Linnea P. Cipriano

Partner

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lcipriano@goodwinlaw.com

Linnea Cipriano is a partner in Goodwin's Intellectual Property Litigation group. Her practice focuses on patent litigation in federal courts, the International Trade Commission (ITC), and the U.S. Patent and Trademark Office Patent Trial and Appeal Board (PTAB).

Ms. Cipriano has prosecuted and litigated patents in areas including pharmaceuticals, biosimilars, nutritional supplements, DNA-based technology, drug delivery technology, cameras, and software. Ms. Cipriano has particular expertise in generic drug litigation under the Hatch-Waxman Act and has also represented clients in *inter partes* review (IPR) proceedings before the PTAB. Ms. Cipriano's practice combines her in-depth knowledge of patent law with her scientific experience to serve her clients. She holds a graduate degree in pharmacology, and before pursuing a career in law, performed research at the Cleveland Clinic.

PROFESSIONAL EXPERIENCE

Prior to joining Goodwin, Ms. Cipriano was an associate in the New York office of Kenyon & Kenyon. She also worked as a legal intern at Cleveland Clinic Innovations and as a research technologist at the Cleveland Clinic Foundation.

Ms. Cipriano is a member of the ChIPs Network and serves as co-chair of NYIPLA's Women in IP Law committee.

PUBLICATIONS

Ms. Cipriano is the managing editor of the Goodwin PTAB Trial Tracker monthly newsletter.

"3 Best Practices For Patent Claims Against Secret Methods," Law360 (co-authored, August 12, 2019)

Contributor, *Guide to Biosimilars Litigation and Regulation in the U.S., 2019-2020 ed.*, published by Thomson Reuters, November 2019

EDUCATION

- J.D., Case Western Reserve University, *magna cum laude*, Order of the Coif
- M.S., Pharmacology, Case Western Reserve University
- B.S., Biochemistry, Catholic University of America, *cum laude*

ADMISSIONS

Ms. Cipriano is admitted to practice in New York and before the U.S. District Court for the Southern District of New York, U.S. Court of Appeals for the Federal Circuit, and the U.S. Patent and Trademark Office.

Jean Lee is the President and CEO of the Minority Corporate Counsel Association (MCCA), a national organization focused on hiring, promoting and retaining women and diverse attorneys by providing cutting-edge research, best practices and training.

Prior to joining MCCA, Ms. Lee served as Vice President and Assistant General Counsel at JP Morgan Chase & Co. where she worked on consumer litigation and regulatory matters. Before joining JP Morgan Chase & Co. in 2011, Ms. Lee worked on litigation matters at a boutique litigation firm in New York City and started her career as a law clerk to the Honorable John J. Hughes, United States Magistrate Judge (retired), in the District of New Jersey.

She graduated from New York University with a B.A. in Politics and Psychology and a M.S.W. in Social Work. Ms. Lee received her J.D. from Rutgers University School of Law, where she was a Senior Editor of the Rutgers Law Record.

Ms. Lee served on Asian American Bar Association of New York's Board of Directors from 2010 to 2016 and as its President in 2012. In 2014, the Council of Urban Professionals recognized Ms. Lee as a Catalyst: Change Agent | Law and in 2015, she was recognized as a Trailblazer by the Korean American Lawyers Association of Greater New York. Currently, she serves on the Select Committee for the Legends in Law Award for the Burton Foundation.

Bismarck Myrick
United States Patent and Trademark Office

Bismarck Myrick became the Director of the Office of Equal Employment Opportunity and Diversity (formerly: the Office Civil Rights) at the U.S. Patent and Trademark Office in July 2008. From 2003 to 2008, Mr. Myrick was the Deputy Director of that Office. Prior to joining the USPTO, Mr. Myrick worked as an appellate review attorney in Office of Federal Operations at the U.S. Equal Employment Opportunity Commission from 1999-2003. Prior to working at the EEOC, Mr. Myrick worked as a trial attorney for the Baltimore City Department of Social Services. Mr. Myrick received a bachelor's degree in Communication Studies from Florida State University and a Juris Doctorate from the University of Missouri-Columbia. Mr. Myrick is licensed to practice law in the District of Columbia and State of Maryland.

Kim Walker
Willkie Farr & Gallagher LLP

Kim Walker is Counsel to the international law firm of Willkie Farr & Gallagher LLP, resident in the Firm's New York office. Since 2003, Ms. Walker has also served as Chair of the Firm's Diversity and Inclusion Committee, as well as the Firm's Director of Diversity of Inclusion and currently Chief Diversity and Inclusion Officer, positions dedicated to the recruitment, retention, professional development and advancement of diverse attorneys at the Firm. Ms. Walker has represented a wide range of clients over her twenty-nine-year career at Willkie, including technology and telecommunications companies, consumer products companies, publishers, insurance companies, clothing manufacturers and designers, retailers, sports networks and organizations, financial services companies and investment companies. She has extensive experience handling intellectual property issues that arise in mergers, acquisitions, financings, initial public offerings and other corporate matters.

