How Women Can Take First Chair

Judge Michael Panter

A recent report from the American Bar Association's Commission on Women and the American Bar Foundation confirmed what most of us already sensed. In a study of trials and trial lawyers in the Northern District of Illinois, researchers concluded that women appear in civil trials less often than men, and when they do appear, are far less likely to appear as first chair.

Which was news to exactly none of us out here in the trenches.

Why would this be the case? After all, women have graduated from law school in significant numbers for more than 30 years, and now even surpass men in terms of numbers graduating from law school and passing the bar.

In addition to basic sexist problems facing Illinois lawyers going back to Myra Bradwell in 1869, I believe there are systemic hurdles for less-experienced lawyers to overcome in getting more trials. Younger lawyers are being challenged for four reasons:

- There are many more lawyers than before. Older lawyers are hanging around longer and trying cases, along with a rapid increase in new lawyers. Therefore, caseloads per lawyer are generally lighter, with fewer opportunities per lawyer to have a case go to trial.
- Competition for clients is in a frenzy, and verdicts have the potential to run much higher-meaning, there is simply too much at stake, more often than in the past, to risk trial (and a large adverse verdict, and a very unhappy client) by a less experienced lawyer.
- Lawyers switch firms much more often than before, and the old long-term model of mentoring young lawyers and gradually giving them more responsibility has changed significantly. Less mentorship and less gradual exposure to trial work as a second or third chair makes it less likely a young litigator will find herself in that first chair.
- Many more cases are arbitrated and mediated than before. There are fewer trials for everyone.

What can be done?
Even though this is a systemic problem, there are actions individual lawyers can take, to make it more likely that they first chair a trial before reaching retirement age. Herewith, "Panter’s Top Twenty Tips for Trial Lawyers Seeking First Chair”:

1. Get as much trial experience as you can. Second chair, third chair, bench trials, arbitrations, contested motions, depositions—all of these will give you needed experience and knowledge and enhance your resume and your reputation. That knowledge and experience will make you ready to step in when the opportunity comes. It will justify others' trust in you. It will give you the confidence to advocate for yourself.

2. As a second or third chair, ask for more responsibility each time. Ask to examine a witness, prepare a witness, handle jury instructions, or split an opening, a closing or a panel of voir dire.

3. On the right case, ask if the partner will second chair you.

4. Be enthusiastic about trying anything, no matter how small or hopeless. Good results will give you credibility. Try your cases. Don’t settle a case just because “it isn’t worth trying.”

5. Go above and beyond. Offer to work overtime (or even as unbilled time) to get experience and develop relationships.

6. Engage in volunteer and pro bono work; both can give you great trial experience.

7. Watch trials, watch the partners, ask who’s considered good and watch them. Make yourself available to anyone who needs anything. Tell someone you respect how eager you are to work with them.

8. Find a way to be indispensable in a case. Know the law or know the facts better than anyone.

9. Whenever you go to court, be prepared, be knowledgeable about the judge, be organized.

10. Celebrate your small victories and, of course, your big ones. Let everyone know what you’ve done. And if appropriate, be sure it’s published.

11. Develop a specialty. Become a recognized expert in something. Publish an article on it. Do an in-house presentation at your firm.

12. Develop a plan to balance work with the rest of your life. Trial work is demanding of your time and energy. If that’s what you really want, you have to figure out how you’re going to cope with all other demands on your time: spouse, kids, house. When you're on trial or even preparing for it, you're not available. How will everything be handled while you’re out?

13. Develop your reputation and your relationships by taking leadership roles in bar groups.


15. Work where they try cases. The Public Defender, the State’s Attorney, the Corporation Counsel, bigger insurance defense firms, or smaller plaintiff firms with a volume of cases—all of these entities tend to take cases to trial frequently.

16. When interviewing, ask specifically if you will have your own caseload, trial opportunities, and partners with whom you can try cases.

17. Develop your own clientele. If your client asks for you, there’s a good chance you will have an important role. In addition to developing your clients, nurture your relationship with firm clients. If they trust you, they'll use you.

18. Take trial prep courses such as NITA and Fred Lane.

19. Ask! Ask! Ask! Just be ready when someone says yes!

20. Keep exploring how to find your own voice, tone and style. Trials are about persuading a group of strangers to trust and believe you. They won’t do that if they think you’re not genuine.

And finally, for all beginning trial lawyers and negotiators—of both genders—I highly recommend reading these three highly provocative and useful resources, sure to help you down the path toward first chair:

Before becoming a busy mediator with ADR Systems in Chicago, Judge Michael Panter presided over civil jury trials, motions and hundreds of pre-trials; taught law school; and was an active trial lawyer for 38 years. Reach Judge Panter at www.mikepanter.com."