



Chapter Three

THE BIG APPLE LEGAL MOM

“You are committed to your job. You are committed to your family, and you just get things done.”

—Dyan Finguerra-DuCharme

DYAN FINGUERRA-DUCHARME FELT THAT LAW was her destiny since the time she was a child. She was always arguing with her parents about fairness. In middle school, a close friend was ill and missed a test. She was not given the same instructions the following day when she took the test. Dyan took on her friend’s case, arguing with the teacher over the fairness of the situation. She was summarily sent to the principal. Dyan remembers,

The teacher told me, “You need to stop being the country lawyer.” I think that it sort of implanted in my mind the idea that I had a calling to be a lawyer and to be always arguing about what was fair and what was equal.

As an adult, Dyan pursued her passion for fairness as a lawyer with a career at two large firms in New York City. As an undergraduate at Hamilton College in Clinton, New York, Dyan majored in Government. She

spent a summer as an intern for Congresswoman Patricia Schroeder. After college, Dyan took a year off because she had not done very well on her LSAT. She took a job as a legal assistant, retook the LSAT and scored well. She was accepted at Brooklyn Law School, where she went on to graduate with distinctions in several subject areas.

Dyan's winning personality and love of cheesecake were what eventually led her to a job at one of the country's largest law firms, which will be referred to as "Firm A" throughout this chapter. As a third-year student, Dyan was scheduled for an interview with Firm A. She was excited but knew it was a long shot. She received a call from career services that the interviewer was running early and would she mind coming in a few minutes ahead of schedule. Dyan promptly went to the interview, walking in as the attorney was about to bite into a piece of Junior's cheesecake. Dyan apologized for interrupting his lunch, to which he slid the cheesecake aside. She protested, asking if he had ever had Junior's cheesecake. She insisted he eat the cheesecake, and he invited her to have a slice as well. Essentially, they just informally talked over cheesecake. She doesn't even remember if he asked her a real interview question. She was surprised to receive a callback interview. She was even more surprised, as was Brooklyn Law School, when she received a job offer. It is very clear that Dyan has exceptional people skills and can advocate for herself.

She went to Firm A immediately after law school, hoping to practice Intellectual Property Law, to which she had been introduced as a summer associate at a Philadelphia law firm. Unfortunately, she fell into the Antitrust Law group. Dyan describes it as a great group of people, but not the law she wanted to practice. She decided to apply for a judicial clerkship, and a magistrate judge in Brooklyn hired her. She describes her experience as "wonderful, incredible."

After her clerkship, Dyan had multiple offers. She came back to Firm A under the condition that she could work on Intellectual Property Law, specifically trademarks. It was very good timing, as some pharmaceutical cases were heating up. The trademark partner needed help and welcomed her into the group.

Within a couple of years, the same partner had an opportunity to join a growing New York office of a large firm, which shall be identified as "Firm B" in this chapter. Dyan made the decision to go with the partner to Firm B, as he was her mentor and she knew her best chance

of making partner at either firm hinged on his retirement. Knowing that the possibility of partnership was still a few years away, Dyan and her husband made the decision to start thinking about having children:

I never wanted to be one of those women that didn't start to have kids until I was a partner. I kind of knew that was not feasible and that being a partner is more demanding than being an associate. I thought it would be better if I had young children when I became partner rather than having newborn babies.

With this in mind, Dyan welcomed her first daughter in 2001 and her second daughter in 2003. Meanwhile, her mentor made the decision to continue working past age sixty-five. As Dyan had somewhat based her life plan on his retirement age and her hopeful ascension into his partnership slot, she was in a quandary. Their practice at Firm B was growing but did not yet justify having two trademark partners in the New York office.

When Dyan had her first child, she was officially a fifth-year associate and was approaching partnership level. Partnership was still the brass ring. Dyan explains, "It was important. . . . I always knew that any hope that any chance I had of partnership was tied to [the partner's] retirement."

Since partnership was off the table for the time being, Dyan decided to work part time after having her second child, having worked from home one day a week after her first daughter was born. However, she was still deeply committed to her work despite her part-time status:

I was always dedicated completely to the firm. I think it is a real misnomer that people think that once you start having babies your dedication to the firm lessens at all. It really doesn't. In fact, I think that actually sometimes your children's perception is that you have more of a dedication to the firm than you do to them because you are constantly on the blackberry and you are constantly telling them to be quiet because you are on the phone for work or you've got to log in for ten minutes to do work. I think from their perception your dedication is more to the firm than it is to them. I guess it is more like when you get on that treadmill at high speed as a fifth through eighth year [associate] . . . at that point for me, I was able to see the big picture and to recognize that my elevation was not going to happen until [my mentor] was a year from retirement.

