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Whose Balance Is It, Anyway?

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WHOSE BALANCE IS IT, ANYWAY?

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The Honorable Joan Ericksen Lancaster^{††}

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*I have decided that I don't like balance. If I did, I would
have more of it.*

— Anonymous female attorney

I. INTRODUCTION

This article was prepared for William Mitchell College of Law's Celebration of 100 Years of Women in the Law, a two-day

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symposium held at the law school in November of 2000. It addresses a process for dealing with an important final obstacle to improving the status of female attorneys. Part II of this article explains why it is essential that women play an increasingly significant role in the practice of law and in our justice system. Part III outlines our ideas about the components of “balance” and explains the inherently personal dilemma created by the tension of being a woman who practices law. Part IV discusses the act of balancing. Finally, Part V posits that while there is no singular solution to this dilemma, and that each solution is unique to the individual, self-awareness can be crucial to finding a solution.

We hope that sharing our stories and observations will foster a meaningful discussion that is both practical for individuals and useful for learning communities.

II. NECESSITY OF WOMEN IN THE LEGAL PROFESSION

*Law reflects but in no sense determines the moral worth of a society. The values of a reasonably just society reflect themselves in a reasonably just law.*¹

Law is an important profession that affects the most personal affairs of human life. For the most part, the legal obstacles prohibiting women from entering the profession have been removed; we have made much progress since the day when Myra Bradwell was denied admission to the practice on account of her gender.² Even many of the more subtle barriers that prohibited women’s integration into the profession have been reduced; for example, there is increased availability of parenting leave and flexible work hours. We have now reached what seems to us to be one of the last frontiers in the effort to bring about equality.

For decades the women’s movement has focused on the external forces that have prevented women from achieving parity in the profession. Now, according to our personal observations, one of the most difficult challenges female attorneys are facing is not external; rather, it is the internal challenge to balance the many demands of a woman’s personal life with those of her professional life.

Why is it so important to address this issue? There are several

1. G. GILMORE, *THE AGES OF AMERICAN LAW* 110 (1977) (paraphrasing Oliver Wendell Holmes).

2. See *Bradwell v. Illinois*, 83 U.S. 130, 130 (1872).

reasons, but we think at least three deserve particular mention. First, around fifty percent of law school classes are now women. It is a simple matter of fairness that these students be able to practice their craft along with their male colleagues. Second, many of those who most need the assistance of an attorney happen to be women. For example, 54% of the cases in state court dockets address family law or children's issues.³ Given these statistics, it simply makes sense that both genders be involved in helping to serve this client base. And finally, the full integration of women's different values and perspectives will help insure that the law reflects the "moral worth" of the society.

But this full integration cannot happen until women become comfortable with the choices they have made. From our many discussions with women lawyers, the thing that most prevents this integration is a lack of balance in satisfying the competing demands of their personal and professional lives.

III. COMPONENTS OF BALANCE

Balance, like the metaphor in the 1960's song, is an "elusive butterfly."⁴ We rejoice on the few occasions when it is present, and wonder where it went when we look up from our desk and notice it is gone.

The notion of *balance* travels the talk show rounds and fills popular literature.⁵ We are told to simplify. We are told that *quality time* with our children and spouses is not a legitimate substitute for *real time*. We are told to set priorities. We are reminded of the

3. Minnesota Supreme Court Research & Evaluation (on file with the Minnesota Supreme Court), July 26, 2001.

4. BOB LIND, *The Elusive Butterfly*, on DON'T BE CONCERNED (World Pacific 1966).

5. The ideas encompassed in the notion of balance have also made their way into articles about job satisfaction in the legal profession. An entire issue of the Vanderbilt Law Review recently was devoted to such concerns. See Symposium, *Attorney Well-Being in Large Firms: Choices Facing Young Lawyers*, 52 VAND. L. REV. 871 (1999).

The practice of law is a pleasure to some and a source of dissatisfaction for others . . . with the large-scale entry of women into law, and with the increased overlapping of work and family roles, the stressful nature of legal practice has become a more widely recognized issue for both men and women. An awareness of the stresses and strains of legal practice has generated much concern, and some research.

JOHN HAGAN & FIONA KAY, *GENDER IN PRACTICE: A STUDY OF LAWYERS' LIVES* 155 (1995).

need for role models, which can increase pressure. And we all struggle in our own, various ways to follow this advice. Just when we think we have achieved some measure of balance, we talk to our friends and colleagues—we watch how they lead their lives—and conclude that we may not have it after all.

