

Burnout Prevention Requires Effort From Attys And Firms

By **Megan Monson, Nicole Fulfree and Rachel Dikovics** (August 24, 2022)

In popular culture, the legal industry is often portrayed as providing a glamorous, fast-paced working life, full of courtroom drama, glossy suits and high-stakes negotiations.

These tropes are so ingrained in our collective experience that students from all walks of life typically enter law school with a touch of trepidation, not because of the substance of the law, but rather because of their perception of what their life will be like during — and particularly after — law school.

With this backdrop, it may not be surprising that, generation after generation, attorneys have continually accepted and, indeed, contributed to damaging workplace burnout culture, although there has been a shift in recent years to try and combat this issue.

Following the height of the COVID-19 pandemic, many law firms adopted expanded mental health initiatives, partially at the urging of the American Bar Association, which has recently focused on highlighting and combating anxiety, depression, alcoholism and other issues that are uniquely prevalent in the legal world.

But individual attorneys' efforts to improve their mental health are often overshadowed by the overwhelming draw of origination credit, bonus targets and billable hour achievements — all attractive measures of success that, understandably, are largely based on simple law firm economics.

In traditional law firm culture, busyness is a badge of honor. Frequently, the attorneys working the most hours are considered to be the most in demand, and therefore assumed to be the most talented among their peers.

Moreover, at large law firms, attorneys are often directly compensated for their time: the more hours billed, the larger their year-end bonus. These factors encourage attorneys and other professionals to somewhat counterintuitively tout their billable hour achievements — and their abandonment of any semblance of a balanced life — in what seems like an unavoidably toxic race to top — or the bottom.

Is surrendering to the legal industry's toxic burnout bandwagon an inevitable concession for attorneys moving up the ranks in the legal world? Or will the legal world's — at least ostensibly — enlightened views regarding the importance of prioritizing values not traditionally associated with law firm culture — i.e., work-life balance, mental health, the prevention of substance abuse — prevail? We're vying for the latter.

As newer generations of attorneys and those whose perspectives were altered by the pandemic eschew this all-or-nothing mentality, law firms must adapt or risk losing major components of their talent pools.



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What does burnout look like?

The flipside of this hours-maximization model is that attorneys are often emotionally exhausted and feel a lack of personal accomplishment regardless of how well they are meeting or exceeding expectations.

Burnout can often present as low morale, disinterest, reduced productivity and even resignation from one's job. It can also have physical and mental health detriments associated with spending too many hours seated, getting too little sleep and experiencing constant, unmanaged stress.

We should each feel responsible not only for avoiding burning ourselves out, but also for recognizing signs of burnout in those who report to us and actively moving to address them. Look for signs like a change in attitude or emotional state, atypical working patterns or work product, or lack of interest in matters or activities that are usually engaging.

One of the keys to understanding the difference in the typical experiences of men and women at law firms requires looking beyond or within the workday to the range of other responsibilities women frequently have in addition to their roles at work — a concept recently coined "invisible work."

The invisible work concept recognizes that women are more frequently saddled with administrative work and often feel compelled to take on additional nonbillable extracurricular firm activities.[1]

The 24/7 mentality that fuels burnout culture was established in a time when traditional household expectations encouraged a structure where one person took on the role as breadwinner, and the other was charged with all household responsibilities. This structure promoted and enabled the breadwinner to focus exclusively on work, often relying on a partner for support in their personal lives.

Although society has largely transitioned away from the traditional household structure, the impressions it has left are still very much alive. More often than not, women attorneys are forced to deal with a different set of expectations.

In addition to their responsibilities at work — and no matter whether they work more hours than their partner — women are typically responsible for deciding what's for dinner, keeping track of doctors' appointments, knowing when to restock items in the home, doing laundry and any other task that has been traditionally allocated to women.

As a result, women often have to deal with two full workloads — one at work and one at home — so it is inevitable that women are typically more prone to burnout.

How do we avoid the burnout bandwagon?

The following simple-to-implement strategies may provide some relief for those teetering on the edge of a burnout.

Hold the line.

