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Munger, Wendy C.

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## BOOK REVIEW

### **A PRACTICAL GUIDE FOR WOMEN ENTERING THE LEGAL PROFESSION IN THE 90s**

A REVIEW OF *THE WOMAN ADVOCATE: EXCELLING IN THE 90'S*  
EDITED BY JEAN MACLEAN SNYDER AND ANDRA BARMASH  
GREENE. Englewood Cliffs, N.J.: Prentice Hall Law & Business,  
1995.

#### Wendy Munger\*

A few months ago, I called a woman friend of mine, who is a partner at a major Los Angeles law firm, to catch up on what had been going on in her life. She told me that she had just finished handling the closing of a large corporate transaction, assisted by a beautiful young woman associate in her office named Diane. My friend said that while she was meeting with a male member of the senior management of the corporate client, Diane walked into the room and the man looked up at her and said, "Diane, you must never sleep alone!" I asked my friend, "What did you do when he said that?" She responded, "I said, 'You can't say that to her!' I put down my pen and told him that I wasn't going to do any further work on the transaction until he apologized to the associate, which he did."

A few weeks ago, a woman lawyer who graduated from law school in the 70s told me that when she started out many of the older male attorneys she dealt with called her "honey" or

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\* Wendy Munger is a Lecturer at Law at the UCLA School of Law. After graduation from the UCLA School of Law in 1977, she served as a law clerk to Judge Alfred T. Goodwin of the Ninth Circuit. In 1979 she joined Tuttle & Taylor, Inc., a Los Angeles law firm. She became an officer of Tuttle & Taylor (the equivalent of a partner in a partnership) in 1982, and practiced at the firm until 1986.

"sweetie" — "I'll call you after I speak to my client, honey." She said that whenever they did that, she would respond in kind — "I'll wait to hear from you, dollface," or "Okay, lambchop." She said she believed that most of them were not really aware of what they were doing and that responding with a humorous tone often got them to stop.

A few days ago, at a meeting of women lawyers, an Assistant U.S. Attorney told the story of her worst jury argument. She was wearing a low-cut suit jacket with a large scarf in the neckline in place of a blouse. In the middle of her impassioned argument, she saw the scarf lying at her feet and realized that there was now nothing between the jurors and her brassiere. She finished her argument with one hand clamping her jacket shut. The defense counsel later hissed at her, "You'll do anything to get their attention!" This story prompted several similar stories from other women lawyers present and the joint realization that each woman considered it part of her preparation for trial to pick out foolproof clothing and check all zippers and buttons.

These are all true stories. Women lawyers who have practiced for many years accumulate, personally or vicariously, endless stories like these about life as a woman lawyer. Novice women lawyers do not have access to this lore unless they happen to know a more experienced woman attorney who will take the time to pass along the lessons she has learned. A recent book, *The Woman Advocate; Excelling in the 90's*, edited by Jean Maclean Snyder and Andra Barmash Greene, may help to fill this void.<sup>1</sup>

*The Woman Advocate* was written to illuminate the issues women lawyers face in the 90s. The book, which contains twenty-one essays and an afterward, suggests specific skills to help women lawyers overcome gender-based obstacles, and describes different career options. Most of the authors are lawyers,

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1. *THE WOMAN ADVOCATE: EXCELLING IN THE 90'S* (Jean Maclean Snyder & Andra Barmash Green eds., 1995) [hereinafter *THE WOMAN ADVOCATE*]. Of the 18 women lawyers who contributed articles to *The Woman Advocate*, none mentioned having had a helpful woman lawyer mentor in her early years, and several mention the fact that they were the first women in the law offices they joined. See, e.g., Ann Brick, *When I Grow Up, I Want to Work for the ACLU: On Becoming and Being a Public Interest Lawyer*, in *THE WOMAN ADVOCATE*, *supra*, at 345, 347; Andra Barmash Greene, *The Litigating Mom*, in *THE WOMAN ADVOCATE*, *supra*, at 361, 363 (both discussing being the first woman partners in their offices). One of the articles in *The Woman Advocate* specifically addresses the need for women mentors for beginning women lawyers. Louise A. LaMothe, *Where Have the Mentors Gone?*, in *THE WOMAN ADVOCATE*, *supra*, at 243.

and all but one are women. The book was written by practitioners for practitioners and as its title suggests, it is a "how to" book — how to excel as women advocates. The book contains almost no discussion of feminist legal theories. The authors assume that women lawyers are in some ways different from male lawyers, but the authors do not analyze the cause or the exact extent and nature of those differences. Instead, the book focuses on how women lawyers can succeed in legal practice in today's world.

*The Woman Advocate* is divided into three sections. Section I, "The Setting: What We're Up Against," includes articles relating to the existence of discriminatory attitudes against women by the courts, male colleagues and opposing counsel, clients, and jurors. Section I also includes articles by a woman of color and a lesbian lawyer describing the additional problems they have faced. Section II, "The Skills: Teaching Each Other to Excel," consists of articles giving specific tips for women lawyers engaged in negotiations, depositions, courtroom appearances, generating business, mentoring, and becoming a partner at a large firm. Section III, "The Practice: We're on Our Way," includes a fictional account of a woman litigator's career at a big law firm and descriptions of practices by a solo practitioner, a government agency lawyer, a public interest lawyer, a mother who is a full-time litigation partner at a large law firm, and a mother who is a part-time labor lawyer at a large law firm. Section III ends with an article by a legal recruiter describing how to go about searching for a new job. "The Afterward" is a short essay by a former big firm litigator who has recently become an independent attorney-mediator.

Does the book work as a practical guide for a woman lawyer in her first few years of practice? The short answer is "yes." As I discuss below, the origin of the book limits its scope and applicability, but within that scope the book contains a world of useful information.

