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**Addressing Gender Bias in the Legal Profession: Differences in Persuasion and Power**

Presented to ACC SD  
by  
Michelle Greer Galloway  
Jan. 10, 2023

attorney advertisement

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## Overview

- Why Discuss Gender in 2022?
- Women in the Legal Profession
- Paradoxes for Women
  - Competence
  - Asking for What We Want
  - Self-promotion
- I'm The Real Deal!
  - Communication tips
  - Other strategies for advancement

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## 2022—Why Discuss Gender?

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### Women in Firms and Law Departments

- Assume:
  - Firms or legal departments want female attorneys
  - Male attorneys want women to stay
  - Women want to stay
- Question:
  - Women don't stay. Why?

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## Gender is “Sticky” With Humans

- Experiment
  - One group: decorate rock as creatively as possible
  - Other group: anthropomorphize with “uniquely human qualities”
- Results
  - Both groups more likely to ascribe gender than other social categories like race or age
  - Anthropomorphizing group: “only characterization that predicted how human a rock appeared was gender.”
    - See *Why Taking Gender Out of the Equation is So Difficult*, [www.gsb.Stanford.edu/insights/why-taking-gender-out-equation-so-difficult](http://www.gsb.Stanford.edu/insights/why-taking-gender-out-equation-so-difficult)



Photo by Bicanski on  
Pixnio

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## Bias In Language

- Implicit belief that a word describing an undefined person describes a man
  - “He” as generic pronoun referring to all individuals
  - Suffix “man” such as chairman

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Gender Neutral Language

Gendered Noun	Gender-neutral Noun
Man	Person, individual
Mankind	People, human beings, humanity
Freshman	First-year student, frosh
Man-made	Not Machine-made, synthetic, artificial
Chairman	Chair, Chairperson

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What Do We Mean?

A Venn diagram consisting of three concentric circles. The outermost circle is labeled 'Gender Expression'. Inside it is a circle labeled 'Gender Identity'. Inside that is the innermost circle labeled 'Sex'.

A cartoon drawing of a person's outline. Inside the head is a brain. In the torso area is a gender symbol (a circle with a cross and an arrow). To the right of the head are two large, stylized eyes.

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Sex, Gender and Gender Expression

- Sex: assigned at birth based on physical characteristics
- Gender identity: sense of self with respect to being male, female, both, neither or any other identity
- Gender expression: manner in which one outwardly demonstrates gender
  - See Adam R. Chang, Stephanie M. Wildman, *Gender In/Sight: Examining Culture and Constructions of Gender*, 18 Geo. J. Gender & L. 43 (2017)

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More Likely

Men are

2X

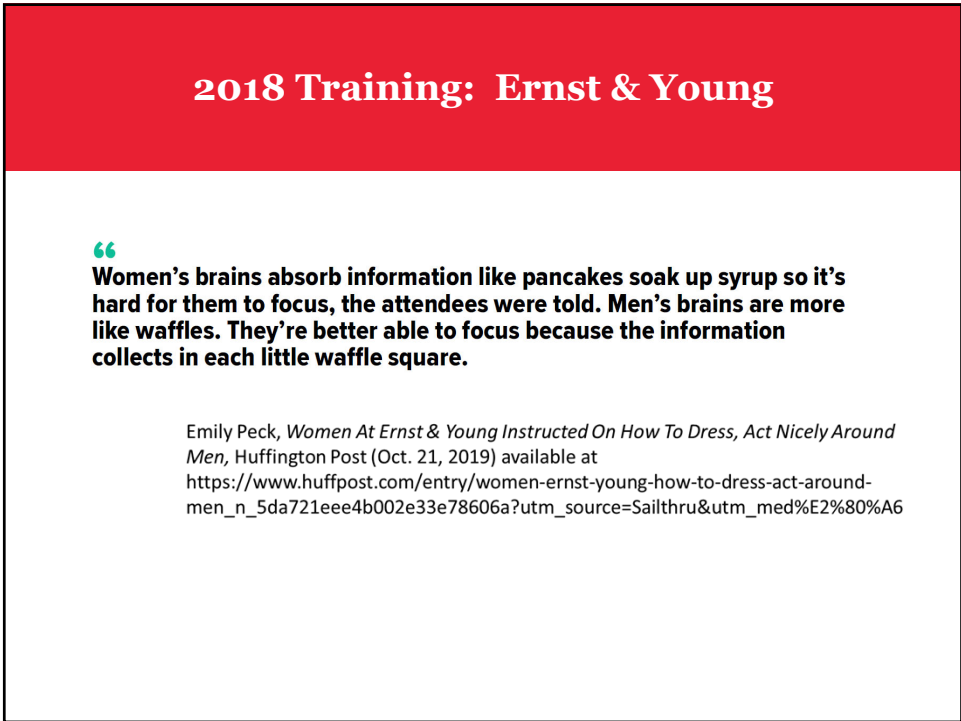
More likely to become partners than women

Sam Skolnik, *White Men Land Firm Partnerships at Fastest Rates, ABA Finds*, Bloomberglaw.com (May 24, 2022)

