

# The Common Struggle: Working moms navigate families and legal careers through a once-in-a-century pandemic

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The North Carolina Bar Association Professional Vitality Committee creates sourced articles centered on reducing inherent stress and enhancing vitality in the lives of legal professionals and offers those resources as a benefit for members of the NCBA.

Erica Kellogg<sup>i</sup> woke before the chaos began. The house was dark and her family was still asleep. She slipped into their home office wedged between the bedroom she shared with her husband and the room where their elementary school children slept. It was a small house. Kellogg worried about waking the kids. But early in the pandemic, she learned these quiet moments, however long they might last, would be the only time she could concentrate alone, focused on her work as a government attorney, before other responsibilities – mother, homeschool teacher, wife – began to pull her in many different directions.

The luxury of a full day in a quiet work environment was something Kellogg once may have taken for granted. That full

day of focus was now reduced to an hour, maybe an hour and a half if she was lucky, thanks to emergency and dependent care (EADC) leave under a COVID relief program. Once the children were up, Kellogg made them breakfast and begged them to eat before logging on for school. Her husband was now up and also logging in for remote work as an IT help desk manager. After her family was set, Kellogg returned to her home office to pick up where she left off. Within an hour, one child was fighting math-induced tears and the other was running through the house. Both needed her attention. Kellogg stopped her work and guided them both back into their virtual classrooms.

“What do you want to know?” Kellogg asks me. “How much

crying we do? How many school breaks for hugs there are? How I have completely given up on school other than encouraging them to log on during the day?” There is no masking her understandable frustration.

Kellogg worked from home before the pandemic. But the balance she enjoyed then is now a distant memory. When COVID moved offices and classrooms into our homes, it eliminated commutes and carpools, seemingly freeing up hours of time each day previously spent sitting in our cars. But it also introduced chaos into the daily routines of many working mothers – fighting to keep their careers while also navigating themselves and their families through a once-in-a-century pandemic.<sup>ii</sup> The closing of schools and childcare facilities meant that children were home too, and that homeschooling was now universal.

Many working mothers found themselves expected to perform all of these roles with little to no support from their employer, community, or sometimes even their partner. It was a recipe for disaster. Overnight, working mothers took on roles as unpaid teaching assistants, mental health care providers, and household managers who kept their families’ pantries stocked with food and scarce resources (toilet paper? anti-bacterial wipes?) in constant supply.

Working parents have long carried these burdens, which often fall disproportionately on women. COVID-19 exacerbated that situation. The remote workplace was celebrated for its flexibility and freedom. But for many working mothers, the reality during COVID-19 has been “a four-alarm fire”–more hours on the work clock and less time with their families or for self-care.<sup>iii</sup> Some have left the legal workforce, not as a matter of choice, but because there were no better options.

Clara Greene quickly learned the difficulty this created – being in the same space as her children yet not able to give them the full attention they needed. Greene is a law professor and is married with a toddler and another child in elementary school. Her spouse’s work cannot be done remotely, which means that Greene is left alone during the workday to manage parenting and homeschooling, on top of teaching her virtual law school classes. Sending the toddler to childcare helped; otherwise she would have had to quit her job. Since the pandemic began, Greene says she has not had any uninterrupted time to herself because “there is always someone home with me who is probably also interrupting whatever task I am trying to complete.”

When her daughter walks into a Zoom meeting or virtual class asking if she can play a video game or have a snack, Greene’s

frustration at the disruption quickly turns to guilt. “These interruptions are often things I should welcome – my child wants to show me a math problem she’s doing, for example – but because these interruptions are happening at a time when I feel like I should be working, I find it really hard to be as enthusiastic and understanding as I want to be with her.”

Like others, Greene spends each day holding things together as best she can, only to wake up the next day to do it all over again. It can be a tiring and defeating existence, rolling into each day more exhausted and worn down than the last. “So many of us are on the brink. It’s been a year. There has been a lot of talk about acknowledging the needs of working families, but not enough action. We need to see a change in working conditions.”