Ms. Walker represents Willkie as one of the founding members of the Association of Law Firm Diversity Professionals, and is a member of the New York City Bar Association and New York State Bar Association Section on Intellectual Property. She was formerly a board member of the YWCA White Plains and Central Westchester and is currently a board member of Rising Ground and Edwin Gould Services for Children and Families, leading nonprofit human services organizations that provide children, adults, and families with the resources and skills needed to help them rise above adversity and positively direct their lives. Ms. Walker has served as a featured speaker at seminars and conferences sponsored by the Minority Corporate Counsel Association, the American Bar Association, Columbia University School of Law, University of Virginia School of Law and the New York City Bar Association on topics including trademark law, intellectual property in business transactions and law firm diversity. She is most proud to serve as a mentor to diverse junior high and high school students and foster children aging out of care via various programs. In 2019, Ms. Walker was named to the *Crain's New York Business* "Notable Women in Law" List, and she was recently shortlisted for *Chambers* "Minority Lawyer of the Year" and "Outstanding Contribution to Furthering Diversity in the Profession."

Ms. Walker received her B.A. from the University of Virginia and her J.D. from Columbia University School of Law.

Diversity in Tumultuous Times and How Everyone Can Contribute

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NYIPLA Fall CLE Series

November 10, 2020

Panelists

Jean Lee
President and CEO
Minority Corporate Counsel Association

Bismarck Myrick
Director of the Office of Equal Employment Opportunity and Diversity
United States Patent and Trademark Office

Kim Walker
Counsel and Chief Diversity and Inclusion Officer
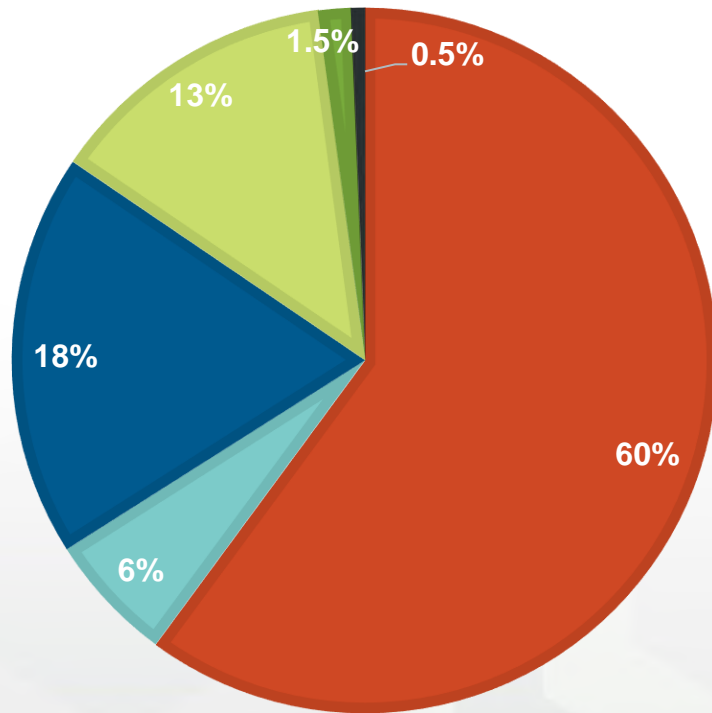Willkie Farr & Gallagher LLP

Linnea Cipriano (Moderator)
Partner
Goodwin Procter LLP

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"If I had an hour to solve a problem and my life depended on the solution, I would spend the first 55 minutes determining the proper question to ask… for once I know the proper question, I could solve the problem in less than five minutes."
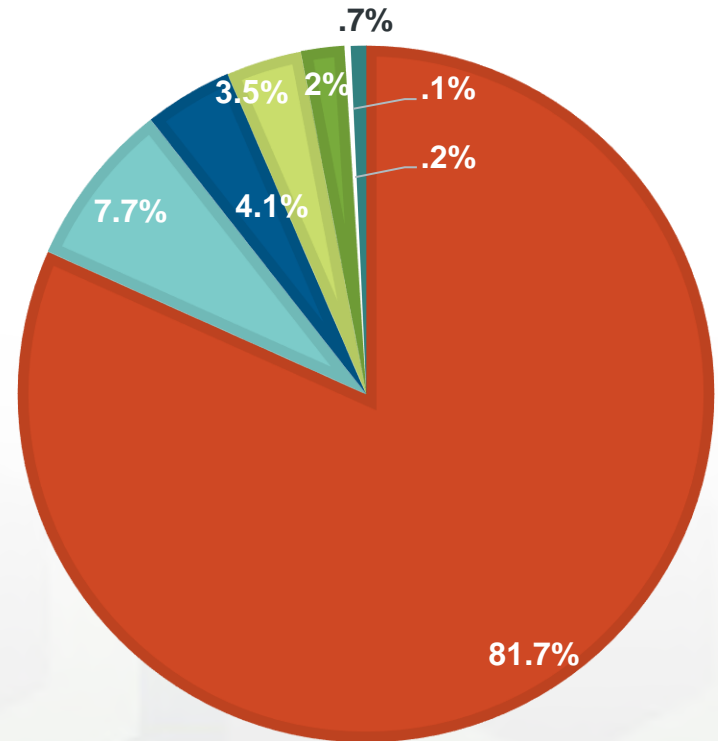
~Albert Einstein

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Defining the Problem: Law Firms

