

BEING MORE SPECIFIC

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I always wanted to be somebody, but I should have been more specific.

–Lily Tomlin

I was bred to be a scientist and socialized to be a poet. Law was nowhere on my young horizon. From the start, I was surrounded by doctors and research scientists, pushed into playing very bad chess and playing, too, with chemistry sets, telescopes, microscopes, and, for a brief moment in time, mice genetics. In the fourth grade, I wanted to grow up to be an oceanographer, and in junior high I won a science fair prize for my project on suspended animation, which basically meant lots of unfortunate goldfish ended their lives in glucose, saline, and alcohol solutions in the family freezer. Mathematics and algebra were always happy classes for me, but, forty years ago, no one thought much about girls becoming scientists or mathematicians.

As luck would have it, I wrote a pretty good short story in junior high, drawing enough praise from all to convince me that I was destined to write. I started college as an English major, drama minor; switched to an Italian major, art history minor; and finished as an Ezra Pound groupie (very small group). I guess this was pretty typical of the appropriate course work expected of young women who went to women's colleges in those days, though God knows there were others there pursuing sciences, mathematics, and political science.¹ Law was still not on my horizon. Not until I was almost finished with my doctoral dissertation (cultural anthropology) did the idea even come up, and then it breached in a spectacular manner, roiling the waters and disturbing the, until then, smooth sailing to a career as a teacher-by-day-for-money/poet-by-night.

¹Because we were required to have a well-rounded curriculum, I had to take a political science class (I remember only that the professor was handsome) and an elective science class. I took astronomy--I think because I thought it was astrology (it **was** the 60s). My final paper was a wispy attempt to prove that the instructor--a much-derided visiting grad student from Yale--was a Martian whose job it was to take over our minds; as you can imagine, I did poorly in that class. That I did not fail the course was a sign to me that I had the grad student worried enough not to press the matter.

So I became a lawyer, for better or worse, at age 32. For purposes of this paper, it is not important why, only that it occurred. Ironically, being a bit older than the others in my class was quite an advantage, not only because I had the confidence of several academic degrees, but also because so many people assumed that I had been around for a while and knew what I was doing. Most important, however, was that being a bartender during grad school not only gave me the money to go to school but taught me a lot about men. This, more than anything I learned in any school, enabled me to succeed in the practice of law. There are far more men in the profession than there are women,² and they have been there far longer and control far more of how the system works. If men lawyers do not learn to deal effectively with women, the women are usually the ones that suffer, not the men. But, **if a woman attorney cannot handle men, she will be less happy, more bitter, less successful, and more likely to quit, drink, or otherwise be less effective.**³

You think not? The third ABA status report on women in the law⁴ reminds us, again, that women are underpaid, under-represented in the profession, devalued, and demeaned. More insidious: while many of us know it, many still do not admit that serious problems and barriers remain, never mind the statistics and facts. The report referred to this phenomenon as the “no problem” problem. Perception—and by that I am referring primarily to the male perception (you’ve come a long way, baby)—continues to carry the day, and perhaps that is no surprise. After all, if you have not had the regular experience of being devalued and having your ideas dismissed, how would you know 1) that it occurs, 2) regularly, and 3) exactly how discouraging, crippling, degrading, maddening, and hurtful it is? I don’t feel it is useful to blame men for not knowing there is a problem, or even to blame those women who do not admit it, but, as a successful woman attorney, I personally feel it is important for me to say the emperor still has no clothes on.

So what does one do about a naked emperor? Point and laugh? Point and cry? Take up sewing? My choice has been to set up my own little empire I guess. By going into business for myself, I can control how much I am paid, and so am not stuck making less than 60% of what men attorneys make.⁵ Since I am willing to do the nasty administrative tasks, I get to be the managing partner, an important position that less than 5% of women

²Women make up about 30% of those in the legal profession in general, about 15% of the federal judges and law firm partners, and only about 10% of the law school deans and general counsels. ABA Commission on Women in the Profession, “The Unfinished Agenda: Women and the Legal Profession,” prepared by Deborah L. Rhode, 2001. p. 14.

³I imagine vestigial hackles went up on the necks of both men and women with that statement, and presumably the Commission on Women and the Legal Profession will now regret having asked for my perspective. But it is my opinion, and I’m sticking with it.

⁴See footnote 2 of the “Unfinished Agenda.”

⁵See footnote 2 of the “Unfinished Agenda.”

currently hold, and a position that, while no fun at all, has its advantages for those with a need to know and a need to “say so.”