It’s important to keep in mind that the U.S. did not enter the pandemic with men and women on equal footing. Gender-based discrimination already existed in nearly every facet of work life – hiring, promotions, compensation, retention, firing, and everything in between – long before the pandemic began. A recent and very comprehensive American Bar Foundation report found that year after year, women lawyers across a variety of practice settings face unfair compensation systems which reward male colleagues with higher compensation, even when they generate less business.<sup>iv</sup> Our culture has never been able to solve the gender pay gap problem or other issues like inequitable division of household labor and caregiving responsibilities and “time poverty” (the notion that time studies show that working mothers are among the most time-poor humans on the planet).<sup>v</sup> The pandemic didn’t change that. It only made it worse.

When the pandemic began, many assumed that lawyers could quickly pivot from in-office work to remote work. But what they didn’t appreciate is that not all lawyers – and even fewer women lawyers – have homes equipped with a quiet workspace suitable for actually getting work done. As Kellogg, Greene, and countless other working mothers have experienced, the constant switching of gears and bouncing from work to family and back to work again throughout the day does not exactly make it conducive to be productive. In fact, it all but destroys productivity. This blurring of boundaries is especially difficult in the legal profession, given that “legal work, whether drafting a brief, researching a thorny issue, analyzing a contract, preparing for a deposition or planning a trial strategy, is a demanding intellectual exercise requiring intense, uninterrupted concentration. The domestic environment, with all its wonder and joy, is seldom conducive to those demands.”<sup>vi</sup> As it turns out, the clear divide between work and family life actually served to protect both.

In the home/office/school environment where that divide no longer exists, working mothers often become the glue holding their families together to an even greater extent than in pre-pandemic times. Without it, the family might survive, but it wouldn't thrive. In conversation after conversation, multiple women lawyers with whom I spoke all experienced a common struggle: balancing work with parenting, homeschooling, and family management, and often facing impossible decisions among those responsibilities, with no good options to meet all of the competing demands on their time. Their experience is, I am sad to say, not unique among working mothers and is borne out by studies of women working professionals. The key finding? Women are leaving the workforce in droves in what's been called the "pink-collar recession."<sup>vii</sup>

When the pandemic began shutting down offices, 11.5 million women lost their jobs between February and May 2020, compared with 9 million men, according to a report from the Institute for Women's Policy Research. And between August and September 2020, another 865,000 women left the labor market. That was four times the number of men who were no longer employed or looking for work. Among the contributors for that difference? The disproportionate impact on working mothers as opposed to working fathers of having no childcare during the pandemic.<sup>viii</sup>

Beyond that reality, a study from Qualtrics and the Boardlist found that men and women even differed in their perception of the pandemic's impact on work and family. While men believed working from home positively impacted their careers, women had the opposite experience, discovering that working remotely in homes with children made them less productive at work.<sup>ix</sup>

And finally, research produced by McKinsey & Company and the Lean In organization found that beyond the number of women who had already left the workplace by the end of 2020, as many as two million more were considering a leave of absence or leaving their jobs altogether. On top of all the financial instability created and careers stalled, one lasting effect of the pandemic may be far fewer women remaining on track to become future leaders, potentially erasing decades of progress toward gender equity.<sup>x</sup>

Whatever productivity working mothers have been able to achieve at home during the pandemic, it's likely come at an enormous cost to their mental and physical health and overall sanity. So, what can legal employers do to strengthen our community by better supporting working mothers in our profession? A range of ideas have surfaced, some responsive to the peculiar impact of the pandemic, while others address

issues that predate 2020 and which likely will survive long after recovery.<sup>xi</sup>

- Acknowledge the childcare issue and consider adopting policies and/or offering benefits to help address it. The women with whom I spoke were unequivocal on this point. Absent local extended family members who are able and willing to help share childcare responsibilities, finding access to safe, affordable, consistently available, high quality childcare has been difficult, if not impossible, during the pandemic. Employers should consider offering a full or partial reimbursement for childcare costs for employees who are parents. If employers are financially unable to provide or at least subsidize the costs of childcare, they can consider retaining the services of a back-up childcare provider when employees find themselves unexpectedly without childcare.
- Aside from childcare, review all other existing workplace policies and benefits offered, and consider making changes to prioritize wellness, such as employer-provided or subsidized home exercise equipment/classes or membership to a wellness center or health club.
- Consider making additional changes to existing policies and benefit packages to prioritize flexibility, including job sharing or part-time professional roles. Get creative to ensure you are maximizing flexibility provided to working parents. For example, one woman told me that her law firm used a shared calendar for employees to request back-up coverage for times when they will be without childcare. And importantly, ensure that any accommodations made for employees are not held against them when it comes to promotions, raises, and performance evaluations. To the contrary, employees should be actively encouraged to take advantage of such policies and benefits.
- Recognize that the workplace has changed. Acknowledge that and reassess your process for evaluating job performance, as well as the criteria used to conduct performance reviews. While pandemic-related difficulties are due to an unprecedented, and hopefully temporary, challenge, employers must look to pandemic responses as a guide for long-term improvement.
- For workplaces beholden to the billable hour, reconsider the billable hour's role in your business model. If that is not possible, consider a temporary moratorium on minimum billable hour expectations and remove billable hours as a factor considered in annual reviews and decisions regarding compensation or promotion. If that still doesn't work, consider offering billable

