

Overcoming Mom Guilt: Recognizing that being a mom makes you a better trial lawyer

By Michelle Hemesath and Diana Connaughton

We feel like failures. Every moment we are with our kids we are distracted. We are still thinking of all the unread emails, the preparation required for the deposition tomorrow, and the discovery responses due in a week that haven't even been started. We are thinking of the networking events we didn't go to so we could have another night at home with our kids. We feel constantly behind at work and feel like we are letting our clients down.

But every moment we are at work, we are, in turn, thinking about losing precious time with our kids. The stories that we are not reading to them. The parenting books we never got around to. The trips to the aquarium or museum that we are missing. Our kids are growing up, and we feel like we are missing it. Just as at work, we feel constantly behind at home and as though we are letting our kids down.

We feel like we are in an impossible position. Do we continue preparing for a key cross-examination the next day. Or do we spend at least an hour with our children whom we have not seen all day? Often, the

answer is to sacrifice an hour of sleep and attempt to do both.

When we pile on anything else, such as caring for an aging parent, maintaining a marriage, and trying to keep in touch with close friends, the guilt only intensifies. Every moment spent doing *anything* only makes it worse. When we dare even spend a second on ourselves, the shame and guilt multiply tenfold.

The irony? There is no failure. *We are crushing it*, both in our careers and at home. You do not need to forgive yourself because there's nothing to forgive. You are an awesome lawyer because you are a mother and a great mother because you are a trial lawyer.

But that mom guilt is not only overwhelming; it's barring us from *enjoying* our work and home life.

Where Does Mom Guilt Come From?

Mom guilt derives straight from imposter syndrome. Imposter Syndrome, or Imposter Phenomenon, was introduced

in 1974 by Pauline Clance and Suzanne Imes. (Clance & Imes, "*The Impostor Phenomenon in High Achieving Women: Dynamics and Therapeutic Interventions*" *Psychotherapy: Theory Research and Practice* (Dec. 31, 1977) Vol. 15, Iss. 3, pp. 241-247.) In their seminal research they found a high incidence of perceived inability to meet self-imposed high standards, along with things like anxiety and lack of self-confidence. Sound familiar?

These days, we consider Imposter Syndrome to be a psychological occurrence in which an individual doubts their abilities, skills, and accomplishments and has a fear of being exposed as a fraud. People who experience Imposter Syndrome often feel as if they do not deserve their success and attribute their achievements to luck. It is a condition that is far more prevalent in women than in men, and particularly women of color. (Chakraverty, *The Imposter Phenomenon Among Black Doctoral and Postdoctoral Scholars in STEM* (2020) *Int'l Jr. of Doctoral Studies*, vol. 15.) It is also more prevalent in attorneys than other higher-education professions. (Practicing Law Institute Studio Briefings: Imposter Syndrome in the Legal Community – Fear of Failure and Perfectionism, available at <https://www.pli.edu/programs/I/imposter-syndrome-in-the-legal-community--fear-of-failure-and-perfectionism>, as of Feb. 23, 2023.)

The female trial attorney feels like she will be exposed as unprepared and unintelligent, by opposing counsel, her superiors, her colleagues, or the jury. At home, she constantly worries she is not living up



Michelle Buxton Hemesath is a mom of her 3-year old daughter Edie. She also started a founding partner of Ikuta Hemesath, LLP, who specializes in medical malpractice, medical battery, and elder abuse on the plaintiff side. She has tried multiple medical malpractice cases to verdict.



Diana Connaughton is the mother of her 7-year old daughter Adalin. After litigating on the defense side, where she primarily defended doctors and hospitals in medical malpractice actions, she joined Ikuta Hemesath, LLP to help victims of professional negligence. www.ih-llp.com



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to the impossible standards of “mom.” While she gave birth to her children, she does not feel like a *real* mom. She feels she has missed so much time with her children that she will never get back. She feels she is never giving enough attention, or not handling issues as gracefully as she should be able to.