The title *The Woman Advocate* may mislead other readers into thinking, as I did, that the book is about women lawyers generally. The book grew out of a series of annual conferences on "Women Advocates" presented by the American Bar Association's (ABA's) Section of Litigation and Prentice Hall Law & Business Books beginning in 1993.<sup>2</sup> Because of its origin in the

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2. The editors give much of the credit for the idea of these conferences and the book to Louise LaMothe, who was the first woman Chair of the ABA's Section of

ABA Section of Litigation, *The Woman Advocate* was intended to focus on women litigators. In spite of the litigation focus, most of the chapters of the book appear equally applicable to women engaged in nonlitigation practices. Although the book would be more useful to my hypothetical beginning woman lawyer if it included discussions of nonlitigation types of practice, the group of women litigators who produced *The Woman Advocate* have nevertheless created a book useful for all kinds of lawyers.

The pool of lawyers chosen to contribute articles to *The Woman Advocate* reflects its origin in the ABA Section of Litigation. Four of the contributors to the book are from Irell & Manella, a large Los Angeles law firm. Many of the other contributors were active members of the ABA's Section for Litigation. Several worked on the early conferences for "Women Advocates." Two of the contributors are sisters. The reader can easily see the networking that went on to produce this book.

There is some geographical diversity represented, with authors practicing in Los Angeles, Philadelphia, Dallas, New York, Chicago, Washington, D.C., and Baltimore, but the heaviest concentration of contributors is from Los Angeles. This is refreshing for those of us on the West Coast who are used to a constant Wall Street focus in literature about lawyers. However, many lawyers believe that Los Angeles law firms are generally more progressive than East Coast law firms; therefore the personal accounts of the Los Angeles lawyers may not be representative of the experiences of women litigators practicing in other cities.

The book generally provides more insight into the practice of the woman litigator at a medium to large law firm than it does to women litigators in other types of practice. Six of the essays directly discuss life in such a firm and two more refer to the authors' experiences at such firms. Of the nineteen lawyers who wrote essays, seven are currently employed at major law firms and seven more were once employed at major law firms.

Section III of *The Woman Advocate* addresses different types of practice available to women litigators. The types of practice discussed include solo practice, government agency practice, public interest work, practice as a litigator at a large firm, and part-time practice at a large firm. Several types of practice are missing from this list, including legal services, state and fed-

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Litigation in 1992-93. David C. Weiner, *Preface* to THE WOMAN ADVOCATE, *supra* note 1, at xi, xiii.

eral criminal prosecutors and defenders' offices,<sup>3</sup> and in-house work at corporations.<sup>4</sup> The small-town practice is similarly omitted. *The Woman Advocate* would give a more complete picture for the beginning woman lawyer if it included chapters by women lawyers who have these practices.

Although I note these limitations for the record, *The Woman Advocate* is clearly not intended to be a sociological or scientific survey of women lawyers or even women litigators. This is a "continuing education of the bar" book; the editors of *The Woman Advocate* have simply tried to cover many of the topics of most importance to women lawyers, using able contributors.

Many of the articles collected in *The Woman Advocate* tell the personal stories of women lawyers, and several others, which offer specific suggestions for achieving success in specific areas, and also include references to the personal experiences of the authors. Although some of the articles summarize task force reports and scientific surveys relating to sex discrimination, the tone of the book is for the most part personal and somewhat casual, exemplified by headings such as, "What We're Up Against," "We're on Our Way," and "The Woman Lawyer in the Courtroom or 'We Love Your Hairdo.'" After reading this book, you feel as if you have been on a weekend retreat with twenty-two women and one man, listening to their stories and advice.

In the Introduction to *The Woman Advocate*, the editors provide helpful insight into their reliance on personal stories:

[T]he intertwining of gender and career affects all parts of our lives, even our sense of personal identity. Again and again authors begin writing about their careers and end up writing about their families, their childhoods, their personal beliefs about what is important, their feelings of self worth.

It is fair to ask why this personal storytelling seems a particularly female thing to do. Imagine, if you can, a book called *The Male Advocate*. Is there a chance this book would contain

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3. In *As a Woman of Color*, Beverly Nelson Muldrow describes some of the aspects of her practice as an Assistant District Attorney in Philadelphia. Beverly Nelson Muldrow, *As a Woman of Color*, in THE WOMAN ADVOCATE, *supra* note 1, at 77. This chapter does provide some insight into the life of a state prosecutor, although Muldrow's focus is mainly on the discrimination she has experienced as a woman of color.

4. One of the contributors, Beverly Nelson Muldrow, is currently employed as in-house environmental counsel for a waste management business. *Id.* at 79. Her essay relates her experiences as a woman of color at a state prosecutor's office, and only briefly mentions her recent work as in-house counsel. Corporations often hire litigators as in-house counsel to help monitor litigation, and some insurance companies have staff attorneys handle some of their lawsuits.

tales of family demands that impinge on work obligations, of career changes made to contend with the sexist reactions of colleagues, of jobs that grind down a person's sense of self-esteem? Are any of your male colleagues' war stories about these kinds of battles?<sup>5</sup>

Because many of the articles are in the form of individual stories, they do not present a uniform picture. For example, some authors tell of supportive male mentors or partners, while others tell of discriminatory behavior by male colleagues. Nor do the personal stories fit neatly into the topical pigeonholes of the book. The chapter by Beverly Nelson Muldrow discussing her experiences in facing double discrimination both as a woman and a person of color is placed in Section I, "The Setting: What We're Up Against," but it also provides insight into her practice as a state prosecutor. This adds to the information set out in the chapters on various types of practices in Section III. Overall, the personal story format works well because the information offered is easy to absorb and the inconsistencies are true to life.