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NASA

- For Gen Z, humans have always lived in space
- In 2019

SPACE

NASA Scraps First All-Female Spacewalk  
For Want Of A Medium-Size Spacesuit

March 26, 2019 · 7:49 AM ET

 MATTHEW S. SCHWARTZ

<https://www.npr.org/2019/03/26/706779637/nasa-scraps-first-all-female-spacewalk-for-want-of-a-medium-sized-spacesuit>

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Women On Boards

- 2019

**There is now a woman board member  
at every S&P 500 company**

PUBLISHED THU, JUL 25 2019·8:36 AM EDT | UPDATED THU, JUL 25 2019·2:35 PM EDT

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# Women In The Legal Profession

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## Public Perception: Women In Law United States

Five have been women

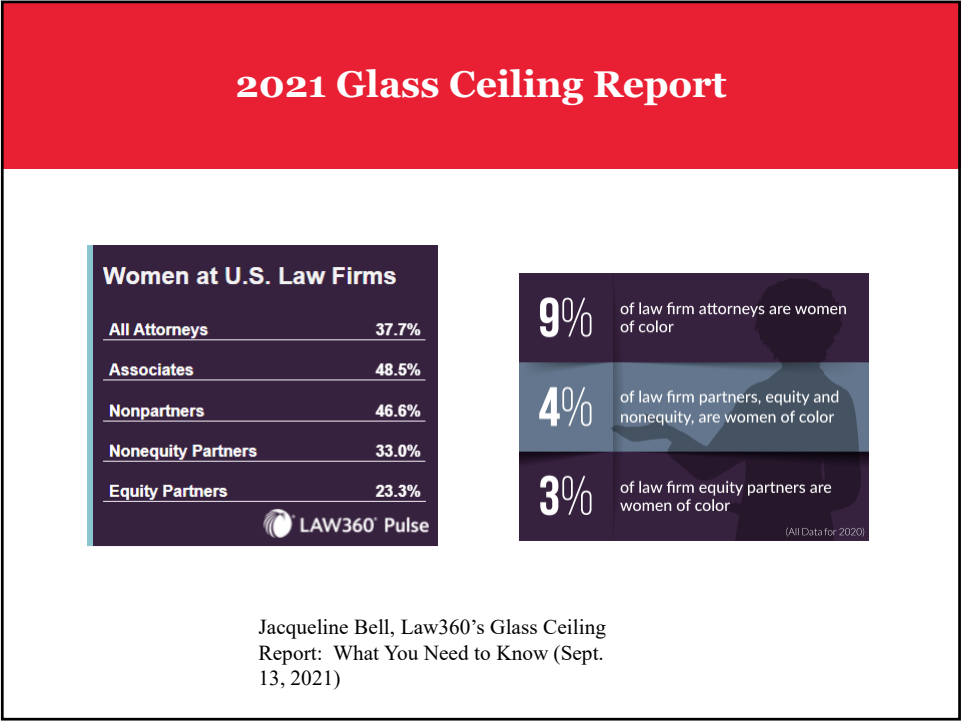


Portrait of the Supreme Court Justices. Top row, from left, Sandra Day O'Connor, Ruth Bader Ginsburg and Sonia Sotomayor. Bottom row, from left, Elena Kagan and Amy Coney Barrett.

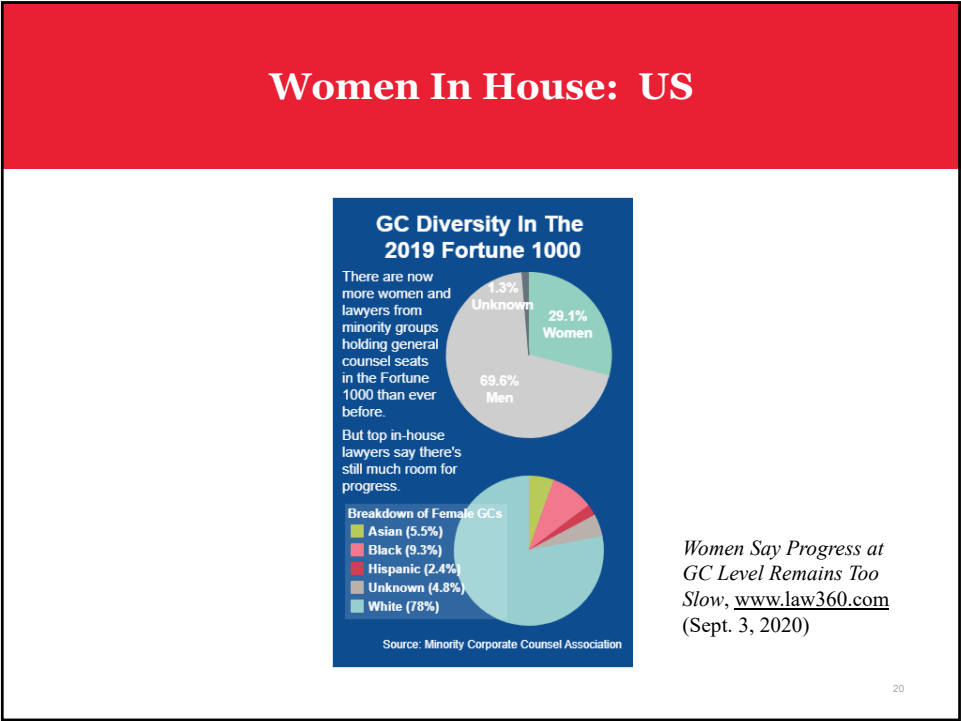


Patricia Lee Refa, Immediate Past President, 2021-2022

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### Legal Diversity Efforts

- Diversity Lab
  - “Mansfield Rule”
- WILEF Certification
- Client “pledges” and required DEI data
  
- But what happens when . . . .