U.S. POPULATION

2019 Population Estimates
(https://www.census.gov/quickfacts/fact/table/US/PST045219)

LAW FIRM ATTORNEYS

2019 Vault/MCCA Law Firm Diversity Survey

Legend: White · Asian · Hispanic/Latinx · Black · Multiracial · Native American · Native Hawaiian/Pacific Islander · Unknown

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Defining the Problem: Law Firms

LGBTQ Representation

- 4.5% of the US population
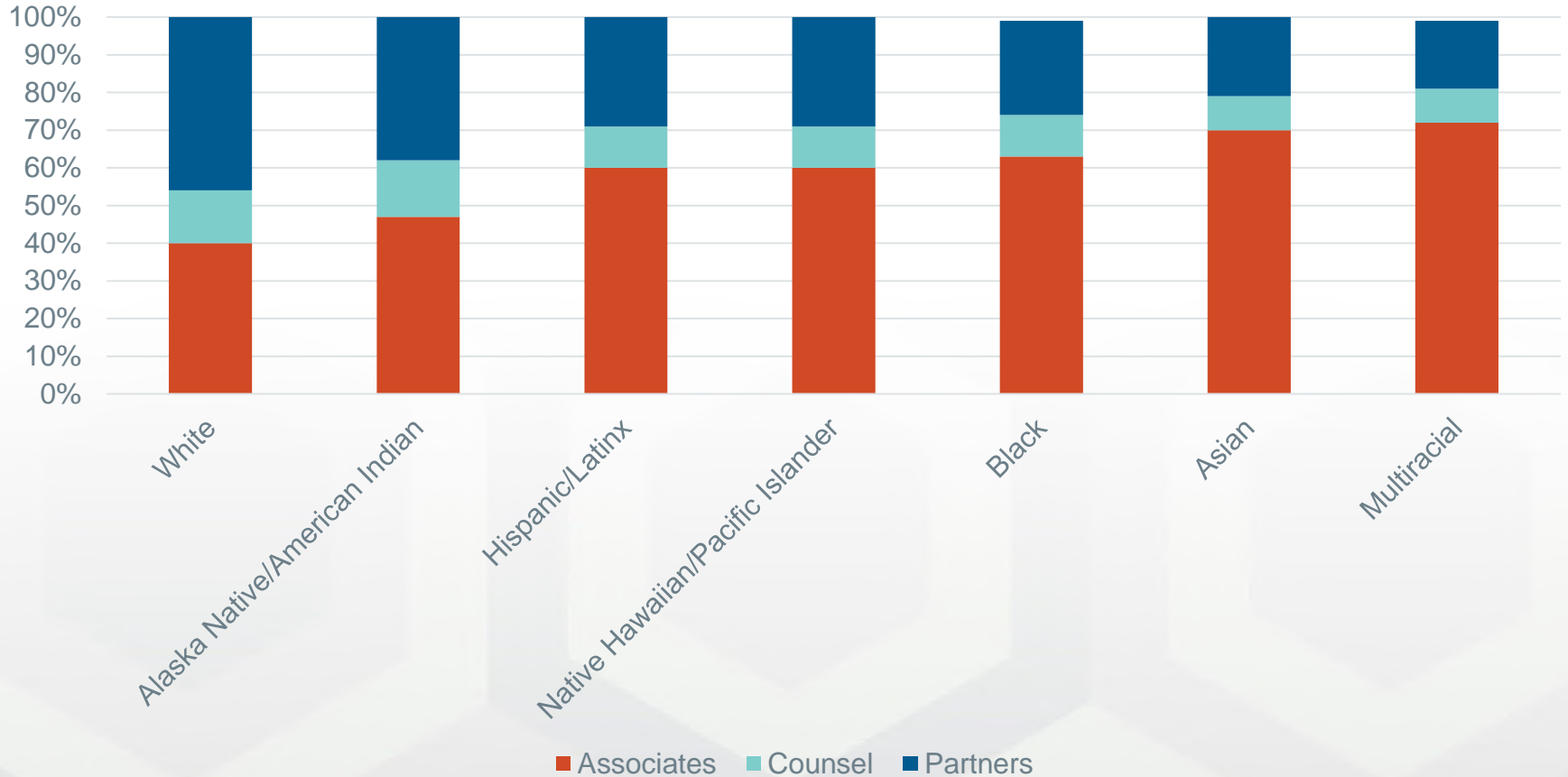
- 2.9% of law firm attorneys

Individuals with Disabilities

- 29% of the firms surveyed by Vault/MCCA do not report data on individuals with disabilities

- Where tracked, individuals with disabilities represent 0.5% of law firm attorneys