#### I. SECTION I — THE CURRENT SITUATION — "WHAT WE'RE UP AGAINST"

In order for my hypothetical recent woman law school graduate to understand the current situation for women lawyers, she needs to hear at least a little about what has gone on in the past. The editors of *The Woman Advocate* made the interesting choice to have men deliver some of the most eloquent statements about past sex discrimination. In the Preface, David C. Weiner, the 1995 Chair of the ABA Section of Litigation, describes the legal profession when he entered it more than twenty-five years ago:

It was an all-male and predominantly white club. When women began appearing — first as associates, then as first-chair trial lawyers, and then as judges — the adjustment was not easy. Clearly these women were not given a level playing field. Among other things, they were excluded from 'serious' case preparation sessions. There were few opportunities, if any, for women lawyers to stand up in court and take the lead. And the thought of including a woman in a client meeting where the possibility of new business was being considered did not even enter the equation.<sup>6</sup>

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5. Jean Maclean Snyder & Andrea Barmash Greene, *Introduction to THE WOMAN ADVOCATE*, *supra* note 1, at xv-xvi.

6. Weiner, *supra* note 2, at xii.

While Weiner's statement describes sex discrimination as a fact, Thomas W. Johnson, Jr. reveals the mental state of the men who have been doing the discriminating in Chapter 2 of the book, "Evolving Attitudes of a Male Chauvinist Attorney." Johnson, a fifty-something partner at Irell & Manella in Los Angeles, seems to give an uncensored view of his past chauvinist attitudes. Written in a very personal style and tone, his story is completely believable.

Johnson begins his essay with a warning: "What you are about to read may upset you. It bothers me, and I wrote it."<sup>7</sup> Johnson explains the evolution of his thinking about women lawyers, beginning with his law school days and proceeding from his entry into law practice in the 1970s to the present. He states that as a law student,

I was perplexed and even annoyed by the increasing numbers of female students who were enrolling in my law school. To my way of thinking, these women were taking places away from male applicants who needed the education to pursue a dream or earn a better living to support their families.<sup>8</sup>

He explains that later, as a member of his firm's recruiting committee,

I asked each [woman] applicant whether she really intended to pursue a lifelong full-time legal career or whether motherhood would ultimately disrupt her full-time position with our firm. . . . Some of them asked me if I had children (which I did not) or how I handled my family responsibilities. I thought these responses were at best argumentative or perhaps even inane . . .<sup>9</sup>

Johnson's article is aptly entitled a "confession," as demonstrated by this admission about his thoughts and behavior relating to women recruits in the 1970s:

I considered sex-based humor to be entertaining. When our firm hired a recruiting coordinator — a woman — she turned out to have a fine sense of humor, and I thought I did too. More than once, when she asked me if I had time to interview a female law student, I replied by asking whether the recruit was well built.<sup>10</sup>

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7. Thomas W. Johnson, Jr., *Evolving Attitudes or Confessions of a Male Chauvinist Attorney*, in *THE WOMAN ADVOCATE*, *supra* note 1, at 43.

8. *Id.* at 46.

9. *Id.* at 48.

10. *Id.* at 49.



Not all of the discriminatory attitudes Johnson describes are in the past. In discussing the attitudes of other male attorneys, Johnson says:

. . . since I am spilling all the trade secrets, I might as well let you in on some of the . . . nasty comments made about female attorneys. If a female colleague appears particularly impatient or overly anxious, some of my more backward colleagues are apt to comment that 'she needs to be screwed.' The meaning is evident. If a female attorney loses her temper easily, someone is likely to speculate that she must be 'on her period.' And, if she's too fat or too skinny, it is sometimes said that her behavior can be attributed to her inability to attract men. Most men, I can assure you, are offended by these remarks.<sup>11</sup>

Of course, Johnson speaks only for himself. Moreover, we can assume that he is not representative of the worst of male chauvinists, because he is willing to expose his former blatantly sexist views to a female audience in order to help the women editors create a complete picture of the obstacles women face. However, including this view from a man's perspective was a stroke of genius on the part of the editors, because it is a very powerful and credible way of introducing some of the obstacles faced by women lawyers in the past and present.

In addition to presenting sexist attitudes from a male attorney's perspective, Section I includes a series of chapters summarizing various reports and surveys relating to sexism affecting women lawyers. The information in Johnson's chapter is reinforced by Professor Judith Resnick's discussion of the Gender Bias Task Force Reports in federal and state courts in Chapter 1 and the scientific survey results reported in Chapter 3, "Survey of Female Litigators: Discrimination by Clients Limits Opportunities," Chapter 6, "Credibility and Gender in the Courtroom: What Jurors Think," and Chapter 7, "Women and Men in the Courtroom, What Trial Lawyers Think."

The contents of these chapters will be upsetting to a woman lawyer just starting out in practice. Chapter 6, for example, refers to studies finding that "both men and women tend to rate a man's performance more favorably than a woman's when their performance is identical."<sup>12</sup> Chapter 7 summarizes a survey of male and female litigators which found that, based on their perceptions of past successes and failures in court, women litigators

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11. *Id.* at 53.

12. Reiko Hasuie, *Credibility and Gender in the Courtroom: What Jurors Think*, in *THE WOMAN ADVOCATE*, *supra* note 1, at 121, 124.

used a smaller repertory of courtroom persuasion techniques than male litigators. The survey also found that the women litigators' repertories were weighted toward low risk (*i.e.*, not overtly attention-getting), respect-oriented and courtesy-oriented behavior because the women litigators perceived that they had less success with highly aggressive techniques than male litigators did.

By relying on the male lawyer's story and these surveys to establish the existence of sexist attitudes on the part of male attorneys, clients, jurors, and judges, the editors set the stage for Section II of the book which sets forth specific tips for counteracting these attitudes.

## II. SECTION II — PRACTICAL TIPS — “THE SKILLS”

Section II contains chapters giving practical tips for women lawyers engaged in negotiations, depositions, courtroom appearances, business development, mentoring, and trying to make partner in a large firm. The authors have the experience and credentials to be credible authorities.<sup>13</sup> Surprisingly, most of the practical tips are in fact sex-neutral in the sense that men as well as women could benefit from the advice. The chapter on making partner in a large firm, for example, contains no information specifically directed to women lawyers. Similarly, almost all of the specific tips for negotiating given by the author in Chapter 8 are taught in many negotiation and mediation classes for both sexes. In the chapter on depositions, the authors describe ways to neutralize the “gorilla attorney” who seeks to bully and antagonize his opponent. These suggestions would be valuable to male as well as female attorneys. Much of the advice on courtroom appearances, business development, and mentoring, is similarly gender-neutral.

