



PERSPECTIVES

A Magazine for and about Women Lawyers



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Work-Life Imbalance: Pandemic Disruption Places New Stresses on Women Lawyers

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Work-Life Imbalance: Pandemic Disruption Places New Stresses on Women Lawyers

By Cynthia L. Cooper

Cynthia L. Cooper is an independent journalist in New York with a background as a practicing lawyer.

During the evenings in September 2020, Kimberly Mauer, a partner in finance at Cincinnati-based Frost Brown Todd LLC, retreated to her basement. There, she painted dozens of curvy wooden hearts in the blue color of the firm's logo. Mauer, chair of the Women's Initiative Committee of the 525-lawyer firm, had already convened "Parents with Children" chats, after COVID-19 closures sent lawyers home to work remotely and children home to learn remotely. "It's been a huge burden for them, emotionally and psychologically," Mauer says. The chats drew women and men in a two-to-one ratio, and Mauer arranged for 120 blue hearts, complete with a bow and note, to go out to all. "One woman told me she got the heart and cried," Mauer notes.

Although the circumstances vary widely, snapshots from across the country show women lawyers encountering a vast range of daunting issues related to the coronavirus outbreak, ranging from stress to income loss, additional caregiving responsibilities, isolation, and hours that don't stop. Since March, when the World Health Organization declared a pandemic and business as usual changed abruptly, women have experienced unusual challenges, but some only reveal existing fissures in work dynamics, such as gendered expectations and inadequate recognition of parenting needs.

"There's no such thing as balance. It's overwhelming," says Colette Foster, a lawyer working on contract with a New York litigation firm. She has a regular base of assignments, but overtime has been eliminated. A single mother with two teenage sons living in a two-bedroom apartment in Manhattan, Foster powers up her laptop in one bedroom, while her eighth grader logs onto his charter school's remote learning in the living room and her other son studies for the SAT in the second bedroom.

There are endless tasks—homework, laundry, cooking, cleaning. "I don't have any support here. It's me and the boys. Everyone is struggling—I don't care how they look on Zoom. But there are levels," says Foster, who meets virtually with women lawyers with children. "Law firms are such a boys' club when it comes to women. They keep saying they get it, but they don't get it. They should put more weight into helping women and women of color."

Even women lawyers who have understanding employers and supportive partners are bowing under the strain. "For anyone who is raising kids, the ability to get work done has shifted markedly," says Beth Wilensky, a clinical professor at the University of Michigan Law School in Ann Arbor.

Wilensky and her husband, also working at home, have three children, aged 7, 14, and 16. The couple divides the oversight of remote learning and complex blended school schedules, but Wilensky is acutely aware that the children are feeling the uncertainty of the times, too. "There is a huge amount of anxiety and managing emotions," Wilensky says. "My experience is not all that unique. It's a huge thing we are dealing with."

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A Wrench in Women's Career Plans

“If we had a panic button, right now we’d be hitting it,” says Rachel Thomas, co-founder and chief executive officer of Lean In, a Palo Alto, California-based nonprofit that focuses on women’s career advancement. In September, the organization, in partnership with McKinsey & Company, released *Women in the Workplace 2020*. The study concludes that COVID-19 has disrupted workplace advancement for women and potentially is “unwinding years of painstaking progress toward gender diversity.”

While the research doesn’t look specifically at lawyers, it analyzes the responses of 40,000 people in 20 fields ranging from banking to engineering. The biggest COVID-19 challenges for women include anxiety over layoffs, burnout, mental health, child care and remote schooling, health of loved ones, and financial insecurity. Mothers, Black women, and senior-level women faced especially difficult struggles.

According to the U.S. Labor Department, 865,000 women—four times the number of men—dropped out of the workforce in September as families faced patchy school reopening plans. “Where there is a crisis, it’s women who are expected to step back. We’re dealing with a system set up in the 1950s,” says Amelia Costigan, senior director of the Information Center at Catalyst, a nonprofit in New York City that studies gender equality in business.

