

A Woman's Guide to Negotiation: Using Your Innate Strengths to Get the Best Deal

By Angela A. Turiano and Nichole D. Atallah - November 21, 2017

Women who negotiate in their practices are used to seeing a familiar scene. The seats are often filled by men, and everyone becomes keenly aware that the only woman has entered the room. The male banter quiets a bit, they ask about her family, or they don't talk to her at all. Perhaps she is wondering whether the men at the table are taking her seriously or whether they are willing to put less on the table because of their perceptions of her. Or perhaps she is thinking, "it doesn't have to have an outcome like this" and is frustrated by the process. These concerns are not without merit. While women make up almost 50 percent of associates, only about 18 percent of partners and about 20 percent of general counsels are women, according to data as of January 2017. See Comm'n on Women in the Profession, Am. Bar Ass'n, [A Current Glance at Women in the Law](#) (2017). Chances are, whether negotiating for yourself or on behalf of a client, you frequently will find yourself negotiating with men in an environment cultivated by men. Even if your adversary is a woman, the same issues may exist because she likely was trained in this male-dominated environment and may subscribe to the same problem-solving techniques as her male peers.

As women in a field overwhelmingly dominated by men, it is our—the authors'—personal experience that characteristics often seen in women can be used to advantage in professional as well as personal negotiations. It's all about finding a personal style and being unafraid to embrace it.

Negotiating on Behalf of Clients

In our experience, attorneys often feel the need to emulate the negotiation styles of those who trained them, or to use approaches demonstrated by others. But certain styles of negotiating—such as intimidation, threats, and bluster—do not always play to the strengths of female attorneys. Women (in comparison with their typical male counterparts) tend more often to seek collaboration over confrontation, exhibit empathy, find creative solutions (as opposed to just pushing numbers across the table), and develop trust among colleagues. These "feminine" traits are incredibly useful in negotiations and can help you take the day if you embrace them.

As an example, there is a common formula in labor negotiation—a field where men permeate the labor and management sides of the table. Step 1: review the proposal together; step 2: insert dramatic scenes from both sides exhibiting outrage. But is this type of outrage necessary? Or is it just showmanship for the benefit of clients who have been conditioned to expect it? Consider another approach. Try preparing clients to expect—but not be fazed by—

outbursts and fist-thumping from opposing counsel, and ask for their patience as you refrain from reciprocating. Explain that this type of restraint should demonstrate that you and your client are listening and have come to the table with an open mind. This approach can completely change the tone of the conversation and refocus everyone on the end goal: compromise. Negotiating is about finding the areas where we can reach agreement and cultivating an environment with space to develop creative solutions.

Even if you're a woman to whom collaboration, problem solving, and empathy don't come so naturally, don't fret. As often has been said, perception is reality. In other words, if you are *perceived* by your male adversary as having certain traits, you do, for all intents and purposes, have those traits, because that's the truth in his mind. Thus, to the extent you are able, you should use these preconceived notions to your benefit.

Specifically, male adversaries may perceive you as nicer, more reasonable, and generally easier to deal with than your male counterparts (with the caveat that a poll of our male colleagues, true or not, suggests that certain women can be perceived as more difficult than men because they may be trying too hard to overcome the very perceptions discussed in this article). Again, if the circumstances permit, use this to your advantage. Develop trust. You may be surprised how much trust can be won in a short time and can continue to grow over time as you develop relationships in your practice area. This is especially true in niche practice areas where you repeatedly face the same opposing counsel. This type of trust is invaluable in negotiating settlements—whether directly or through a mediator or other intermediary. This fact has been confirmed to us by many well-respected mediators. If you are (or even are just perceived as) a reasonable straight shooter who wants to cooperate and “work things out,” settlements not only may come much easier, *but also can yield more favorable results for your client*. First, your adversary may be more likely to “play nice” because of the trust you developed; and second, he (or she) may be more likely to believe you are being reasonable and less likely to keep pushing for more.

Of course, embracing a more “womanly” negotiation style may not be that easy, especially if you were taught to practice against your instinct. The first step is to recognize when you are using a format that isn't particularly effective. Practice your new and true approach at home or in the office with partners, spouses, parents, friends, or colleagues in everyday bargaining situations until you gain the confidence to deploy your skills professionally. Give yourself latitude to try out a few techniques and find the style that works best for you. Don't try to be someone you're not, or to conduct yourself in a way that is outside your comfort zone. That being said, there is nothing wrong with modifying your style as you learn from your experiences and develop into a better attorney. Building a reputation is a marathon, not a sprint. It may take some time, as it does for both men and women, but if you use your skills effectively, your reputation as an effective negotiator will accelerate your career.

