

Pandemic Worsens Career Barriers For Marginalized Attorneys

By **Anna Sanders**

Law360 (February 23, 2021, 1:40 PM EST) -- Attorney Jean Lee's life was upended when the coronavirus pandemic began a year ago and she was forced into remote working. Taking care of her elderly mother while they're isolated at home, Lee says she still struggles with juggling her job and household tasks without the stability of an in-person office.

"Every person at home — whether you're a working parent or not — you're just constantly in this state of trying to keep up with your own day-to-day," said Lee, who heads up the Minority Corporate Counsel Association and is a former vice president and assistant general counsel at JPMorgan Chase & Co.

Lee said her experience has played out across the country, with an especially devastating impact on the careers of women, attorneys of color and those in other marginalized or minority groups.

"Unlike being in a physical office, it's very much 'out of sight, out of mind' as you struggle," Lee said. "With ... underrepresented lawyers of color, it seems to be more common."

Remote working during the pandemic only makes it harder for underrepresented attorneys to get ahead, particularly women and those caring for children or older family members, according to experts who say the pandemic has exacerbated inequalities in the profession and solidified barriers to their career development.

"For women, for LGBTQ+, for black, brown, people of color — these individuals need to pay closer attention to the pandemic's effect on their careers," said A.B. Cruz III, a senior adviser at BarkerGilmore LLC and president-elect of the board of governors for the National Asian Pacific American Bar Association. "If they don't do things right, it can impact them more dramatically."

Lee said she's found that many attorneys from underrepresented groups like her have multigenerational homes and must care for elderly family members, all while attempting to ensure they don't risk exposing them to the virus, a burden most acutely felt by working mothers.

"I definitely see people taking sabbaticals or a leave of absence because it's just too much," she said.

And even if they don't have family to care for, such attorneys often move away from home and across the country to go to law school or take their first gig at a firm. So when the pandemic hit last year, experts said, they had less of a familial support system to help take care of kids, monitor remote classes and other challenges.

"Especially for lawyers of color and women of color, a lot of us had to leave our communities for our careers," said Ann Jenrette-Thomas, chief diversity and inclusion officer at Stinson LLP. "Enter a pandemic that prevents people from being able to travel or have abuela around, it's creating this isolation. You don't have people in your community to watch your kid for an afternoon so you can get a brief done."

The pandemic has deepened this isolation from family and friends, a dynamic experts said is even worse for marginalized attorneys because of COVID-19's disproportionate impact on people of color and the racial reckoning prompted by George Floyd's death last year.

"Those issues enhanced the sense of isolation that many [marginalized] attorneys felt and created a need for them to share with their colleagues many of the inequities within their law firms," said Juan Arteaga, a Crowell & Moring LLP partner and co-chair of the firm's diversity council.

But without a physical office, it's difficult for underrepresented attorneys to relate to others in similar situations.

"Their ability to succeed can also turn on their ability to connect with other racially and ethnically diverse attorneys to create that sense of community that can help them navigate the daily challenges all law firm attorneys face," Arteaga said.

The remote nature of their work now has limited career opportunities for diverse attorneys, experts said. They might not have the same access to new clients or cases they typically would while working in person alongside colleagues at their firms because making connections with higher-level lawyers before the pandemic often relied on face-to-face networking.

Underrepresented attorneys "rely more on the law firm environment to develop relationships with partners or mentors," Arteaga said. "That's definitely a big risk for the firms that don't have centralized assignment systems where associates are expected to be a little more proactive on getting work."

Many of them get work referrals by talking with colleagues or popping by someone's office, according to Maureen O'Neill, diversity and inclusion officer and a senior vice president of strategic client experience at Consilio LLC, a legal tech company that provides e-discovery and other services.

"In the past, a lawyer would wander over to the office of the partner or senior in-house counsel and poke her head in and say, 'What's going on? Anything new that you need help with?'" O'Neill said. "That's often how opportunities were assigned. You have to find a way to do that in the virtual world."

Jenrette-Thomas said marginalized attorneys have to be "much more deliberate to get work and feedback."

"It's already harder for people of color to build that kind of rapport that makes them top-of-mind for juicy assignments that will really show their skills," Jenrette-Thomas said. "Add a remote environment to that and you're really not top of mind."

Lee said corporate law departments have been more accommodating to their attorneys and in-house counsels during the pandemic. But many law firms still expect attorneys to meet the same billable hours, which is only more difficult for underrepresented lawyers with less access to new work.

"Law firms say they may be understanding but, at the end of the day, if you don't meet a certain number

of billable hours for six months straight in a row, you're the first to go or be reduced or furloughed," Lee said.

Experts said attorneys should be proactive with networking to secure work assignments by connecting with colleagues or clients remotely.

"Early on in the pandemic, a lot of people were saying, 'When it gets back to normal, I'll get back to having lunches, coffees and dinners and I'll work on those relationships then,'" Cruz said. "Well, it can't wait."

But experts said the onus is on leaders to ensure law firms support marginalized attorneys during the pandemic, given the increasing importance of diversity for both their practice and their clients.

"The client pressure has not let up," Jenrette-Thomas said.

Experts said law firms should consider reducing billable hour requirements during the rest of the pandemic for all attorneys. Law firm leaders, practice group heads and partners must also be more intentional in reaching out to underrepresented attorneys on a regular basis for virtual coffees, lunches and meetings, experts said.

"We must be thoughtful about identifying the people who might be a little more shy or hesitant to reach out over Zoom or email or Teams," O'Neill said. "And we also have to be more deliberate about assigning career-advancing opportunities in a more formalized, equitable way, relying less on the informal networking systems of the past, which often operated to the disadvantage of women and minorities."

And firms with affinity groups or other programs designed for underrepresented attorneys must ensure that the people leading them are still engaged despite the pandemic, experts said.

"Leadership also has to make sure they have the tools, the wherewithal, the monetary resources to continue to execute these programs and initiatives, because they certainly are more important than they were before," Cruz said.

Failure to meet the changing needs of attorneys during the pandemic could devastate the future of the legal industry.

"Burnout is a real and serious issue," O'Neill said.

Lawyers, especially women and children and attorneys of color, feel overwhelmed by work pressure amid the coronavirus pandemic, and many are considering leaving the legal profession, according to a survey conducted in fall 2020 by the American Bar Association set to be released in March.

"The pandemic has affected everyone, but for some people it's like having a nick, other people it's like having a broken bone and for others it's like being in a full-body cast," Jenrette-Thomas said. "Everybody's impacted, but not everyone's impacted the same way."

--Editing by Brian Baresch and Katherine Rautenberg.