The Impact of COVID-19 on Working Parents, released by Catalyst in September, found that both women and men felt a need to hide their parenting struggles from employers. “While all parents are under enormous strain, generally speaking, mothers are bearing a greater burden than fathers, as they are disproportionately expected to fulfill household and caregiving responsibilities,” the report states.

The pandemic has led to changes in law employment. A survey by the National Association for Law Placement (NALP), based in Washington, D.C., found that 62 percent of law offices reduced salaries or delayed partner draws. Over 80 percent of firms had not established start dates for first-year associates or deferred them to January 2021, and some firms rescinded employment offers to 2020 graduates.

Although NALP did not include a gender or race breakout, two recent reports supported by the ABA Commission on Women in the Profession, *Walking Out the Door*, about women in law firms, and *Left Out and Left Behind*, on women of color, detail how existing barriers have led to a lack of gender parity in private law firms, especially for Black women—growth that may now hit further roadblocks.

Trying to Stay Afloat

Despite the challenges, women lawyers seem determined to keep their work on track, although many have had to craft rapid-fire adjustments.

Elizabeth Prelogar, an appellate litigator and partner at Cooley LLP, moved in 48 hours from Washington, D.C., to Boise, Idaho, as office closures began. Her family is now living in her childhood home with her mother, who manages remote schooling for two primary schoolers while Prelogar and her husband work remotely. “We desperately needed the help. We did it by location shifting,” Prelogar says.

Marie Claire Tran-Leung was already working in Los Angeles for Shriver Center on Poverty Law in Chicago as director of the Legal Impact Network. With children at ages 3, 5, and 9, Tran-Leung gets up at 5 in the morning for an hour of emails and then prepares her two oldest for distance learning. She and her husband divide time helping with school needs—fixing tech issues, finding materials—and watching the

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youngest, while the other parent carries on with work. “Right now, it’s really hard to think permanently,” she says. “We are so in the midst of the impact.”

Extra family responsibilities also come in the form of elder care. In late February, Cheryl Davis, general counsel of the Authors Guild in New York City, planned to stay temporarily with her parents in Mount Vernon, New York, to help her 82-year-old mother with medical care unrelated to coronavirus. When stay-at-home orders made daily life harder for her parents and work turned virtual, she extended the time and never left. At one point, she found herself delivering a Zoom presentation on her phone from the bathroom of her mother’s hospital room. “I was trying to sound as responsible as possible,” Davis notes. “I take refuge in practical things.”

And some people face multilayered challenges. Margarita Martinez-Baly, a solo criminal defense practitioner in Fresno, California, began doing courtroom hearings by Zoom when COVID-19 hit. She has care responsibilities for a 94-year-old aunt and shares caregiving with her sister of their 84-year-old mother, who needs daily visits, meals, and shots for diabetes. Then, three adult children in their 20s moved back home, joining a fourth one already there, so she began shopping and cooking for everyone. And that was before her husband, a public defender, contracted COVID-19 and was forced to quarantine at home.

“It’s chaotic. I’m constantly feeling guilty,” says Martinez-Baly. “We women want to make sure these things get done. I do believe there is a difference and more of a struggle for women. You just do it because it’s what we do.”

Women lawyers without family responsibilities haven’t escaped pandemic challenges either. When going remote, Susan Paulson, a litigator in the New York City Law Department, lacked the equipment she needed—a printer, scanner, desktop computer—and missed the company of colleagues. “I found it very isolating,” she says. Now, the cash-strapped city has announced a five-day furlough.

Looking for Strategies to Address Obstacles

Many women lawyers are finding new strategies to navigate the times. Maria Schindler was one month into her job as director in the legal department at PayPal in San Francisco and had a new baby when remote work kicked in. She spends extra time trying to cultivate relationships that she might have formed easily in person, arranging virtual meetings and one-on-one sessions with others.

