

Empowering women in trial: the power of collaboration

A first-hand account of the unique challenges a woman faces as a trial attorney

By Maryann Gallagher

As a woman trial-attorney, you have to work twice as hard to prove yourself and to establish credibility. As young women trial lawyers, we are not up against other young women trial lawyers of similar experience. At trial, defense firms always bring in their senior trial counsel.

These seasoned trial lawyers often believe their years of experience and reputation give them an automatic advantage. They can say whatever they want, and they expect the court to take it at face value. We have to work twice as hard to prove ourselves.

I'll never forget the time I was nominated for Trial Lawyer of the Year. My law partner, speaking on my behalf, compared watching me in trial to Ginger Rogers dancing with Fred Astaire. Ginger had to match Fred's every move, but she did it while walking backwards and in heels – making it twice as hard. I've always loved that analogy.

We can rise to the occasion and the challenge of squaring off against someone with twice as much experience and larger reputations and we can do it with grace and style.

Don't let the defense frame your case

On the defense side, there's a classic strategy they love to use: They try to frame your case negatively before you even get the chance to speak. Whether it's at the final status conference, during motions, or in jury instructions, they often speak first and paint your case as a loser.

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But this is your case. It's important to be the first to educate the judge on the true nature of the case. Judges should be aware of this tactic and should give the plaintiff the chance to speak first, as we carry the burden of proof.

When this happens, politely speak up: "Your Honor, the plaintiff carries the burden of proof in this case. Could I please address the issues related to the plaintiff's burden first, before the defense presents their version of events?" This ensures you can control the narrative and correct any misdirection early on.

I remember one of my early cases when I faced a highly respected defense attorney who used this tactic constantly. At first, I didn't have enough experience to fight back effectively. But over time, I made sure to cite the Evidence Code and CACI whenever I spoke, so the judge would see that I knew the law while the defense attorney was just spouting hot air. Eventually, I won that case, and years later, the judge told me, "You kicked his ass."

Establish credibility with the jury by being yourself and showing you know your case

When facing a seasoned defense attorney, use the imbalance of experience to your advantage. The senior trial lawyer opposing you may have years of experience, but they don't know your case like you do. They haven't taken the depositions or handled the discovery. They'll make sweeping allegations in their opening statement that you know won't be supported by the evidence.

Take detailed notes or get the transcript of their opening statement. You'll see that their generalizations don't match the reality of your case. In your opening remind the jury that the only thing that matters is the evidence – the actual documents and the testimony of the witnesses – not the defense's version of events.

In your closing argument, show the jury how the defense tried to sell them a story in the opening, one that didn't align with the facts and testimony they heard throughout the trial.

When you are in trial you are *all in*

Balancing life as a trial lawyer, a wife, and a mother of three boys is no easy task. Being in trial demands your full attention. It's impossible to juggle these three roles at 100% at the same time.

You must compartmentalize your life during trial. Whether you're a man or a woman, there is no "work-life balance" when you're in the heat of trial. It's a 100% commitment of time and focus – you're in the zone.

For mothers, the emotional toll is even greater. We carry an added burden of guilt – feeling like we're not being the best mom. But the truth is, we are amazing moms, wives, and trial lawyers, because we give each of these roles our full attention when it's time.

When your kids see you, they want your undivided attention and don't understand why you can't give it to them. I learned the hard way that, to be an effective trial lawyer, I had to physically remove myself from home while in trial. That doesn't mean you stop connecting with your kids – just that you need to be fully present in your work, so you can be fully present at home when trial ends.

If you can, book an Airbnb close to the courthouse. I always stayed within walking distance to avoid wasting precious time driving. And most importantly, take care of yourself. Get rest and stay focused. The trial won't last forever, and soon you'll be back with your family.

You still have your daily connection with your kids by checking in with them, but you are out of the home, focused on your trial lawyer job. You only have so much time and energy to give in a day, so you have to take care of yourself and make sure you are allowing yourself to get rest and concentrate on the trial. Then, when you are home you can focus on your family.

I remember one trial I had in San Francisco during my youngest son's 12th birthday. I ordered his cake, and my best friend, who was also a trial lawyer and mom, brought balloons and sang happy birthday to him. It meant the world to me that I knew my son was being taken care of and he thought it was fun to see another mom come over and sing to him and give him his cake.

Being a trial lawyer is a noble and important job. You are providing for your family, just like any father or husband who works hard away from home. Your kids will see a strong, hardworking role model, and one day, they will appreciate all that you've done for them.

You should have discussions with your spouse and your kids about why you are in trial, that you are building a life for them. They will be supportive of you; make sure you give them the chance.

Support from family makes all the difference

I remember a particularly challenging trial when I was seven months pregnant and had a two-year-old at home. The judge wasn't sympathetic to my scheduling needs, and I had to miss seeing my son on the weekend before closing arguments. I was emotionally drained and felt guilty for not being there for my child. But the next morning, my husband showed up at my hotel with our little one in a stroller.

That simple gesture meant the world to me and reminded me that my family supported me. I ended up winning that trial. My two-year-old doesn't remember the long days I was away, but I remember how hard I worked, and how my family helped me through it.

Remember: When you're in trial, you're all in. But once the trial ends, your other roles – mom, wife, and woman – take center stage again.

Take immense pride in yourself

Being a trial lawyer is an art form. We rely on creativity, skill, and perseverance – much like conducting a major symphony or writing, directing, and starring in a compelling film. It's hard work, but there is no other profession as unique, challenging, or rewarding. Many women who possess these gifts feel that

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they cannot be trial lawyers because they also want to be wives and mothers. But you don't have to choose one over the other. The world needs more creative, determined women in the courtroom, fighting for justice.

