

# PUBLICATION

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## Rethinking the Way We Communicate Expectations to Women

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**I recently served as a judge in a trial advocacy competition for young lawyers. After a weak cross-examination by one of the female attorneys, a judge, who happened to be a woman, pointed out the problems with the attorney's performance, but noted that, as a young woman it can take time to get comfortable and not feel hesitant about being direct and even aggressive with a witness. In the moment, I thought the criticism constructive – it echoed what I'd heard and read throughout my career about how women often struggle with striking the right tone as litigators. After lunch, this same lawyer came back, did a cross-examination of another witness, and did a fantastic job. It made me think: Did she find her voice over lunch? Or, was it possible that the woman judge – like me – wrongly attributed a poor performance to the fact that she was a woman, as opposed to being either inexperienced or unprepared?**

Currently, both the Bar and our Firm have initiatives devoted to studying ways to improve the experience of women in the law. These types of initiatives are critical to develop and retain female attorneys, and I can say confidently that the support available to me in my 12-year practice is far greater than what was available in 1981 when my mother started practicing law. However, in some ways, these initiatives can be a double-edged sword. With so much focus on the common issues and struggles that female attorneys may face, it is easy to attribute professional struggles to gender, rather than individual unique strengths and weaknesses.

To be clear, I am not suggesting that gender bias is a thing of the past or that certain stereotypes are not rooted in truth. However, the deluge of self-improvement books, articles, and podcasts (by the way, *do you have any recommendations?*) talking about how women need to overcome what we have been socialized to do can easily become the loudest voice in your head. There is a real danger in allowing gender to be the default explanation for a woman's performance. If you couch criticism in terms of gender, you risk creating a fixed mindset in that young attorney's mind. Stated another way, if we suggest the shortcomings or style differences are inherent in one's gender, we are also suggesting that they cannot be changed.

As mentors, we can – and should – do better. When we have opportunities to give feedback, we should make it thoughtful and, perhaps more importantly, tailored to the person, as opposed to their gender. Consider the same scenario above but instead of mentioning how difficult it can be as a woman to approach a witness, the judge suggested instead that the young lawyer's performance would improve if she figured out three points that she wanted to make with the witness and aimed to do so in less than ten questions. While the female judge may still believe that the poor performance may be rooted in gender differences, she chooses instead to give constructive advice. Not only does that lawyer walk away with an action plan that sets out how to go about improving her performance, no one in the room – including the lawyer herself – thinks she is going to have a harder time being a good lawyer because she is a woman. In sum, all young lawyers need constructive criticism from time to time to improve, but framing that criticism around gender, even if well-meaning, may do more harm than good.