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**PROGRAM MATERIALS**  
**Program #32264**  
**November 18, 2022**

## **Anatomy of a Civil Tax Controversy**

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In Partnership with West Legal Edcenter  
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# Overcoming Gender Bias in the Legal Profession



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and Breaking Through Bias*

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# Agenda

1

**The Gender Achievement Gap in the Legal Profession**

2

What's So Great About Diversity and Inclusion

3

Why Don't We Have More Gender Diversity and Inclusion

4

What Can Be Done

5

Wrap-Up

# The Legal Profession Is Highly Gendered



Most legal organizations are led and controlled by men.

They are suffused with masculine norms, values, and expected behavioral styles.



# Women Lawyers

Don't advance as far or as fast as men

Earn Less

Fewer leadership positions and partnerships

Underrepresented in organizational governance

Gender harassment

Excluded from informal networks



# ABA Survey on What Pushes Women Lawyers Out of Law



- 82% of women mistaken for lower-level employees (not one male said so)
- 54% of women (1% men) responsible for arranging childcare
- 34% of women (5% men) leave work for children's needs
- 60% of women (46% men) have left firms for caretaking commitments
- 39% of women (11% men) responsible for cooking meals

# ABA Reports (2019, 2020, 2021)

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- Don't advance along same trajectory as men
- Far less access to the building blocks for success
- Face pay and recognition discrepancies
- Criminal lawyers are 141% more likely to leave the private practice of law than women in other legal fields

# 2019 ABA Report

## Women 4 to 8 Times More Likely to be...

- Overlooked for advancement
- Denied salary increases or bonuses
- Treated as “tokens” for diversity
- Lack access to business development opportunities
- Perceived as less committed to their careers
- Lack access to sponsors





# 2020 ABA Report Women of Color...



- Face a lack of institutional awareness about problems
- Make up only 2% of equity partners at large law firms (not changed in the past 20 years)
- See disparities between themselves and their white counterparts
- Face barriers, biases, and microaggressions that isolate them

# 2021 ABA Report



- Disconnect in perceptions
- Women reported disparities in compensation, lack of support, and a failure of male leadership to recognize that there is a problem
- Men reported that things are going fine, didn't see a problem

# *American Lawyer* Prediction



Legal profession will not reach  
gender parity at senior levels until  
2181



# ABA Mission Statement

## Eliminate Bias and Enhance Diversity



Promote full and equal partnership in the association, our profession, and the justice system by all persons.

Eliminate bias in the legal profession and the justice system.



# ABA Model Rule 8.4(g)

## Gender Bias

Professional misconduct (unethical) to “engage in conduct that the lawyer knows or reasonably should know is ... discrimination on the basis of ... sex ... in conduct related to the practice of law.”



# ABA Resolution 10A (2018)



Encourage law firms to develop initiatives to provide women lawyers with opportunities to gain trial and courtroom experience.



# ABA Resolution 108D (2018)



Urge courts to extend *Batson v. Ky*,  
476 U.S. 79 (1986), to prohibit  
discrimination against jurors on the  
basis of sexual orientation or gender  
identity/expression



# ABA Resolution 300 (2018)



Urge legal employers not to require  
mandatory arbitration of sexual  
harassment claims





# ABA Resolution 302 (2018)



Urge legal employers to adopt and enforce policies that prohibit, prevent, and redress harassment and retaliation based on sex, gender, gender identity, and sexual orientation



# ABA 10-Year Lawyer Profile



Women and minorities have made only minimal gains in joining law firms

- 2011 – Women at 22%
- 2021 – Women at 37%

Black and Native American lawyers, representation decreased slightly in past 10 years

Asian lawyers gained less than 1% point

Hispanic lawyers gained less than 1% point

Multiracial now at 2%

Hawaiian/Pacific Islanders at 0.3%

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**1** The Gender Achievement Gap in the Legal Profession