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13. For example, the chapter on making partner in a large firm is by D. Jean Veta, a partner at Covington & Burling, a prominent large Washington, D.C. firm. D. Jean Veta, *Grabbing the Brass Ring: Making Partner at a Large Firm*, in *THE WOMAN ADVOCATE*, *supra* note 1, at 261. The suggestions in the chapters relating to specific skills for women lawyers are based, for the most part, on the personal experiences of the authors rather than scholarly research. See, *e.g.*, Courtenay L. Bass, *Negotiating Skills for Women Lawyers*, in *THE WOMAN ADVOCATE*, *supra* note 1, at 153, 168; Norma L. Shapiro, *Bench With a Point of View: How to Create Confidence in the Court Room*, in *THE WOMAN ADVOCATE*, *supra* note 1, at 211, 215-16 (stating the author's perceptions of the differences between men and women attorneys and basing their advice on those perceptions and their experience).

Some of the authors in Section II recognize that their tips are applicable to both sexes, but make the point that, for various reasons, women attorneys may need them more than their male counterparts. For example, in the chapter on depositions, the authors explain:

While facing an antagonistic and aggressive adversary is not uniquely a woman's problem, it does pose special difficulties for women. Women may elicit more challenges than men because women are perceived as being weak. Women may have more difficulty responding effectively than men because women have been socialized to mollify aggressors.<sup>14</sup>

Some pieces of advice that are specifically addressed to women lawyers include how to deal with witnesses who flirt, how to dress in court, how to overcome the effects of a short stature and a high voice in court, and how to arrange business development activities that are enjoyable for both men and women. The admonition that women lawyers should use a low-key courteous approach rather than an overly aggressive approach is repeated in the chapters on negotiations, courtroom skills as presented by a woman litigator, and courtroom skills as presented by a woman judge. This admonition is consistent with the survey results discussed in Chapter 7 relating to the perceptions by female litigators that aggressive techniques are not effective.

Because Section II contains suggestions that are valuable for all attorneys, as well as specific suggestions appropriate mainly for women, it provides helpful guidance for a beginning woman lawyer.

### III. SECTION III — THE PRACTICE

Although Section III of *The Woman Advocate* purports to cover the different types of practice available to women litigators, much of the discussion focuses on how women can have a legal practice and raise children at the same time. Only Chapter 19, "Litigating Mom," and Chapter 20, "Life as a Mom Who Works Part-Time," are expressly dedicated to that topic, but all of the women lawyers who wrote chapters for this Section are mothers with children, and in almost every chapter the author describes how her child care responsibilities have affected her practice.<sup>15</sup>

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14. Lorna G. Schofield & Jill Lesser, *Depositions and the Gorilla Adversary*, in THE WOMAN ADVOCATE, *supra* note 1, at 171, 177.

15. Greene, *supra* note 1, at 361; Catherine Hodgman Helm, *Life as a Mom Who Works Part Time*, in THE WOMAN ADVOCATE, *supra* note 1, 381. The focus on

The authors in *The Woman Advocate* do not discuss the question of whether women *should* have the primary responsibility for child care. Each one simply tells her individual story and expressly or implicitly acknowledges that in her case, she *does* have that responsibility. With the exception of the single mothers, each mother describes the problem as one of wanting to have more time with her children, rather than having to handle child-rearing responsibilities because of an unequal division of labor with the children's father. Several of the authors discuss the fact that many women lawyers do not have a "choice" as to whether to work or not, and acknowledge that their internal debate about the balance between their practices and their child-rearing responsibilities represents a privilege that many women do not have.

In many of these chapters the authors give information that would be helpful to a woman lawyer trying to figure out how to coordinate child-rearing and professional responsibilities. In some places the authors give explicit recommendations based on their experience, while in others the authors simply describe experiences they have had and leave the reader to draw her or his own conclusions. I examine here the extent to which these chapters cover three of the most important considerations for beginning woman lawyers who have young children<sup>16</sup> or plan to have

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coordinating professional and child-rearing responsibilities runs throughout the other sections of the book as well. In Chapter 2, Thomas Johnson refers to the problem faced by women lawyers with child care responsibilities. Johnson, *supra* note 7, at 48. In Chapter 4, Beverly Nelson Muldrow mentions some of the problems she faced taking care of her child while working as an Assistant District Attorney in Philadelphia. Muldrow, *supra* note 3, at 88-89. Even where the authors do not mention their children in the text of their chapters, the great majority of the authors mention their children in the biographical sketches which appear at the beginning of each chapter. See *THE WOMAN ADVOCATE*, *supra* note 1, at 41, 58, 174, 193, 214, 226, 305, 328, 348, 364, 384. For example, the introductory biographical sketch that precedes Janet Kole's essay entitled *The Woman Lawyer in the Courtroom* gives her educational and professional background, including major litigation victories, and then adds, "Ms. Kole is the tired but proud mother of a two-year old boy. She loves mystery novels and boating, but feels as though she has little time to do anything anymore." Janet Kole, *The Woman Lawyer in the Courtroom or "We Love Your Hairdo,"* in *WOMAN ADVOCATE*, *supra* note 1, at 191, 193-94.

16. Some women go to law school and proceed into full-time law practice with little difficulty after their children are in school full-time or have grown up. Because the problems of day-to-day parenting and child care are most difficult when children are younger, my discussion focuses on women lawyers with young children.

children in the future.<sup>17</sup> These considerations include: (1) the difficulties inherent in coordinating a professional legal career and a family life, (2) the choices the lawyer can make about her practice to make it easier to have a family life, and (3) the recognition that the lawyer is likely to have several decades to work on her career, while the most difficult child-rearing years may cover a much shorter period.