The authors of this article have been searching for balance during the entire twenty years we have known each other. We worked together in our first private law firm experience, then cheered one another as each left to pursue other, increasingly complex responsibilities in the legal world. We have also supported each other with the joys and demands of raising children.

These are not unique experiences; most of our female friends in the legal profession have taken similar journeys, adding responsibility and claims upon their time, energy, and emotions as the years pass. How have we all managed it? More importantly, are there lessons we can learn from each other to help us do it better?

We have not pondered these questions in isolation. We have talked to many other women who are busy practicing law or running courtrooms and attempting to balance the demands of their careers against those in their *other* lives. As we had those conversations and obtained the quotes and anecdotes that appear in this article, we quickly realized that *balance* is a fuzzy concept. Some further definition is necessary. We need to examine, more than has been done in anything we have read, exactly *what* it is we are trying to balance.

A first step in this definitional process is to determine what a legal career is all about, since it seems that our careers are what most often cause us to lose balance. In order to put the notion of balance into perspective, we must understand and accept that a career in law is not simply about money, ambition, or self-satisfaction. Frequently, there are larger and more compelling issues that draw us into the field and keep us there—keep us struggling to find and hold our balance.

Second, we need to understand that we ourselves are key ingredients in this balancing act. We need to identify those drives or emotions that, when unrecognized, unmet, or unchecked, often cause us to lose balance. Without some self-understanding, we cannot achieve the equanimity necessary to meet the professional and personal demands placed on us.

Third, we need to be aware of the demands made on us by our

friends or our families. Recognizing these usually competing claims on ourselves is essential to catching a glimpse of that elusive notion of *balance*.

We offer no formulaic answers to the question of balance, but after watching ourselves and many other women travel the same trajectory of increasing responsibility, and after defining what it is we are trying to balance, we found that four common themes emerged. The first of these themes is simple, but fundamental: everyone achieves balance in her own way. Closely related is the second theme, that in traveling this path with other women we must be careful not to judge others' choices. Third, if we are to achieve some sense of balance, we must constantly be self-aware. We must also realize that children, if we have them, will regularly change our notions of balance.

IV. THE ACT OF BALANCING: DEFINING THE DEMANDS

A. *The Career*

*[I]n a time lacking in truth and certainty and filled with anguish and despair, no woman should be shamefaced in attempting to give back to the world, through her work, a portion of its lost heart.*⁶

We are all familiar with the stereotypes: lawyers are in it for the money, the prestige, the power, for ambition and ego.⁷ But for many lawyers, the profession is a calling that offers rewards quite different from those the stereotypes project; rewards worthy of the demands the profession may place on us and those in our lives. Often, we and the larger society fail to recognize that the demands of the calling are a legitimate part of the balance equation. Understanding clearly why we work as hard as we do is a key to evaluating the *career* part of the balance equation. Perhaps that is why one of our colleagues advised us: "Keep your eye on why you entered into the practice in the first place."

6. Louise Bogan, in SARAH BAN BREATHNACH, *SIMPLE ABUNDANCE: A DAYBOOK OF COMFORT AND JOY* (1995).

7. As with most stereotypes, there is both truth and exaggeration in the claim. For an interesting and sometimes even scathing discussion of how money, the *game*, and lack of ethics drive attorneys in large law firms, see Patrick J. Shiltz, *On Being a Happy, Healthy and Ethical Member of an Unhappy, Unhealthy and Unethical Profession*, 52 *VAND. L. REV.* 871 (1999).

B. *Justice and Professionalism*

It may sound naïve to those who are not so motivated, or unbelievable to those who have not practiced law, but many of us entered and remain in the profession to contribute to our system of justice. A study conducted in 1990 revealed that 56% of the women participating in the study considered “the opportunity to serve people in need” to be a “major reason” for attending law school.⁸ For some, that might mean representing criminal defendants; for others, it might mean helping someone adopt a child or set up a trust to care for a loved one. It might mean helping solve problems for private clients, or blazing a trail for other women to follow. There is something very compelling and satisfying about helping other human beings handle situations that are important to them and which they cannot themselves resolve. The desire to serve and help must not be taken lightly, or dismissed.