**2** **What's So Great About Diversity and Inclusion?**

**3** Why Don't We Have More Gender Diversity and Inclusion in the Legal Profession?

**4** What Can Be Done

**5** Wrap-Up

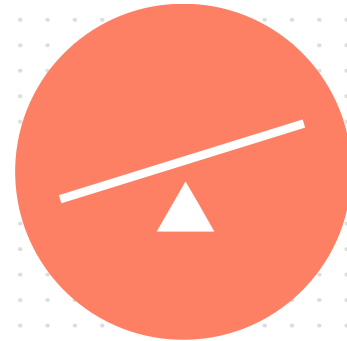
# Diversity is Morally Right



Equality

Freedom

Fairness



# Diversity is Profit-Enhancing



Different perspectives

Different ideas

Clearer strategies

More innovation

Clients demand it



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# What's the Bias We Need to Break?

# Feminine Stereotypes

Communal



Warm

Pleasant

Caregiving

Modest

Emotional





# Masculine Stereotypes

Agentic



Decisive

Assertive

Independent

Competitive

Tough



# Social Identity Stereotypes



- Race
- Ethnicity
- Age
- Geographic
- Education
- Motherhood
- LGBTQ+





# What Biases Flow From These Stereotypes?

Affinity Bias

Out-group Bias

Gender Bias



# Affinity Bias



People prefer working with, mentoring, and promoting people who are like them.

When men run legal organizations, women are thought of last.



# Out-group Bias

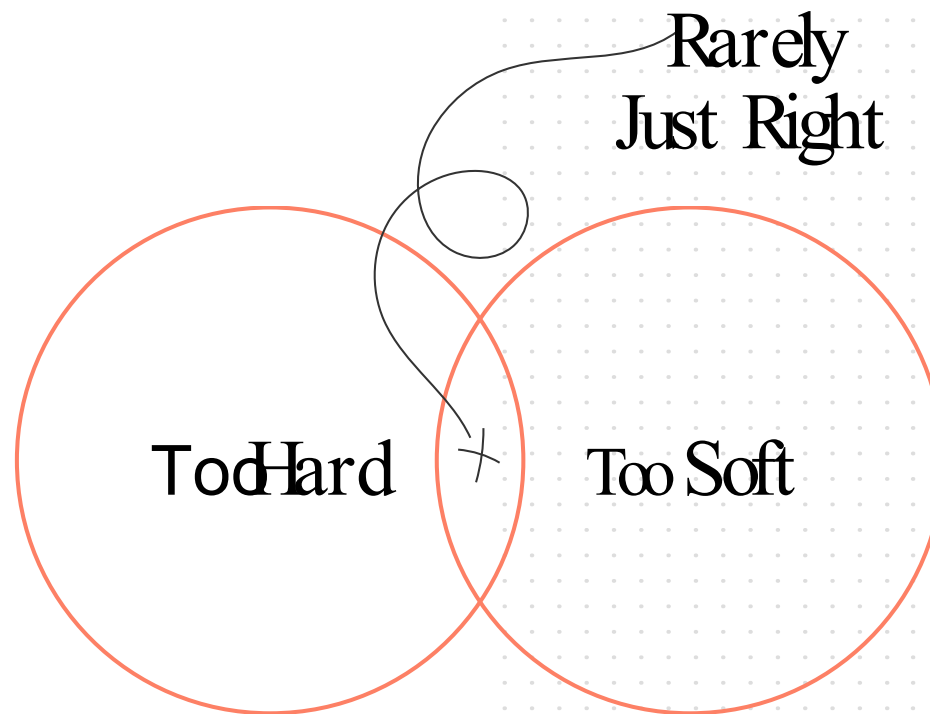


Leads men to exclude women from informal networks

Often expressed through (intentional or unintentional) exclusion, incivility, harassment, and microaggressions

Out-group members are seen as different from (and not as good as) in-group members