But why? Why does the female trial attorney feel this way? It’s because successful women will often underestimate their own abilities and performance. Tasks that the woman trial lawyer views as mundane or simple are not mundane or simple for the average attorney. They undervalue and misjudge their own contributions and work-product and thus fail to appropriately value themselves.

Studies have shown that, in general, women are better multitaskers than men. These studies establish that women are better than men at juggling work tasks, such as handling concurrent emails, phone calls, and assignments. Logically, studies have also shown that women are better than men at juggling home tasks, such as cooking dinner while also watching young

children and answering the phone. (Lui, et al., *Gender Differences in Multitasking Experience and Performance* (2006) Quart. Jr. Exp. Psych.)

In a study in the Royal Society Open Science Journal, women performed far better than men when presented with a tricky brainteaser while simultaneously walking on a treadmill. (Killeen, et al., *Increasing cognitive load attenuates right arm swing in healthy human walking* (2017) Quart. Jr. Exp. Psych.) A study in the journal BMC Psychology showed that women were better able to organize and switch between tasks than men. (Stoet, et al, *Are Women Better Than Men at Multi-Tasking?* (2013) BMC Psychology.) The women in that study were, on average, 8% faster and more efficient than men. The disparity was even greater at higher educational levels and when factoring in whether the participants had children.

Litigation is extremely high-paced and requires constant task-switching and multi-tasking. The guilt-ridden mother underestimates how truly efficient she is, both at work and at home. She’s thriving

both as a lawyer and as a mom, yet is so skilled that she fails to appreciate that she is doing so well.

While women recognize that, on average, women are better at multitasking than men, due to Imposter Syndrome women again tended to underestimate their *own* multitasking abilities. As Szameitat et al., explained in their study, “the very same sample of participants who showed a strong belief in gender differences in multitasking abilities did not show any gender difference when asked to judge their own abilities.” (Szameitat, et al. “*Women Are Better Than Men’ –Public Beliefs on Gender Differences and Other Aspects in Multitasking*” (Oct. 19, 2015) PLoS One.)

This helps explain why career mothers tend to undervalue their contributions at work when compared to their coworkers but also undervalue their contributions at home when compared to other mothers.

The opposite of Imposter Syndrome is the Dunning-Kruger effect. “Unskilled and unaware of it: how difficulties in recognizing one’s own incompetence lead to inflated self-assessments.” (Kruger & Dunning, “*Unskilled and unaware of it: How difficulties in recognizing one’s own incompetence lead to inflated self-assessments*” (1999) Jr. Personality & Soc. Psych., Vol. 77, pp. 1121-1134.)

Dunning-Kruger is a cognitive bias leading to overestimation of your own abilities. In essence, lesser-skilled people often lack the ability needed to recognize their own shortcomings. In other words, the cognitive ability needed to do a task

proficiently and efficiently is the same cognitive ability needed to recognize that you are *not* doing a task proficiently and efficiently. The Dunning-Kruger worker will often attribute their shortcomings to other people or bad luck.

Studies have consistently shown that men are more likely to suffer from the Dunning-Kruger effect than women. Professionals are less likely to suffer from Dunning-Kruger than those who are less skilled.

Both Imposter Syndrome and Dunning-Kruger stem from humans having a poor understanding of their own abilities. We simply do not know our strengths and weaknesses, particularly when compared to others. But, on average, professional women tend to underestimate their own abilities while men tend to overestimate their abilities. Whether this stems from biology or society, researchers believe that this is one of the primary reasons why women are far less likely than their equivalent male counterpart to request raises or promotions. (*The UK Tech Workplace Equality Report (2019)* Hired, available at <https://hired.com/uk/uk-tech-workplace-report/#key-findings>, as of Jan. 19, 2023.)

Ironically, our mom guilt, fear of failure, of being exposed, and need for perfection is part of what makes us so successful both in the courtroom and at home. Yet this comes at the significant cost of our own mental well-being and sanity.

