

Order in the Closet Why Attire for Women Lawyers Is Still an Issue

Ann Farmer

The first time U.S. District Judge Barbara Lynn of the Northern District of Texas dared to wear pants to court was during the early 1980s. She was working as a litigator for the Dallas firm of Carrington, Coleman, Sloman & Blumenthal L.L.P. when she decided to appear before a judge wearing a vest jumpsuit, which was then considered befitting attire for a professional businesswoman, but still unconventional garb for a female lawyer.

“The response of people in my office was, ‘This is a train wreck waiting to happen,’” recalls Judge Lynn, who is also a former chair of both the ABA Section of Litigation and the Judicial Division. She says women lawyers were usually care-

ful in those days to stick to skirt suits with hems that hovered below the kneecap. Their wardrobes, including their affinity for conservative suits (usually navy, gray, or black) and plain, white, button-down shirts, mimicked professional menswear to a large extent. “I had my stupid little bow ties,” she chuckles.

To her colleagues’ surprise, though, her temerity didn’t even raise an eyebrow from the judge. “Nothing bad happened. I took courage from it,” says Judge Lynn, who gradually expanded her courtroom garb to include other pantsuit options, although it was years before she dared to break another fashion taboo and wear a dress to court.

BEFORE YOU SASHAY INTO COURT . . .

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In 2008 and 2009, the American Bar Association recognized this website as one of the "Top 100 Blawgs." Here are excerpts from one post:

What to Wear for a Month in Court

- >> Limit yourself to three or four dark suits—one black, one navy, and maybe one in brown and/or gray.**
- >> If you're prickly about having matching accessories, go with all black accessories and choose the gray suit.**
- >> When possible, buy both the skirt and the pants to a set.**
- >> To change looks, switch the layers beneath the suit. For example, one day wear a collared shirt beneath the jacket. Another day wear a jewel-necked silk t-shirt with a strand of pearls.**
- >> Your goal in dress should be vanilla—you don't want the jury to notice your clothes in either a good or bad way.**
- >> Avoid logo bags and anything with sparkles, including jewelry.**
- >> Also avoid noticeable accessories such as red-soled shoes.**
- >> We recommend wearing a skirt the first few days, if only until you get a feel for the judge and the lay of the land. After that, go with your gut.**
- >> Make sure your undergarments are not distracting. Avoid lacy bras beneath silk blouses, the quad-boob look, etc. Stock up on simple camisoles.**

Female lawyers, it seems, have forever been pushing the boundaries of what is considered appropriate courtroom attire for their sex. They long ago threw out the floppy bow ties once deemed necessary to blend in with the guys and be taken seriously. And whereas many female lawyers gripe that they must still sometimes abide by antiquated conventions and fusty judges who favor women in skirts over pants (even the lawyer portrayed by Julianna Margulies on the television series *The Good Wife* was reprimanded by a judge in a recent episode for wearing pants), generally speaking, the wardrobe attire of today's female lawyers reflects more style, color, and individualism than ever before.

Fashion Faux Pas

At the same time, some female (and male) lawyers have demonstrated a fashion derring-do that does not always draw admiring glances from the bench, as suggested by judges at a Seventh Circuit Bar Association panel discussion that took place last year. Judge Joan H. Lefkowitz of the Northern District of Illinois, for instance, described how one lawyer showed up for a jury trial in a velour outfit that looked like she was "on her way home from the gym."

Chief Judge Michael P. McCuskey of the U.S. District Court for the Central District of Illinois said that he'd observed female participants at moot court competitions at law schools wearing "skirts so short there's no way they can sit down, and blouses so short there's no way the judges wouldn't look." And Judge A. Benjamin Goldgar of the U.S. Bankruptcy Court for the Northern District of Illinois piped up from the audience to say he also found some women lawyers' attire to be a distraction and "a huge problem."

More recently, an April event titled "What Not to Wear Fashion Show," cosponsored by the Chicago Bar Association's Young Lawyers Section, featured a panel of judges, fashion experts, and law professors who critiqued a runway show of what some law students considered casual business

attire and professional dress. According to coverage by various media outlets, the panel veered at times into cautionary tales about women accidentally revealing a "tramp stamp" (a term for a tattoo on the lower back) or wearing such things as too tightly fitted suits, ostentatious jewelry, peep-toe shoes, dark nail polish, and hair in a ponytail.