Professionalism, in other words, dedication to doing the job well, is an equally important component of our careers. Professionalism builds trust and confidence in the system, which are essential if the public is to continue having faith in the legal system.⁹ This trust and confidence can be built in many ways. For example, judges often spend several extra hours each week doing community outreach to educate the general public. This outreach enables those unfamiliar with the law to understand the importance and integrity of the system. Faithful discharge by lawyers of their responsibilities is another means of building trust and confidence in both the legal profession and the system of which it is a part. We understand that to make the system work, and to do the job correctly, we each need to perform our roles with as much vigor as possible.

We pay a price for such care, vigor, and community outreach.

8. Paul W. Mattessich & Cheryl W. Heilman, *The Career Paths of Minnesota Law School Graduates: Does Gender Make a Difference?*, 9 LAW & INEQ. 59, 65 (1990). The article cited several other studies that also found women value service commitments more than men, and are motivated to attend law school to help others or to serve society. See *id.* at 66 n.22. The women participating in the study were 1975, 1978, 1982, and 1985 graduates of Minnesota’s three law schools. See *id.* at 61.

9. Some consider it a quaint notion that our legal system stands between us and tyranny, but without public trust in our legal systems, we would soon descend into vigilantism. See Michael R. Gordon, *Crime Takes a Vacation (Yours); Moscow: A Violent Image is Unfounded but Watch the Traffic Police*, N.Y. TIMES, July 16, 2000, § 5, at 9 (warning that shootings are Russia’s substitute for litigation).

Those efforts can result in long hours and other accommodations between work and home life that strip us of the personal downtime we need to rejuvenate ourselves.

However, doing a job right increases job satisfaction and improves relationships with colleagues. Loyalty and collegiality are tremendously important to satisfaction with a legal career. Empirical evidence supports our own observations: In a recent study of graduates of Minnesota law schools, answers to questions about priorities in practice revealed that “women were twice as likely as men to cite intellectual stimulation (20 percent of women versus 10 percent of men), flexible hours (20 percent of women versus 8 percent of men), and collegiality (27 percent of women versus 18 percent of men) as priorities.”¹⁰

The pursuit of justice, professionalism, and collegiality are worthy of our time, energy, and dedication. They must be considered in determining whether the sacrifices we make and the way those sacrifices alter our life balance are acceptable. The needs that are satisfied by work affect how much can be taken from other parts of our life without causing an uncomfortable imbalance.

C. *The Self*

We each respond to different inner voices, aim at different objectives, and possess different strengths. These individual characteristics contribute in large measure to the ways in which we try to strike a balance in our lives. We must know what these emotions and drives are if we are to achieve balance and accept the times when imbalances are unavoidable. Ideally, of course, the priorities of work will align with our personal priorities, because there is only so much *give* in either.

Of the women we know and spoke to in connection with this presentation that seemed to have aligned their priorities most successfully, we noticed one common thread. These women pursued their own strengths and their own passions, whether these were for a type of law practice or more focused on the needs of their family. Some women, it goes almost without saying, seek a life heavy with intellectual challenge and willingly accept the attendant workload because that is where their passions and gifts truly lie. Others who are passionate about and gifted in involvement with

10. Mattessich & Heilman, *supra* note 8, at 110.

children—their own or others’—seek and find satisfaction in a life that focuses more heavily on the domestic sphere. We suppose that the pursuit of keen interest and development of personal gifts might be the reason that some women who have lives that seem from the outside to be terribly unbalanced are actually happy and productive.

These general conclusions are supported by at least one study we found. The authors noted:

A study of graduates of the University of Michigan Law School, by David Chambers, found that women with children continued to bear the principal responsibilities for child care, but also found that these women were more satisfied with their careers and with the balance of their family and professional lives than were other women or men. Chambers speculates that “multiple roles . . . provide satisfaction by offering variety and relief, by permitting a sense of mastery, and by providing some broader perspective on the problems in any one setting.”¹¹

The ABA Commission on Women in the Profession found that having children added to, rather than detracted from, the career satisfaction of women lawyers.¹² Or, as one of our friends put it: “Working is an antidote for home and home is an antidote for work.”

All of these needs, emotions, and drives impact the choices we make in our professional and personal lives, and we need to know what they are so we can sort out whether they make sense. We need to know ourselves:

Often people attempt to live their lives backwards: they try to have more things, or more money, in order to do more of what they want so that they will be happier. The way it actually works is the reverse. You must first be who you really are, then, do what you need to do, in order to have what you want.¹³

11. John Heinz, et. al., *Lawyers and Their Discontents: Findings from a Survey of the Chicago Bar*, 74 IND. L.J. 735, 741 (1999) (footnote omitted) (alteration in original).