# Gender Bias Goldilocks Dilemma



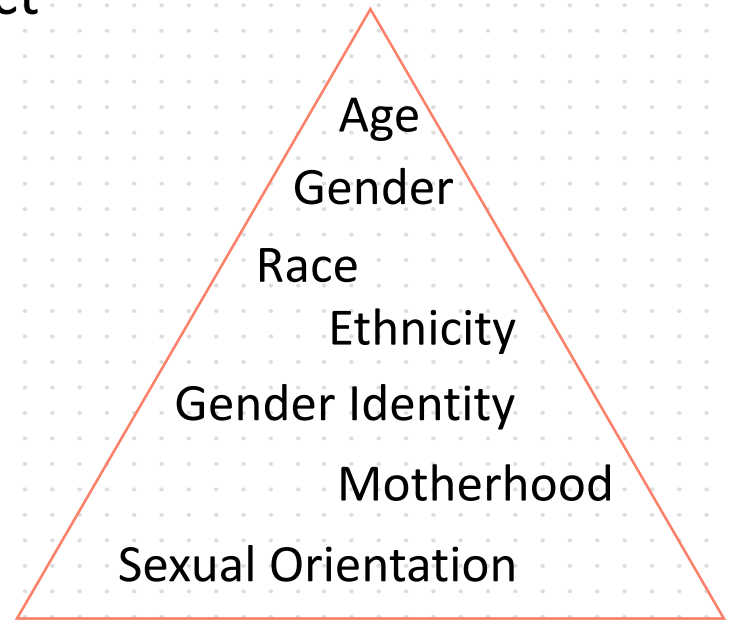
# Intersectionality

Gender isn't the whole story



Different social identities that intersect with gender—race, ethnicity, age, motherhood, sexual orientation, and gender identification—carry different stereotypes.

Workplace experience is in large part due to the characteristics ascribed to women because of stereotypes.







Women of color experience verbal and behavioral slights or snubs at a disproportionate rate to white women.



# How Are These Biases Manifested?

Women Lawyers are often

- Ignored, excluded, and spoken over
- Told they're not professional enough (even when acting as others do)
- Criticized for behavioral characteristics
- Treated with incivility
- Not given credit for accomplishments
- Passed up for promotions

# Consequences of Bias for Women Lawyers



Don't get the same challenging career enhancing projects

Are not promoted as quickly or as often as men

Hold far fewer leadership positions

Experience gender harassment

Are not included in networks, social gathering, and workplace interactions

# Bias is Often Unconscious



We can be unaware of our own biased and exclusionary behavior.

Our nonverbal behavior sends signals of uncomfortableness, mistrust, or dislike.

This happens when negative out-group stereotypes are triggered



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# How Can We Break the Bias?

# We Cannot Debias Ourselves

Antibias training (without more) doesn't work

We can be unaware of our own biased and exclusionary behavior.

Our nonverbal behavior sends signals of uncomfortableness, mistrust, or dislike

# We Can See Bias In Other People

## And interrupt it!



# What Women Can Do for Themselves

## Avoid the Goldilocks Dilemma

- Verbal
- Nonverbal

## Develop

- Positive mindset
- Resilience
- Confidence
- Coping sense of humor

Call bias out (now or later)

# What Men Can Do

Mentor

Support

Sponsor

Coach

Intervene

Interrupt & Call Out Bias (Now or Later)

Role Model

# Who Can Be An Ally?

## Everyone!

# Everyone Has a Part to Play

Take someone different from  
you under your wing

Call out biased behavior

Build inclusive workplaces

Prevent gender harassment

Model inclusiveness

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# Join the Discussion



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# Take the Assessment and Survey at [AndieAndAI.com/surveys](https://AndieAndAI.com/surveys)



## The Assessment

How well do you navigate  
gender bias in the workplace?

## The Workplace Survey

Situations you may experience  
or observe at your workplace.