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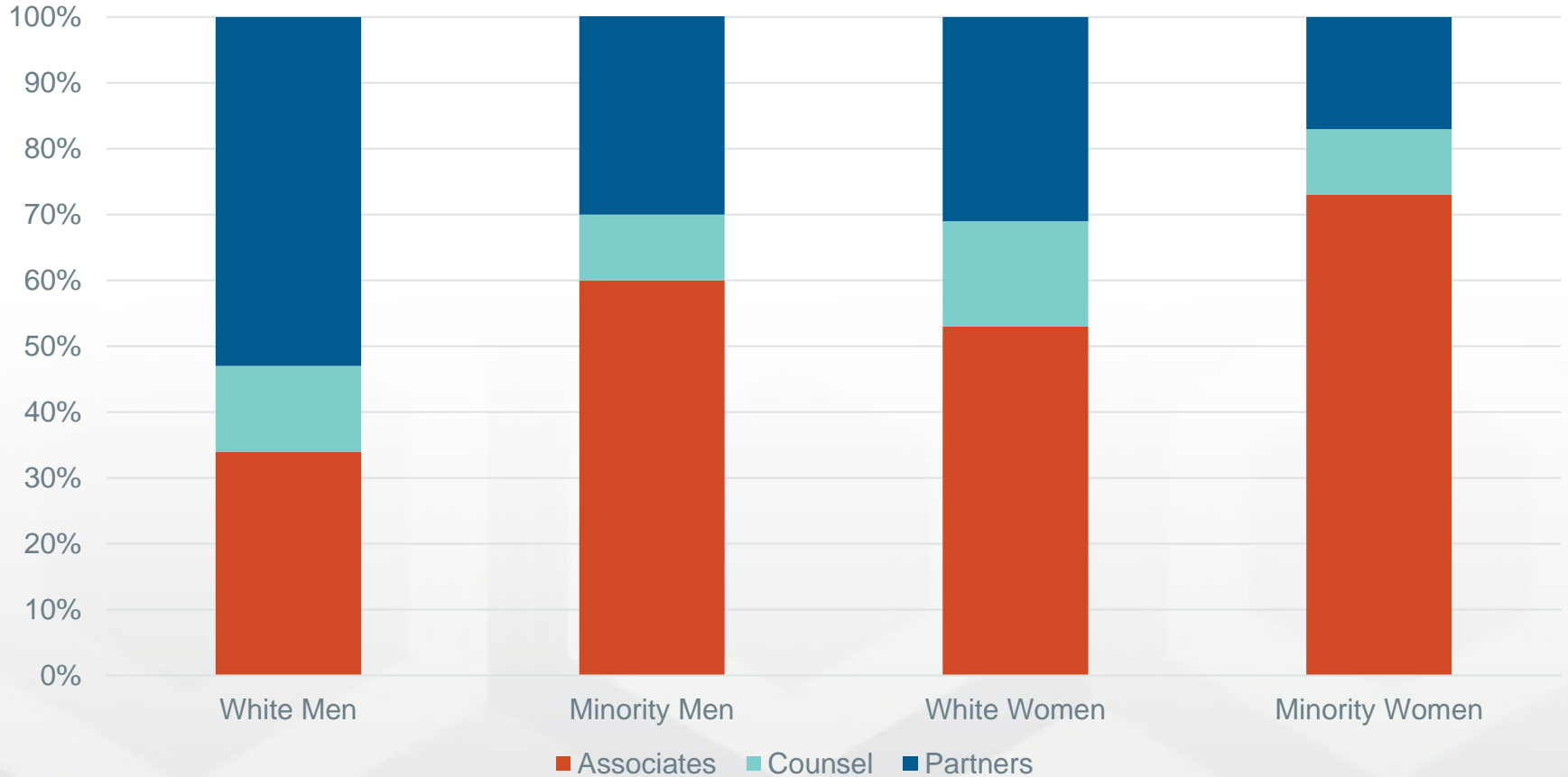# Defining the Problem: Law Firm Access to Partnership

2018 Attorney Position by Demographic

2019 Vault/MCCA Law Firm Diversity Survey

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Defining the Problem: Law Firm Access to Partnership

2018 Attorney Representation by Race and Sex

2019 Vault/MCCA Law Firm Diversity Survey

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Defining the Problem: Corporate Sector

In Fortune 100 companies:

- 25 have all white C-suite

- Only 16 have non-white CEO

- Only 16% of total C-suite positions are held by racially diverse executives

- 9 have all male C-Suite

- Only 7 have female CEO

- Only 25% of total C-suite positions are held by women

David F. Larker and Brian Tayan, Diversity in the C-Suite: The Dismal State of Diversity Among Fortune 100 Senior Executives, Stanford Closer Look Series, available at https://www.gsb.stanford.edu/sites/default/files/publication-pdf/cgri-closer-look-82-diversity-among-f100.pdf?pid=

