

3 Tips For Women Who Want To Argue At The Supreme Court

Law360 (December 12, 2019, 8:42 PM EST) -- Women should think outside the billable-hour box and assert themselves more to land opportunities to argue before the [U.S. Supreme Court](#), according to members of a panel who discussed the issue Thursday in Chicago.

Although private law practice can open some doors for women to appear and argue before the Supreme Court, it's pro bono and public-sector work that tends to provide a quicker route to 1 First Street, panelists said at a discussion of the lack of women in Supreme Court advocacy.

Having a strong support system that extends from the workplace to the family unit also plays a significant role in helping women achieve their high court aspirations, said several members of the panel, which included former [Illinois Attorney General Lisa Madigan](#), now a partner at [Kirkland & Ellis LLP](#), former Cook County State's Attorney Anita Alvarez, two former state solicitors general, two law school professors and other law firm leaders.

Consider Public Sector or Pro Bono Work

Working in big law firms may seem like an obvious line connecting courtroom advocacy to Supreme Court appearances, but that isn't always the case, several panelists said.

Part of the reason for the lack of female advocacy in the Supreme Court is that women aren't in the right predicate jobs that can lead them there, said Jill Wine-Banks, a legal contributor and analyst for MSNBC and former state solicitor general. A small number of cases make it to the nation's high court in the first place, "and if you're in private practice, it's probably even fewer," Wine-Banks said.

"If you're working in the public sector ... or if you're a government attorney, you are far

more likely to get to the Supreme Court," she said. "That's just simply how it is."

Female lawyers should also start taking up more pro bono appeals from the federal appellate courts because "those are the cases that end up going up to the Supreme Court," said Sarah O'Rourke Schrup, director of the Northwestern Pritzker School of Law's Appellate Advocacy Center.

Those cases not only can open a door to the Supreme Court but also present an opportunity to gain valuable appellate experience for cheap, said Carolyn Shapiro, co-director of Chicago-Kent College of Law's Supreme Court Institute and former state solicitor general.

"From the perspective of the firm, it's a way for you to get trained and get experience that's relatively low-investment on their part," she said.

Put Yourself Out There

Women have to put themselves out there more if they want to be the ones at the helm of an appeal before the nation's high court, the panelists said.

Even though male law firm leaders may recognize the advocacy gender gap and support efforts to close it, there can still be pressure to give that "jewel" of a Supreme Court case to someone else, like a more experienced partner or a colleague who'd like another high court appearance under their belt, Schrup said.

But for those female lawyers who are interested and ready for a Supreme Court case, "you've got to go for it. You have to ask for it," Alvarez said.

There can be several attorneys champing at the bit to take the lead at the high court. With how few cases get heard in a year, Supreme Court cases are rarities, "so who's going to grab that gem?" she said.

"Is it going to be that guy who's been a partner there for 30 years and he wants it as opposed to you, even though you might be the one who deserves it?" Alvarez said. "When you are in those positions ... you have to push yourself and go for it."

Develop a Sound Support System

Having a strong network of colleagues and family to support the work that goes into preparing for arguments before the Supreme Court is also an invaluable resource, Shapiro said.

"We talk a lot about making sure that professional settings for women ... [offer a] family-work balance, but I also had to set up boundaries with my family," said Shapiro. She said she wouldn't let her family stay in the same hotel room as her as they traveled for her high court oral arguments.

Cindy Hyndman, a shareholder at [Robinson Curley PC](#), said she didn't go that far but agreed that strong support systems are crucial on the path to arguing in the Supreme Court. She said this was particularly true in her case, because the high court granted her certiorari petition one week after her mother died.

From the moment the petition was granted until arguments were held about four months later, all she focused on was her Supreme Court case, she said. But she had a very supportive spouse and "a very supportive network at the firm," she said.

"I said to my partners, 'This is all I'm going to be able to do until the end of February,' and they said, 'Do it. Go for it,'" Hyndman said.

--Editing by Amy Rowe.

For a reprint of this article, please contact reprints@law360.com.

[View comments](#)