That’s an idea championed by Rachel Thomas of Lean In. “If organizations are intentional, they can use this time to create real opportunities. Now is a time when a senior-level person could have a quick coffee, virtually, with any woman,” Thomas says. She also urges companies to reassess performance reviews, something that nearly half of human resources professionals say they are considering in a survey by the consulting firm Aon.

Jaime A. Santos, a partner in appellate litigation at Goodwin Procter LLP in Washington, D.C., worries about how the pandemic is affecting business development possibilities for junior women and people of color. “Those without tight ties find it a lot harder to generate new relationships,” Santos says. “Normally, I’d be out there speaking on panels and going to dinners.”

As it happens, Santos finds herself writing briefs in her car while one of her three young children attends a select gymnastics program and her husband looks after the other two. But she also devotes considerable time to checking in on younger colleagues, the exact emotional housework that studies show women

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are more likely to do. “I think people are struggling enormously, especially women,” Santos points out. “There’s a sense of ‘if I don’t push and keep leaning in, I’ll fall behind.’”

A cultural shift may be in order now, says Elizabeth Holt Andrews, an appellate litigator with Troutman Pepper Hamilton Sanders LLP in San Francisco, California. She and her husband have a tightly managed home-work schedule for the care of two toddlers. Each takes a four-hour childcare shift during the day and then finishes their work from 9 p.m. to 1 a.m. “At the end of the day, the work has to get done for the clients,” Andrews says.

Her firm is supportive of her parenting demands, but she rankles at the attitudes of opposing lawyers who sometimes make snide and seemingly gendered comments about late-night emails. She calls for a recommitment to “civility and professional courtesy” in the profession.

Future Directions

Whether the extra challenges women are encountering will have a long-term impact is still unknown, but some lawyers foresee trouble ahead.

Seven law professors, including Cyra Akila Choudhury at Florida International University College of Law in Miami, published an open letter to warn of the “likely negative effects” of the pandemic, citing a decline in women’s scholarly journal submissions in other fields. Law reviews and tenure committees should rethink their expectations, the professors say. “Colleagues (should) understand and accept that women are facing an unequal burden and respond accordingly to support gender equity,” the letter states.

Catalyst’s Amelia Costigan underscores that need for a new adaptability in the face of COVID-19. “Organizations that believe in diversity and inclusion need to step up,” she notes. “We are living in a chaotic time.”

VOICES

Winning Through Losing

By Carrie Goldberg

Carrie Goldberg is owner of the Victims' Rights Law Firm C.A. Goldberg, PLLC and author of Nobody's Victim: Fighting Psychos, Stalkers, Pervs, and Trolls.

“The judges agreed with Herrick on the moral argument, but with Grindr on the law.”

Over a year ago, when we lost our Supreme Court of the United States petition for certiorari, the condolences started streaming in from my friends and family. It was premature, though. We—my client, staff, and co-counsel—weren't done appealing. Sure, we'd hit the end of the road with the courts, having had all 14 of our claims dismissed by the U.S. District Court for the Southern District of New York and the decision affirmed by the Second Circuit. My petite firm had blown through about a million dollars' worth of illusory billable hours and killed an ungodly number of trees with all the briefings. But. We. Were. Not. Done.

It all began when my client, Matthew Herrick, a waiter-actor-model, exercised his right to leave an abusive and controlling relationship. His ex retaliated by impersonating Matthew on the gay dating app Grindr. Using Matthew's picture and name, the ex would say Matthew had rape fantasies and then directly message with men to set up sex dates. Grindr's patented geo-locating technology resulted in stranger after stranger going to Matthew's home and the restaurant where he worked expecting sex. Some days, Matthew had as many as 23 visitors.

By the time Matthew arrived at my office, exhausted and traumatized, he had already gotten an order of protection and reported the matter to the police 10 times. Yet, the flow of strangers—over a thousand at that point—wasn't slowing. The unwitting strangers would wait for him in the stairwells at home, other times following him into the bathroom at work. “What about Grindr?” I asked. “They're in the exclusive position to help.” Matthew said he had reported the matter to them 50 times.

