



PROGRAM MATERIALS

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Recognizing and Combating Bias in the Legal Profession: What Every Lawyer Needs to Know

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Recognizing and Combating Bias in the Legal Profession

What Every Lawyer Needs to Know



About Me

Dafney Dubuisson Stokes, Esq.

Dafney Dubuisson Stokes is the Operations Counsel at Forthright Solutions, a global provider of process design, automation, and management solutions and administrator of the state of New Jersey's No-Fault Insurance Personal Injury Protection (PIP) arbitration program under the State's Automobile Insurance Cost Reduction Act. As Operations Counsel, Ms. Dubuisson Stokes oversees New Jersey operations and provides counseling to the management team and employees on a wide range of legal matters - including high-level issues that ensure the meeting and advancement of the program's regulatory and statutory goals. Ms. Dubuisson Stokes' career includes leadership roles at Wong Fleming, P.C., where she served as a Partner, representing Fortune 100 companies, leading complex litigation, and creating innovative operational processes. A graduate of Temple University Beasley School of Law and Boston College she is also a respected speaker and author on legal ethics, diversity, and inclusion. Ms. Dubuisson Stokes is also a member of the New Jersey Supreme Court Ethics Committee (District IIIB) and on the Board of the Marks Cares, Inc. in Montclair, New Jersey, with a mission to eradicate homelessness throughout New Jersey. She has also been recognized by NJBiz as a 2023 Leader in the Law and was selected as a 2025 Super Law for the State of New York. Ms. Dubuisson Stokes is licensed to practice law in New Jersey (2013), New York (2018), Ohio (2022) and Pennsylvania (2012).

Program Agenda

I	Understanding the Landscape of Bias	15 min
II	How Bias Shows Up in Legal Practice	15 min
III	Practical Strategies for Mitigating Bias	15 min
IV	Ethics & Professional Responsibility	7 min
V	Q&A & Closing	3 min

Questions welcome throughout

SECTION II

Understanding the Landscape of Bias

Defining the Three Forms of Bias

Implicit Bias

Unconscious attitudes and stereotypes that affect decisions without our awareness. Even well-meaning professionals carry these.

Explicit Bias

Conscious prejudices and deliberate discrimination. Includes overt acts, intentional exclusion, or deliberate stereotyping.

Structural Bias

Systemic policies, practices, and norms that produce inequitable outcomes, even when no individual intends discrimination.

All three forms can coexist — and often reinforce one another — in legal settings.

Why Even Good Lawyers Have Bias

The brain takes shortcuts.

The human brain processes 11 million bits of information per second but can consciously handle only about 40. Heuristics and pattern recognition fill the gap.

Experience reinforces patterns.

The legal profession has historically been homogenous. Our professional environments can reinforce existing biases, not eliminate them.

Stress amplifies bias.

High-pressure environments — like courtrooms, negotiations, and hiring decisions — increase reliance on unconscious assumptions.

Awareness is not immunity.

Research consistently shows that believing oneself to be unbiased is itself a form of bias. Awareness is the first step, not the solution.



Scenario- Bias

An experienced litigator walks into the courtroom and automatically assumes the young woman sitting at opposing counsel's table is a paralegal — not the lead attorney.

Discussion Questions:

- Where did that assumption come from?
- Have you witnessed — or experienced — something similar?
- What does this tell us about how bias forms?

SECTION III

How Bias Shows Up in Legal Practice

Where Bias Manifests in Legal Settings

Hiring & Promotion

Inequities in recruiting, mentorship access, and advancement for women, attorneys of color, and other underrepresented groups.

Workplace Culture

Microaggressions, exclusion from informal networks, and double standards for professional behavior.

Client Representation

Assumptions about client credibility, communication styles, or jury appeal can compromise the quality of advocacy.

Intersectional Bias

Compounding effects when multiple aspects of identity (race, gender, age) intersect and amplify discriminatory treatment.

Courtroom Dynamics

Judges, juries, and opposing counsel may respond differently based on attorney identity, name, or appearance.