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### 10 Years – Little Progress

- “The short version of the data story over the last decade is that not a lot has changed”
  - *Promotion and Retention of Women in Law Firms*, National Association of Women Lawyers (April 2021)

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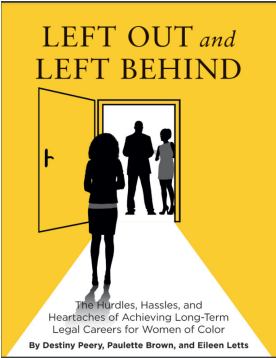
New ABA Study Re Women In Profession

- “In Their Own Words: Experienced Women Lawyers Explain Why They Are Leaving Their Law Firms and the Profession,” ABA (May 3, 2021)
  - Blatantly unfair compensation often cited
  - “The proportion of female partners has increased only marginally since the 1990s, even though law firms hire female associates in about equal proportions as male associates, the report said. Women of color fare even worse, with the highest rate of attrition from law firms.
  - Women make up 24% of partners as compared to 15% in 1999. After seven years of law practice, men are two to five times more likely to become partners than women.
  - Women also lag in pay. In its *Profile of the Legal Profession*, the ABA reported that male equity partners earned 27% more than female equity partners.”
    - ABA Press Release, May 3, 2021

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Women of Color in Law

- ABA Report, *Left Out and Left Behind, The Hurdles, Hassles, and Heartaches of Achieving Long-Term Legal Careers for Women of Color* (2020)



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## Misgendering the Judge

- Justice Warner wrote dissent to address misgendering
  - “I write, however, to address the motion for rehearing’s reference to me and my dissenting opinion. In the motion for rehearing, the movant states, “Warner, J. opined *he* would hold that § 39.806(1)(f) is unconstitutional . . .” (emphasis added).<sup>1</sup> The appellate panel is known, and a quick look at our court’s website would reveal that the movant has clearly used the wrong personal pronoun in referring to me.<sup>2</sup> Granted, gendered pronouns are tricky in this day and age, but “he” is not the default universal personal pronoun.”
  - *J.S. v. Dept. of Children and Families*, Case No. 4D21-1923 (Fla. Dist. Ct. App. 4<sup>th</sup> Dist. Jan. 19, 2022)

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## “Tenacious Grip That Male Image Has” in Law

- “More importantly, this error reveals the tenacious grip that the male image has in the legal profession to the detriment of women who have joined the profession in droves since I began practicing forty-eight years ago. It still is an issue that women are mistaken for court reporters or paralegals by both judges and lawyers. No man would suffer that same misidentification, which relegates the woman to a less important role.”

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### **“Male-Centric” Image of Lawyers**

- We all need to be cognizant and remove from our thinking the male-centric image of lawyers and judges. It is not hard, but it requires raising one’s consciousness of the issue. And it is somewhat of a surprise that it has persisted for so long. After all, the iconic figure holding the scales of justice is a lady.”

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## **Women In The Legal Profession: Pay Gap**

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Leaving Law? Pay Gap

**Why do female lawyers leave law firms? 'Blatantly unfair' compensation often cited, new ABA report says**

BY DEBRA CASSENS WEISS ([HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/4/](https://www.abajournal.com/authors/4/))

MAY 3, 2021, 3:45 PM CDT

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Compensation systems that are “blatantly unfair” and “rife with gender bias” were most often cited as the reason female attorneys left their law firms, according to a new ABA report based on focus groups and interviews with experienced female lawyers.

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Pay Gap Widening

**Pay gap has widened for male and female partners in larger law firms, new report says**

BY DEBRA CASSENS WEISS ([HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/4/](https://www.abajournal.com/authors/4/))

SEPTEMBER 15, 2020, 11:30 AM CDT

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Gender Pay Gap: UK

Gender Pay Gap Narrows Slightly at U.K.'s Magic Circle Firms

By Stephanie Russell-Kraft

Apr. 08, 2019 4:52AM

• Pay gap remains at five Magic Circle firms, indicating more men have higher paying jobs

• Among partners, the gender pay gap is even wider

Although top U.K. law firms as a whole have narrowed their gender pay gaps, statistics show that men still dominate the highest-paying jobs.

Two years after enactment of new reporting regulations, a Bloomberg Law analysis of figures reported by the five Magic Circle firms found that on average across those businesses, women's median hourly wages were 29.7 percent lower than men's in 2018.

That's better than 2017, when women's median hourly wages at Magic Circle firms were 31.1 percent lower than men's. Magic Circle firms include Allen & Overy, Clifford Chance, Freshfields, Linklaters, and Slaughter & May.

The top law firms still lag behind the rest of the U.K. private sector. Across all of the the 8,424 private sector employers that reported data, the 2018 median gender pay gap was 17.9 percent in 2018, according to the Government Equalities Office.