hour credit for time attorneys spend homeschooling or performing childcare and/or caregiving responsibilities due to the pandemic.

- Prioritize pay equity, both because it is the right thing to do and so that working mothers might be better equipped to outsource some of their domestic workload.
- Reassess your onboarding processes and training. Chances are, they are outdated and do not reflect the new reality of remote work. Make sure your office is providing new employees with current information. Consider modifying onboarding procedures so that they are tailored to individualized, flexible work situations, rather than a narrow, one-schedule-for-all approach.
- Offer paid or semi-paid leave options, including the option to take a sabbatical. To ensure your employees actually feel safe and comfortable taking paid leave, reward them for doing so by providing a modest bonus to anyone who takes paid leave of, say, at least two weeks.
- Consider providing a one-time stipend to reimburse employees for expenses related to setting up and decorating a home office or workspace. Ask your employees if they have the resources and tools – hardware, software, etc. – they need to work as effectively and efficiently as possible at home.
- “Don’t go back to ‘normal’ office life. Long hours of face time and unpredictable schedules hurt parents and others even before this crisis. A lesson of this period has been discovering that people are happier, healthier and more productive when they have control over where and when they work – especially parents. There are benefits to offices, but employers could adopt hybrid schedules, allowing people to work some days at home and some days in the office.”<sup>xii</sup>
- Consider retaining an outside organizational culture consultant to recommend ways to foster a workplace culture that encourages and reinforces healthy boundaries and time away from work.
- Invest greater resources on women’s professional development. The “Women in the Workplace” report called this a “pivotal moment”: “If companies rise to the moment with bold action, they can protect hard-won gains in gender diversity and lay the foundation for a better workplace long after Covid-19 is behind us.”<sup>xiii</sup>
- Consider providing or subsidizing programming for school-aged children. For example, some employers have started offering or subsidizing educational programming or tutoring opportunities for children of employees. But a word of caution here, one thing some of the women

with whom I spoke emphatically reiterated to me – “we do not need any more Zoom calls.”

- If it can be handled by email, do not schedule another Zoom meeting. If it is truly something that cannot be handled via email, schedule time in advance for a telephone conference. If it is truly something that cannot be handled via email or a telephone conference scheduled in advance, then and only then should you schedule yet another Zoom meeting. Avoid unplanned phone calls and video conferences to the greatest possible extent.

Addressing the needs of working mothers is essential to the long-term success of law firms and organizations: “Firms that neglect to address this problem run a grave risk of negatively affecting their talent bases, reputations, and bottom lines for years to come . . . Law firms who lean into this problem and work diligently and creatively to address it will be the winners here because they will retain the highly talented women lawyers who are demonstrating heroic commitments to their firms while handling significant commitments at home.”<sup>xiv</sup>

The COVID experience may push working mothers to ask themselves sometimes-avoided questions about their current work situation. Will the return of school and childcare solve my immediate difficulties? Is my domestic partner carrying a fair share of the load? Does my employer understand my situation? Having seen my employer’s response to COVID-19, am I comfortable with the firm’s leadership and culture? Am I working at the right place and doing the right work at this time in my life?

If creating a healthy, productive, and equitable post-COVID workplace for working mothers sounds impossible, Sarah Farrow will tell you it isn’t. She’s been fortunate to experience it every day working at a plaintiff’s personal injury firm. As a single mother of two teenage children, her post-pandemic days may sound familiar: early mornings to get her kids ready for school, followed by her own remote work. “It’s almost like a working incubator in Silicon Valley, except these are my children. If I have a court appearance, or a mediation, I put a note on the door to my home office that asks them not to disturb me.”