Moreover, women teaming up with other women to try cases together is a powerful solution to the challenges faced by women who balance family and career. Together, we can thrive in this space and make our mark.

Let them underestimate you – it's your superpower!

When the senior trial lawyer sits across the table from you, they often don't see you as a threat. In a man vs. man scenario, there's often an ego-driven need to prove who's better. But when you're the woman at the table, they may not view you with the same level of respect.

But here's the thing: I don't care who is sitting across from me. I focus on my facts, my client, and the jury. Don't be distracted by their histrionics or what I call "unrighteous indignation" – the exaggerated emotions they love to put on display during trial. Stay focused and composed. Do not think you have to become aggressive to match their antics. You don't need to match their energy. Instead, remain calm, focused, and steadfast in your approach.

Face your fears – and watch the transformation

We all experience fear when we first step into the courtroom. It's natural to feel uncertain – what if we make a mistake? What if we look foolish? This is a challenge that many women face more acutely than men. Men often seem fearless, while women tend to be more practical in their approach.

Remember: Fear is universal. Whether it's your first trial or your hundredth, the feeling of confronting the unknown is always there. The key is to take that first step – greet the jury and make them feel comfortable. They're just as nervous as you are, facing their own unknowns.

Once you shift your focus from your fear to serving the jury, you'll find that your anxiety will dissipate. Every step you take will make you stronger and more confident. Focus on one step at a time, and trust that your fear will transform into power.

Fear is a part of the journey, but it's only temporary. Once you've tried a few cases, your confidence will grow. Don't let that initial fear stop you. Commit to moving forward, and the invaluable experience you gain will empower you, making you a stronger, more effective trial lawyer. We need more women trial lawyers and you have the power and talent within you to excel.

Experience jury duty for a new perspective

If you ever have the chance to serve on a jury, take it. While you might not be selected, it will give you a valuable perspective. Understanding what jurors experience – walking into the courtroom, facing questions in a group setting, and dealing with the uncertainty of their role – can help you connect with them in a deeper way. You will have been exactly where they are the day they step into the courtroom for your trial. You can address their fears and make them feel more comfortable.

This experience will enrich your ability to empathize with jurors and gain insights into what they are thinking and feeling during trial.

How do I cross-examine a witness?

Cross-examination is hands down my absolute favorite part of a trial. Over the years, I've had the privilege of learning from some of the great trial attorneys by serving as a second chair for eight years in every trial. During this time, I also had the opportunity to try cases on my own. But I was always there to support my trial partner in the firm. I witnessed some of the most searing and effective cross-examinations.

So, how do we, as women, cross-examine a witness? The same way a man does. Here are the key principles I've learned:

Ask simple, pointed questions

Sometimes, as lawyers, we get bogged down with complex language. Cross-examination is the time to be direct. Ask simple questions that should be answered with "yes" or "no." Keep it straightforward. The simpler the question, the harder it is for the witness to avoid answering.

Move to strike non-responsive answers

You must control the witness. If they start rambling or avoiding your question, move to strike their answer as non-responsive. Re-ask the question. The jury will notice the witness's attempts to avoid answering, and over time, this will strip them of credibility.

Keep it short and focused

Juries don't appreciate their time being wasted. Defense attorneys often try to drag out their questioning to disrupt the flow of the trial. Your goal during cross-examination is to quickly dismantle the witness with a series of five to 10 well-crafted questions. Then, sit down.

Be prepared with exhibits and impeachment evidence

Always have your exhibits ready, with four copies: one for the judge, one for the witness, one for defense counsel, and one for you. This ensures you're not fumbling around in front of the jury and maintains the momentum. Have any impeachment evidence in a separate folder, organized by witness. If you plan to use deposition testimony, have the page and line references noted in your outline, and be ready to quote the testimony verbatim. For added impact, have video clips ready to play if applicable.

Nothing is more satisfying than a cross-examination executed with precision and flair. You already have both skills. I received a great compliment after beating a senior trial attorney from a large

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defense firm. He told me he had never seen such razor-sharp cross-examinations.

Women are incredibly creative and excellent at focusing on the task at hand, getting it done with precision. As mothers, wives, and trial lawyers, we don't have time to waste. These skills will help you become a force in cross-examination.

Join forces with other women

This may sound like hard work – and it is – but one of the most important lessons I've learned over the years is the value of teaming up with other women in our field. What could be better than a team of women joining forces and combining their collective brilliance in trial?

There are so many talented women in CAALA who could serve as your first or second chair. My favorite place to be is in trial, and lately, I've been focused on helping other women in their trials so that they can try their case with someone by their side to help. It's not only fun, but it's also a win for everyone.

If you find yourself facing a trial and need support, don't hesitate to reach out. We are here to help you – so you don't have to shoulder everything alone. It's empowering to have someone by your side, especially when you're fighting for your client.

Los Angeles Local Rule 3.93 allows multiple attorneys to participate in a trial. It permits a party to seek permission for multiple attorneys to conduct voir dire, opening, and closing arguments, making room for less-experienced attorneys to take on these tasks.

This rule provides a great opportunity to join forces with other women trial lawyers, divide up trial tasks, and gain invaluable experience with the safety of having someone more experienced by your side during trial. I've used this strategy in my cases to allow other female attorneys to try cases with me. It's a powerful way to share voir dire time or witness handling, while ensuring support for both the experienced and the newer attorney.

This opportunity is there for you, to go to trial and have support while you present your case with back up from seasoned female trial attorneys.

Use this to your advantage – it's an incredible tool for growing our network and our collective success!



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