Bloomberg Law, *Gender Pay Gap Narrows Slightly at U.K.'s Magic Circle Firms*, April 8, 2019

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Gender Pay Gap

Does public shaming work? UK bot tests theory with gender pay gaps



hrdive.com/news/uk-gender-pay-gap-laws/620216

Caroline Colvin

The premise is simple. "Employers, if you tweet about International Women's Day, I'll retweet your gender pay gap," the Twitter bio reads. True to its word, this U.K.-based bot quote-tweeted spirited IWD posts spotlighting an inconvenient truth: Companies that speak up for feminism are often underpaying their women, too.

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GC Pay Gap

### GC Pay Rising As Women Surpass Men For 1st Time

By Sue Reisinger

Law360 (September 14, 2021, 4:47 PM EDT) -- General counsel pay is rising, and women have begun gaining ground in their fight for parity with male counterparts, earning a higher median paycheck in 2020 than men for the first time, a new study indicated.

The 2021 General Counsel Pay Trends report by Equilar Inc. found that women general counsel at "Equilar 500" companies were awarded \$3 million at the median, compared with \$2.7 million for men. Equilar 500 companies are the largest U.S. public companies by revenue.

The report also showed that the number of female general counsel continues to grow. Women held 36.3% of the general counsel roles at Equilar 500 companies in 2020, nearly a 50% increase in share from 2016, when more than three-quarters of general counsel were men.

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Judge Notes Gender Pay Gap

- Magistrate Judge Timothy R. Rice awarded \$765K in legal fees in age bias suit
  - “However, I also find that Saint-Antoine and Mattiacci are entitled to the same rate as fellow shareholder, Console, who served solely as a consultant on the case. Historically, women in law earn less than their male counterparts, a discrepancy that may reflect hidden bias. . . . Saint-Antoine’s experience and expertise on several of the pre-trial motions was critical in allowing the case to move to trial and Mattiacci’s courtroom skills were pivotal to Ray’s successful verdict. Their hourly rates must reflect such expertise and skill. Mattiacci’s age also is irrelevant to the value of her legal talent, which has contributed to her status as a shareholder and as a formidable advocate for her clients in challenging cases. See Pet., Ex. 4, ¶ 11. Attorneys of comparable skill and ability merit equal compensation without regard to gender or age. As unremarkable as that statement sounds, the reality is that fee awards are often based on status and not performance.”
  - *Ray v. AT&T Mobility Services*, Case No. 2:18-cv-03303 (E.D. Pa. Apr. 22, 2022)

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# Women In The Legal Profession: Marital and Parental Status

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## 2021 Throw Down


*Are women lawyers paying enough attention to upward mobility?*

BY SUSAN SMITH BLAKELY

JUNE 29, 2021, 10:13 AM CDT

“There is nothing that can derail a career faster than the responsibilities of motherhood—ask any successful woman lawyer with children. It is a game changer that can cause very busy women lawyers to lose focus.”

**ABA president warns against 'blaming women' for gender gap in law**

 [reuters.com/legal/legalindustry/aba-president-warns-against-blaming-women-gender-gap-law-2021-07-07](https://www.reuters.com/legal/legalindustry/aba-president-warns-against-blaming-women-gender-gap-law-2021-07-07)

Chinekwu Osakwe

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### Walking Out the Door: Childcare

ACTIVITY	PERCENTAGE OF WOMEN WHO SAY THIS IS THEIR FULL RESPONSIBILITY	PERCENTAGE OF MEN WHO SAY THIS IS THEIR FULL RESPONSIBILITY
ARRANGING CHILDCARE	54%	1%
LEAVING WORK FOR CHILDCARE	32%	4%
CHILDREN'S EXTRACURRICULARS	20%	4%

ABA and ALM, *Walking Out the Door: The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice* (2019)

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### Childcare A Challenge

The New York Times

<https://nyti.ms/3dpA4ps>

*Nearly Half of Men Say They Do Most of the Home Schooling. 3 Percent of Women Agree.*

A survey suggests that pandemic-era domestic work isn't being divided more equitably than before the lockdown.



By Claire Cain Miller

May 6, 2020

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# Infertility and Menopause Policies

PLURIE / PRAJENY LAFITE

## Law Firms Doing More To Help Attorneys Start Families

Print

Twitter

Facebook

LinkedIn

By Aebra Coe | Feb 23, 2022, 4:58 PM EST

Listen to article

Fertility and family planning treatments and services such as in vitro fertilization, egg freezing, surrogacy and adoption are often a heavy financial lift, and more law firms are offering benefits around these services as competition for talent is fierce and retention is challenging.

FIND MORE

Read more on the latest legal industry trends in Lexis

DISCOVER

Another BigLaw firm adopts a menopause policy

BY DEBRA CASSENS WEISS ([HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/4/](https://www.abajournal.com/authors/4/))

MAY 11, 2022, 11:13 AM CDT

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# Unique Challenges for Single Women

Condition Assignment	Mean Rating
Single Woman (without children) (n=80)	2.61
Married Woman (with children) (n=78)	2.91
Single Man (without children) (n=78)	3.10
Married Man (with children) (n=79)	3.14

Participants assigned to Single Woman condition statistically differed in their mean ratings from participants assigned to:

- Married Woman condition ( $p=0.05$ )
- Single Man condition ( $p=0.01$ )
- Married Man condition ( $p=0.01$ )

Figure 1. Participant mean rating of candidate for Vice President by condition.

