Three Keys for Women to Take the First Chair Seat at Trial

Amy M. Stewart – December 2, 2017

There is nothing more powerful than watching a woman trial attorney at work. Unfortunately, the statistics show that women are consistently underrepresented in lead counsel positions and in the role of trial attorney. Men are three times more likely than women to appear as lead counsel and to appear as trial attorneys. Despite those odds, we must keep fighting for opportunities to sit first chair at trial. And, when we get those opportunities, we must take full advantage of them—not just for ourselves but for the other women litigators in the pipeline. To that end, here are three keys to getting the first chair assignment and how to stay there.

1. "Opportunities don't just happen. You create them." —Chris Grosser

The reason I love going to trial is the same reason I loved playing and coaching college basketball —hard work, persistence under pressure, and focus are the keys to success. Sitting first chair at trial is like being the starting point guard or quarterback, i.e. the "general" of the team who calls the plays and leads to team. After finalizing the trial strategy (game plan) with her client (coach), she is responsible for managing the other attorneys and staff (teammates) and guiding the case to a successful resolution (a win). Before anyone can fulfill this obligation and step up to be first chair, it takes practice.

As a woman, if you want to try cases, you need to make your aspirations well known within your firm. Unfortunately, we are still hindered by lingering stereotypes that women are not competitive, we shy away from conflict, or do not handle conflict well. Some may also assume that women litigators are not really interested in going to trial. Years ago, a male partner told me that most male litigators do not want to step foot into a courtroom. I had an advantage over them, because I wanted to be in court as much as possible.
While it would appear to be obvious, you need to make your intentions known to your firm. If you hear around the office that a case will go to trial, attempt to get on the trial team. When you are attending firm mixers and looking for topics to discuss with the partners, ask them if they have any upcoming trial settings. If they do, follow up a few days later through an email or stopping by his or her office and asking if there is a possibility to assist. During your performance evaluations, make sure the head of litigation and firm management knows that you want to get trial experience and get advice regarding how you can get those assignments. If your attempts are unsuccessful or believe your requests are not being taken seriously, discuss the situation with a mentor or sponsor inside of the firm or firm management to get constructive feedback why you are not getting the opportunities you want. Approaching these conversations in a professional and non-adversarial tone is very important. It shows these individuals that you are serious regarding your career goals and can handle constructive criticism, which is the key to becoming a successful trial attorney.

Finally, if it appears you are not getting the outcomes you want, you may need to search for new opportunities. Do not give up because you hit an obstacle. More importantly, it is not a reflection of your abilities. It simply means that is not the firm where you will reach your goals. Keep moving forward.

"Practice isn't the thing you do once you're good. It's the thing you do that makes you good." —Malcolm Gladwell
If you dream to become a trial attorney, you must understand how demanding this career path is. Look around your firm at the end of the day—the trial attorneys are the hardest working attorneys at the law firm. The hours required to prepare for trial can be overwhelming. Trial preparation may include: mandatory filings, exchanging of exhibits, preparing witnesses and creating and practicing opening and closing statements and witness examinations.

Frankly, as a young associate I was unaware of the time commitment required of a trial attorney. I decided to ask to assist. I asked a junior partner and as he walked by he said, "I will get with you." Upset, I thought he was dismissive so I tried to get clarification. He turned and walked back toward me, pointed at my desk, and bluntly told me, "Just be here. And listen. When we figure out what we need, I will let you know." I may have said some choice words for him under my breath as he walked out.

Frustrated, I sat at my desk and twiddled my thumbs waiting on an assignment. But then I started listening to conversation in the office. I heard the attorneys discussing how the evidence would be presented based on the trial strategy, the exhibits to be used with each witness, arguments about effective trial themes, which witnesses need more preparation and why, and conference calls to provide updates with the client. I did not anticipate my training
would come, in part, by just being present and listening. I was knowledgeable of the case and by listening to their deliberations, I could also think through the decisions. It was so exciting and when I finally heard the lead counsel scream, "Amy, you still here?" I literally jumped from my desk chair just like I did when my head coach would call me to go into the basketball game.

Successful trial attorneys are not made during trial but during those grueling weeks before trial when you are in the trenches with your colleagues preparing for the trial. Do not overlook the opportunities available during the preparation stage to improve your trial skills.

3. "If you don't sacrifice for what you want, what you want becomes the sacrifice." —Unknown

Success demands sacrifice. Trial attorneys make many sacrifices that will impact their personal lives at times. I will admit that I do not see going to trial as a sacrifice because I love being a trial attorney. Most of the trial attorney I have spoken with say the same thing — they thoroughly enjoy what they do. Frankly, trial work demands too much from you not to enjoy the process.

Being a trial attorney demands that you will spend less time with friends and loved ones. You will be absent from events because of trial preparations. It may require you to say "no" to other opportunities. When you are an aspiring trial attorney, the time burden can be worse. You also may have to ask your husband or partner to take on more responsibility when you are at trial. Accordingly, you must anticipate and plan to handle these circumstances.

Also, for women, like me, with families and caregivers, we must proactively manage family obligations. If you have children, you need to explain the situation to them. When I was a young associate my mentor, a successful trial attorney, told me, if you are going to be a trial attorney, "you need people" to help because you cannot do this alone. I appreciated that advice because women must be more open and honest with other women about the demands and obligations related to being a trial attorney so we can make educated decisions about our careers.

Unfortunately, I have seen several attorneys and staffers — both men and women — not get the trial opportunities they wanted because they were not fully available to the trial team during preparation before and during trial. The lead trial attorney who is overseeing the entire enterprise, including managing client expectations, should not be distracted by team member's scheduling issues. Simply put, you need to make the sacrifices necessary to be present during trial preparation, period. If you are not present, or appear to be distracted or juggling other responsibilities during this highly stressful time, your co-workers and managing counsel will question your commitment. You may not be asked to be on the next trial team.
However, there are some things as women lawyers we should never sacrifice. You should never sacrifice who you are. You cannot be your mentor or anyone else. You must be authentically you. The best compliment I have ever received was from a judge. She said she enjoyed the trial because I did not change who I was just because the jury was in the courtroom. Also, do not sacrifice your dignity and self-respect under any circumstance. It is invaluable to navigating in this profession and to ultimately becoming a successful trial attorney.

**Conclusion**

Trial practice can be the most rewarding career you could imagine. It takes practice, dedication, and sacrifice. As they say, anything worth having is worth working for and becoming a successful trial attorney is no different.

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