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Female associates leaving in droves

By donalee Moulton
Halifax
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Women in private law firms across North America have not hit the pink ceiling. They've hit the street — looking for other work. The exodus, experts contend, is a reaction to a traditional male-oriented mindset and a modern desire for work/life balance.

Canada is not faring any better. In her book *The Sexual Paradox*, author Susan Pinker, notes that 60 percent of law graduates are female but only 26 percent of those lawyers in private practice are women. A 2005 survey of Canadian law associates found that 62 percent of female law associates did not intend to stay at their firms for more than five years, according to Pinker.

"It would be difficult to deny that there is a problem," said Kate Broer, a partner in the litigation division at Fraser Milner Casgrain in Toronto.

The problem, in many respects, is not new.

"Sadly, I would say the practice of law has not changed significantly. It is still a very male way of doing things and a one-bread-winner premise," said Diana Majury, a law professor at Carleton University in Ottawa.

The typical law firm culture historically has been male-oriented and male-dominated, noted Cynthia Thomas Calvert, co-director of the Project for Attorney Retention, an initiative of The Center for WorkLife Law at the University of California Hastings College in San Francisco.

"Characteristics that are rewarded, such as aggressiveness, tend to be associated with male norms and are frowned upon when exhibited by women," she noted.

Calvert also pointed out that there are "unexamined biases, such as 'women who are mothers aren't committed to their jobs' and 'women will just have babies and leave' that restrict women's movement up the law firm ladder."

There are also widely held, and often male, perceptions of success that do not necessarily hold true for women.

"Law firms like the rest of society have assumed once doors were open to women they would behave just like men. And they haven't, noted Pinker in an interview with *The Lawyers Weekly*.

"Survey data shows that 75 to 80 percent of women do not place high salary and status at the top of their priorities," she said.

Instead, family, balance and time for self top the list of female priorities, according to Pinker.

This, of course, does not mean women are not achievers or that their careers are not noteworthy.

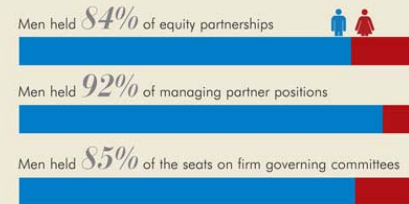
"I would quibble with the notion that those in the non-profit sector are not successful," said Pinker.

Another reason women are leaving law firms in droves: the difficulty finding an acceptable balance between work and the rest of their lives.

"Today's associates typically have different work/life expectations than the generations that perfected the current business model for law firms, noted Calvert.

"Both male and female associates want to be able to have a life outside the office and, in addition, are not as willing to make the necessary trade-offs for partnership now that partnership has become more

Clearly women are not moving up the ranks. The National Association of Women Lawyers' 2007 survey on the retention and promotion of women in American law firms found the following in the largest US firms.



Male equity partners earned nearly \$90,000 more than female equity partners at the nation's top firms.

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elusive," she added. "They often decide to work at a firm for a few years to get training and to pay off debts, and then leave.

"The conditions of the job are such that many women are not willing to make the sacrifice," said Pinker.

One of those conditions is the billable hour.

"The norm of high billable hours, which assumes that a lawyer has someone at home to take care of family matters ... describes a decreasing number of young men and very few young women," said Calvert.

"It also is a model that is built around male life patterns, such as not needing time off for child-bearing or child-rearing," she added. "Women either need to commit to being like men, which [for] many means being childless or having a stay-at-home spouse, or seek 'accommodations' or deviations from the male model — which results in them being marginalized."

Women are not alone in the struggle to balance life and work. A Catalyst Canada study, *Beyond a Reasonable Doubt: Creating Opportunities for Better Balance*, conducted in 2005 found that nearly two-thirds of all lawyers in law firms report difficulty managing the demands of work and personal/family life. The study noted that one in four Canadians reported that the demands they face at work make it difficult to meet their non-work responsibilities. In comparison, roughly half of all lawyers in Canada reported that they feel challenged managing the demands of their work and personal/family life.

"Supreme Court Justice Bertha Wilson proposed abolishing the billable hour 16 years ago, (in) 1992. The American Bar Association proposed abolishing the billable hour in 2002. Both cited the mismatch between this form of advancement and women's career trajectories," said Pinker.

"Yet," she added, "a system based on men as the default means that billable hours are still how corporate lawyers are evaluated as they build their careers, and as a result, many women are voting with their feet."

Many firms are working to slow the stampede.

"The number one thing is that there has to be a dialogue — and it has to be a dialogue," said Broer. "We really need to convey to women that we want to hear what the issues are and what the concerns are."

"For law firms, recognizing the challenge is the first step, then finding ways to support the profession," said Aimee Israel, chief executive officer of LifeSpeak Inc., a Toronto-based company that provides workplace programs to address employee issues. "A lot of these bright young women really want to work."

The Project for Attorney Retention has issued several reports and written a book that contain best practices recommendations with respect to reduced hours and steps firms can take to attract, retain and advance female lawyers.

Some key steps include: revising annual performance reviews to eliminate bias; setting a tone of inclusiveness from the top; monitoring representations to ensure women are working on the biggest and most important firm matters; and providing effective mentoring and role models.

There is a strong belief, noted Majury, that the nature of the law firm is carved in stone and it won't change. However, said the associate professor of law, "I can't believe we can't change anything we set our minds to."

In the end, success may come from recognizing the issue may not be one of stone, but rather one of glass.

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