

See Something, Say Something: A Call to End the Bullying of Junior Women Attorneys

No gesture is too small to provide a junior attorney with the strength and resilience she needs to bounce back.

By Lynda A. Bennett
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After practicing for more than 25 years as an insurance coverage litigator, I have experienced my fair share of trials by fire taking depositions, arguing motions and negotiating complex settlement structures. Along the way, I've noticed that I have often confronted unique challenges because I have been the only woman in the room. I've also noticed that women adversaries have encountered similar issues, particularly when we are the most junior attorney involved with a matter. There is no place for bullying in the legal profession, and it will come to an end only when we speak to and empower our junior women attorneys to overcome these challenges. No gesture is too small to provide a junior attorney with the strength and resilience she needs to bounce back.

I remember the first time I was bullied. I was too inexperienced to understand that my gender played a role. A few months after I joined a new firm, I was involved in a discovery dispute. My adversary, a male attorney about 10 years my senior, moved to compel and sought sanctions against me and my new firm. I was absolutely terrified and was convinced I would immediately be fired. Instead, a senior partner came with me to argue the motion and told me he would intervene only if the court entertained the specious sanctions request. When we appeared for the motion, the male judge refused to acknowledge my presence at any point during the argument. The partner repeatedly told the judge that I was arguing the discovery aspect of the motion, and yet the judge refused to hear from me.

Eventually, the judge denied the discovery motion and the sanctions motion and yet, despite the victory I was mortified. However, in a total surprise move, my adversary stopped me in the elevator to apologize. He



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said he felt terrible that the judge treated me with a level of disrespect he had not seen in his 10-plus years of practice. Even more, he apologized for his scare tactic strategy of trying to secure the discovery with a meritless sanction motion. He saw something and said something. His actions went a long way toward softening the ego blow of the judge's refusal to see me, and they provided me with the perspective that some attorneys use personal attacks as a means to secure a litigation advantage, something I promised myself I would never do.

I had a similar trying experience when I was taking one of my first depositions. The witness was a "professional" corporate designee who was sitting for his 90th deposition, while I was taking my third deposition. Suffice it to say, I was nervous. The witness was being defended by two male lawyers—national and local counsel. While I stumbled through the questions on my outline, the two lawyers snickered and giggled as the professional witness

shut me down at every turn. He was more belligerent, obstreperous and nasty with each response.

After about an hour of being flustered, I called an early lunch break. The court reporter (a woman) saw something and said something. She encouraged me over lunch, saying that I should press on and do my best, which gave me the strength to take one more run at the witness. The deposition did not go too much longer after lunch, but the laughing and ridicule by my adversaries did, until the bitter end of the deposition. While there was no apology from those attorneys that day, I did have redemption vis-a-vis the local counsel many years later, when I was brought in to move for reconsideration on a motion that he lost in epic fashion. He, of course, did not recall our deposition all those years earlier. When he came to congratulate me after I won the argument, I thanked him for putting those deposition scars on my back, because without them, I wouldn't have been able to clean up his mess that day.

As I progressed on my career path to midlevel associate, I started to experience the good fortune of having both senior men and women adversaries mentor and encourage me through challenging moments. For example, the next time I went up against a professional corporate designee witness, my male opposing counsel did not laugh or obstruct the deposition. Instead, and incredibly, he called for a break in the middle of the deposition. He took me out into the hallway to let me know that I was asking the right questions and he was impressed by my tenacity. He also gave me the perspective that eight hours of deposition testimony usually yields only one quotable quote for even the most experienced deposition takers. His few words of encouragement meant the world to me in that difficult and frustrating moment. I was grateful that he saw me doubting myself and decided to say something to keep me on the right path.

I had a similar experience with a woman co-defendant counsel at another deposition. There, I was probing a witness on a particularly sensitive aspect of the case. It felt like I was making headway with our position, and then the flow of the deposition was disrupted by the two men who were defending the witness. They launched into prolonged speaking objections every time I asked a follow-up question. As I pressed on, they threatened to get the judge on the phone or shut down the deposition,

which was taking place out of state. I had never been involved in a deposition where the judge was called, and my anxiety about doing so was through the roof. At that moment, my co-defendant counsel asked for a restroom break. During the break, she pulled me aside and told me I needed to call their bluff because they were never going to end the deposition and, if they decided to call the judge, it would not go well for them. She saw something and said something. Thereafter, I strode back into the room and promptly secured a quotable quote that actually made it into the brief we eventually filed.

These days, I have accumulated enough gray hair that I do not have confidence issues when I go to a deposition or argue a motion or an appeal. I am not intimidated by what still are too many male-dominated rooms that I am in for settlement conferences and mediations. I do, however, sadly observe that the junior women coming up behind me are facing too many of the same scenarios that I have described above. Now I have assumed the role of mentor for these junior women—both inside my firm and across the aisle on my matters—sharing my experiences and how I learned from each one of them. I have called women adversaries after conference calls to commend their advocacy and tenacity when they have been bullied by more-senior attorneys. I've complimented very junior attorneys when they've made it through what is clearly one of their first depositions. And I have shared the wisdom that personal attacks and bullying by more-senior attorneys are almost always a reflection of weakness in their position and their advocacy skills and not a statement about the junior lawyers' skill sets.

These small acts of kindness don't make me less of an advocate for my clients. They make me a professional who wants to ensure that junior women attorneys can continue on their career path, earning their stripes without bullying or bias. The time is long overdue for all of us—senior men and women alike—who have witnessed this behavior to bring it to an end. If you see something, please say something.

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