"Wear a shirt under your suit that is not too tight, not low cut, not brightly colored, not patterned, not ruffy, and not too feminine," the panelists suggested, according to a female blogger (identified as an associate in a Chicago firm) recruited by the website *Above the Law* to cover the symposium.

A blogosphere protest ensued. On *The Huffington Post*, one blogger suggested, "Get out your burqa?" On *Feministe.com*, Jill Filipovic, a commercial litigator in New York and regular contributor to the site, also took umbrage at the degree of nitpicking that took place. "It just gets silly, after a while," she wrote, "and becomes a way to police women's bodies more than anything else."

Dozens of other female and male lawyers tagged onto Filipovic's posting with their opinions on the matter. Some said it was time for women to shed the profession's patriarchal fashion shackles, strip off the dreaded pantyhose, and dress more according to personal style. At the other end of the spectrum were posts suggesting that it's wiser to stick to the old social code, which still favors knee-length skirt suits and chaste white blouses. And by the way, some bloggers added, leave the big hoop earrings at home, too.

"If you want a fun job where you don't have to play this game, go elsewhere," said "Annie," identifying herself as a law student.

Playing It Safe

When it comes to courtroom dress protocol today, pretty much the same conventional standards apply to male and female lawyers. "My dress should not be noticed. We should stand out for the quality of our presentation," says Judge Judith S. Kaye, a former chief judge of the New York Court of

Appeals, the state's highest court, who joined the litigation group of Skadden, Arps, Slate, Meagher & Flom in 2009. "But if it draws attention, it's because it looks good, not because it belongs on a beach or Times Square."

While enforced dress codes are uncommon, both sexes know they are expected to wear properly fitted and cleaned suits—dark suits being more the norm—combined with a conventional shirt or blouse, and, for women, preferably pumps. Women, it seems,

can also get by in some courtrooms wearing skirts and sweaters or a dress, provided a jacket is worn over it. But those choices would more likely be acceptable in a state court than a federal court. One rule of thumb is: The high-

DRESSING FOR THE COURT AT EVERY LEVEL . . .

Contributors to Wikipedia write that “professional” attire is the norm for lawyers appearing in court. Male lawyers generally favor dark-colored two-piece suits, which should be properly fitted, cleaned, and pressed, with a tie, a white or light-colored shirt, and dress shoes. Women lawyers usually choose a medium-length skirt suit with a conservative blouse and pumps. During the second-wave feminism movement in the 1970s, some judges forbade female lawyers from wearing trousers when appearing in court, but pantsuits are now widely accepted in most U.S. courts.

Until the 1970s, morning dress (striped trousers, gray ascot, waistcoat, and a cutaway morning coat) was required of all lawyers appearing before the U.S. Supreme Court, per the Court’s rules. Even after the Court abolished the requirement, the Office of the Solicitor General maintained the practice, but Elena Kagan, the only woman solicitor general to date, chose not to wear morning dress. The Court’s bailiffs of both genders continue to wear morning dress when the Court is in session (for females, the jacket with tails is tailored to female measurements and worn with a neo-classical striped charcoal skirt).

Although morning dress is no longer the rigor du jour for every lawyer appearing before the high court, not all business attire has passed muster, either. Then-Chief Justice William Rehnquist reportedly once criticized a female assistant solicitor general’s light brown suit halfway through her presentation before the Court, instructing her in a note that he never wanted to see a government attorney wearing that color to the Court again. (Michael O’Donnell, “They Fought the Law: Fred Streibeigh’s Equal,” *The Nation*, April 8, 2009.) After this incident, the Solicitor General’s office recommended that women wear a “feminized” version of morning attire or a plain black suit. (*The Daily Beast*, “Tripping on Obama’s Coattails,” blog entry by Patricia J. Williams, January 9, 2009).

er the court, the more formal the dress.