Grindr's lawyers, when they finally responded, claimed Grindr lacked the technology to ban users. So, we sued. After all, if you've designed a geo-locating hook-up app without factoring in the arithmetic certainty that sometimes it would be put to malicious use by stalkers, rapists, and child predators, you've released a dangerous product into the marketplace.

A lot of people guffawed at the cockamamie approach of applying a product liability claim to tech. The courts all along the way said Grindr was immune from liability because of Section 230 of the Communications Decency Act, a 1996 law that to this day makes it almost impossible to bring tech companies into court. In every losing decision, the judges expressed regret that the law wouldn't let them help Matthew.

One article about the case summed it up: “The judges agreed with Herrick on the moral argument, but with Grindr on the law.” That misalignment between morality and the law is why I could not give up on this case. So, we set out to ruin Section 230—a protection undeserved by the most powerful industry in the history of the world. After the certiorari denial by SCOTUS, our next appeal would be

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from the soapbox. I wrote a book talking about tech's role in online maliciousness, spoke to hundreds of congressional staffers about this anachronistic law, weighed in on the drafting of three different laws to rein in Section 230, participated in a panel at the U.S. Department of Justice, discussed it in Monica Lewinsky's upcoming documentary *15 Minutes of Shame*, and wrote white papers, news articles, blogs, and tweets.

And then in October 2020, something amazing happened. *Herrick v. Grindr LLC* made it to the Supreme Court after all. In an unusual move, Justice Clarence Thomas wrote an advisory statement saying it would behoove SCOTUS to tackle a case about Section 230 because it was being interpreted so broadly that courts were granting immunity even on claims of design defects. There it was: a meaningful next step toward justice—a citation to *Herrick v. Grindr*.

COPING WITH COVID RESOURCES

Coping with COVID-19 at Work, at Home, and Apart

Juggling the responsibilities of work and parenting? Struggling with managing teams and projects? Grappling with the hardships of joblessness or ill-health? Whether you are overworked, overwhelmed, or just over it, here are some resources to help reframe our experiences and stay connected:

Well-Being and Support for Lawyers—ABA CoLAP

The practice of law can take an emotional toll. The American Bar Association has committed to improving the well-being of the legal profession. If the situation is just getting to be too much and you cannot cope, bar associations across the country have confidential support services you can contact. ABA CoLAP's [Directory](#) provides links to the programs in all 50 states, the District of Columbia, U.S. territories, and internationally.

Support for Work and Professional Development—Lean In

This organization offers a [global network](#) for women to connect, share experiences, and learn from each other. It also offers resources and information for companies and allies seeking to create a more inclusive workplace, including the [report](#) published by Lean In and McKinsey mentioned in this month's feature article.

Strategic Thinking for Changing the Workplace Experience—Catalyst

For decades, Catalyst has convened corporate leaders, experts, and advocates to address women in the workplace. It's most recent [report](#) and other resources on its website offer insights for firms, managers, and human resource teams to develop workplace environments to support women.

Coalition to Address Diversity and Inclusion—The Belonging Project

The pandemic has disproportionately impacted diverse communities and people with disabilities. [The Belonging Project](#) offers virtual programs, resources, and support for diverse legal professionals during the pandemic.

Find the Helpers: Families at Home and in School

There are a wide array of online resources for parents and caregivers looking to strike the precarious balance of working, parenting, and educating at home. PBS has [Coronavirus Resources for Parents](#) with articles, activities, and resources providing helpful tips for parents and kids. Mental health associations also have online resources, like the [American Association of Child and Adolescent Psychiatry](#) and the [American Psychological Association](#). Many national, state, and local governments also have guides and resources to support families.

Caregiving in COVID—AARP

Many women are working and caregiving for parents and extended family. The pandemic has raised the bar for health care logistics and left many of our loved ones in isolation. Among resources available, AARP provides a [Family Caregiving website](#) with useful information and links to resources for support, including a support line to speak with someone.