Another thing I control is how I personally deal with the inequity. I can’t control that it exists, but I can control to a great extent what my attitude about it will be. There are of course times when I can no longer control my reaction, *ergo* the infamous characterization of “bitch.”⁶ But, as Hillary Clinton is acknowledged to have noted once: “you say that as if it were an *insult*.” It is not.

We are all born with our own unique tool box with its own unique contents, and I see no value in complaining about the tool box I got. It is bigger than some people’s and smaller than others’; maybe it has not enough vise grips and far too many screwdrivers. But there are screws to be screwed, so why not get to work and screw ‘em? Whatever the size and quality of the tools in the toolbox, we each have a job to do, and we are best judged, not by the size or quality of what we were given to start with, but by what we do with it from that point on.

In my experience, the need to deal with men in a man’s world is just another difficult reality, like not having a single vise grip in your whole tool box. Too bad, but that’s the breaks. The handicap can lead to new discoveries like 1) sometimes pliers can get the job done, 2) the job doesn’t even need to be done, 3) if you lend an extra screwdriver to someone, he may lend you an extra vise grip, or 4) there are lots of ways to get someone to subcontract the vise grip job.

I admit that, in some groups of male attorneys, my participation on minor points is agreeably tolerated by the male attorneys. However, I have noticed that, on more substantial subjects, my opinions are sometimes met with scorn (often voiced in my absence but repeated to me later somewhat gleefully by one of the attorneys, whether from spite or a type of friendship), occasional rudeness often evidenced by continued talking to others when I am making a point), and even open derision. The latter is rare, in part because most men attorneys are at least courteous, and in part because most do not find it particularly useful to prod the sleeping bitch, who can hear derision even in a deep sleep, and wakes up in a nasty mood.

But when good ideas, male or female, are disregarded, the clients lose. So I have learned when necessary to develop a working relationship with the alpha-male attorney in any male group. When I have what I think is a good idea, I raise it with him privately, and he scoffs, maybe because the idea is not his, maybe because he has not yet understood, maybe because he is stylistically ornery. But once we discuss it and he comes to agree at least in theory—or once it is proven to be accurate—he presents it to the other men, and

⁶I, personally, started out as “missy,” then “girl attorney,” and progressed to become—and presumably have become mired in—simply, “bitch.” Perhaps, as Lily Tomlin noted, I should have been more specific.

they gather around, play with it, and generally concur as a group that the alpha-male deserves his ranking. My good idea survives.

I am fully aware that this is akin to the shameful practice of being careful never to beat a man at tennis or chess, and from time to time I admit to being annoyed at the need. But winning at tennis or chess isn't the most important thing in the world, and neither is grabbing credit for a good idea. More important is knowing that I do a good job, to my client's benefit. I prefer to think of my method as an intellectual form of *jiu jitsu*, using another's ego to help me stay on my feet and accomplish my goals. I am not unaware, however, that there is a downside or two to this approach.

Someone once said, "there is no limit to what a man (*sic*) can do or where he can go, if he doesn't mind who gets the credit." I don't know who said it—probably one of my parents, determined as they were to discourage first-born me from constantly trying to be the center of attention. Today, I still have to work on that lesson, because it really *is* so attractive to be thought smart and accomplished. We all want the pleasure and honor of recognition. But for me the true professional accomplishment is in achieving what my clients want and need, without subordinating it to my own selfish desire for personal recognition.

And when all is said and done, I'm not sure why I have been asked about my opinions or experiences anyway. They are occasionally interesting, but, unlike poetry, don't contain any kernels of wisdom or other archetypal benefit. I have had the benefit of some dubious "firsts" and a few true honors, but they do not particularly serve as any source of inspiration for those who follow. My take on women in the legal profession is just a small jagged piece of glass in a giant mosaic, but, since I was asked, allow me offer it up to be put into place.

I get dismayed when I am reminded, through reports or personal experience, that women attorneys are not taken as seriously as men attorneys, but some of us do find happiness and success, whatever statistical category we fall into. While men have better luck at achieving prestige, money, and power, I have learned that power, money, and prestige are not part of any real definition of success, and they are not even a good measure of a man. The true measure has a lot more to do with loving and taking care of something other than yourself. And having a backbone, which requires caring enough to take the heat. If you don't care, you're not a good man, and you're not a good attorney. Period. If you agree with me about that, then the statistics concerning the obstacles to women's success in the law mean far less.

I am successful by my own measure. I have no regrets about how I have lived my life. Who I am and how I practice law are related. I am learning to be more of an expert on myself and less an expert on everyone else. I have very few boundaries and so am as free as I need to. I may be a bitch, but I have backbone and stand up for my principles. I have used my little tools well and am a good attorney. How can the ABA possibly measure these indicia of success?