Bias in the Legal Profession: By the Numbers

82%

of women attorneys reported being mistaken for non-lawyer staff

ABA / Judicature, 2018

38%

of female lawyers reported being bullied
— vs. 15% of male lawyers

IL Supreme Court Commission on Professionalism

25%

of women attorneys reported experiencing sexual harassment at work

ABA Bias Study, 2018

50+%

of women of color reported being mistaken for custodial, administrative, or courtroom staff — compared to only 7% of white male attorneys

ABA Report on Women of Color, 2018

28%

of female lawyers said they left a legal job specifically due to bullying, compared to only 10% of male lawyers

IL Supreme Court Commission on Professionalism



Scenario 1 — The Workplace

A senior partner consistently assigns high-profile cases to associates who remind him of himself — same law school, same background — while equally qualified associates from different backgrounds are routinely passed over.

Discussion Questions:

- Is this intentional? Does intent matter legally or ethically?
- What are the professional and firm-level consequences?
- What structural changes could prevent this pattern?



Scenario 2 — The Courtroom

A judge repeatedly mispronounces an attorney's name despite being corrected, and tends to grant more speaking time to opposing counsel during hearings.

Discussion Questions:

- How does this affect the client's representation?
- What can the attorney do in the moment? After the hearing?
- What recourse exists within the court system?



Scenario 3 — Client Representation

An attorney unconsciously spends less time preparing a client for testimony because she assumes — based on the client's appearance — that they will not present well to the jury.

Discussion Questions:

- How does this implicate the duty of competence? (Rule 1.1)
- How does it affect zealous advocacy?
- How can attorneys build in checks on their own assumptions?

SECTION IV

Practical Strategies for Mitigating Bias

Strategies to Mitigate Bias in Practice

01 Slow Down Decisions

Pause before evaluating candidates, assigning work, or making advocacy calls. Deliberate processing reduces reliance on heuristics.

02 Structural Interventions

Blind resume review, structured interviews, diverse hiring panels, and equitable work assignment systems.

03 Inclusive Communication

Use neutral, consistent language with all clients and colleagues. Be alert to assumptions embedded in how we communicate.

04 Accountability Systems

Track promotion rates, assignment patterns, and client outcomes by demographic indicators. What gets measured gets addressed.



Scenario — Bystander Moment

During a firm meeting, a junior associate's idea is overlooked. Minutes later, a senior male colleague restates the same idea — and is praised for it.

A Practical Intervention Framework:

Redirect

"I want to make sure we heard [Name]'s idea fully — can we go back to what she said?"

Amplify

"[Name] made that point earlier — I'm glad [Colleague] agrees. Let's credit the original source."

Follow Up

Check in privately with the affected colleague after the meeting to offer support.

SECTION V

Ethics & Professional Responsibility

Relevant Model Rules of Professional Conduct

Rule 8.4(g)

Misconduct

Misconduct: Prohibits conduct that the lawyer knows or reasonably should know constitutes harassment or discrimination based on protected characteristics.

Rule 1.1

Competence

Competence: Requires legal knowledge, skill, thoroughness, and preparation. Bias that undermines client preparation or advocacy implicates this rule directly.

Rule 2.1

Advisor

Advisor: Requires candid advice based on the client's situation. Assumptions rooted in bias can impair the objectivity this rule demands.

Note: State bar rules may vary. Always consult your jurisdiction's specific ethics rules.



Ethics Scenario

A client explicitly instructs his attorney: "I don't want a woman or someone who looks foreign negotiating my deal — it will make me look weak."

Discussion Questions:

- What are the attorney's ethical obligations under Rule 8.4(g)?
- Does the attorney-client relationship require compliance with this instruction?
- How should this be documented and addressed with the client?

Key Takeaways

1

Bias is universal — not a character flaw. Awareness is the necessary first step, not the finish line.

2

Bias affects every dimension of legal practice: hiring, advocacy, communication, and the courtroom.

3

Mitigation requires structural solutions, not just individual intention.

4

Ethical obligations require us to actively address bias — not just avoid overt discrimination.

5

You have the tools to make your practice more equitable — starting today.

Questions & Closing Discussion

Thank you for your participation.

Resources for Continued Learning:

- ABA Commission on Racial and Ethnic Diversity in the Profession
- Project Implicit (implicit.harvard.edu) — Implicit Association Tests
- National Center for State Courts — Helping Courts Address Implicit Bias