12. *Id.*

13. Margaret Young in SIMPLE ABUNDANCE: A DAYBOOK OF COMFORT AND JOY, *supra* note 6.

D. Others

The final part of the balance equation is the impact your career and your needs have on others—and the impact their lives and needs have on you.

1. Domestic issues

A common refrain in the early years of marriage and career is that women are being asked to do it all—to be Xena the Warrior at work, and a Martha Stewart the rest of the time. Many of us realize, sometimes after years of either doing it all, or letting it pile up, that neither result is a satisfactory solution. We have to figure out what is important, look to friends, significant others, and the yellow pages to help us carry these responsibilities—and let the rest go. If we can't get the necessary support, imbalance is likely.

2. Friends

Friends are another part of the consideration. Sometimes they are a sad casualty in the practice of law. We have all had those days when we simply do not have the energy to return one more phone call. Friends who do not share our professional lives find the lack of responsiveness difficult to understand. One woman we know has approached the problem this way: If you practice law full time and have a family, there's no such thing as balance. The correct question is not whether your life has balance, because it does not. The correct question is whether your life has integration. There's not enough time for socializing separately with clients and other friends. Your clients become your friends.

That may work for some lucky enough to have interesting and delightful clients; it might not work for others.

3. Family

A common concern of women we have spoken with is whether their relationships with significant others will be a casualty of the balancing act. These relationships can fall to the bottom of the list of things to attend to—or off the list entirely. Our anecdotal evidence tells us that this seems especially likely to occur during the most stressful times at work.

The biggest impact on balance, aside from the self, comes from our children. One friend, a judge married to a man with a

demanding litigation practice, has concluded: “Face it. One person has to be the primary parent. If you’re going to have children and have a high-powered legal career, you are not going to have balance in your life.” The authors of a study on satisfaction among those who practice law noted: “A number of studies suggest that women lawyers experience greater conflict between their work and family roles than do their male counterparts, largely because the women assume a heavier burden of family responsibilities.”¹⁴

Achieving any sort of balance with children is in large measure defined by how your children navigate through life. The parent of a child with special needs must find extra time each day to support that child. There are trips to the psychologist or physical therapist; weekly, sometimes daily check-ins with the school and the child to see how the day went. These extra challenges may require that in order for balance to be preserved, the parent’s career must be flexible and not leave her drained at the end of the workday.

V. THE THEMES OF BALANCE

Now that we have defined the components of the balance equation and understand the issues, what are the answers?

A. *There is No Single Answer*

The good news and the bad news is that there is no one answer. As simple as that sounds, it is incredibly important to remember this in the midst of juggling the demands of a career, self, and others. It is entirely possible to take a completely different career path from other women and still end up in a place of integrity and balance.

The authors of this article have had quite different career paths. For many years before becoming a judge, Joan was a full-time attorney, meeting the demands of increasingly complex litigation. Cindy worked part-time for ten years while trying to meet the special needs of one of her children. Joan had a rich and varied litigation practice in the U.S. Attorney’s Office and as a partner in a large Minneapolis firm. She served on the district court bench, and now on the Minnesota Supreme Court.

Cindy’s path, though, has been no less rewarding. As an assistant attorney general she advised a variety of education leaders

14. Heinz, et. al., *supra* note 11, at 739.

for over fifteen years and was deeply involved in drafting major education policy initiatives. She was an Assistant Commissioner for the Department of Children, Families and Learning, and has now reached her lifetime goal of becoming a professor.

These are but two of the paths to balance (or at least not imbalance). Other examples abound. One woman we know left the legal profession to return to her real love, creative writing. Another woman we know accepted a job at a large law firm, but told the firm they would have to wait for a while before she could take the job. She took it fifteen years later. The point is that each path is, like the individual selecting it, unique and worthy of respect, and we should not let *corporate norms*, or even what those around us are doing, determine our individual paths.

B. Avoid Judgments and Comparisons

The second theme intertwines with the first. Because we are all so different and are motivated by individual needs and demands, we should not judge how others choose their balance. For the woman whose parents were often absent, balance will likely be quite different than it is for the woman whose parents never provided a steady income. The mother with one fairly self-sufficient child will likely strike an entirely different balance than the mother with many children or special needs children. We cannot and should not judge these differences, because we cannot truly know all the variables in another's balance equation.