Violence in Isolation—National Domestic Violence Hotline

In the shadow of isolation during the pandemic, domestic violence is on the rise. If you or someone you know is in danger, the [National Domestic Violence Hotline](#) offers direct access to call or chat online in addition to support resources.

Other Potential Resources of Interest

[COVID-19 and Access to Justice](#)

Across the country, civil and criminal justice system stakeholders are responding to the COVID-19 pandemic in a variety of ways that directly impact access to justice. Visit this page for websites, court orders, news items, legislation, and other resources that have been compiled by the Standing Committee on Legal Aid and Indigent Defense.

[The ABA Coronavirus \(COVID-19\) Task Force](#)

This webpage is intended as a national source of information about the coronavirus (COVID-19) and the delivery of legal services. It includes resources on remote service delivery, court access and rules changes, legal needs, public benefits programs, and pro bono mobilization.

[Health Law COVID-19 Resources](#)

The spread of COVID-19 (coronavirus) is having significant legal implications across the health law sector. To help assist our members with staying informed in this rapidly changing legal environment, the ABA Health Law Section, through its COVID-19 Task Force, has put together a list of resources to help you stay apprised of health law developments related to COVID-19.

We all are facing significant challenges during the pandemic. None of us should be alone. Staying connected is essential to combat the effects of isolation, stress, and fatigue.

CWP NEWS

Guided Conversations Project Toolkit Is Live

The ABA Commission on Women in the Profession's new report and toolkit, *This Talk Isn't Cheap: Women of Color and White Women Attorneys Find Common Ground*, was released in late October. These new materials, available at <https://ambar.org/guidedconversations>, address communication barriers among white women lawyers and women lawyers of color that impede the progress of diversity efforts in the legal profession.

The study and report are part of the Guided Conversations Project toolkit consisting of the report, video vignettes, a facilitators' guide with discussion questions, a run-of-show description for the program, and a bibliography of further resources to help groups of women have conversations on racial dynamics in the workplace. The three recorded video vignettes ("Look in the Mirror," "A Heavy Sense of Resignation," and "Injury") feature actress, playwright, teacher, and author Anna Deavere Smith.

The Commission on Women in the Profession also hosted an ABA CLE webinar to introduce the toolkit on November 16, at 1 p.m. EST, **This Talk Isn't Cheap: Guiding Conversations Toward Equity**, which was co-sponsored by the ABA Commission on Racial and Ethnic Diversity in the Profession. This webinar is available in the CLE Marketplace at <https://www.americanbar.org/events-cle/ecd/ondemand/406481939>.

CWP NEWS

Nominations Now Open: Margaret Brent Women Lawyers of Achievement Awards

The Margaret Brent Women Lawyers of Achievement Award, established in 1991, recognizes and celebrates the accomplishments of women lawyers. Each year, the Commission honors up to five outstanding women lawyers who have achieved professional excellence within their area of specialty and have actively paved the way to success for other women lawyers.

The nominations portal, in addition to the criteria and requirements, can be found at <https://www.americanbar.org/groups/diversity/women/margaret-brent-awards/nominationinformation>. The deadline for acceptance of nominations is January 29, 2021, at 5 p.m. CST.

If you have any questions about the nomination process, please contact Program Associate Laura Tannous at Laura.Tannous@americanbar.org. To learn more about the award, visit www.ambar.org/brentawards.

CWP NEWS

Registration for the World Forum for Women in the Law Now Open: Event Is January 27–29, 2021

The World Forum for Women in the Law will be held virtually January 27–29, 2021. The virtual format will provide a unique opportunity, and an even greater platform, to connect with national and international thought leaders for driving change in the legal profession. Sessions will be led by prominent leaders in all areas of practice: private law firms, public and private corporations, the judiciary, government, and NGOs.

For a current speaker list, to register, and to find current program information for the World Forum for Women in the Law, visit <https://ambar.org/worldforum>.

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