Jennifer Merluzzi and Damon J. Phillips, *Early Career Leadership Advancement: Evidence of Incongruity Penalties Toward Young, Single Women Professionals*, Organization Studies (April 2022)

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## Study Re Legal Hiring and Women

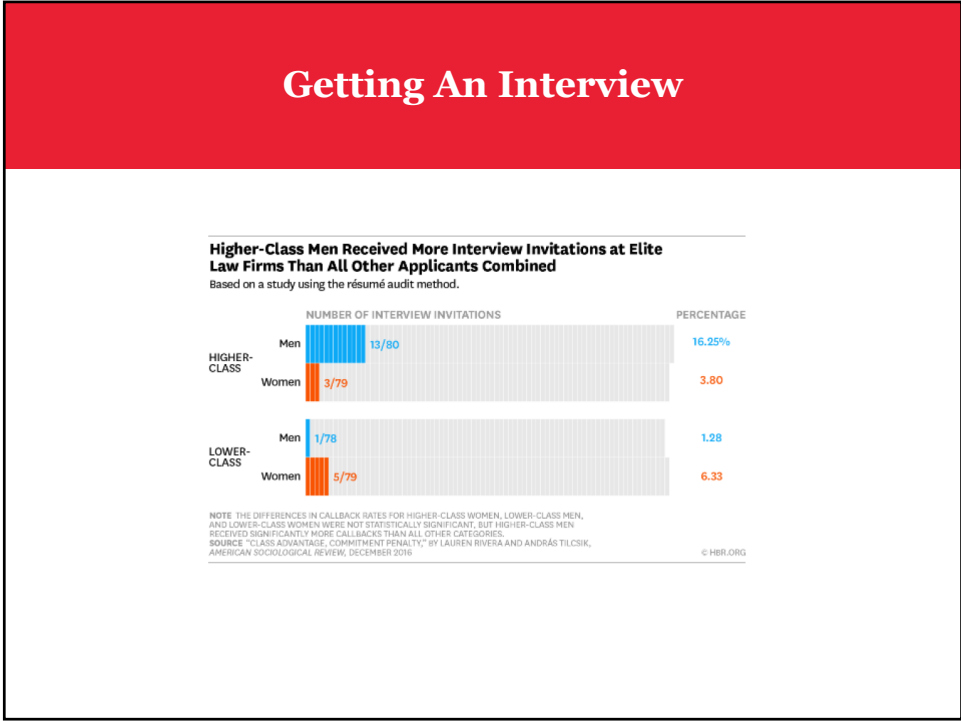
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### Getting An Interview – Resume “Cues”

- Lauren Rivera and András Tilcsik, *How Subtle Class Cues Can Backfire on Your Resume*, Harvard Business Review (Dec. 21, 2016)
  - Research: “All in all, we sent fictitious resumes to 316 offices of 147 top law firms in 14 cities, from candidates who were supposedly trying to land a summer internship position. All applicants were in the top 1% of their class and were on law review, but came from second-tier law schools.”
  - Second set of research – resume audit and interview with 200 practicing attorneys

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Explaining the Difference Re Women and Race

But even though higher-class women were seen as just as good “fits” as higher-class men, attorneys declined to interview these women because they believed they were the least committed of any group (including lower-class women) to working a demanding job. Our survey participants, as well as an additional 20 attorneys we interviewed, described higher-class women as “flight risks,” who might desert the firm for less time-intensive areas of legal practice or might even leave paid employment entirely. Attorneys cited “family” as a primary reason these women would leave.

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Rule 8.4 and Women

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### Don't Call Judge a "B\*\*\*\*"

- Judge transferred case to a visiting judge and lawyer said
  - "What a B----"
- Judge: "I'm trying to think about it from a place of grace and humanity, but she wouldn't do it to a male, white judge."
  - See Debra Cassens Weiss, *Lawyer unhappy with case transfer calls judge the B-word during Zoom hearing*, [www.abajournal.com](http://www.abajournal.com) (Nov. 2, 2021)

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### Vulgarity Is Not A Compliment

- Judge removed from bench where "used an extremely crude gender-based slur to describe opposing counsel."
  - Part time judge with a private practice too
    - *In re Paul H. Senzer*, No. 31 (June 23, 2020)
- In opposition to discipline, argued that the word not inherently sexist and that it was a type of "left-handed compliment"
  - See [law360.com](http://law360.com) (June 23, 2020)

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Hot Mics: Judge’s Remarks

Off the Record Communication between Judge William B. Raines, Patty [Clerk],  
ASA Anna Sedelmaier, ASA Susie Bucaro, and APD Kyle Lappin

ASA Anna Sedelmaier: “She’s maybe not the nicest person.”

Judge William B. Raines: “Can you imagine waking up next to her every day?  
Oh my God!”

\*laughter\*

ASA Susie Bucaro: “There would be a number of things wrong with my  
life if I was waking up next to her every day.”


Judge William B. Raines: “I couldn’t have a visual on that if you paid me. So,  
there you have it.”