The age and independence of Farrow’s children make a difference. But her firm had an established flexible work program long before the pandemic. “I started the pandemic with one employer who was frantically trying to figure out how they were going to get everybody up and running remotely, to a firm that already had well-established remote work systems.”

Farrow credits her employer as a large reason for her ability to cope with the additional responsibilities of homeschooling and parenting throughout the workday. “I am trusted to do my job. I am given the resources I need to do my job effectively, and I am given the staff and office support I need.”

Farrow sees that experience play out with other working mothers in her firm. “I’m still new, but the women attorneys at my firm have worked here for a long time and are a testament to how the remote working environment can be both productive and accommodating. I’m blessed to have a career and resources that a lot of other women don’t have.”

Working mother lawyers, like all working mothers, face extra hardships in the best of times, hardships often not appreciated or underappreciated by male colleagues. The pandemic has pushed many of them beyond their capacity to achieve a proper work-life balance. But with the vaccine now here, employers can use lessons learned to build more family-friendly and equitable workplaces.

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<sup>i</sup>All names used in this article are pseudonyms to protect subjects’ privacy and allow them to speak freely without fear of criticism or judgment.

<sup>ii</sup>The scope of this article is limited to working mothers in the legal profession. But that’s not to say that the challenges described herein are unique to the legal profession, nor is it to ignore the very real suffering experienced by others who have lost family members, friends, or their own health, or those facing dire financial problems who are no longer employed at all, as a direct or indirect result of the COVID-19 pandemic.

<sup>iii</sup>Helaine Olen, “[Opinion: The pandemic is devastating a generation of working women](#),” The Washington Post (Feb. 5, 2021)

<sup>iv</sup>Sterling, Joyce and Chanow, Linda, “[In Their Own Words: Experienced Women Lawyers Explain Why They Are Leaving Their Law Firms and the Profession](#),” American Bar Association Commission on Women in the Profession (2021)

<sup>v</sup>“Time studies find that a mother, especially one who works outside the home for pay, is among the most time-poor humans on the planet, especially single mothers, weighed down not only by role overload but also what sociologists call ‘task density’ – the intense responsibility she bears and the multitude of jobs she performs in each of these roles.” Brigid Schulte, *Overwhelmed: Work, Love and Play When No One Has the Time*, p. 25 (2014) (citing Bianchi, Robinson, and Milkie, *Changing Rhythms*, 55-57; Lyn Craig, “Parenthood, Gender and Work-Family Time in the United States, Australia, Italy, France, and Denmark,” *Journal of Marriage and Family* 72, p. 5 (Oct. 2010)).

<sup>vi</sup>Connecticut Law Tribune Editorial Board, “[Does Working Remotely Really Work for Lawyers?](#)” Connecticut Law Tribute (August 28, 2020)

<sup>vii</sup>Susan Madsen, “[Where Have All The Women Gone?](#)” Forbes (Jan. 11, 2021)

<sup>viii</sup>Mason, C. Nicole, Ph. D., “[Building the Future: Bold Policies for a Gender-Equitable Recovery](#),” *Institute for Women’s Policy Research* (2020)

<sup>ix</sup>“[Not in the same boat: Career Progression in the pandemic](#),” *Qualtrics* (Aug. 26, 2020)

<sup>x</sup>“[Women in the Workplace 2020](#),” McKinsey & Company and LeanIn.org (2020)

<sup>xi</sup>Many are described in an article by Cristina D. Cress, “[One Size Does Not Fit All: Contemplating And Evaluating Flexible Work Arrangements](#),” North Carolina Bar Association (2020)

<sup>xii</sup>Claire Cain Miller, “[The Primal Scream: Working Moms Are Struggling. Here’s What Would Help. What government, employers and the rest of us can do](#)” The New York Times (Feb. 4, 2021)

<sup>xiii</sup>“[Women in the Workplace 2020](#),” McKinsey & Company and LeanIn.org (2020)

<sup>xiv</sup>Susan Dunlap, “[Don’t Let the Pandemic Be Regressive for Women Lawyers \(Part II\)](#),” Above the Law (August 20, 2020)