

The Hazards Of Female Lawyers Being 'Office Moms'

By **U.S. Circuit Judge Margaret McKeown and Roberta Liebenberg**

Women are frequently credited with being the glue or the office mom who hold teams together and create a supportive office environment. From bringing the birthday cake to being the cheerleaders who lift morale or inspire the team, these tasks fall disproportionately on women in the workplace.

The world of female lawyers is no different. Much like the book by Rebecca Shambaugh from long ago, "It's Not a Glass Ceiling, It's a Sticky Floor," the question is how women can get credit for this important work without getting stuck, becoming glued down or being taken for granted.

A recent New York Times article notes that the COVID-19 pandemic work-from-home model has put an end to much of this extra office work that contributes to an organization's culture and community but, ironically, this absence has drawn attention to its importance.[1]

As lawyers begin to return to work in their offices, now is a good time to recognize and reward office work that promotes morale, camaraderie, loyalty and interpersonal engagement — and thus helps to maintain organizational well-being. This work is generally performed by women, even though they are often burdened with the primary responsibility for child care and other family obligations on top of demanding billable hour requirements.

The ongoing transition to new post-pandemic work models, including hybrid work arrangements, offers a unique opportunity to rethink prior assumptions and practices.

Office work has also been described as office housework, glue work, organizational citizenship, the second shift and the double burden — and those who perform these tasks have many monikers, including "office mom," "good soldier," "model citizen" and "the full package." This work is often associated with low-visibility and low-promotability tasks.

Such work helps to keep the office, the team or the case functioning smoothly, but doesn't contribute positively to an individual's performance evaluation. In contrast, glamour work or high-promotability tasks — such as pitching for a new matter for a major client or a new client or leading a client team — are career-enhancing assignments that get noticed, and more importantly in law firms, get compensated. One step forward would be to recognize and reward those who perform this glue work and find a better moniker.

Notably, office work does not always mean trivial work — it can be critical work that is just undervalued or not rewarded. The reality is that this work includes picking the restaurant for the important client event, intervening as the peacemaker in a team conflict and simply being willing to listen to everyone else's problems — from the exhausted rainmaker partner to the neophyte associate.

Other examples include helping a colleague with a presentation, leading the mentoring program for junior associates, serving on diversity or hiring committees, coordinating the summer program, planning social gatherings, picking up the cake for a colleague's birthday,



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cleaning the communal kitchen, taking notes for the group at a case conference, making sure everyone signs the get-well card and holding Zoom check-in meetings with colleagues just to see how they are doing.

The 2021 "Women in the Workplace" study by McKinsey & Company and Lean In highlighted the important glue work performed by female leaders during the pandemic. Survey respondents reported that female managers were far more likely than their male counterparts to check in on employees' well-being, provide emotional support, assist employees in navigating work-life challenges, ensure that employees' workloads were manageable, and help prevent or mitigate burnout.[2]

A separate study found that female leaders are investing 25% more time than their male counterparts in making their teams' workloads manageable and helping them navigate work-life challenges, and 50% more time providing emotional support.[3] Some have characterized this role as talking people off the ledge.

Distressingly, despite its importance, this work goes generally unrecognized and unrewarded. The McKinsey-Lean In study found that senior-level women are twice as likely as senior-level men to spend substantial time on diversity, equity and inclusion work that falls outside their formal job responsibilities.[4] Significantly, although 70% of companies say that work done to promote DEI is critical, over 75% of companies say this work is not recognized or rewarded in formal evaluations or performance reviews.[5]

The examples of glue work and its significant impact on work life are not just anecdotal but are well documented in social science research. For example, a 2001 study in the Journal of Organizational Behavior illustrates how a manager's perception of gender roles can influence the type of jobs and behavior the supervisor expects.[6]

The authors wrote:

Whether or not these expected behaviors are "objectively" required or not is beside the point: they are expected by the observer as part of the employee's role, and the employee may be implicitly or explicitly rewarded for performing them, or implicitly or explicitly punished for failing to do so.[7]

This finding was underscored by an experiment published in the Journal of Applied Psychology in 2005.[8] The researchers sought to compare reactions to both men and women withholding and demonstrating altruistic citizenship behavior in a work setting. For staying late and helping, a man was rated 14% more favorably than a woman for the same behavior. When declining to stay and help, a woman was rated 12% lower than a man who did the same.

