



The author is known for her Louboutins: “My last trial was in Marin. I wore two pairs of Louboutin stilettos, and alternated them each day.”

Stilettos, trials and baby bottles

What’s the difference between being a female trial attorney and mom versus being a male trial attorney and dad?

BY DEBRA BOGAARDS

A call interrupts my deep concentration while preparing cross-examination of a neuropsychologist for an upcoming trial. A magazine editor asks me to write an article on “Being a Successful Female Trial Attorney and Mom”. I groan. Ugh. My first thought: What’s the difference between being a female trial attorney and mom versus being a male trial attorney and dad? Interesting that no one asks the man this same question. It’s just the nature of the stereotype. And traditionally, men aren’t the ones who raise children.

In thinking about this topic, I stumbled across an article in Vanity Fair about Marissa Mayer, the new CEO of Yahoo. The focus of the article is about Mayer “not noticing that she was a female in a

mostly male world.” Mayer “credited her obliviousness with her success.” That resonates with me.

While it does seem that there are only a handful of female trial attorneys who have achieved success in the courtroom and with their children, and who have stayed active in our profession for decades, I can only respond to this conundrum with my own personal experience.

I always make sure that I make time for what is important to my children

During one of my early jury trials, I was a 36-year-old mother of two preschoolers who had their annual tap dance recital at Happy Feet studio in Mill Valley. My mother-in-law remembers that I had the guts to ask the judge for a dark

afternoon during trial so I could be there to watch their recital. Naturally, I was there in the front row with my video camera and two small bouquets of rosebuds.

Soccer games, crew regattas, drama performances, and Back to School nights were sacred to me as a mother. While my daughters were growing up, I went to trial about three to four times a year. However, expert depositions, trial preparation and trial itself usually didn’t keep me from being there at my daughters’ practices, races and significant events. Naturally, I missed one or two, but looking back, I feel like I made most events. The evening rituals like helping with homework, bedtime stories, and hugs were shared with my husband so there was more leeway when I had to work late.



Now that my daughters are young adults in their mid-20s, I still make time to see them each week. I'll take Jamie's grueling 6:00 a.m. class at Rincon where she teaches at The Daily Method on Mondays. Danielle is a 1L at UC Hastings, so I try to explore new restaurants with her in Hayes Valley once a week to make sure that she eats.

During the spectator years, I worked hard and came straight home

We all remember what I fondly call "The Spectator Years." My daughters had a crazy busy schedule of tap dance classes and recitals, crew practice and races, soccer practice and games, drama performances and studying.

During those years, something had to give. Training on a 50-mile bike ride from West Marin to Pt. Reyes and participating in a Century ride for charity takes too many hours. My life back then involved 60-hour work weeks and a few one-hour workouts per week. Family time was more important than my personal time. I also wasn't a regular at evening trial lawyer seminars and events, or going out with colleagues since helping with homework was my priority. Of course, just being present in the home was sufficient, so I could work on my cases at the table while my daughters diligently did their homework. It was our idea of "parallel play."

I absolutely love my work

A large reason that I practice law is that I love my work, especially helping and fighting for my clients. Long hours, weekends, travel and time in the office aren't a hardship. I love most of the people I work with: my clients, my office, experts and often times even opposing counsel.

There's that saying, "All this and a paycheck too." When I am deep into trial prep, with page-lines of deposition transcripts in one pile and the start of an opening statement in another, missing a

ride out to the Seven Sisters and Stinson Beach with my cycling friends doesn't matter. Learning areas of medicine and human anatomy, discussing aspects of the case with experts and developing a winning strategy fully absorb my interest. You have to love the intensity of trial. To be passionate about what you do is paramount.

Perhaps women get worn down by litigation when they feel they have to get up to a certain standard. It is a profession where one's tuchas is always on the line, whether it's arguing in law and motion or in trial. It's a profession where fighting for justice can mean enduring difficult opposing counsel, personal attacks, and belligerent judges. The adversarial process can wear down some women, and particularly new moms. It's still largely a world of men, with their own jokes, banter, and inside track.

Good self-confidence and professionalism

To be a successful trial attorney and particularly a female one, one has to possess a healthy dose of confidence and skills, which is different from being cocky. Insecurities – we all have them – aren't to be manifested outwardly. Body posture counts. One has to be very professional in the way one presents herself, which means 100 percent business all the time. This means that no matter who is sick at home, what time you get up, what just happened in your personal life; you proceed with the deposition on time and omit displays of emotion.

My own daughter went through a terrible medical odyssey and bicoastal prolonged stay in hospitals during college. I camped out overnight in her hospital room. When I was able to go to work, I was without sleep, emotionally wrought and raw. I never said a word about what I was going through to opposing counsel.

Confidence for me comes from putting in my dues to acquire my trial skills, daily exercise, good energy, and a very

supportive husband. As Malcolm Gladwell puts it in *The Outliers*, successful people are usually not an overnight success – it takes tens of thousands of hours to learn their craft. To become a trial attorney, there are thousands of hours of redundancy and fine-tuning: prepping for a deposition, taking a deposition, summarizing the deposition, page-lining the deposition transcript and preparing cross-examination of the deponent. Confidence makes other counsel respect you. And, I am not afraid of battle.

Learn to play a sport

As a female trial attorney, you need stamina for the long hours, to think creatively when coming up with your strategy and to play well with others. Litigation takes a team and you have to work well with a team. Many male trial lawyers were quarterbacks in college, or played rugby in law school. Women need to learn what their male counterparts learned in their athletic endeavors: "suck it up, dude." There are highs and lows that come with litigation, so as a female attorney, you have to be organized, ahead of the game and able to roll with the punches.