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Women Lawyers “Hysterical”

Barrister who branded female lawyers as 'hysterical,  
intemperate and overemotional' is fined £500

 [dailymail.co.uk/news/article-10488967/Barrister-branded-female-lawyers-hysterical-intemperate-overemotional-fined-500.html](https://www.dailymail.co.uk/news/article-10488967/Barrister-branded-female-lawyers-hysterical-intemperate-overemotional-fined-500.html)

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**Understanding the Bias  
Women Face: Paradoxes  
for Women at Work**

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**Perceived Competence**

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2022 and Societal Expectations



LA Times (Mar. 22, 2022)

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How We View “Intellectual Ability”

- In study of children 5-7 years old,
  - Children choosing teammates from a group of 6 unfamiliar children showed in group bias based on gender
  - When half of the children were told game was for “really, really smart” children
    - Children showed bias: “choosing girls as teammates for the “smart” game only 37.6% of the time (vs. 53.4% for the other game”
    - See Lin Bian, Sarah-Jane Leslie, Andrei Cimpian, *Evidence of Bias Against Girls and Women in Contexts That Emphasize Intellectual Ability*, 73 American Psychologist, 1139 (2018)

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### How We View “Intellectual Ability”

- When participants told job description required intellectual ability:
  - “The odds of referring a woman were 38.3% lower
- “Bias against women and girls in contexts where brilliance is prized emerges early and is a likely obstacle to their success.”
  - See Lin Bian, Sarah-Jane Leslie, Andrewi Cimpian, *Evidence of Bias Against Girls and Women in Contexts That Emphasize Intellectual Ability*, 73 *American Psychologist*, 1139 (2018)

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### Paradox: Women Must Prove Competence – AGAIN AND AGAIN

- “Social scientists have calculated that a woman must be two and a half times more competent than a man to be viewed as his equal.”
  - Joanne Lipman, *That’s What She Said*, at 61

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## **Reinforce Competence**

- Do not gaslight those who point out potential bias
- Allyship behavior: If you observe microaggressions regarding competence
  - Challenge stereotype or assumptions in the moment
  - Or if that is not possible, find target and share your observations

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## **Actionable Feedback**

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Promotions


Men



STAR PERFORMER

Women

Performance



SOLID PERFORMER

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Gender: Feedback re Vision

Key Messages in Developmental Feedback Provided to Male and Female Leaders

	Men are encouraged to...	Women are encouraged to...
Vision	<p><b>Set the vision</b> Focus on being visionary and think about the "big picture."</p> <p>"Forget the details and look to the longer term."</p> <p>"More focus on national and regional agendas [...], leading to a strategic rather than operational review."</p>	<p><b>Focus on delivery</b> Focus on operational tasks; execute other people's vision and develop expertise in narrow specializations.</p> <p>"[Develop] broader knowledge of finances and how they work...[and] of the procedures."</p> <p>"Needs to have better analytical abilities with complex issues."</p>

Elena Doldor, Madeleine Wyatt and Jo Silvester, *Men Get More Actionable Feedback Than Women*, Harvard Business Review (Feb. 10, 2021)

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Gender: Feedback re Asserting Leadership

Asserting Leadership	<b>Claim their space</b> Be assertive in pursuing leadership ambitions.	<b>Get along</b> Be cooperative and deferential in exerting leadership.
	<i>"Would benefit by taking a more prominent role."</i>	<i>"Learn to work collaboratively; treat people with respect."</i>
	<i>"He needs to be given more responsibility to broaden his experience. The ability is all there; he just needs the opportunity to develop."</i>	<i>"Does not suffer fools gladly; could develop better tolerance techniques."</i>

Elena Doldor, Madeleine Wyatt and Jo Silvester, Men Get More Actionable Feedback Than Women, Harvard Business Review (Feb. 10, 2021)

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Gender: Feedback re Confidence

Confidence	<b>Display more confidence</b> Develop confidence in specific skill sets and "display" it — confidence is framed as fixable.	<b>Be more confident</b> Female leaders' lack of confidence is described as an inherent, general flaw, without actionable advice.
	<i>"While a confident person, he will sometimes not express arguments or positions forcefully enough."</i>	<i>"Needs to be a bit more confident and have a bit more self-belief."</i>
	<i>"Become more confident and prominent in the leadership role, being able to debate more forcefully while retaining control."</i>	<i>"She lacks the confidence that she should have in herself and her judgment."</i>

Source: Elena Doldor, Madeleine Wyatt, and Jo Silvester © HBR.org

Elena Doldor, Madeleine Wyatt and Jo Silvester, *Men Get More Actionable Feedback Than Women*, Harvard Business Review (Feb. 10, 2021)

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## Self Promotion

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## Self Promotion

- Focus on substance
- Focus on how you promoted/advanced organizational goals

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### **Large Self-Promotion Gap**

- “Women subjectively describe their ability and performance to potential employers less favorably than equally performing men. Even when all incentives to promote are removed, however, the gender gap remains. The gender gap in self-promotion is reflective of an underlying gender gap in how individuals subjectively evaluate their own performance. This underlying gender gap proves persistent and arises as early as the sixth grade.”
- Christine L. Exley and Judd B. Kessler, Nat. Bureau of Economic Research Working Paper 26345 (Oct. 2019, revised May 2021) ( available at [https://www.nber.org/system/files/working\\_papers/w26345/w26345.pdf](https://www.nber.org/system/files/working_papers/w26345/w26345.pdf))