Field and experimental studies also found these gender differentials.[9] The researchers performed two experiments. In one, they gave undesirable tasks in a mixed-gender environment and found that women volunteered twice as often as men, but only when it was clear no one else was going to step forward.

In the second experiment, they gave an undesirable task to an all-male group and found that men volunteered at the same rate as women. Their studies reflected that "an individual's willingness to volunteer is not fixed and responds to the gender composition of the group,"[10] thus undermining the assumption that women just prefer or want to perform these types of jobs.

Regarding lawyers in particular, in 2019 the American Bar Association's Commission on Women In the Profession and the Minority Corporate Counsel Association published an important report, "You Can't Change What You Can't See: Interrupting Racial and Gender Bias in the Legal Profession," using data gathered by the Center for WorkLife Law at the University of California, Hastings College of the Law.[11]

The center gathered data from 2,827 respondents, along with comments from 525 participants. According to the study, white women were 21% more likely — and women of color 18% more likely — than white men to perform administrative tasks, such as taking notes in a meeting.

Given this data as well as the realities in the workplace, law firms and other legal employers should consider implementing the best practices recommended below that are intended to rectify the gender imbalance in office work and ensure that those who perform this work are appropriately recognized and compensated for their contributions.

Recommended Best Practices for Employers

Make the assignments of office work gender-neutral.

Research shows that women are socialized to be helpful and cooperative, thus prompting them to raise their hands and agree to take on office work. Leaders should take concrete steps to rotate assignments of office work so that there is no gender, race or other imbalance.

Many times, male leaders are reluctant to assign these types of tasks to men because they believe men will react adversely to being asked to do them. Utilizing a rotation system makes it clear that both men and women will be responsible for sharing these duties and removes bias or preference, and instead standardizes the responsibility for allocating these duties equally.

Better yet, recognize that these tasks are part of making the office run smoothly and, if possible, respectfully assign some ministerial tasks to administrative staff whose job description includes these tasks. Some law firms have looked to the tech industry, which has created the role of chief people officer, a position that aims to strengthen an organization's culture and sense of community.

Recognize implicit bias.

It is important that leaders examine how they are assigning office work and understand why many female lawyers and female lawyers of color do not want to be pigeonholed as the office mom. Some of these patterns arise from historical practices, not necessarily animus on the part of the supervisor.

Providing training for leaders and others in the organization offers an opportunity to understand unconscious bias and the tools necessary to combat it. Invest in leadership and mentoring programs.

Use metrics.

Office work is often done in the background, so it can be hard to appreciate the work and who is doing it.

Once cognizant of the implicit biases that underlie office work, leaders should use metrics to track who is being assigned the work, what types of work are being assigned and whether this work is included as part of performance evaluations or year-end compensation or bonuses.

A quick survey of lawyers can help ascertain whether lawyers have been asked to volunteer or were "voluntold" to perform office work, how many times they played that role and how many hours they devoted to those tasks. In addition, leaders should take internal surveys to see how their responses match up to their team members' perceptions and responses.

Reward lawyers for office work that builds a more inclusive and supportive culture.

If female lawyers and female lawyers of color are stepping up to perform tasks that enhance team performance, good citizenship and lawyer well-being, and promote morale and a greater sense of belonging, legal organizations should recognize the importance of this work and credit those who do it.

Hours devoted to strengthening the connective tissue of organizations should be included in performance reviews, considered in the calculus for billable hour requirements and factored into compensation and bonuses.

By doing so, leaders can show that they are truly committed to changing workplace culture and are not merely paying lip service to reforms. In the same way that pro bono work often went uncompensated and undervalued for decades but then became part of the expectation for lawyers, so too can glue work become legitimized.

Recommended Best Practices for Individual Female Lawyers (and Others Too!)

Find ways to say yes and just say no.

Despite calls for change, some say BigLaw's "never say no" culture still prevails.[12]

Female lawyers face a Catch-22 — to succeed they need to say yes, even to office work, and yet they are disadvantaged whether they say yes or no.