Dyan had her third child in 2007 and made the decision to return to the office on a full-time basis. As she was very senior within the firm at that point, her hours were manageable, and the practice of law had changed to accommodate more remote work arrangements, such as logging into the law firm system from home.

Dyan believes that Firm B had great maternity policies. She was allowed three months paid leave and could take as much time as she wanted unpaid. She also generally found the firm to be a good working environment, commenting, "I honestly did not witness any discrimination based on the fact that women had children." Dyan was relatively open about her status as a mother and did not necessarily worry that it was hindering her career.

Despite the generally positive environment, Dyan did have some concerns. It bothered her that the firm would call women after they came back from maternity leave and would suggest that they push back partnership consideration by a year. Their reasoning followed along the lines of "Oh, it gives you a better runway, gives you more time to ramp back up. There is always a ramp down before you go out on leave and a ramp up process when you come back." In Dyan's opinion, "It really was insane. It was crazy that they said that to women who came back from maternity leave."

Dyan knew of one particular woman who billed 300 hours in her first month back after maternity leave. She was stuck on a case in California and ended up pumping milk and express mailing it back to her husband in New York. This type of dedication to career should not have been penalized by delaying her chances at partnership by one year.

In the span of a career, four months of leave is nothing in Dyan's opinion. In comparing what her peers might have done in such a time span, she remarks, "When you are at that level, one more deposition is not going to make you more qualified to make partner."

Dyan also felt that Firm B did not always make clear the ramifications of maternity leave for each attorney. Dyan had her third child in May and returned to work right after Labor Day. Because she was so senior within the firm, there was a ramp-up period as she acclimated to client matters and built back up her business. During this time her hours weren't great, but her record at the firm was good, and she was never told to be concerned. At the end of the year, she learned that she was not going to get a bonus. For the first five months of the year, she was

billing exceptional hours and felt that her time should at least have been prorated to give her some bonus. In fact, she could have hunted around for more work when she returned in the form of document reviews or other routine matters, but she was more concerned with her own practice area. In her words, “Nobody was looking out for me.” Dyan felt that fair warning should have been given.

During her time at Firm B, Dyan feels that she worked with great people; however, like many associates, she had her occasional problems with a difficult partner questioning her work ethic. One particular day, he said to her, “You think you work hard; you don’t work hard.” This comment really stuck with Dyan. At the time, she had a three year old and a one year old. She was up half the night nursing, putting in more hours at work than her part-time schedule required, and logging back into the system every evening after she put her kids to bed. Dyan comments, “To say that I didn’t work hard was such a blow to my psyche, because at the time all I was doing was working.” This particular partner did not have children and had no understanding of what her life was really like. Regardless, she took his words to heart.

After three more years at Firm B, Dyan was at another crossroads. Partnership was still not within reach, but Dyan was on track to make Special Counsel, recognition that the type of law she did was important to the firm. Firm B was an up or out firm. Once allowed to pursue partnership, Dyan would have two chances to go for it, but if unsuccessful, would be out. In her case, the lack of partnership did not necessarily relate to motherhood, but to her practice area. Her practice area took a blow when one of their most important clients had not chosen Firm B as a preferred law firm. Some of the work that Dyan so enjoyed would soon be leaving the firm. She and another colleague made the decision to leave Firm B and follow the client, ironically back to Firm A, where Dyan had originally started her career. In May of 2010, after 10 years at Firm B, Dyan made the move:

I was ready to move on. The firm was not telling me to leave at all. They were shocked and surprised when I did leave. So I wasn’t given any message to go. I had been at the firm for so long and had been through a merger. I was the first person there to have a baby and start a family. I was very involved with women’s issues and work-life balance issues. I think they were kind of shocked that I was just leaving. Sometimes you have these moments in life where an opportunity

knocks and you really can't turn it down. It was a total risk because I had a very nice and comfortable life there, and I liked the people who I worked with. But I kind of wanted to go somewhere where they were really going to invest in me, and I think that I had been at [Firm B] for too long. They had already decided that they were not going to make me partner, so they were not really investing in me anymore as growing and helping me grow a practice. For me, it was a great opportunity to have people look at me and see potential.