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## **Communication Differences Generally**

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Communication Styles

- “Results indicate that women who experience stereotype threat regarding leadership abilities react against the stereotype by adopting a more masculine communication style. Study 2 provides evidence that self-affirmation eliminates this effect of stereotype threat on women’s communication styles. A third study demonstrates an ironic consequence of this effect of stereotype threat on women’s communication—when women under stereotype threat adopt a more masculine communication style, they are rated as less warm and likeable, and evaluators indicate less willingness to comply with their requests.”
  - Courtney von Hippel, Cindy Wiryakusuma, Jessica Bowden, and Megan Schochet, *Stereotype Threat and Female Communication Styles*, *Personality and Social Psychology Bulletin* (2011)

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Communication – Content

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## Organization of Success

- Start with your punch line
  - Are you reporting conclusions or process?

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## Language of Success?

- “I” stands for Indecisive
  - Are you really the subject of the sentence?
  - Uncertainty
  - Encourages use of “emotional” verbs

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### **Do NOT Undermine Yourself**

- Downplay qualifications
- Downplay authority
- Hedge/indirect
- Apologize
  - Gmail has a Plugin called “Just Not Sorry”

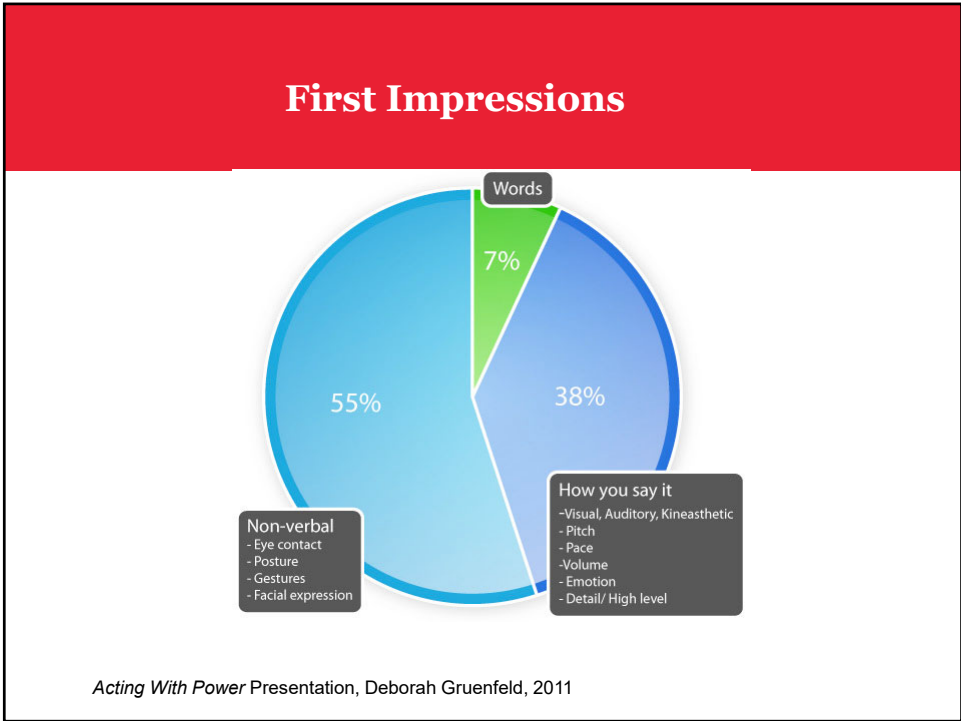
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## **Communication – Non-Verbal**

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Body Language

Authority	Approachable
<ul style="list-style-type: none"><li>• Head still</li><li>• Hold eye contact</li><li>• Occupy space</li><li>• Lean back</li></ul>	<ul style="list-style-type: none"><li>• Nodding</li><li>• Smiling</li><li>• Body constrained</li><li>• Lean forward</li></ul>

See D. Gruenfeld, *Power & Influence*, Stanford GSB

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## Speak Up – Group Dynamics

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## Meetings

- “Meetings, quite simply, are the killing fields of a woman’s career.”
  - Joanne Lipman, *That’s What She Said: What Men Need to Know (And Women Need to Tell Them) About Working Together*, at 12

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### “Speak Up”

- Penalized for not participating in meetings; often self-inflicted
  - Content
    - Certainty principle
    - Non-assertive, qualified language
  - Context
    - Social time before and after the meeting
    - Sitting at the table
    - Don't take conversations personally

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### Women Devalued In Group Discussions

- “We investigate how men and women are evaluated in group discussions. . . [W]e find that, when experimentally and/or statistically controlling for actual gender differences in behavior, the female performance in a group discussion is devalued in comparison to male performance. . . . [W]e did not find a moderating effect of selection procedure in that women were devalued to a similar degree in both situations with a women's quota and without.”
  - Angela R. Dorrough, et al., *Equal Performance, Different Grade: Women's Performance in Discussion Perceived Worse Than Men's*, Personality and Social Psychology Bulletin (2022)

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Strategy: “Amplification”

When President Obama took office, two-thirds of his top aides were men. Women complained of having to elbow their way into important meetings. And when they got in, their voices were sometimes ignored.



The Post is exploring how women gain, consolidate and experience power in politics and policy.