Surround yourself with a strong support team

We can look at many traditional law firms and find men at the top who are married to women who stay at home. I am lucky because my husband chose to have his law office close to our home. He would make the girls dinner – a quick chicken and vegetable stir fry in a wok – not fancy, but palatable for hungry teenagers when they got home late from practice, so I could work at night. Having a law partner also helps, providing "coverage" when necessary.

I love the law and my girls

And so, I integrated both into my life. I continue to mentor young women in the law. When I was preparing for my first jury trial, I didn't have a mentor so I spent all weekend in my law firm's office



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reading practice guides and figuring out how to introduce evidence. My husband brought my toddlers down to the office for an hour or so, with crayons and paper so they could visit with me and see where mom had been hiding.

Later, I would bring the girls to my office on the weekend for up to two hours, rolling each one on a chair down the hallway, encouraging them to make drawings and tape the drawings to each associate's door, and teaching them the miracles of a copy machine.

I wanted my girls to see where I spent a great deal of time working. When I grew up, my father worked in tool and die, a blue collar job, in the airline industry. He punched into a time clock and brought his brown bag lunch each day. Since the airlines worked on top-secret government projects, my dad couldn't bring his children to work. I remember dropping him off at a seemingly high metal gate, and watching him disappear behind it. So, it was important to me for my daughters to have free access to me at work as well as for them to see their mom's career.

When Jamie was in fifth grade, I decided to teach her entire class how to put on a trial. I met with all of the students from 7:30 to 8:30 a.m. each day for four weeks at their elementary school. The students chose to be a prosecutor, defense attorney, judge, bailiff or actor. We put on *The Three Little Pigs v. The Big Bad Wolf* trial in Marin County Superior Court, complete with handmade exhibits and made front page of the *Marin Independent Journal*. One of Jamie's classmates is a 1L at Stanford this year, and credits her role as a prosecutor as a career-defining moment. We also repeated this trial for Danielle's fifth grade class, and her powerful opening statement planted the seed for her desire to become a trial attorney.

Since then, my girls worked as file clerks while in elementary school, interns during high school and college, and Danielle assisted at counsel's table with the PowerPoint in my most recent trial.

What a thrill! I remember when Danielle was a file clerk during fourth grade. A client stopped by, and I wanted Danielle to take a break and say hello. Danielle refused, informing me that she was working at a real job and there isn't recess like at school.

When I grew up in Culver City, both of my parents worked hard at blue collar jobs, barely making enough money to make ends meet each month. I wore hand-me-downs and did without. I had no role models. I was the first to go to graduate school. My drive, perseverance and ambition took me to CAL and UC Hastings. After becoming a lawyer and then a new mom, I faced discrimination in interviews because male partners didn't have any positive experience with female associates who became moms and wanted to return to work. I decided to become a mentor to young women who wanted to enter our profession and to encourage them to become trial attorneys.

Mentoring young women (and men) is another passion of mine. At my firm, Bogaards Davis, we hire bright college graduates who work for one to three years as legal assistants before heading to law school (or social work, book publishing, teaching, etc.) We also hire law clerks who are in college and law school. This year, a dream of mine came true. Bogaards Davis hosted its first alumni reunion, so almost one and a half dozen young women and men came back, to fill us in on their accomplishments. That's what it's all about.

A voice of a new mother and trial attorney

One of my former associates, Denise Top, responded to my call for help with this article. She is a nine-year associate specializing in employment law, with three trials under her belt. Denise and her partner, Mary, have a 16-month-old son, Asher, and live in Montclair.

Denise has made herself several key promises:

1) try to be home each night to put my son to bed; 2) limit work on weekends; and 3) end each day being able to look myself in the mirror knowing that I did my best that day to balance the demands at work with the demands from home. That is not to say that every day is a 50/50 split. There have been periods during the last 16 months where work has taken me from home. I recall one such period where on a Saturday morning I put my son into some pants that were a little too long, requiring a cuff at the bottom. I did not see my son during the morning that week or at nighttime – i.e., I did not see my son at all that week. The following Saturday, I put him in the same (clean) pants and realized there was no need to cuff the bottoms. It was a poignant moment for me. I'd be lying if I didn't say I resented my job at that moment. But, the following week, my schedule let up and I took advantage of it – I went in late so I could maximize time with him in the morning and left work a little early to maximize my evening time. I realized that it is the very nature of litigation – the ebb and flow of it – that allows me as a parent to do something that I am truly passionate about without compromising my ability to be the mom I want to be. My new mantra is a stolen Winston Churchill quote, "When you are going through hell, keep going."

It would be foolish of me not to mention how much having a child has enhanced my time management skills. I've calculated that on an average work day, I see my son a maximum of two hours a day. With this calculation in mind, I start each day highly motivated to meet my work goals for the day, so I can spend quality evening time with my son. I wish I would have known this benefit to having children years ago! So for me, being a mom has helped me become a better attorney because it has helped me develop a life/work balance. Maybe with these new time management skills, by next winter, I'll be able



to complete 100 things before lunch. I doubt it. But, I do appreciate that the mom/attorneys I admire have mastered this skill in an effort to be great moms and great attorneys.

So, while at first this topic seemed like a fluff piece, I now realize that this magazine's editor is on the right track: To figure out, explore and ask the question how each of us consciously can strive to be a good trial attorney and a good mom.



Bogaards

The rewards are worth it.

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graduate program in Salzburg, she met & married her husband, Pieter Bogaards. They returned to San Francisco to start their legal careers and family. They have two daughters, Jamie (age 25) and Danielle (age 24). Ms. Bogaards has over 35 trials and does wear stilettos. In her free time, she participates in Jack McGlynn's Pacific Coast Century and the Audi Best Buddies Hearst Castle Challenge. ☒