When office work is being assigned, don't immediately volunteer. Suggest that a rotation system be utilized or that administrative tasks be spread out among the team.

The reality is that women are walking a tightrope in these situations — saying no may be seen as selfish and not collaborative; saying yes may perpetuate an already bad situation. So find ways to say yes and yet be prepared to just say no when appropriate.

Keep your own set of metrics.

Women should make an effort to push their office work out of the shadows and into the daylight. One way to do that is to keep a record of these tasks for purposes of performance reviews and conversations about workload balancing. While bringing a cake for a birthday is not particularly noteworthy, working on a firm committee is important and worth highlighting.

If your organization doesn't track these tasks in a nonbillable category, keep your own log. And keep an eye out for who gets tapped for the high-profile work.

Volunteer for more high-visibility, career-enhancing opportunities.

Female lawyers should volunteer for high-visibility projects on the team, like working directly with the client, participating in or even leading the pitch for new work or speaking at a court appearance.

Consider volunteering for activities that put you in the limelight for client development and showcase your expertise, such as overseeing an in-house continuing legal education session for lawyers and clients, being seconded to a client, writing articles or participating in speaking engagements. It is important that leaders assign projects to women and women of color that will help them to develop their career skills and enhance their profiles with clients and others in the organization.

Volunteering can be a positive experience — just be prepared to excel in what you ask for.

Don't let yourself be seen as the perpetual caterer or party planner.

Once again, women need to be firm that they are not going to be the ones who will always order meals or plan the next office birthday or farewell party.

Spirit events can be fun and productive, but not if you become the perpetual caterer or organizer.

Seek out allies and mentors.

If a leader continues to assign office work only to women on the team, it may be more productive if the whole team — both men and women — collectively approaches the leader to explain why this is unfair.

It is also advisable to seek out a trusted adviser or mentor who can advocate on your behalf so that this imbalance is rectified. Your allies are fellow associates as well as more senior lawyers, plus affinity groups within the organization, such as the women's task force, the diversity task force and the LGBTQ+ task force.

Conclusion

Office work and glue tasks make valuable contributions to the culture of an organization, and therefore these tasks need to be formalized, recognized and celebrated.

Importantly, the work needs to be distributed equitably between men and women, and leaders need to step up to this challenge.

The takeaway of this article is not that women should stop volunteering or contributing to the well-being of the firm or the team, but rather that these efforts should receive credit.

Recognizing and rewarding office work is a win-win, as it incentivizes the performance of this work, contributes to an organization's culture, improves morale and engagement, and enables women who do this important work to have it considered as part of their year-end performance reviews and as part of their salary or bonus.

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[1] Jessica Grose, Goodbye to the 'Office Mom,' N.Y. Times (Sept. 7, 2021), <https://www.nytimes.com/2021/09/03/business/goodbye-office-mom.html>.

[2] Women in the Workplace Study (Sept. 2021), at 18.

[3] Reshima Kapadia, "Progress in Promoting Women to Top Corporate Jobs is Still Lacking. Why It Could Get Worse," Barron's (Sept. 27, 2021).

[4] Women in the Workplace Study, at 19.

[5] Id. at 21.

[6] Deborah L. Kidder & Judi McLean Parks, The Good Soldier: Who is S(he)?, 22 Journal of Organizational Behavior 939 (2001).

[7] Id. at 940.

[8] Madeline E. Heilman & Julie J. Chen, Same Behavior, Different Consequences: Reactions to Men's and Women's Altruistic Citizenship Behavior, 90 Journal of Applied Psychology 431 (2005).

[9] Linda Babcock, Maria P. Recalde, Lise Vesterlund & Laurie Weingart, Gender Differences in Accepting and Receiving Requests for Tasks with Low Promotability, 107 American Economic Review 714 (2017).

[10] Id. at 743.

[11] Commission on Women in the Profession & Minority Corporate Counsel Association, "You Can't Change What You Can't See: Interrupting Racial and Gender Bias in the Legal Profession" (2019).

[12] Aebra Coe, BigLaw's 'Never say No' Culture Lasts Amid Calls for Reform, Law 360 (Oct. 26, 2021), <https://www.law360.com/articles/1434470/biglaw-s-never-say-no-culture-lasts-amid-calls-for-reform>.