Make sure that you schedule and actually take vacation time, and hold your boundaries. Remember that you are the only person in a position to protect your vacation, and people will follow your lead. If you allow others to encroach on your time off, they will.

Try to line up coverage for your work in advance of your time away, and provide your team with reminders as your vacation approaches. Set boundaries, make them known and stick to them to the extent possible.

Extend collaborative karma.

Everyone knows attorneys can't resist a good quid pro quo. If you find yourself with some extra time on your hands and notice that a colleague is overwhelmed, working during vacation time or otherwise in need of some help, consider offering to provide coverage.

Providing support where you can will not go unnoticed, and your colleagues will be more inclined to return the favor. Spread the collaborative karma.

Protect your calendar.

Schedule personal time for yourself, and put it on your calendar like you would for any other scheduled meeting. Actually blocking off your schedule is a great way to prevent overscheduling — of both the external and self-inflicted variety — and provides a helpful reminder that you're less likely to miss.

When you do have downtime, prioritize activities that you actually enjoy and that help you unwind. Be thoughtful about the way you fill your personal calendar and avoid overbooking your schedule with events you view as obligations.

Fight the urge to say "yes."

Think ahead in discussions about capacity. When considering whether to add a new matter to your docket, think about whether doing so will overload you in weeks or months to come when your current capacity may change. Many attorneys — and juniors in particular — feel compelled to say yes to every assignment that comes their way, and often end up overcommitting.

If you find yourself taking on assignments against the urgings of your own inner voice, consider providing the requesting attorney with additional context.

For example, you might say, "I would have capacity to work on this matter two weeks from now. Would that work?" Or, "I have capacity this week, but I will be on vacation next week and will be unavailable." Set boundaries from the outset and you will have an easier time managing your docket in the long-term.

What can law firms do to address and discourage burnout culture?

While there's likely no need to plead the case for the importance of preventing burnout at the individual attorney level, we have just recently begun to see an initial shift in attention to this issue at the law firm level. The correlation between burnout and attorney retention — one of the most prevalent economic issues for law firms today — is clear.

Even if not for the genuine concern for their employees' well-being, burnout is a liability. As society changes its perspective and law firms struggle with attorney retention, implementing strategies to prevent burnout makes good economic sense.

Law firms struggling with attorney retention issues may want to consider the following to

help prevent burnout.

Lead from the top.

Partners and senior and mid-level attorneys should be aware of the example they set for those who report to them when it comes to enforcing boundaries.

It can be immensely encouraging for junior attorneys to see senior attorneys not routinely answering emails while on vacation, stating confidently when they are unavailable, and in simple terms, not asking how high every time someone tells them to jump.

The more senior attorneys on a team or in a practice group set the example for everyone else, the better — if you fall into that category, it is your responsibility to not perpetuate harmful cultural norms and narratives.

Beware of burnout fuelers.

Take steps to discourage other attorneys from becoming burnout creators. That is, when attorneys are mismanaging matters such that those reporting to them are being overworked or becoming burned out, address those issues with the assigning attorney.

Moreover, burnout is less likely to happen when work is meaningful and engaging. Make clear the importance of each team member's contributions, and never demean your colleagues who are performing essential but less engaging tasks, like document review.

Use your network.

Utilize mentorship networks to spot burnout and offer support.

For example, firms can establish groups connecting junior and senior women attorneys through both formal programming and regular informal events to enable genuine connections and a network of support.

Such groups encourage members to reach out to their colleagues to inquire about their wellness and to offer support during challenging times. Mentorship and support is absolutely critical to long-term retention of women and the avoidance of complete burnout.

Conclusion

Attorneys must overcome significant hurdles to avoid burning out, but progress is possible when they set and enforce boundaries. They must also respect their colleagues' boundaries — both personally and professionally. Law firms should keep these tips in mind to increase retention and decrease burnout and resignations.

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[1] <https://www.nytimes.com/2021/04/21/parenting/women-gender-gap-domestic-work.html>.

<https://www.theatlantic.com/business/archive/2015/12/the-invisible-work-that-women-do-around-the-world/420372/>.