A. *There is a Problem — Most Law Practice is not Conducive to a Relaxed Family Life*

Few beginning women lawyers believe that coordinating a law practice and child-rearing will be easy. However, Section III of *The Woman Advocate* reveals some of the specific problems faced by mothers who practice law, or at least those who practice in private law firms. As Andra Barmash Greene points out in her chapter on "The Litigating Mom," one basic problem women lawyers face is that many of their male colleagues and opponents have stay-at-home wives and therefore do not have the same level of child-care responsibilities.<sup>18</sup> Law practices established and run by men who do not themselves have primary child-rearing responsibilities simply do not take into account the needs of those who are primary parents.

Catherine Hodgman Helms mentions in her chapter on "Life As a Mom Who Works Part-Time" that the performance of partners at Irell & Manella is judged against a "benchmark" of a range of 1800 to 2000 billable hours per year.<sup>19</sup> While this number may vary at different firms, it is typical of many firms.<sup>20</sup> "Billable" hours are quite different from hours worked; when I practiced law in a private law firm, I could not produce 2,000 billable hours in a year without working late several days a week as well as a good chunk of one day of each weekend.

The pressure to produce a high number of billable hours has increased in recent years. In the boom times of the 1980s, many law firms moved into more expensive office space and competed for associates and rainmakers by setting higher and higher sala-

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17. My discussion assumes that this woman lawyer, like the lawyers represented in *The Woman Advocate*, has the primary responsibility for child-rearing, although I recognize that many couples do vary from this norm.

18. Greene, *supra* note 1, at 378.

19. Helm, *supra* note 15, at 392.

20. See, e.g., annual billable hours requirements of law firms throughout the United States compiled in 1995 NATIONAL ASSOCIATION FOR LAW PLACEMENT DIRECTORY OF LEGAL EMPLOYERS.

ries. In the slower economy of the 1990s, all of the attorneys in these law firms are under enormous pressure to achieve high billable hours to support these expenses. The resulting job expectations are hard to meet for a woman lawyer with young children at home. It is not impossible; many women do it, but many others leave before or after trying it. A woman who has child-rearing responsibilities may have to request a "special" arrangement from her office in order to accommodate them. Unfortunately, law firms still regard these women's needs as the exception rather than the norm for lawyers in the firms.

Although some of the pressure put on women lawyers is the result of the expectations built into the organizational structure of law firms, beginning women lawyers should realize that much of the tension between a woman lawyer's professional duties and her family responsibilities is caused by the basic fact that clients need service at inconvenient times. Most private law practice ebbs and flows, with periods of relative calm followed by periods of intense activity.

In *The Woman Advocate*, Greene and Helms acknowledge that the handling of client needs cannot be limited to a predictable eight-hour daily work schedule. Helms, a labor lawyer, states that her clients "often have quick questions that they need answered immediately."<sup>21</sup> Helms also refers to a friend, a transactional lawyer, who sometimes works four seventy-four-hour weeks when a deal is about to close.<sup>22</sup> Greene, a litigator, tells of trials that have required her to live out of town or to work seventeen-hour days.<sup>23</sup> Although both women work hard to organize their practices to allow them to spend the maximum possible time with their children, both feel that they have to make themselves available to their clients, at least by phone, at all times.<sup>24</sup> *The Woman Advocate* makes it clear that no one should go into private practice thinking that her practice will fit neatly into a 9:00 a.m. to 5:00 p.m. schedule.

#### B. *You Can Make Choices About Your Practice That Will Make It Easier to Have a Family Life*

There are several choices a woman lawyer can make that will make it easier for her to spend time with her family. These

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21. Helm, *supra* note 15, at 389.

22. *Id.*

23. *Id.* at 377.

24. Greene, *supra* note 1, at 378; Helm, *supra* note 15, at 394.

choices include: the type of practice (law firm, government, solo practice, public interest, etc.), the area of specialization (probate, labor law, etc.), the working arrangement (full-time, part-time, etc.), and the specific group of people with whom she chooses to work.

### 1. The Type of Practice

Several of the book's contributors make it clear that lawyers in large law firms must struggle to balance the demands of their legal practice and their family life.<sup>25</sup> The book discusses only a few alternatives to standard law firm litigation practice: solo practice, government agency practice, and public interest practice. In the introduction to her chapter on solo practice, Robin Page West states that she uses her autonomy as a solo practitioner to maximize her time with her two children.<sup>26</sup> She states that being a solo practitioner allows her to come and go as she pleases, with or without her baby, without having to worry about who might be judging her.<sup>27</sup> Having experienced the long hours required of an associate at a large law firm, West is in a position to compare the schedule of a law firm litigator to that of a solo practitioner. However, West makes the point that solo practice may not be a viable option for beginning lawyers without experience or clients.<sup>28</sup>

Priscilla Anne Schwab, writing about government agency practice, does not compare her work schedule to that of a lawyer at a private law firm. Although Schwab tells us that she was a recent widow with two young children when she took a job with the Benefits Review Board at the U.S. Department of Labor, the main focus of her chapter is on her struggle to adapt to the bureaucracy of her agency, rather than on child-rearing issues. In comparing government work to solo practice, West refers to the generally held view that women leave law firms for government when they have children, in order to seek shorter hours.<sup>29</sup> West comments, however, that government lawyers must punch a time

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25. See, e.g., Robin Page West, *Going Solo: The How's and The Why's for Woman Litigators*, in *THE WOMAN ADVOCATE*, *supra* note 1, at 303; Brick, *supra* note 1; Greene, *supra* note 1; Helm, *supra* note 15.

26. West, *supra* note 25, at 305.

27. *Id.* at 310.

28. *Id.* at 311-12.