In joining Firm A as Counsel, Dyan feels that they have been very supportive of the growth of her practice. They have given her a lot of autonomy and support. At this point, her hours aren't great, but they are looking at her as a long-term investment. Firm A is telling her to "be patient" and work on building a client base. Dyan is enjoying the work and the support immensely.

As she reflects on her career at two large New York City law firms, Dyan thinks that firms have come a long way in their policies since she was a legal assistant and saw a female attorney reprimanded for wearing a pantsuit. She sees many benefits to the large firms, noting, "Things have changed so much." Both Firm A and B made it easy for her to work from home. One firm was heavily involved in cross-staffing cases with teams of people who worked all over the country. From Dyan's perspective, it didn't matter if you weren't there for "facetime" at the office because meetings were done by conference call. She relates, "The policies are becoming a lot more flexible." Using her laptop, Dyan can move her desk anywhere, especially since she has the ability to log into the system from her home office. Dyan's computer even has a headset where she can call or answer the phone as if she is at her desk:

Firms have taken really innovative approaches. At the end of the day, if you get your work done and you do a good job, I think they don't care where the heck you did it.

Moreover, both law firms have back-up childcare policies in place to help when her kids were sick or her original care provider was unable to work. This back-up policy provides up to eighty hours of help per year. Essentially, screened babysitters can come to Dyan's home and the cost is partially subsidized by the firm. This allowed Dyan to work from home when her kids were sick, but have someone else there to entertain them. She also had the option of dropping off her children at certain

daycare centers and was able to take advantage of this service when travelling to a deposition in New Jersey.

Dyan further credits the firms where she has worked with making it possible for her to manage both her work and home lives:

I think that it is a real testament to the firms that I have worked at. Because I really do think that both firms make it so that it is possible to do if you really do love your job and the work you are doing. You can have it all. I don't think that can be said for every place.

Although the firm policies have been helpful, Dyan was also very conscious before she had children how she would manage her career and family life. Dyan cautions other women not to plan children around their career because jobs can be unpredictable, and the ability to have children is not always an easy road.

I have witnessed people who have had babies and continued to work 2700-hour years at the expense of their kids only to not make partner. And then to look back and say, "I missed the last three years of my kid's life."

Dyan credits the importance of having a good support system as one of the strategies she uses to make it all work. Dyan utilizes both primary caregivers and back-up babysitters for those moments of panic when she can't get out of a meeting. In her opinion, women can't do it without support and backup. She also notes that husbands are playing greater roles on the home front. Her husband is hands-on with the girls. Dyan also has her parents living close by. Despite having support in place, there are still days when the job gets to her:

There have been definite periods of time when I felt like I was going to lose my sanity, and whenever things get really hard at work . . . back at my old firm, when I had those terrible experiences with that one partner. Those are the moments when I say, "What am I doing? Why am I not a stay-at-home mom? Why don't I own my bagel shop?" Just a little dream of mine.

Advice: Keep your parenting obligations to yourself, for the most part.

In October of 2011, Dyan wrote an article titled, “Full Time . . . Everything” for *New York Metro Parents Magazine* on juggling a career with motherhood. In this article, she discusses the importance of being flexible and keeping open lines of communication with your workplace, but knowing what to communicate. Dyan feels that a legal mom does not need to wear her part-time status on her sleeve or let people know about issues related to the kids. It was always the greatest compliment to her that partners didn’t know that she was part time. She simply didn’t advertise it.

At the same time, Dyan has never felt like she needs to hide the fact that she is a mother. She has her children’s artwork up on her office wall, and her children have visited the office. Dyan is proud of her kids and her status as a mom. Dyan explains her ability to separate her two lives:

My view is just that I don’t need to explain to people why there is a competing home obligation. You are part time to all of your clients, you are part time to all of the lawyers you work for because you are not working on anything for the most part 100%. I have got four or five different cases online at any given time. I have multiple clients that I service and multiple partners that call me up. If I am not in for the day, I could just as easily have been in a deposition all day.

Dyan will talk about the kids at work but knows where to set limits and boundaries. She doesn’t hide the things she does for her children, but she also doesn’t use her children as an excuse. She simply doesn’t explain that she needs to leave the office to relieve her sitter, because in her words, “People do react to that.”