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Defining the Problem: Corporate Sector
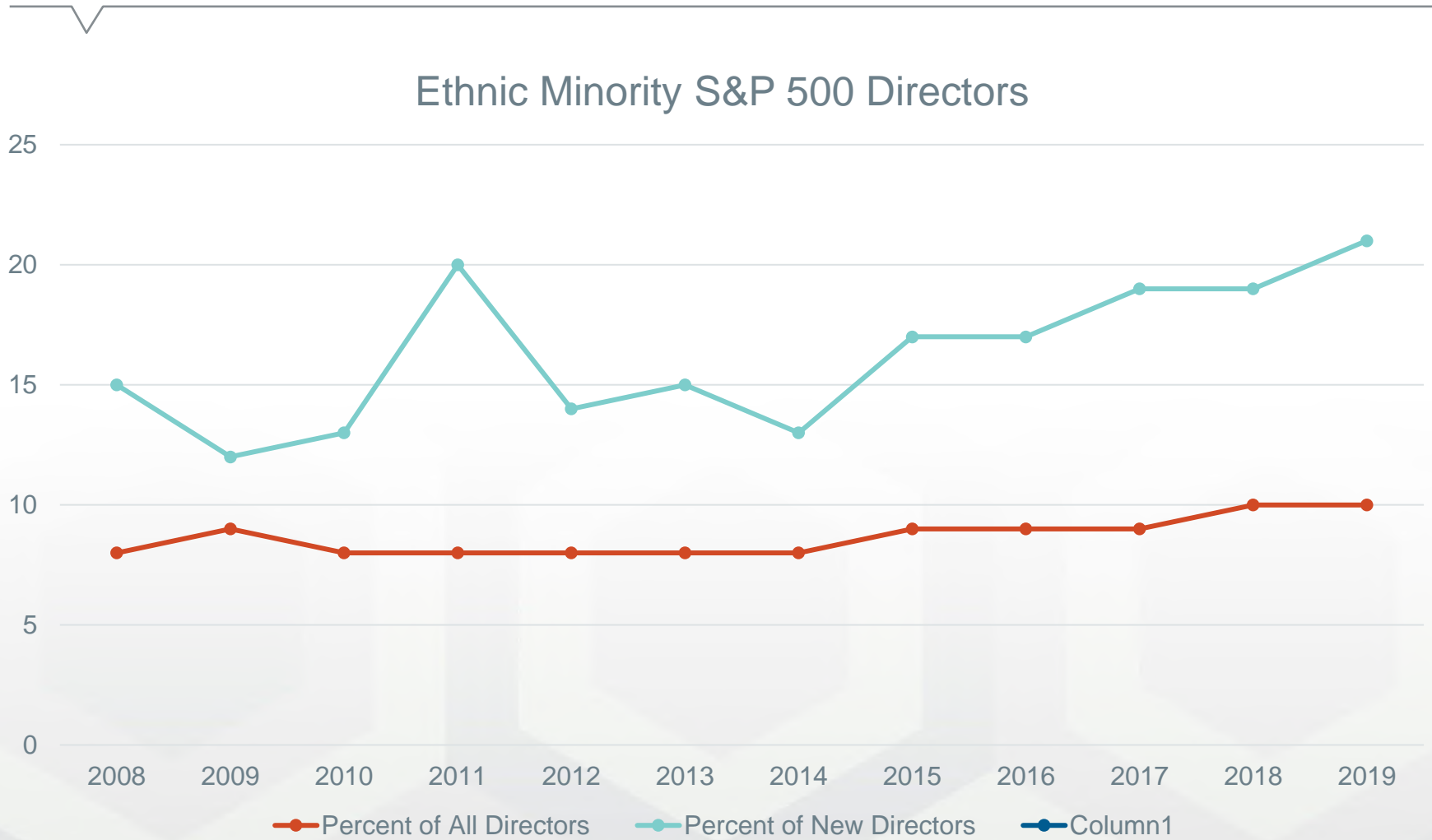

Women S&P 500 Directors
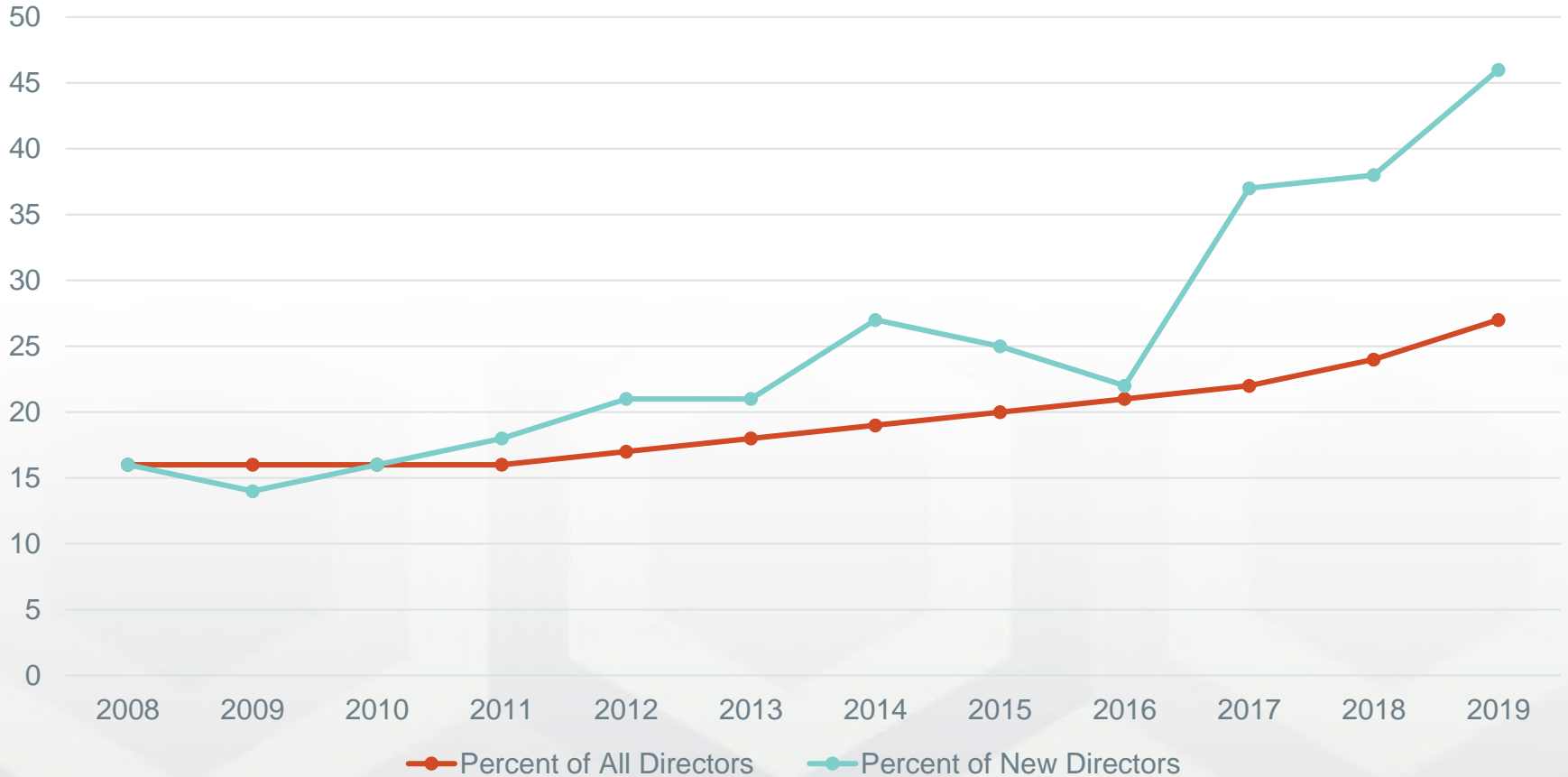
Institutional Shareholder Services, "U.S. Board Diversity Trends in 2019," (May 31, 2019).

