

# Tools to Help Women Succeed in ADR

By Gina Miller

Recent articles in legal publications have discussed women in leadership roles in the legal industry... or the lack of those roles. According to statistics reported by the National Association of Women Lawyers, women make up 50 percent of law school graduates, but only 15 percent are equity partners in AmLaw 200 law firms.<sup>1</sup> Based on the law school graduate statistics, a higher percentage of women should be in senior positions at law firms and more women should be nationally recognized as ADR experts, but recent research shows women make up only 20 percent of leadership at law firms and ADR professionals. Unfortunately, there still is a glass ceiling when it comes to reaching certain positions and status.

Many factors should be considered as to why the advancement for women is growing at a slow pace. Studies indicate that even though there are an equal number of educated, talented and skilled women with a legal background, women are choosing to work part-time, often for a period of a few years to oversee family commitments.<sup>2</sup> Others choose to pursue opportunities outside of the legal field. Additional reports suggest law firms, as well as other organizations, have transitioned to what is called the “new norm.” Law firms have begun contracting certain cases out to independent contractors, narrowing the pipeline for senior level positions. Finally, several women are choosing non-legal opportunities as career choices and many of their choices are not ones of senior positions or titles.

However, more and more women are interested in the ADR field. Those who want to develop a successful practice should understand that as ADR becomes more mainstream in the legal landscape, it’s more important than ever to have a strategic plan in place to generate business and build a brand, not just as a woman, but as an expert in the field of ADR.

Naturally, there is quite a bit of sensitivity regarding gender diversity. Many of the women attorneys and judges interviewed for this article, while perceptive of gender biases, are much more interested in focusing on building and sustaining a brand for themselves as an expert neutral. Many women don’t want to be thought of as “the woman” neutral. They much prefer that clients perceive of them as the right fit or one of the most qualified neutrals best at resolving difficult and complex disputes. While the percentage of women neutrals is low compared to men, those who decide to remain in the legal field work hard to gain the appropriate experience and are seeing an increase in business. Some of them generate more revenue than their male counterparts.

Below are some steps women should consider implementing as they develop their ADR practice:

1. Gain significant experience as a practicing attorney, preferably litigation experience. If the objective is to resolve legal matters, ADR goals will be met faster with a strong legal background. Most retired judges experience quicker ramp-up times because they had an opportunity to demonstrate their resolution skills on the bench. That does not mean that attorneys or non-attorneys cannot be successful in ADR, but they will have to spend more time establishing their credibility. One way to do that is to volunteer for court programs and take cases pro bono. Another option is to offer to co-mediate with a successful ADR professional. Work hard at perfecting your ADR craft. Make pre- and post-hearing calls to clients. The goal is to have clients understand that the resolution of *their* cases is just as important to you as it is to them.
2. Develop a plan of action and establish a realistic timeline. In that plan, identify male and female neutrals with successful regional and national practices. Find out what they do to keep their names top of mind because they had to start somewhere. Find someone who would be willing to make an introduction for you. If these successful neutrals are visible in the community, attend the same events. Send them a note complimenting them on a recent panel discussion in which they participated and send an, “it was a pleasure meeting you” email. Try to establish a relationship with other successful ADR professionals.
3. Develop a style and presence. The days when women were advised to dress in blue or black conservative suits have passed. It is perfectly fine to be authentic, unique, feminine or just different. Newer generations appreciate diversity. In some cases, a unique style may capture the attention of a potential client. What’s most important is that clients perceive the process as a valuable experience and have something unique in which to remember you.
4. Develop a compelling biography that provides information about your style and, with permission, list the name of other successful neutrals with whom you have partnered in previous cases, seminars panels and other professional activities. This is an opportunity to name drop some of the well-known neutrals in the industry in which you are aligned.

5. Target markets with growth potential that would be most receptive to your style. Many neutrals believe they can be “all things to all people.” While judges on the bench may have that exposure, in private practice clients are looking for neutral specialists. Ask yourself the following questions: *How knowledgeable are neutrals about certain case types? What personality style will be most effective in getting this matter resolved? Are you empathic in sensitive issues? Are you a head banger? Do you stick with just the legal facts or are you known to have creative solutions?* Ask clients who have used you in the past to be candid with what they appreciated about your approach and style. Once you determine a trend, market your style at every opportunity.

6. Many national law firms and corporations report that gender diversity is a priority and important to their organization. Get a better understanding about their gender diversity goals and discuss how you might add value in assisting them with managing conflict. Dispute resolution is more than just mediating and arbitrating. ADR consists of conflict prevention, conflict management and conflict resolution. There are opportunities in all three categories and if organizations are pledging their commitment to gender diversity use that as a way to optimize your opportunity.

7. Understand that while biases exist, they are not always gender bias. Some clients prefer judges to attorneys, practice area knowledge over settlement skills, and in some cases a woman is the preferred choice. Use gender as an advantage. Women should make sure that their individual qualifications are known and that the typical stereotypes are not perpetuated in their marketing plan, which can take away from the true focus.

8. Over time, the market will define a neutral’s strengths and weaknesses. Responses from attorney clients who have experienced success with women neutrals find that women neutrals relate to their clients in a way that some male neutrals can’t. Use feedback from past clients to determine if the perception of you is more collaborative and facilitative or aggressive and assertive. Having a flexible approach is ideal; however, being all things to all people takes a lot of time and, in some cases, may have little result. Whatever the reputation, understand the strengths and positive attributes of that character status and use every opportunity to expose them. Similarly, make sure not to be in a situation where weaknesses are visible to clients.

9. Network. Use this as an opportunity to demonstrate your “assertiveness” skills. If you are attending a networking event, invite a known neutral to accompany you or ask if you may sit with him or her.

10. Advertise. While some neutrals may not allow you to include their name specifically in an advertisement, you should consider advertising that you have partnered with nationally known ADR professionals in resolving complex and multi-party disputes.

Based on conversations with former female partners, attorneys at law firms and several female retired judges, many believe that women in the profession may not be limited based on gender alone. Unfortunately, not every woman is capable of achieving the same kind of success as their male counterparts. There are certain realities of the ADR profession. The selection of a neutral is subjective and personal for some clients. A lot of business comes from repeat or referral business, which makes it challenging to break through that barrier.

There is no question that women are capable of holding more leadership titles in the legal industry. Recognizing that those barriers continue to exist, today’s entry into the ADR field is not as difficult for women as it once was. Failing to have a defined plan will make it challenging to have a successful practice in any sector and will certainly take longer.

There is still a lot to do, and it will take time. Change is not always predictable, but the good news is that we cannot prevent it from happening. Without change, we are bound to fail. The newer generations have become much more avant-garde in their way of thinking, communicating and valuing standards.

Most likely there will be a woman president in the coming future. And she will not be wearing a navy blue suit, either. ♦

## Endnotes

1 See, e.g., National Association Women Lawyers, Report of the Fifth Annual National Survey on Retention and Promotion of Women in Law Firms (2010), [http://nawl.timberlakepublishing.com/files/NAWL%202010%20Final\(1\).pdf](http://nawl.timberlakepublishing.com/files/NAWL%202010%20Final(1).pdf); Catalyst, *Women in U.S. Management*, Dec. 11, 2010, <http://www.catalyst.org/publication/206/women-in-us-management>.

2 *Id.*



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