

# **Confidentially Speaking: A Mediator's Perspective on the Secrets to Women Lawyers' Work/Life Balancing**

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In 1987, six years into my legal practice and in escrow to sell our home in Beverly Hills and re-locate to Orange County, my then two-year-old daughter was diagnosed with acute lymphocytic leukemia and my life was forever changed. She recovered and is now a healthy, married, doctoral student. Her two younger brothers are college-graduated entrepreneurs. They are fine, too. But I've learned some lessons about juggling/balancing family life and career life along the way. They are lessons that are solidly grounded in the practice of mediation, in which I have been engaged for the past eleven years.

Lesson No. 1: It takes at least two willing negotiating partners to achieve a reasonably successful outcome.

In mediation of litigated disputes, generally the lawyer has advised her client that mediation would be a good idea before engaging in the expense and risks of full-blown litigation or trial. When there is that general "buy in" to the process, the outcome is much more likely to be successful than when one or the other (lawyer or client on either side) is "ordered" into a mediation unwillingly. Both parties approach the challenge of resolving the conflict with a view towards an open and honest exchange of information, evaluation of the risks and benefits of putting the dispute behind them and an openness to the kind of hard work and flexibility that is required to achieve an outcome with which both sides can be satisfied.

This is not, in my view, very different from parenting. If both parents are committed to raising the children, it will afford you the options of cooperation, corroboration, creative input and flexibility. If you do not have a willing "co-parent," and intend to continue practicing law, you need to enlist an "agent" (as you would a lawyer if you were named as a party to a legal action) as a back up. This could be a family member or a hired nanny—as long as they are equally committed to your mutual objective of raising healthy, well-adjusted kids.

Life's challenges, as legal disputes, will be easier to face if both parties are committed to getting through them without destroying the other.

Lesson No. 2: It is going to be hard. Life is full of surprises. And you will need to make some sacrifices along the way.

Parties who approach mediation with the notion that this is their opportunity to win the case generally leave disappointed. It is worth considering that in every mediation, the information gathering may reveal some surprises and that, if a dispute is to be “settled,” each side may have to give something up for the greater good of the parties’ mutual desire to resolve the conflict at that time.

In my case, my daughter’s illness was that pivotal moment when I had to call into question whether I could or should continue practicing law. I did, in fact, continue for another year until my third child was born. At that point, with one still being treated for cancer, a toddler and a newborn, I gave up my practice. It lasted about 6 months. I was, after all, President of a large charitable organization, Head of the Parent’s Association of my children’s nursery school, Co-President of the Temple Sisterhood —in other words, working many hours outside of my home for free. Surprise!

In hindsight, now that my children are 30, 28 and 26, I can confess that there were a lot of sacrifices made. When I returned to work part-time, our family income was also slashed. We have lived a comfortable life, but private school tuition was our priority over expensive summer camps and lavish vacations.

On the business side, I left my partnership-tracked insurance defense firm and worked as an independent contractor for a series of firms for several years. This meant I was diligently preparing for trial, but never became the trial lawyer or partner that I had aspired to be. When (twenty years after I became a lawyer) I began my career as a mediator, my list of contacts was not nearly as deep as it would have been had I made other choices in my career.

On the other hand, I made it to most of the school plays and sports events for all three of my children, although I was sometimes too late to pick up carpool. And yes, once in a while I showed up in court with just a little “baby spit up” on my neatly pressed business suit, too. Life was filled with surprises and sacrifices and I wouldn’t have had it any other way.

### Lesson No. 3: It is all going to work out all right.

At the end of every mediation hearing, I offer some perspective to each side as to all of the good reasons for arriving at the settlement they have achieved. In the case of a typical wrongful termination of employment matter, for example, I remind the plaintiffs that the amount they have now obtained would have been a very fair offer had the employer made it at the time of their termination. With the damages they are being awarded, they can move forward with their life, get out of some debt, pay their very competent lawyer for her time and costs and seek alternate employment, which will inevitably be more satisfying for them in the long run.

For the employers, I will remind them that they have now successfully ended the on-going attorneys’ fees and costs incurred by their own top-flight legal counsel and can proudly report back to their board or constituents that they have successfully bought off

the risk of an unfavorable result in court. The employee was probably not a good fit and the toll on the company of this litigation will now be behind them. Both sides can leave the mediation feeling like it worked out “all right.”

In the struggle to raise a family and maintain a legal career, looking back over my 33 years of practice, I can reach the same conclusion. Yes, there were sacrifices—in both my carefree lifestyle and my trial experience. But the kids turned out all right and I was happily surprised to find that I could re-commit myself to my legal practice after they were in high school and had each achieved some independence. My successful career as a mediator is a reward for all of those many years when I was struggling and juggling to balance the needs of my family with my own career aspirations. The bonus is that I have learned a few things about life and law along the way that were invaluable lessons.

Occasionally, during the course of a mediation, there will be an "aha moment" when the immediate course of action becomes clear to the disputants and/or their legal counsel and they have a heightened motivation to resolve the case quickly and on favorable terms.

As a young mom and lawyer, my “aha moment” came not when my first or even second child was born, but when a critical medical diagnosis demanded that my focus be laser-driven on family over career. Thankfully, my husband of 35 years agreed and both of us crafted careers with enough built in flexibility to manage raising our family with both success and joy.

Yes, there were surprises along the way and some sacrifices in both career and family, but in the end, not only did our children turn out all right, but my husband and I found that we had plenty of years of productivity and professional accomplishments after the children had gone off to college and become financially independent. What is more, we could pursue the careers that we each had envisioned for ourselves and still enjoy one another’s company in the many hours we have found in each day, now that the need to help with homework and attend various school-related, kid-related events is behind us.

As I advise the disputants in every mediation, when the going gets rough, “hang in there,” surprises and sacrifice are to be expected. Everything will be all right.