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Defining the Problem: Corporate Sector

Ethnic Minority S&P 500 Directors

Legend:
- Percent of All Directors
- Percent of New Directors
- Column1

Institutional Shareholder Services, "U.S. Board Diversity Trends in 2019," (May 31, 2019).

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Defining the Problem: Patent Industry

- Women make up only 12% of inventor-patentees on U.S. patents

- 15% of women who obtained a STEM degree were employed in a STEM career, as opposed to 33% of men

- 80% of IP attorneys are men

- 86.5% of IP attorneys are white

M.T. Hannon. *The Patent Bar Gender Gap: Relaxing the Eligibility Requirements to Foster Inclusion and Innovation in the U.S. Patent System.* August 17, 2020 Draft. Electronic copy available at: https://ssrn.com/abstract=3676026

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Gender Diversity Since 2007

Percentage of Women Lawyers: Hires, Departures and Promotions

Legend: Attorneys Hired · Attorneys Who Left · Attorneys Promoted to Partner
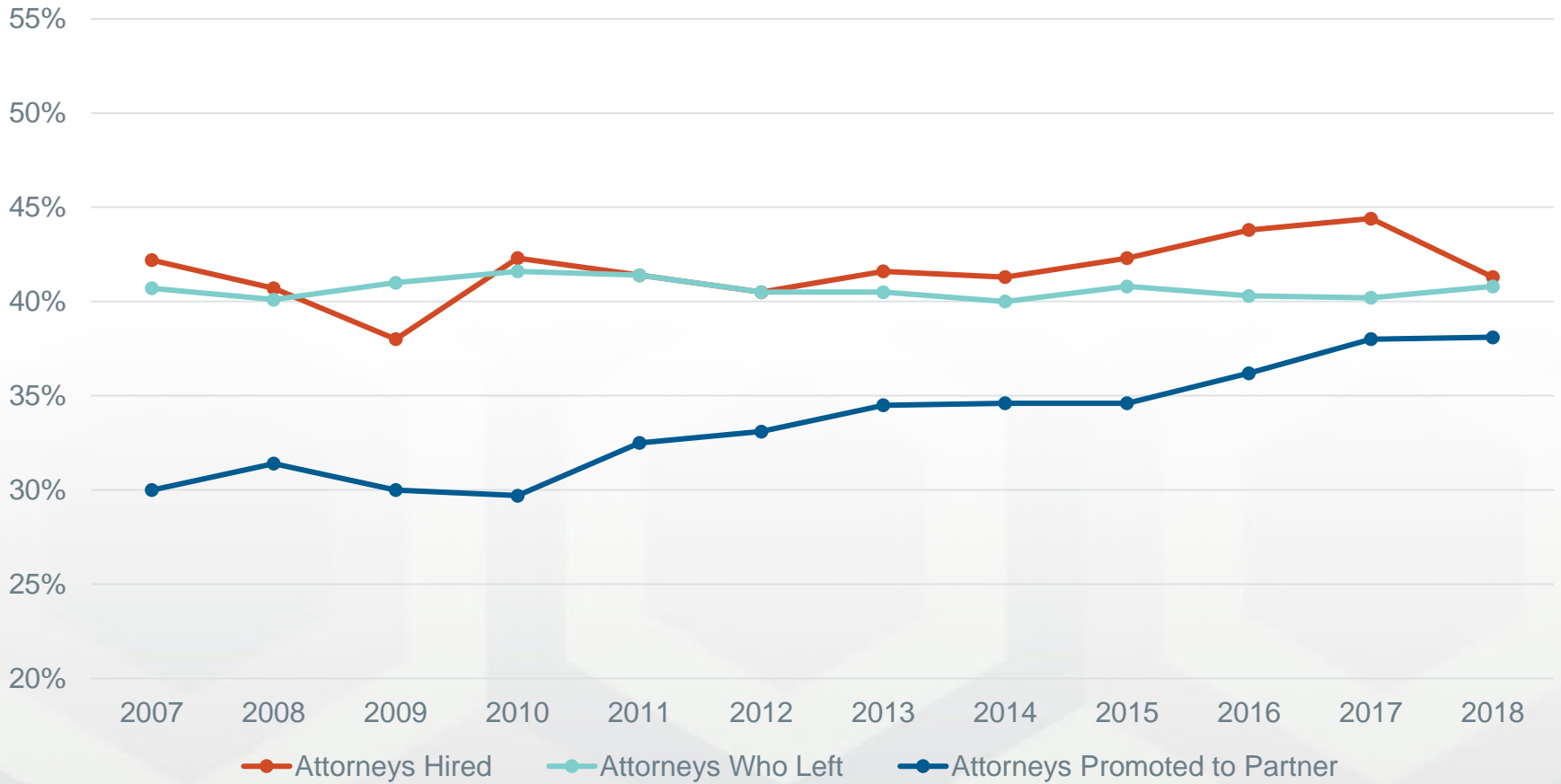
2017 Vault/MCCA Law Firm Diversity Survey