29. *Id.* at 310.

clock and account for personal leave, sick days, and vacation days, while solo practitioners do not.<sup>30</sup>

Ann Brick, discussing her public-interest career, does not compare the hours required of a full-time lawyer in a law firm and those required of a full-time public interest lawyer, because Brick has a part-time arrangement with the American Civil Liberties Union (ACLU) of Northern California. Brick does describe some of the benefits of public interest work when compared to law firm practice, including the lack of billable hours requirements, business development responsibilities, and worrying about the competition, in addition to the more obvious benefit of working on cases which the lawyer believes will benefit society.<sup>31</sup> What Brick does not say, but beginning lawyers must realize, is that jobs like hers are extremely hard to get, and she was a partner with twelve years of litigation experience at a highly regarded law firm when she applied for the job.

These three chapters present only a very small sample of the types of practice available. There are thousands of legal jobs available in federal and state government departments and agencies, and the picture painted by Schwab's article may not be representative of many. Missing are the stories of lawyers in legal services, small law firms, or in-house at corporations.<sup>32</sup> More significant is the absence of any description of the alternative law firms that have been designed by women to accommodate both the personal and professional goals of women lawyers.<sup>33</sup>

## 2. The Area of Specialty

The authors in *The Woman Advocate* do not discuss the different areas of specialization available to lawyers, or the fact that some areas are more conducive to regular hours than others. The litigation practices they describe involve irregular hours, but litigators do not necessarily have longer or more erratic hours than transactional lawyers. In my experience, the negotiation

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30. *Id.*

31. Brick, *supra* note 1, at 353.

32. Legal jobs in-house at corporations have long been regarded as a place for women lawyers seeking regular working hours. I have several friends who left private practice to go in-house, and in each case the lawyer was pleasantly surprised to find that weekend work was not only not expected, it was impossible because their corporate offices were kept locked on weekends.

33. Mona Harrington describes two such law firms in *Women Lawyers: Rewriting the Rules*. MONA HARRINGTON, *WOMEN LAWYERS: REWRITING THE RULES* 183-88 (1995).



and closing of a major deal can be similar to a trial in intensity and number of hours required. However, there are certainly some specialties that are easier on family life than others, and most of these specialties may involve transactional work rather than litigation.<sup>34</sup> For example, a litigator who represents a clothing manufacturer with a name brand may have to produce one emergency filing after another, seeking temporary restraining orders against copycat manufacturers. In contrast, a probate lawyer may seldom get an assignment with a tight deadline. The parallels in medicine might be obstetrics on the one hand and dermatology on the other. A beginning woman lawyer concerned about the balance between her professional and family life might be well advised to investigate the frequency of long and irregular hours required for various specialties. However, she should also keep in mind that a dermatologist with a large number of patients may have a much more hectic schedule than an obstetrician with only a few patients, and therefore the amount of work in the office and the number of lawyers available to do it may affect a woman lawyer's workload more than the area of specialty she has chosen.

### 3. The Working Arrangement

The working arrangements possible for women lawyers include full-time, part-time, and "flex-time" arrangements.<sup>35</sup> In Chapter 20 of *The Woman Advocate*, Catherine Hodgman Helms does an excellent job of describing the different types of part-time arrangements possible: working several full days per week, working an irregular schedule of more than full-time during peak periods and taking time off during slacker periods, and working

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34. One exception may be litigators who specialize in writing appellate briefs. This practice can usually be done within regular hours and some women (and men) lawyers write appellate briefs on a "contract" or independent contractor basis.

35. "Flex-time" arrangements may include the following: (1) arrangements that allow the lawyer to set her own hours as long as the required number of hours are worked (e.g., 7:30 a.m. to 4:30 p.m.) and (2) arrangements that allow the lawyer to accumulate hours so that days can be taken off (e.g., working an extra hour for eight days and then taking the ninth day off). I have heard of these types of arrangements being offered by corporate employers and in government offices such as a county counsel's office. Because lawyers in law firms do not punch a time clock in the same way that corporate or government employees do, it is sometimes possible to arrange the first type of "flex" time in a law firm. See text *infra* pp. 272-73; Greene, *supra* note 1, at 376-77.

partial days each day of the week.<sup>36</sup> She describes her own arrangement as a labor law partner at Irell & Manella, a partial-day arrangement in which she works at the office from four and a half to six hours a day, starting at noon.

Helms describes this arrangement as a "fifty percent" arrangement: she commits to work 1000 billable hours per year, which is 50% of the 2000 annual billable hours "benchmark" used for full-time partners, and is paid 50% of the compensation of a full-time partner.<sup>37</sup> A woman lawyer considering the alternative of part-time work at a law firm should recognize that the annual billable hours expectations at most law firms are so high that a "part-time" arrangement may involve a significant number of hours, and that there is a wide range of possible levels of commitment. My first part-time arrangement as a partner at a law firm was an 80% arrangement: I had a target of 80% of the expected annual billable hours, which I achieved by working 9:00 a.m. to 5:00 p.m. five days a week. For years, another woman partner at my law firm worked three days a week. A friend of mine in New York works one day a week for the New York branch of a Dutch law firm.

Helms also discusses fully the advantages and disadvantages of her partial-day arrangement to her children (four-year-old twins), to her as a mother, and to her as a lawyer. She sums up her experience in this way:

The most important work-related benefit that my part-time arrangement has brought me is that I am just much happier than I used to be. I know that, despite the pressures I'm under, I won't burn out at the firm, because I get a great deal of restorative time with my family. My time at home enhances my work life in another way as well: because bringing up children can often be both strenuous and boring. I almost always drive off to work with a real sense of relief and pleasure that I am about to re-enter my other world. I appreciate more than I used to that practicing law can be extremely interesting. I'm having more fun at my job than I've ever had before, and at the same time I find that having kids is more fun than anything else I've ever done. I sometimes just can't believe my luck.<sup>38</sup>

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36. A job-sharing arrangement is another variation of part-time work, where two lawyers fill one full-time position. There is no discussion of job-sharing arrangements in *The Woman Advocate*. Such arrangements are sometimes possible, particularly in government offices or law schools. For example, last year I shared a full-time lecturer's position at the UCLA School of Law with another woman attorney.

37. Helm, *supra* note 15, at 392-93.

38. *Id.* at 402. Ann Brick also expresses great satisfaction with her part-time arrangement with the ACLU in Northern California. Brick, *supra* note 1, at 354.