Nor should we add to our own burdens by judging ourselves against others. One woman may have an incredible support structure; another may be quietly struggling to do it all herself. Should you beat up on yourself because you have chosen the so-called "mommy track" while your friend's career is skyrocketing? We would suggest not. Consider, rather, whether you could have adequately served your clients and the profession if you had remained where you were. Perhaps the choices you made work better for your clients, you, and those around you.¹⁵

15. Obviously, the correct *model* continues to be an issue for women trying to achieve balance in the legal world.

While overt discrimination has become less common, women continue to experience adverse treatment in the form of structural barriers and covert expressions of hostility toward their presence in the law. The prototypical legal career continues to be based on a male career model in which total commitment to work life is both possible and desirable.

C. *Be Constantly Self-Aware*

This focus on ourselves and our own situations should extend to reflecting on what is happening inwardly. Without this type of inner awareness, we cannot begin to strike the appropriate balance.

Increasingly, in the literature of leadership and even in popular culture, we are recognizing how important it is to interact with others, to get beyond our own problems to solve others' problems, and to have the insight and courage necessary to lead others where they need to go. This collection of skills and abilities has been described as "emotional intelligence." We appreciate this theory as it applies to leadership and management, and we have found it interesting in thinking about balance.

A hallmark of emotional intelligence is self-awareness. One expert on the theory defines it this way: "Self-awareness is the first component of emotional intelligence—which makes sense when one considers that the Delphic oracle gave the advice to 'know thyself' thousands of years ago. Self-awareness means having a deep understanding of one's emotions, strengths, weaknesses, needs, and drives."¹⁶ It also means recognizing and understanding their effect on others.

Self-awareness is critical to balance, because without it we can lose sight of whether we are motivated by money or justice, by power or professionalism, by ego or a desire to help. Self-awareness means knowing whether we are pursuing a goal because the profession demands it, or to keep up with someone else. It means knowing whether you have unquestioningly chosen to pursue an aspect of the law because it is the typical legal *model*, or because it is the model that works for you. Self-awareness means that you understand whether your choices are draining or energizing for you—and therefore the others around you. It might be the recognition that even if you can do something—and do it very well—you do not have to do it now. You may choose to do it later. You may choose to forego it. Or, you may decide that on balance it is worth the sacrifice to do it at this point in your life. However, having engaged in that process will give you clarity that will likely translate into greater acceptance, patience, and ultimately

Id. (citing Martha W. Barnett, *Women Practicing Law: Changes in Attitudes, Changes in Platitudes*, 42 FLA. L. REV. 209, 212-16, 218 (1990)).

16. Daniel Goleman, *What Makes a Leader?*, HARV. BUS. REV. 93, 95-6 (Nov.-Dec. 1998).

emotional balance for you—and for those around you.

D. Accept that Children Change Everything—If You Have Them Your Balance Will Likely Be Affected by Their Needs

Children really do change everything. The impact of the force will vary, but there will be an impact. One article described it this way: Because of actual and anticipated work-family conflicts, women lawyers are said to adopt various coping strategies only rarely employed by men, including delayed marriage and parenthood, lengthy leaves of absence from paid employment, and part-time work arrangements.¹⁷

How you work around this impact will depend on the type of career you have, the reasons you chose the career, and your own personal needs—as weighed directly against the day-to-day needs and demands of each child you have. It may be that you will have to change your career for a time; or it may be that for a time you simply won't have balance. It will be easier to make that choice if you just accept the fact that it will have to be made.

But however exhausting, we must pay attention to our children's needs, because if we do not they will come back to haunt us—and them. Sometimes we must strike a different balance for ourselves, at different points in their lives. We all—not just women, but men too—must pay attention to the real demands of the career, and make certain that if we think we are sacrificing for the greater good in the long run, we are not sacrificing the smallest of us in the short term. No one can tell you if that is happening. It is a day-to-day process, a constant evaluation and a constant awareness of what is going on in that child's life. As one colleague put it: "Look larger than the trees of the day to the forest you are creating."

VI. CONCLUSION

It probably is not possible to do everything—at least not all at once (readers are forgiven for scoffing at our insertion of the word "probably"!). Ideally we find work where the priorities of the job fit best with our personal priorities. We recommend taking pleasure in the company of good colleagues and fellow lawyers, and adopting a framework, like the one we have offered here, for

17. Heinz, et. al., *supra* note 11, at 739.

making thoughtful decisions about priorities and balance.