And not all judges think there is an existing problem regarding women lawyers’ dress. “I’ve been on the Supreme Court of Delaware for 10 years and never once has the dress of any woman attorney required a reprimand or suggestion that they are improperly attired,” says Delaware Supreme Court Chief Justice Myron Steele. He says neither male nor female lawyers ever veer from the long-established dress decorum at the Delaware Supreme Court, which dictates black and white attire. “People dress as though they’re going to a funeral,” he explains.

His colleague, Delaware Supreme Court Justice Henry duPont Ridgely, adds, “On the other hand, the public has slid considerably in how they dress for court.” He cites one individual who showed up in State Superior Court in pajamas, which incited court officials to post regulations prohibiting the general public from entering the courthouse wearing such items as muscle t-shirts and mini skirts.

Skirts vs. Pants

Fewer judges today look askance at pants on women lawyers. Those who do might not say so directly, but they’ll get the message out through law clerks, who will sometimes intercede before a hearing begins. Savvy female lawyers say they learn who those judges are ahead of time and dress accordingly in order to avoid any potentially negative impact on their case. Consider that every judge interviewed for this article insists that a lawyer’s garb has absolutely no bearing on their decision. And none of them objects to pants either.

“In my world, women in pants are a fact of life,” says Chief Judge Carla Craig of the U.S. Bankruptcy Court for the Eastern District of New York, who has noticed a generational divide among women lawyers in terms of dress. “I don’t know if I’ve seen boots or open-toed shoes,” Judge Craig says. “The color pink, no. Hoop earrings—I have seen those. And they looked great, actually.”

She says bankruptcy courts, similar to housing courts, tend to be less formal, than—for example—an appeals court. But that’s not to say she doesn’t expect lawyers to dress in suits and in a manner that is appropriately dignified and respectful of the judicial process. She pauses to reflect on whether she could be subconsciously affected by a lawyer’s outfit. “I suppose that’s possible,” she says. “If someone appeared in a courtroom with something extremely low cut or high [hemlined], I might think, ‘What is she trying to convey?’”

She suggests that lawyers dress in a manner that is ever mindful of who comprises their audience. “You don’t know who is going to be on a jury,” Judge Craig says. “You don’t want to be overly sexualized. You don’t want to be too high fashion and flashy, I’d think.” However, she adds, “If you feel you have the character to wear a tight-fitting, hot pink suit and be taken seriously, then go for it. But you probably want to avoid an image that wouldn’t allow you to be taken seriously.”

Jurors, who are spending their time in court intently watching and listening, can be affected by countless details. And they often share their impressions with the other jurors. “They make comments about lawyers all the time,” says Judge Lynn, recalling the time she received a note from a jury complaining that a female lawyer wasn’t sitting with her legs properly closed. Another time, a female lawyer wore a gauzy blouse that the jurors could see through. “It was distracting,” she notes.

On the other hand, suggests Judge Lynn, wearing something bold and attention-grabbing can sometimes earn points with a jury. “It could draw attention to you and away from your opponent.” And while some lawyers take care to leave the \$2,000 handbag at home, along with any conspicuous jewelry, Judge Lynn says that big, expensive-looking jewelry might, alternatively, “give the impression that you’re a sophisticated person.” There is no exact recipe, she says. “If someone showed up wearing green nail polish,

I would think, 'That's not what people wear in a conservative setting,' but I wouldn't say anything. I'm just not that kind of fashion police."

Location Matters

A loose consensus among lawyers and judges is that West Coast courts allow the most relaxed dress code of anywhere in the United States. "I think it's the whole lifestyle attitude," says Lei Lei Wang Ekvall, a partner at Weiland, Golden, Smiley, Wang Ekvall & Strok, LLP in Costa Mesa, California. She's also president of the Orange County Bar Association. "People here wear flip flops for dinner and casual Fridays. It's not okay," she opines, rejecting such footwear for a law firm setting—even at week's end.

Wang Ekvall once observed that a lawyer who showed up in court in a sundress and sandals was called into the judge's chambers for an admonishment. "It was rare to hear," Wang Ekvall says. More recently, Wang Ekvall was second-guessing her own clothing selection for a courthouse reception. "I showed up in a pantsuit, worried," she explains. "But an appellate judge was wearing a pantsuit as well."