Even in the years where she was working part time, there were months when she exceeded full-time hours. One particular year, everything came to a head in May. Dyan was working part time but still billed 250 hours during the month. She comments, “I definitely did feel like I was at the end of my rope. I knew that the end would come.” She balanced this demanding time by taking more time off during the summer to spend with her girls.

Dyan describes her most challenging times when work gets busy for extended periods or unexpected issues pop up, but her day-to-day life is generally manageable. In her words, “It is very easy when my life at work is steady. When there are briefs due, when I am on teams with difficult people—that is when things get challenging.”

Beyond her concerns at work, Dyan is a worrier on the home front. She not only worries about her career but also her children. She worries about who will help her own girls when they grow up and have careers. This type of mental stress gets to her—simply managing her own mental capacity to do everything she needs to do. Her husband encourages her to take time for herself. She remarks, “He always recognized how important it was for me to maintain a hobby or take time for myself. . . . That really helps.” At this point, Dyan is involved in a women’s running group that has great camaraderie. She also thinks running has helped her to collect her thoughts and burn nervous energy.

And Dyan is a woman with a lot of energy! She notes, “I am able to just keep going. I have a lot of energy the way my mother does. For me, I can transition from work to home.” It may be why she also stresses out about not doing enough, despite everything she is juggling. Like many working moms, Dyan says, “Guilt is my biggest enemy.” She is a classroom mom and never misses a concert or performance for her kids, but she still worries about not doing enough. She comments, “Guilt is such a major factor. Because of the guilt, I think that I overly compensate and do too much because I feel so guilty.” She spends a lot of time with her kids on the weekends and in the evenings. Dyan also has a wonderful caregiver who comes to her home when she is working. In her words, “I have come to terms with it. . . . Everybody has those days that are filled with competing obligations.”

Despite the guilt, Dyan does not feel like she has sacrificed her children for her career or vice versa. She relates, “I don’t think my job has ever been affected, and I don’t think my kids have been affected by my job.” Generally, she doesn’t think in terms of “sacrifices” in regard to the competing interests work and family. As a mother and as a lawyer, Dyan simply deals with each situation as it comes:

I think that the sacrifices are what any mother has sacrificed. The sacrifice is that you have lost your sense of personal time. You are just always reactive to your children or your job. I think as a lawyer you lose control over your time. If I get a call now that a client has been hit with a TRO, I am going to be working for the next three days on it. It is just so reactive. It is the same thing with your kids. Who wakes up today with a sniffing nose and a sore throat?

Dyan also deals with a different type of stress living near and working in the largest city in the United States. Despite the commute

and pressure, Dyan has thrived, although she does note that there are drawbacks:

[New York City] is a giant fishbowl and it is so competitive. . . . It is so much about status. There are some people that are so hung on up on having the partner title . . . and people put so much weight to that.

When she is dealing with this type of stress, she thinks about her family and nonlegal friends who simply think of her as a great lawyer. She was more attuned to the partnership process at Firm B, but since returning to Firm A, she can reflect on life on the partnership treadmill, commenting,

You have to be a really excellent attorney to make partner. . . . It is such a demanding process, and they take into account so many factors. Even if you are an excellent lawyer, it doesn't necessarily mean that you are going to make partner.

Dyan has stopped stressing about her title within the law firm, focusing on the work and the people with whom she works:

I personally have come to terms that I don't need the title "partner" as long as I am happy with the work that I am doing and the people I work with. . . . Maybe someday I will make partner, but if I don't, it won't be the end of the world.

Advice: Reach out to friends in the legal field for support.

As she has navigated her career, Dyan has always had good friends in the legal field who were going through similar things at work. She advises women to reach out to their friends for emotional support:

It is okay to show your vulnerability to your support network and your peers, but I would suggest not showing your vulnerability to the bosses, to the partners. There were plenty of times when I shut the door and cried in my office . . . but you try your best not to show that to the partners.

Dyan has not seen her peers or colleagues choosing to leave law practice to stay home and raise children, though she has seen women who have chosen not to reenter the legal field, but to focus on family after being downsized at firms. Having women in the field to whom she can relate has been important to her as she has made decisions throughout her career.

Advice: Don't put off children to focus only on career.

On a final note, Dyan advises young women embarking on a legal career not to sacrifice having children to their career. She is cultivating both a fulfilling career and a satisfying family life:

Don't not have children because of your career path and timing of it. . . . Your whole worldview changes once you have these kids. Start the family. Your career will work its way out.