When that mom guilt hits you, don't forget, you're better than you think you are. You're more skilled, more efficient, a better lawyer, and a better mom than you're giving yourself credit for.

Mommy Is a Killer Trial Attorney

In January of this year, a partner at a Cleveland labor and employment defense firm sent a text message to a female associate who accepted a job offer with a different firm during her maternity leave. He wrote: "What you did – collecting salary from the firm while sitting on your ass, except to find time to interview for another job – says everything one needs to know about your character. Karma's a bitch. Rest assured regarding anyone who inquires, they will hear the truth from me about what a soulless and morally bankrupt person you are."

This story unfortunately shows that there are still significant obstacles that

women face in comparison to their male counterparts. Some firms and partners still view maternity leave and motherhood as "sitting on your ass."

Even though women make up greater than 55% of all ABA-approved law school graduates, studies show that 76% of all lead counsel at trial are men. The remnants of the "good ol' boys" attitudes still remain and hamper a woman's ability to be a successful trial attorney. This is particularly true for mothers.

Yet, those disadvantages fade once the mother gets to trial. Unlike the disproportionately low number of female trial attorneys, jury pools tend to have disproportionately high numbers of women. And the instant negative connotations many jurors have for attorneys, including dishonesty and sneakiness, often do not apply as harshly to female attorneys as they do to male attorneys. The same female juror who would view a male trial attorney with skepticism may view a female trial attorney with admiration.

That's not to say that everything is easier for the female trial attorney. We are more heavily scrutinized for our appearance and attire by male and female jurors alike. And while an assertive or aggressive male attorney may be seen as an advocate, the female equivalent may look like a "bitch." But, on balance, *we* have the instant advantage in the courtroom.

That advantage goes beyond simply being the unusual female trial attorney. While the purpose of this article is not to demean men or women without children, the mother trial attorney is simply going to have more life experiences that will allow her to better connect to her client and a jury. Being a mother has offered us a level of sympathy, compassion, and empathy that we would not otherwise have. Credibility is the most important thing at trial and being able to more effectively connect with both your client and the jurors is invaluable.

This advantage is far more pronounced as a plaintiff attorney than a defense attorney. The value of a defense attorney to the firm is not only that attorney's abilities as an advocate, but the amount of time that that attorney bills. Billable hours are going to suffer when there are children involved. But life experience and effective advocacy increases with children.

From a business perspective, even though women have high hurdles that

their male counterparts do not have, when that woman becomes a trial attorney, some of those disadvantages turn into advantages. Female clients often want a female attorney to represent them. For example, in our practice, we have a high number of infant injury and death cases. These mothers often want the mother attorney as their voice, their storyteller, at trial.

Being an Attorney Has Made You a Great Mom

The skills you have developed as a litigator have also helped make you a wonderful mother. Being an attorney involves having to handle high-pace and stressful work calmly and efficiently. These skills transfer directly to being a mom. As an attorney, you have learned not to overreact to problems and to always focus on the big picture. There are child-rearing skills that you have developed as an attorney that you likely did not know that you had.

Dealing with the seemingly endless amount of childish and obstreperous tantrums by male attorneys at depositions has prepared you well to handle tantrums with your actual children.

Further, much like the juror who has admiration for the rare female trial attorney in the courtroom, your children will also admire you and your career. They will appreciate and emulate you and how hard you work for both your clients and your family. You are their role model.

Love and Appreciate Yourself Both as a Mom and an Attorney

Mothers who are attorneys often feel like they are stuck in a vicious cycle. Every moment spent with their kids causes more stress and more anxiety as to work. Every moment spent at work causes more shame and more guilt as to the kids. Even when they are with their kids, moms feel guilty for not giving her full attention to her kids since her mind is preoccupied with work. The same thing happens at work. And so on and so forth.

But, it's *not* a vicious cycle. Instead, being a mom and an attorney is a virtuous circle. Every moment spent with your kids makes you a better, more compassionate trial attorney. And every moment spent at work makes you a better mom. ■