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Why Women Stay Quiet at Work, but Not in the Jury Room

by Suann Ingle, MS.

Do women fail to speak up, or do men just fail to listen? In the recent *New York Times Sunday Review/Women at Work* section piece entitled Speaking While Female – Sheryl Sandberg and Adam Grant on Why Women Stay Quiet at Work," the authors posit that women stay quiet at work because men's voices are more powerful. It struck me that gender has become an easy target. While quite true in many corporate conference rooms, the same is not true in jury deliberations. Gender, while important, is not determinative of the decisions that are made by juries at trial.

Full disclosure, my business partner and I are both first born children, both of us derive a strong sense of purpose from our work, both of us have cleared our own paths. And both of us had strong mentors (in addition to our parents): mine a proven force in the advertising world of Coca-Cola media-buying on Madison Avenue and Nancy's a war-veteran fly-boy turned successful trial attorney in BigLaw. Both gave little consideration to our genders as they offered advice, direction, support, example and confidence.

We are both trained to understand and to analyze the consequences of making our voice heard and the benefits of doing so. Put simply, or at least in the language of Sandberg's best-seller "Lean In: Women, Work and the Will to Lead," we feel as if we grew up already leaning in. It is disappointing that the current dialog about gender bias in the workplace is still a "thing" about which to "cuss and discuss." More disappointing is that it is clearly still a "thing" at all. One just has to read the comments section of the NYT January 12 op-ed for evidence of this.

I think these factors of birth order and experience are just a few of the factors that may matter more than gender when considering a decision to speak up in a mixed gender group discussing important issues. And, it is in this context that multiple assumptions presented within the *New York Times* piece are considered and questioned, in order to both contrast and appreciate the dynamics playing out in the hundreds of deliberation groups I have observed.

Be Aware of How to Talk to Women

The advocate who knows how to talk to women has an advan-

tage. Or, as one long time jury consultant told me, "I think that women talk when they understand (and the group understands) the importance of all voices being heard. And, if the attorney presentations help the jurors understand the case, regardless of how esoteric or technical the issues presented, women and men both talk." Trial lawyers who use part of their closing statements to emphasize the importance of good deliberation meaning that every voice is heard, help create a safe environment in the jury room.

When the trial attorney takes the time to educate jurors on deliberation, the jurors, often women, may decide that debate isn't a sport for them. They would rather spend their time in deliberations to listen, evaluate and then speak with intention, without a need to speak for speaking sake or for power. In the jury room, women have the same power to vote as do male jurors, and if taking the oath to serve seriously, those women will exercise that vote regardless of the male personalities in the jury room. When women jurors have been empowered by trial lawyer education on the importance of every voice being heard—whether they are right or wrong about your case, the jury room is one place women often won't back down, perhaps because they feel heard and equally important.

Be Aware of Cultural and Societal Factors

We live in a culture of interruption. There is so much noise with which to compete in order to be heard. What if silence on the part of any one individual in a group had nothing to do with gender? Further, there are a multitude of considerations when evaluating whether a person will speak up in a group setting. The following list is not all inclusive of the factors involved in individual decisions to keep silent in the workplace or the jury deliberation room (and each bears consideration when advising and aiding trial attorneys to present to persuade):

- age
- ethnicity
- geographic origin
- education level
- sexuality
- gender identity
- marital status
- mood – state of mind
- weight
- attire
- energy level
- pain level
- status of sleep health
- level of social interaction
- religious affiliation
- past experiences
- lifestyle activity level
- financial health
- level of presence, engagement
- level of job security (entrepreneur/employee/manager)
- extrovert/introvert
- culture of interruption
- generational identity
- self perceived power
- career

All these factors, individually and in combination, can contribute to either full participation or silence on the part of any individual group or jury member. And if we go back to the idea of gender and silence, the "Obama-style meetings" mentioned in the NYT piece as a solution to the problem of women and silence, are impossible to evaluate. Here is what Sandberg and Grant said:

> "As 2015 starts, we wonder what would happen if we all held Obama-style meetings, offering women the floor whenever possible. Doing this for even a day or two might be a powerful bias interrupter, demonstrating to our teams and colleagues that speaking while female is still quite difficult."