So female staffers adopted a meeting strategy they called “amplification”: When a woman made a key point, other women would repeat it, giving credit to its author. This forced the men in the room to recognize the contribution — and denied them the chance to claim the idea as their own.

“We just started doing it, and made a purpose of doing it. It was an everyday thing,” said one former Obama aide who requested anonymity to speak frankly. Obama noticed, she and others said, and began calling more often on women and junior aides.

[https://www.washingtonpost.com/news/powerpost/wp/2016/09/13/white-house-women-are-now-in-the-room-where-it-happens/?utm\\_term=.9c401a9cb195](https://www.washingtonpost.com/news/powerpost/wp/2016/09/13/white-house-women-are-now-in-the-room-where-it-happens/?utm_term=.9c401a9cb195)

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Organizational Practices

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## Organizational Practices

- Mansfield Rule
- Review, Evaluate, Revise practices related to
  - Hiring
  - Evaluations/Advancement
  - Compensation
- Challenge: analyzing/measuring
  - Talent development
  - Sense of belonging/retention

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## Deliberative Decision-Making

- Develop a process that is
  - Repeatable
  - Analytic
- Characteristics
  - Slow down
  - Write it down
- Checklists
- Perspective taking

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Messages Re Who Changes?

- Susan Saltontall Duncan, *Women’s Success Strategies for Advancement*, 40 Of Counsel No. 4 (April 2021) (“There is only so much each person can do to effectuate change on the institutional or broader level, however, there are things women can do to improve their chances of success and reduce the frustration that results when the inevitable barriers and challenges arise.”)
- Michele N. Struffolino, *Lessons Learned from the Ignored, Silenced, and Interrupted: The Time is Right for Women to Take the Lead and Model Essential Lawyering Skills*, 89 UMKC L. Rev. 325 (Winter 2020) (“It is time to change the narrative. This can be accomplished by acknowledging that women still face challenges to success in the legal profession and by recognizing that new avenues to predict and determine effective lawyering are necessary. When examined together, this knowledge can lead to systemic and societal acceptance of an alternate path to success and equality in the legal profession. Women should take the lead and continue to model the skills and traits found to be essential to effective lawyering and serving the legal needs of the public.” (footnotes omitted))

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### Many Reasons For “Stubborn” Problem

- Sybil Dunlop and Jenny Gassman-Pines, *Why The Legal profession is the Nation’s Least Diverse (And How To Fix It)* (Mitchell Hamline L. Rev. (Feb. 2021) (“This article begins from the premise that there is no single reason for our profession’s stubborn lack of diversity. Instead, a multitude of factors, including systemic racism and sexism, unconscious bias, and law firm structures, contribute to this problem. This article aims to help solve the problem by offering a toolkit of practical actions that law firms can implement.”)

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- Sybil Dunlop, *A Call for Action: How Clients and Judges Can Do More to Address the Legal Profession’s Diversity Problem*, U. of St. Thomas L.J. (2022)
- Sheriece M. Perry, “*Diversity, Equity and Inclusion*” – *Catchy Slogans and Buzzwords with Little Proof That They Matter to the Legal Profession in Massachusetts*, Boston College L. Rev. (Nov. 2021)
- Donald Polden and Leah Jackson Teague, *More Diversity Requires More Inclusive Leaders Leading by Example in Law Organizations*, Hofstra L. Rev. (Spring 2020)

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- Justin Hill, *It's Not Me; It's You: Big Law Has Been Failing Its Black Associations*, U. of Md. L.J. of Race, Religion, Gender and Class (Fall 2021)
- Kimberly Jade Norwood, *Gender Bias as the Norm in the Legal Profession: It's Still a [White] Man's Game*, Wash. U. J. of Law & Policy (2020)
- Kirtana Kalavapudi, *Being Seen & Heard: How Can We Create More Space for Diversity & Inclusion in the Legal Market?*, Women Law J. (2021)

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- Latonia Haney Keith, *Visibility Invisibility: Feedback Bias in the Legal Profession*, J. of Gender, Race & Just. (2020)
- Alissa Rubin Gomez, *The Mismeasure of Success*, 94 St. John's L. Rev. 927 (2020)
- Pamela J. White, *Thirty Years Later: Recalling the Gender Bias Report and Asking What's Next In the Legal Profession*, 80 Md. L. Rev. Online (2020-2021)
- Cynthia L. Cooper, *Broken Rungs on the Career Ladder: A New Analysis of Problems Encountered by Women Lawyers in Private Practice*, 27 Perspectives 3 (2019-2020)

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**An Important Question**

- Margaret Thornton, *Who Cares? The Conundrum for Gender Equality in Legal Practice*, 43 U.N.S.W.L.J. 1473 (2020)
- Observations about legal profession DEI research

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**Questions**

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**Conclusion**

These materials are intended as an introduction to the subject matter covered in the presentation. The presentation and the materials contained herein do not attempt to provide legal advice for any particular situation. Each particular situation must be analyzed individually in light of all of the surrounding facts and circumstances. Because of the complexity of the legal issues that will always arise in connection with the subject matter hereof, it is critical that counsel be involved. These materials are provided for educational and discussion purposes only and are not to be copied, used or distributed outside of this seminar without the express written consent of Cooley LLP. Copyright Cooley LLP and Michelle Greer Galloway 2022.

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