Wang Ekvall says that everyone at her office debates all the time whether they should wear nylons, noting that she and her female colleagues avoid wearing pantyhose whenever possible. "They're just uncomfortable and horrible," she opines, a sentiment routinely echoed by countless other female lawyers. She does recall a situation last year, though, when she wrested on a pair because she was concerned about jury perceptions. "I was moving a lot in front of a jury," she says. "I was really thinking through what I would wear. I wore very conservative suits. But I also wanted [to wear] something that made me feel confident."

The fact is that women lawyers today are faced with many more fashion choices than male lawyers and, therefore, have more opportunities to screw up. To avoid making a potential courtroom faux pas, some female lawyers turn to Corporette, "a fashion and lifestyle blog for overachieving

chicks." Founder and editor-in-chief Kat Griffin, who currently works as a lawyer for a nonprofit, media-related firm, previously worked for the Wall Street firm Cahill Gordon & Reindel LLP, where she learned its buttoned-down, dress protocol the hard way. Her photograph on her website, in which she's wearing a gray suit and pearl necklace, suggests she follows her own advice: "When in doubt, go conservative," she says.

"It does affect the way you're perceived," Griffin continues. "In court, you're representing someone else. You're not supposed to be a fashion statement. Your clothes should not speak louder than your argument."

Which is not to say that it's necessary to go totally bland. "Color is a great way to elevate mood, flatter skin tones, and change the look of a suit," she says. However, Griffin advises, it's best to familiarize yourself with the local litigant culture before taking a chance with, say, those purple pumps. "Regional differences are one of the main things that people have to be in tune with. A colorful or seersucker suit might be completely acceptable in the South, but not in the North." She adds, "My advice is to play it safe until you see a senior lawyer do it."

It wasn't so long ago that female lawyers had few senior role models to follow in terms of dress—especially in the 1980s, when female lawyers still comprised a low percentage of the profession. Where they did get inspiration, however, was from the wardrobe of the strong, ambitious Assistant District Attorney Grace Van Owen in the popular television series *L.A. Law*, which ran from 1986 to 1994. When Van Owen appeared in court, she wasn't sporting the mainstream, button-down shirts that most real women lawyers felt obliged to put on each morning. No, she favored an elegant, silk V-neck blouse with a surplice front. And the real female lawyers, watching on their television sets at home, sat up and took notice.

"We called it our *L.A. Law* blouse," says Judge Lynn, recalling how she and other female colleagues

went out and bought a blouse in the exact same style. In fact, according to an article published in the *Los Angeles Times* in 1988, that blouse caused a major fashion trend among female lawyers, much as the television program *Ally McBeal* and subsequent law shows have shaped the closets of younger female lawyers.

"The younger lawyers today," Judge Lynn says, "have a lot more choices, and they exercise them." And by the way, she adds, "Under my robes, I sometimes wear bright colors and sometimes really high heels." 🍷

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SHE WORE WHAAAT?

Read what other female lawyers have to say about lawyer dress code on Feministe.com:

I mean really. Have you ever heard a man be called 'slutty'? A dude can show up to court in a too-small suit and we just say he looks a little silly (if we say or think anything). If a woman shows up in a too-small suit, we think it means something about her sexual choices (she's 'slutty'), which we in turn think means something about her intelligence or her judgment. —Jill

I wore a short-sleeved dress shirt as a para-legal in the middle of summer in Houston and nearly got fired. I got read the riot act a week later for wearing a long-sleeved dress shirt that was not white or beige. As for what happens in front of a jury, unfortunately I don't think Title VII applies to them. —norbizness

In the legal profession, men have one choice: a suit. The advice for that has [only a] few areas for debate and advice: the button-down collar, the cut of the suit, and the tie choice. Women, on the other hand, have infinitely more choices and, therefore, infinitely more areas to screw up—or get it right. —Daisy

Source: www.feministe.us/blog/archives/2010/04/12/so-what-exactly-should-female-attorneys-wear.