However, even President Obama does not apply the standards of the "Obama-style meetings" consistently. For example, on one particular day he called only on female reporters. That is not the answer to encourage a proper level of participation in any group. "Offering women the floor whenever possible," requires it to be someone's job to do so. But not every workplace or deliberation room gathering is graced with a foreperson who believes this is his or her job.

The idea that women speak up less than men could actually be perceived as a good thing for women – perhaps they think before they speak, and therefore, possibly, their thoughts are more clearly considered and articulated in other ways. And beware of mistaking their silence for agreement. If stifled at the front door, consider the "side window" they may find and how they enter it, because it represents a vote and the ability to sway.

I would love to say I have not personally experienced the silencing dismissal or the futile feeling of not being heard, but that would be my softened, Pollyanna view of my days in corporate America speaking along with my optimistic DNA that it wasn't "that bad". That said, my mentor was a large, loud, and most importantly, talented and successful media buyer for Coca-Cola. She never would have joined the ranks of women who explain "watch what happens when we speak up", as a dare to prove the dynamic is unfixable. And she would not have been happy if I did either.

Conclusion

Ultimately, it is clear that Sandberg and Grant are looking for the great "bias interrupter." And so are we, as trial consultants – I just think we are having more success.

When we help trial attorneys take note of any of these factors listed above, in addition to gender, to understand to whom exactly they are presenting, we also ultimately help them persuade.

Suann Ingle, M.S., has been helping attorneys and executives deliver great presentations since the days before PowerPoint. Working with trial teams in national venues, from pitch to verdict, Suann integrates the principles of graphic design, jury research and analysis, simple and purposeful communication techniques, and interactive presentation technology to achieve consistent messaging and effective representation for her clients. You can read more about Ms. Ingle at her website.

SUANN INGLE, MS
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Suann Ingle is one of the country's top visual communication consultants for trial attorneys and litigants. An expert graphic designer, she is also a trusted partner who offers decisive advice on presentation strategy and execution. After thousands of hours in the hot seat in courtrooms and arbitration hearings, Suann remains calm, focused and unflappable regardless of circumstances. This enables her to sense what's coming, and adjust visual communication on the fly to keep judges, juries and arbiters focused on the merits of the case. Suann's talents and experience take on even greater power when she integrates her graphics and presentation expertise with jury research and mock trials. With more than 500 cases behind her, she has developed a keen sense of how people learn, retain, and decide issues based on visual evidence. She and her team can convert this understanding into compelling messages with speed and precision, even when headline engagements require around-the-clock support.

Since entering the field in 1994, Suann has consulted on a wide range of litigation matters, including intellectual property, white collar, insurance, financial services, employment, and complex business disputes. She has extensive experience in scaling and managing trial support teams and has helped deliver successful outcomes in venues throughout the United States and in Europe.

Her visual expertise is grounded in intellectual knowledge, including a Master of Science degree in Communications Design from Pratt Institute. When she is sketching her ideas, she can explain the principles behind them – and why they increase the odds of winning. Her personal warmth and deep educational background also enable her to teach, develop and inspire other graphics professionals to embrace the challenges of high-stakes litigation as a career.

Prior to entering the field of trial consulting, Suann Ingle spent seven years at Coca-Cola where she managed the Creative Services Department. In 1996, she joined TrialGraphix and was instrumental in establishing its New York office. At TrialGraphix, Suann managed the office and provided clients with presentation consulting at trial. She also spent three years at DecisionQuest, where she assisted legal teams in trial by providing visual solutions to complex, high-stakes matters. Before starting her own firm, Suann worked at FTI Consulting, Inc., leading the New York office of the Trial Services Division.