Racial Diversity Since 2007

Percentage of Minority Lawyers: Hires, Departures and Promotions

Legend: Attorneys Hired — Attorneys Who Left — Attorneys Promoted to Partner

2017 Vault/MCCA Law Firm Diversity Survey

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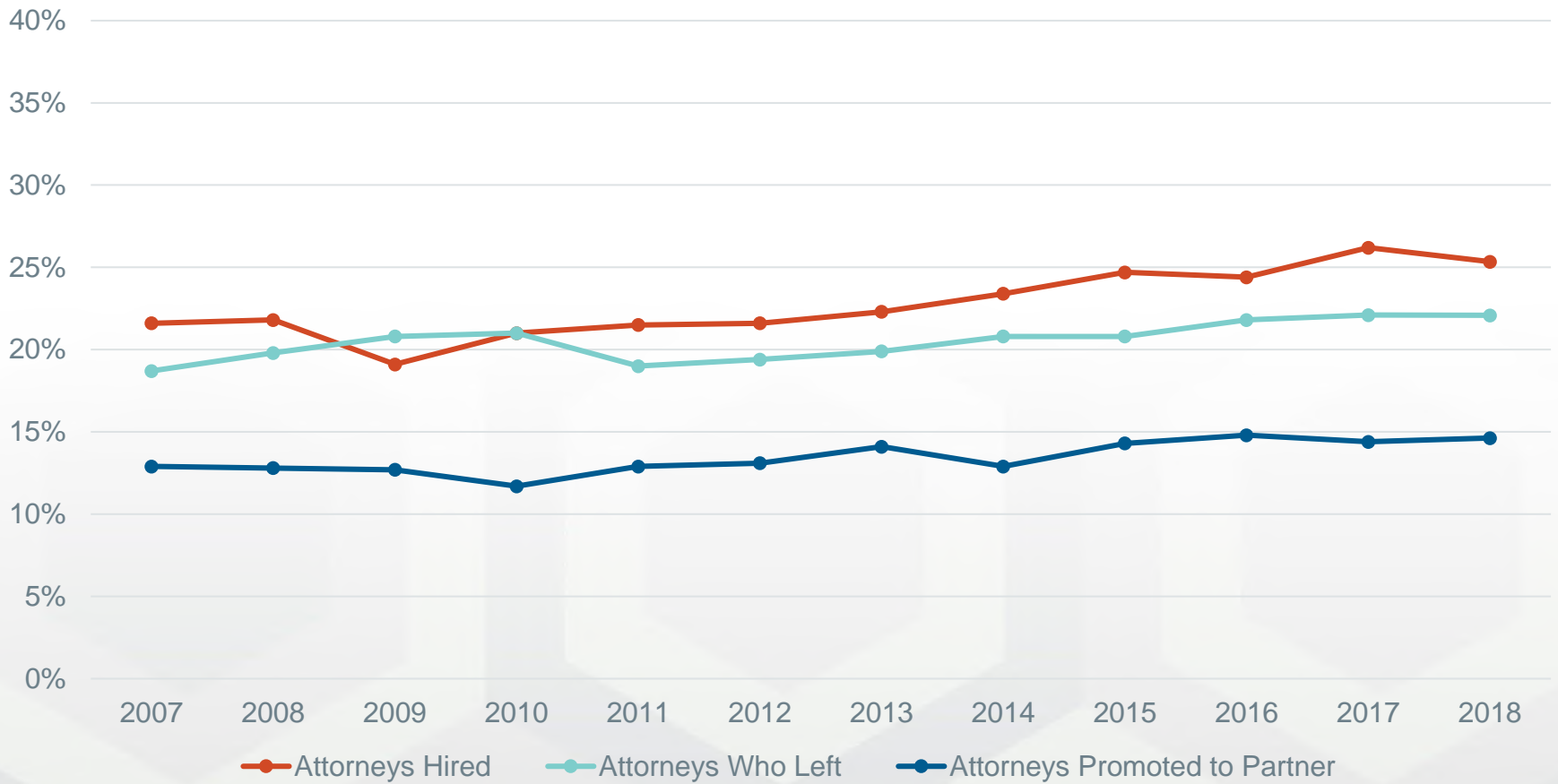
Further Reading