Negotiating for Yourself

So often, women are focused on getting the most for others; but when it comes to their own needs and desires, women can find it difficult to negotiate in their own best interest. Many of us don't like confrontation with others in our personal lives, but live with it and accept it professionally. There is no question that negotiating for yourself (e.g., for a promotion or a raise) is critical for your career. Unfortunately, most women are reluctant to advocate for themselves even when it is most important.

In fact, one of the most common explanations for the gender wage gap is that women don't ask for higher salaries, while men do. Indeed, studies have shown that men initiate negotiations about four times more often than women. See Linda Babcock & Sara Laschever, *Women Don't Ask: Negotiation and the Gender Divide* (2004). Babcock and Laschever's book notes that 2.5 times more women than men said they feel very apprehensive about negotiating—comparing the task to a trip to the dentist. By contrast, men compared negotiation to winning a ballgame and a wrestling match. This is often because women feel that if they are being too aggressive and acting outside of female social norms, their attempt at self-promotion will not be well received. In fact, women are not off base in this regard. [Research](#) has shown that bosses, whether male or female, tend to penalize women (far more than men) who speak up and ask for more.

We, the authors, each have experienced this cultural phenomenon. In one instance, when negotiating a salary offer at a midsize firm, the hiring partner responded: "This is entirely inappropriate—I am rescinding our offer." This was dumbfounding. Although this was the early 2000s, not much has changed. In another instance in 2011, a recruiter advised against negotiating the starting salary for a new job, likely setting back the overall salary trajectory. While the gap between men's and women's earnings has been steadily narrowing for the past quarter century, we still have a long way to go. Across industries, white females make [about 79 cents](#) to the white male's dollar, while black women make 66 cents and Hispanic women make just 59 cents.

The good news? Women are starting to recognize this trend and change it. It starts with gathering the courage and confidence to ask for what you deserve. Don't hesitate to advocate for yourself just as you would for a client. Here are some tips:

Be yourself. Again, there is no need to be someone you are not. Find a way to ask for that promotion, raise, etc., in a way you feel comfortable—i.e., that is consistent with your character. There is no need to be aggressive and demand a raise. Rather, start with an inquiry ("the foot in the door approach," if you ever took a psychology class). For example, "I was wondering if I could speak to you about my compensation." Or, simply: "Do you have a few minutes to talk with me about something?"

Look for the right opportunities. Choose your approach wisely. It may make sense to negotiate the support of others and work behind the scenes to make the negotiation go smoothly. Also, make sure the environment is conducive to a conversation—e.g., your boss is not in the middle of preparing for a trial or otherwise busy or having a bad day—and that you budget the right amount of time for the discussion.

Be prepared. We do not mean simply practice what you are going to say the day before. Rather, know the strengths and weaknesses in your proposal. Determine your standing at the firm and establish a timeline for promotion and/or salary increase, etc. A great way to keep track of your accomplishments and contributions is by having a business plan—which you also can use as part of the referenced “foot in the door approach.” In other words, go into the meeting to discuss your objectives and goals as set forth in your plan and see where it leads. Then anticipate your follow-up.

Know what you are going to say and what your limits are. Here, we *do* mean practice what you are going to say the day before (not verbatim, but generally). In preparing, it is critical that you understand what you are willing to negotiate and what the consequences will be if you do not get your minimum ask. Do not threaten to quit, whether you want to or not. But do understand what your action plan will be.

Be proactive. If you do not get the desired outcome, find out what you need to do to get there—*and do it*.

Importantly, none of the steps suggested herein in the context of either personal or business negotiation require aggressive or “pushy” behavior, unless of course that is your style. Rather, we encourage you to view negotiation as a conversation. You, as the great female collaborator, are working with a team of people to resolve a conflict or concern, with the goal of best advancing the interests of your client, your firm, and, don’t forget, yourself.

[Angela A. Turiano](#) is a principal in Bressler, Amery & Ross, P.C. in New York City. [Nichole D. Atallah](#) is a partner with PilieroMazza PLLC in Washington, D.C.