On the flip side, technology has opened up a wealth of opportunities. We don’t have to be in the office to take care of work. We can electronically file pleadings. We can leave the office, enjoy a family dinner and resume work from home when needed. If we have to work on the weekends, we can do so without the commute to the office. Technology has also streamlined business practices. Billing and time-keeping software, for example, have saved practitioners significant time in their administrative duties.

Technology does not create or take away balance, of course. It is what we do with the technology that matters. The ability to set boundaries and respect those boundaries is key to work life balance.

L. Emerging Law

American University Washington College of Law has funded a program entitled “Program on Work Life Law.” The Program defines it’s mission as follows:

Our mission is to provide valuable information to help shape the public conversation around changing families and their experiences in the workplace. We hope to influence the future of work so that individuals can participate in family life as they desire and deserve to do.32

The Program is gathering information in an effort to establish an emerging area of employment discrimination based upon one’s role as a parent or other caregiver. The

32 For a complete description of the Program, see http://www.wcl.american.edu/gender/worklifelaw/.
Program seeks to educate employers and employment discrimination lawyers about the developing law in this area.\textsuperscript{33} The Program is an invaluable resource and its study in this area is proof that restructuring the workplace to accommodate work life balance is here to stay.

\section*{M. Other Emerging Practices and Policies}

Evidence that work life policies in the legal profession are beginning to take shape can also be found in the courts. For instance, in 1999 the North Carolina Supreme Court adopted a new rule of practice (effective January 2000) which allows up to three weeks of secure leave for practicing attorneys per year. Lawyers may designate up to three weeks of leave by filing a secure leave designation with the clerk of the court. The designation must be filed at least ninety days in advance of the requested leave period and must be at least one calendar week in length. During the secured leave period, attorneys may not be required to appear for any work-related legal proceedings in North Carolina’s trial and appellate courts.

The secure leave rule was a recommendation of the Commission on Professionalism created by Burley B. Mitchell, Chief Justice of North Carolina. The Chief Justice implemented the rule not just to improve the quality of life for lawyers and their families, but to benefit the public at large through fewer continuances and better case management. Lawyers are not required to use the leave time for vacation. If they prefer, the leave time can

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be used at the office. However, the Chief Justice stated that he encourages lawyers to use if for down time. “I want them to step back and contemplate their bearings in life. Having time away from urgent professional demands will ultimately improve the quality of legal services provided by attorneys to the citizens of North Carolina.”

Law firms are creating workplace policies in addition to the alternative work arrangements described above. One such emerging policy is that which allows lawyers extended time off for a sabbatical. The opportunity is usually limited to those who have been with the firm for a significant number of years. Some firms, however, have created mandatory sabbaticals after as little as five or six years of service.

Attorneys are taking sabbaticals for a variety of purposes. Some take vacations. Others pursue a hobby, such as sailing, with an intensity otherwise unattainable. Still others simply use the time for reflection and renewal. The sabbaticals range in length depending on the needs of the firm and the goals of the individual attorney. Some attorneys take off a few months, others a few years. Firms may provide full pay for the period of the sabbatical, offer reduced pay or no pay at all.

While working out the arrangements for a sabbatical can be a significant task, attorneys that have taken the sabbatical plunge all agree it is well worth the trouble. Many discuss the difficulty of “reentry” following the sabbatical but none seem to have any regrets.

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34The Chief Justice’s comments are contained in a news release posted on the North Carolina Court System’s website. See http://www.aoc.state.nc.us/www/public/aoc/pr/attnyleave.html (last visited October 6, 2005).
All find they are recharged following the sabbatical. This sabbatical practice demonstrates yet another way in which work life balance is becoming part of our professional culture.

III. Where Do We Go From Here?

Is work life balance beginning to be a part of the culture of the legal profession? I would answer that question with a resounding yes. In addition to my extensive study of the issue, my own experience in the profession supports this response. When I graduated from law school in 1992, no one talked about how to raise a family and practice law. Part-time work was taboo and the phrase “alternative work arrangements” had yet to be invented. Men had never considered the opportunity of paternity leave. Casual work attire was not on anyone’s radar screen. In fact, women did not even consider wearing pants to work and certainly not to court. No one was questioning the efficacy of the billable hour. A stigma was attached to taking a vacation and it was unheard of to do so without taking a stack of files along with you. Sabbaticals were something only those in academia enjoyed.

But to a newly admitted attorney, these matters are not foreign. They have discussed these matters at law school, made inquiry of work life practices during interviewing and

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35For a good account of the varied types of sabbaticals lawyers have taken and the varied experiences they have had, see Joan Indiana Rigdon, Time Out, Time Off: Lawyers on Sabbatical, DC Bar August 2005, available at www.dcbar.org.
voiced their expectations for a workplace that is responsive to work life balance issues. These new attorneys now have something to pattern from and improve upon.

If you are not comfortable with work life balance, perhaps instead you might embrace the phrase “career management.” Indeed, work life balance is about managing your career in the broader context of your life as a whole. Career management is an emerging field. Some attorneys are even creating career opportunities exclusively in the field of career management. An example was cited earlier in this paper, the partner at Kirkpatrick & Lockhart who has been appointed Director of Professional and Personal-Life Integration.

In concluding, it is important to stress that work life balance is something that is going to be with us and something that is important to our profession. It is not just a fad. Work life balance reflects a need for attitudinal change about how we practice law. Our profession needs to stop fearing work life balance initiatives in the workplace as something that is threatening and embrace these initiatives and the many positive outgrowths they bring to the profession.