There may be a significant distinction between part-time arrangements held by women who have already become partners, or at least well-established, in law firms and part-time arrangements held by junior associates. Some women lawyers perceive that part-time associates are not highly regarded within their firms and often get boring assignments, while part-time partners or permanent, salaried associates have jobs that are more likely to be successful.<sup>39</sup> I do not know any part-time associates, but I have known several experienced women lawyers who chose to change from full-time to part-time after their children were born. It is almost certainly true that the managing partners of a law firm will not value a part-time partner as highly as a full-time partner with similar abilities and business, because the part-time partner will not generate as much money for the firm. However, a good law firm will give a part-time lawyer the credit she is due. A part-time woman partner at my law firm was the firm's only bankruptcy lawyer for years, and was highly regarded both inside and outside the firm.

Chapters 19 and 20 may create the false impression that part-time arrangements are readily available. That is not the case. A 1994 survey by the National Association for Law Placement found that only 4% of law-firm associates were working part-time, and only 1.2% of partners.<sup>40</sup> Many firms adhere to the traditional view that prohibits part-time partnerships.<sup>41</sup> However, the Wall Street Journal reported in July 1995 that the trend towards allowing part-time positions for lawyers in law firms is growing.<sup>42</sup>

In any event, any type of part-time legal position will, of course, be an option only for those who can afford to receive less than a full salary. For example, a young couple with tens of thousands of dollars of student loans to be paid off and a desire to buy their first home may conclude that having one of them work part-time is not a viable option. However, for those who can arrange one and who can manage to make the financial sacrifice, part-time arrangements can be very successful. I was a part-time partner in a Los Angeles law firm in the 1980s and am now

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Similarly, Robin Page West, who discusses her part-time solo practice in Chapter 16, echoes Helms' "best of both worlds" sentiment. West, *supra* note 25, at 310-11.

39. HARRINGTON, *supra* note 33, at 34.

40. Amy Stevens, *More Firms Let Partners Work Only Part Time*, WALL ST. J., July 10, 1995, at B1.

41. *Id.*

42. *Id.*

working part-time at UCLA School of Law, teaching one section of first-year law students instead of the two sections required for a full-time position. Like West, Brick, and Helms, I have always felt very fortunate to have these arrangements, which can offer, if not the "best" of both worlds, much of what is good about both worlds.

There is no explicit discussion of "flex-time" arrangements in *The Woman Advocate*, but the full-time arrangement described by Greene in Chapter 19 appears to involve a "flexible" schedule. In her full-time partnership at Irell & Manella, Greene has learned to "take advantage of new technology which facilitates working outside the confines of a traditional office."<sup>43</sup> She notes that her car phone gives her an hour of additional work time outside the office each day and her computer and fax machine connect her to her office when she is at home so that she can work after her young daughter goes to sleep at night.<sup>44</sup> She reports that she tries to be home to cook dinner each night, and arranges her schedule so that she can take her daughter to her afternoon soccer practices and speech therapy appointments.<sup>45</sup>

Even with these kinds of flexible and part-time arrangements, the life of the lawyer-mothers described in the book is not easy; both Greene and Helms describe somewhat hair-raising "efficiency" techniques they have adopted to get work done without taking time away from their children, such as editing briefs while sitting in the bathroom while a child takes a bath,<sup>46</sup> paying bills while eating lunch,<sup>47</sup> and filling out time sheets on the way down in the elevator.<sup>48</sup>

#### 4. The Specific Group of People With Whom You Practice

A beginning woman lawyer's choice of the people with whom she will practice may be her most important choice in determining not only her success in juggling her career and her family, but also her overall success and happiness as a lawyer. Although none of the authors in *The Woman Advocate* makes this point explicitly, their stories prove the point. Greene, Helms, and Brick describe law firms that have been supportive of

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43. Helm, *supra* note 15, at 376.

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.* at 400-01.

48. *Id.* 401.

their careers and their desires to arrange their lives to allow time with their families. They are by their own accounts happy with their careers and their firms; Greene and Helms have been with their firm nine years and eleven years, respectively. Brick stayed with her firm for twelve years before moving to the ACLU. In contrast, West speaks bitterly of the "large doses of sexism" she received at one of the firms at which she worked and reveals her delight in leaving it behind.<sup>49</sup> Schwab's description of her practice in an agency of the federal government is one of the most negative pictures in *The Women Advocate*, even though the hours required on the job at that agency must be substantially lower than those required at the law firms described by Greene, Helms, and Brick. Her description of her unhappiness working under a woman supervisor who was not supportive of her and her relief when she changed to a different woman supervisor vividly shows how the personalities with which a lawyer must interact daily can affect job satisfaction.

These stories also suggest that a supportive environment is not necessarily a female environment. Greene and Brick were the first women partners in their offices; Brick was the first woman lawyer ever hired by her firm. However, they were breaking ground in the late 1970s and early 1980s. A law firm which does not yet have any women partners by 1995 might well be suspect. It is usually easier for a woman lawyer to operate in an environment in which there are at least a few other women lawyers, and it is even better if there is a "critical mass" of women lawyers.

I was lucky enough to join a law firm which came close to having a "critical mass" as early as 1977. In the late 1970s, of the thirty-something lawyers at the firm, there were already three women partners, including a past president and the president-elect of the Women Lawyers Association of Los Angeles. My "class" of associates consisted of two women and one man. One of the women partners went on a part-time arrangement shortly after I arrived; I was given carte blanche in designing the various part-time arrangements I tried over the years. Such places do exist for women lucky enough to find them. Sexist acts and attitudes in clients, opposing counsel, and even judges may be unavoidable, but it is possible to avoid sexism in a woman lawyer's place of employment. However, the unfortunate fact is that to-

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49. West, *supra* note 25, at 309.

day's market for beginning lawyers does not allow for a large number of options for many of those seeking jobs.

