



# print edition

PROBLEM SOLVING: DILEMMAS

## For women in law, sole survival poses challenges

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**Dear Susan,**

The challenges women lawyers face in sole practices or small firms are just as great as those in larger law firms, in my view. Most Canadians seeking legal help go to sole practitioners or small firms. The survival of women in those small firms is a critical part of access to the justice system. What suggestions do you have for making the practice of law more sustainable for women in sole or small practices?

- Roy Thomas, Toronto

Print Edition - Section Front



**Dear Roy,**

This job opening is really a test of your mettle as a couple. Opportunities come and go but how you solve conflicts will colour your relationship as long as you're an item. Airing who knew about it first, who's best prepared for the position, and who will derive the greatest benefit - within the context of your joint life - are ways to consider this issue.

It's not just what you say, but how you say it that counts. This is not psycho-babble about letting it all hang out. There is good evidence that the way new couples solve problems predicts how long their relationship will last, says John Gottman, a University of Washington researcher.

Prof. Gottman studies marriages the way biologists study ecosystems, and his ability to briskly suss out patterns got him immortalized in Malcolm Gladwell's bestseller Blink. Having observed hundreds of newlyweds and tracked their progress long-term, now all he needs is three minutes to tell which couples will make it and which ones will divorce - an outcome he foretells with 87-per-cent accuracy.

"The biggest lesson to be learned is that the way couples begin a discussion about a problem - how you present a problem and how your partner responds to you - is absolutely critical," he says.

Like any good scientist, Dr. Gottman needs data to reach his

conclusions, so he puts couples in an apartment-lab wired for sound and video, and observes how they interact. He records what they say, their tone of voice, the direction of their gaze, how much they fidget, even physiological measures of stress, such as heart rates and sweaty palms.

He discovered that women initiate discussions about 80 per cent of the time and one clue to how long a union might last was a woman's opening salvo. Categorical attacks, such as "you never ..." or "you're such a ..." did not bode well. But neither did ignoring requests for information, or for connection - which characterized the response of 82 per cent of the men who eventually were divorced.

"Women need to learn how to soften their approach when they bring up a problem," said Prof. Gottman's colleague, Sybil Carrère, while men need to learn how to accept what their wives are trying to tell them.

In contrast to the early flameouts, couples who could respond to each other with the give-and-take equanimity that Prof. Gottman calls "bids and turns," are able to regulate their conflicts, avoiding defensiveness, and damping bad feelings that may persist.

From Prof. Gottman's research, it seems that marriages are like most living things - they thrive on homeostasis: that is, two mutually dependent organisms react to changes together - or they die. In your case, if you tender your candidacies for the promotion independently, then avoidance and competition may well characterize your union. The more aggressive member will be the one who gets the goodies; fairness, loyalty and responsiveness will then play bit parts.

The advantage of small legal practices are that they offer the flexibility and autonomy that women crave. The American economist Sylvia Ann Hewlett is one of several researchers who have spelled out this preference with hard data. In 2006, when she examined the career motivations of 2,443 American women with professional or graduate degrees, 85 per cent of them said that having flexible schedules, working with people they respect, and "being themselves" at work, trumped having a powerful position. The vast majority of women - although not all - were willing to trade lofty status to gain these intangibles.

The catch, as you suggest, is that the small or solo practices that promote these social values also creates other pressures. To keep afloat, all small businesses refuse work at their peril. It's not only a question of making hay when the sun shines, to protect against slack periods - developing and maintaining the professional relationships needed to sustain a small practice also requires lots of time, devotion, and goodwill. Someone must always be on call when the client needs help.

Like my own field, clinical psychology, law practice hinges on accessible, pertinent expertise, if not shrewd crisis management. There were times when I returned calls from distraught patients when I was preparing dinner with a toddler on my hip, or while "getting away" at a pond in Cape Cod. Without a hierarchy to offload evening, weekend or holiday work onto subordinates - which is the rule in larger firms - associates in small or solo practices must put out fires themselves. This is the flexibility that many women desire at work - the flexibility to be on call 24/7, that is.

But at least the taskmaster is internal - yourself - and the pace and volume can reflect one's own goals. Mindy Paskell-Mede is one of the founding partners of Nichol Paskell-Mede, a Montreal and Toronto boutique law firm that boasts the same percentage of female staff as the average school staff room: 72 per cent of NPN's lawyers are women. When I asked how this transpired just when the majority of female lawyers are beating a hasty retreat from the standard corporate practice, she suggested four rules of thumb.

**Specialize:** Do only what you do best, thus attracting repeat and word-of-mouth clientele, while reducing the time needed for client development.

**Work with like-minded people:** "Everyone coming through the door knows that they will earn less than their friends in other firms because we work fewer hours. We set lower billable hour targets, then hire more people if we're busy."

**Work in teams:** Sharing client contacts and files means other colleagues have the same outlook and can pinch-hit on demand.

**Accommodate individual differences:** Recognize that not everyone has the same career aspirations. Litigators can't work part time, but legal researchers can.

Hewing to these principles allows lawyers of both sexes to exercise some control over the trajectory of their careers. We don't know that more female lawyers will mean better access to the justice system - as like doctors, female lawyers are more likely to work for government, or to work moderated hours. But more choices and autonomy mean that more female lawyers will stay in the profession, and that can only be a good thing.

*Susan Pinker is a psychologist and author of *The Sexual Paradox: Extreme Men, Gifted Women and the Real Gender Gap*.*

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