C. *Life is Long — Women Are Likely to Have Several Decades to Establish a Career, or Several Different Careers*

One of the most important points for a beginning woman lawyer to keep in mind is that the choice of practice she makes at the beginning of her career is not permanent or irrevocable. It can, and often will, change with changed circumstances. Brick makes this point eloquently in her chapter on "Becoming and Being a Public Interest Lawyer," where she states:

If there are any generalizations to be drawn from my decision to make a radical change in career, I think they are these: First, we are different people at different times in our lives. Our financial, intellectual, and emotional needs change. A career — or lifestyle — choice that is absolutely right at one point in time may not remain so.

Second, deciding to make an important change can be paralyzingly difficult if it is viewed as a change for "all time." Thinking in terms of a change for "now" or for the near-term is far less threatening.<sup>50</sup>

The change in circumstances which often leads to a change in needs is the birth of a woman lawyer's first child. Several contributors to *The Woman Advocate* make the point that it is difficult for a woman lawyer to predict how she will feel after her first child is born. In her chapter on the "Litigating Mom," Greene states:

To be honest, I was not prepared for the impact my daughter's birth would have on my life. During my pregnancy I focused more on my job than on the abstract baby that I was carrying. My concerns centered on whether motherhood would adversely affect my chances for partnership. . . . I loved being a lawyer and I had devoted the last seven years to perfecting my skills. Much of my self-esteem was derived from my job satisfaction. . . . I assumed I could fit my child in without missing a beat. . . . Everyone says that children change your life; yet, until I had my daughter, I never comprehended how profound that change was. All of my plans and preconceived notions about combining career and family were suddenly thrown out of the window.<sup>51</sup>

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50. Brick, *supra* note 1, at 352.

51. Greene, *supra* note 1, at 369.

Ann Brick expresses similar feelings:

Just as a beginning woman lawyer's needs may change when she first has a family, her needs may change again when her children are grown. She may find that the career path she has chosen during the years her children are small does not fit her needs when the children are older. A woman's decision to go part-time or even quit the practice of law may not be a permanent departure from full-time practice. Similarly, a woman's decision to start a solo practice or go into government may not be a permanent departure from practicing with a law firm.

In *Women Lawyers: Rewriting the Rules*,<sup>52</sup> a recent study of women lawyers, Mona Harrington decried the departure of women lawyers from full-time practices at the major law firms as a sign that the women's movement is in trouble because women cannot achieve "equal professional authority" unless they move as quickly into the partnership ranks of major law firms as men.<sup>53</sup> This view overlooks the fact that many of the women lawyers who have achieved the greatest success, power, and prestige did not work full-time during their child-raising years. The most famous example is Justice Sandra Day O'Connor, who quit the practice of law when the second of her three sons was born and spent five years as a full-time mother and volunteer before taking the position as an Assistant State Attorney General that led her into politics and ultimately onto the United States Supreme Court.<sup>54</sup> Shirley Hufstedler, who was a Ninth Circuit judge and the first Secretary of Education under Jimmy Carter, wrote briefs at home during her son's early years. Judge Norma Shapiro, a federal district judge who was the first woman judge in the Third

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[U]nexpectedly, becoming a mother completely altered my perspective. For the first time in my professional life, the law was no longer the be-all and the end-all of how I wanted to spend my time. While being a lawyer was still very important to me, spending time with my children was even more important.

Brick, *supra* note 1, at 351.

Catherine Hodgman Helms gives a different story demonstrating the unpredictability of a woman's feelings after giving birth. She describes a woman litigator who planned to quit work after her child was born, but found her life at home so boring that she returned to work full-time three months after her child was born. Helms, *supra* note 15, at 387.

52. HARRINGTON, *supra* note 33.

53. See, e.g., HARRINGTON, *supra* note 33, at 18. Harrington's view is also based on the premise that "the authoritative center of the legal profession, the structure that designates the holders of serious professional authority, is the large corporate law firm." *Id.* at 16. This premise is certainly open to question.

54. THE SUPREME COURT JUSTICES: ILLUSTRATED BIOGRAPHIES, 1789-1993, 507-08 (Clare Cushman ed., 1993).

Circuit, started out at a major Philadelphia law firm, left the practice of law for nine years to raise her children, and came back to become a partner at that law firm before she was appointed to the bench.

*The Woman Advocate* is missing the story of a woman lawyer who has come through the child-raising years and now practices with the children out of the house.<sup>55</sup> There may be relatively few such women. The dramatic increase in the number of women attending law schools did not occur until the 70s and 80s, and many women delayed having children until they had practiced for a number of years. The children of many of these women are still at home, and we don't know what the mothers will do when the last child in each house moves out.

#### IV. CONCLUSION — WHERE DO WE GO FROM HERE?

*The Woman Advocate* gives helpful information and advice about how a woman lawyer can succeed at the practice of law in the existing environment — in major law firms in big cities, solo practice, government offices, and public interest agencies, as those institutions exist in 1995. The book does not suggest that women try to change those institutions in any significant way or to develop any new institutions. The only rebellions mentioned are individual rebellions, such as where one person requests a part-time arrangement or leaves a law firm because of dissatisfaction with the existing working conditions.

The book makes it clear that women lawyers can in fact “excel” at the professional skills required of lawyers. Unfortunately, the book suggests that a woman lawyer working full-time in a traditional law firm may not be able to “excel” in law practice without difficult sacrifices in her family life. Many women lawyers will not consider themselves to be “excelling in the 90s” unless the competing needs of work and family are reconciled. Therefore, the book leaves the reader wondering to what extent the structure or culture of traditional law firms could be changed to better take into account the competing needs of work and family.

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55. Some of the authors who contributed to *The Woman Advocate* mention that they do in fact have grown children, but do not discuss whether or how their career decisions changed as a result of the children leaving the house. See, e.g., Shapiro, *supra* note 13, at 213; Jean Maclean Snyder, *Making Rain*, in *THE WOMAN ADVOCATE*, *supra* note 1, at 225.