- Results of the Vault/MCCA Law Firm Diversity Survey for 2007-2019 are available at http://mcca.vault.com

- PROGRESS AND POTENTIAL: 2020 UPDATE ON U.S. WOMEN INVENTOR-PATENTEES, USPTO (July 4, 2020), available at https://www.uspto.gov/sites/default/files/documents/OCEDH-Progress-Potential-2020.pdf

- Destiny Peery, 2019 Survey Report on the Promotion and Retention of Women in Law Firms, NAT'L ASS'N OF WOMEN LAWYERS (2019)

- A Current Glance at Women in the Law, ABA (Apr. 2019), https://www.americanbar.org/content/dam/aba/administrative/women/current_glance_2019.pdf

- Why senior women leave the law – and how to stem the tide, ABA (Dec. 2019), https://www.americanbar.org/ news/ abanews/publications/youraba/2019/december-2019/newreport-details-how-law-firms-can-keep-experienced-women-from/

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Further Reading (cont.)

- David F. Larker and Brian Tayan, Diversity in the C-Suite: The Dismal State of Diversity Among Fortune 100 Senior Executives, Stanford Closer Look Series, available at https://www.gsb.stanford.edu/sites/default/files/publication-pdf/cgri-closer-look-82-diversity-among-f100.pdf?pid=

- Black General Counsel Initiative, available at https://www.legal500.com/gc-magazine/feature/black-general-counsel-2025-initiative/

- James Podgers, Recession Hurting Legal Profession's Diversity Efforts, Report Says, ABA Journal February 4, 2010

- Epstein, Cynthia Fuchs and Kolker, Abigail (2013) "The Impact of the Economic Downturn on Women Lawyers in the United States," Indiana Journal of Global Legal Studies: Vol. 20 : Iss. 2 , Article 20. Available at: https://www.repository.law.indiana.edu/ijgls/vol20/iss2/20

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Further Reading (cont.)

- Deborah L. Rhode, Diversity and Gendery Equity in Legal Practice, University of Cincinnati Law Review, Vol. 82, Issue 3, Article 5.

- Irene Padavic, Robin J. Ely, and Erin M. Reid, Explaining the Persistence of Gender Inequality: The Work-family Narrative as a Social Defense against the 24/7 Work Culture, Administrative Science Quarterly 2020, Vol. 65(1) 61-111.

- Meghan Tribe and Stephanie Russell-Kraft, Virus Crisis Could Be Big Test of Law Firms' Diversity Efforts, Bloomberg Law, April 27, 2020, https://news.bloomberglaw.com/us-law-week/virus-crisis-could-be-big-test-of-law-firms-diversity-efforts

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Further Reading (cont.)

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- Ta-Nehisi Coates. *Between the World and Me* © 2015 Spiegel & Grau

- Michelle Alexander. *The New Jim Crow* © 2010 The New Press

- Carol Anderson. White Rage: *The Unspoken Truth of Our Racial Divide* © 2016 Bloomsbury Publishing

- Kate Manne. Down Girl: *The Logic of Misogyny* © 2017 Oxford University Press

- Caroline Criado-Perez. *Invisible Women: Data Bias in a World Designed for Men* © 2019 Abrams Press

- Rebecca Solnit. *Men Explain Things to Me* © 2014 Haymarket Books

2019 VAULT/MCCA LAW FIRM DIVERSITY SURVEY

Vault/MCCA Law Firm Diversity Survey
2019 Report

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The Vault/MCCA Law Firm Diversity Survey and the publication of this report are made possible through the generous support of the following law firms:

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Introduction

October 2019

Since 2004, Vault and the Minority Corporate Counsel Association (MCCA) have worked with law firms and corporate counsel across the country to develop a standardized resource for measuring diversity progress. Now in its 16th year, the Vault/MCCA Law Firm Diversity Survey collects information from law firms about the steps they are taking to recruit and retain a more diverse workforce. The survey gathers detailed breakdowns of law firm populations by race/ethnicity, gender, sexual orientation and disability status across attorney levels—from summer associates hired to partners promoted and from the lawyers who serve on management committees to the attorneys who leave their firms. Firms are asked to outline their initiatives and goals with respect to diversity and inclusion, and to explain how management is held accountable for achieving those goals.

This year, 238 law firms participated in the Vault/MCCA Survey, a majority of whom have taken part for the last 10 years. Their responses are available in the Law Firm Diversity Database (http://mcca.vault.com). The database also maintains an archive of survey data collected since 2008, thus offering uniquely comprehensive demographic snapshots of the nation's leading law firms and the industry as a whole. Access to the Law Firm Diversity Database is provided at no charge to the legal community to promote transparency and accountability and in the belief that the pursuit of progress is a shared endeavor.

This report, compiled by Vault, highlights industry-wide findings from the most recent Vault/MCCA Survey conducted in the spring of 2019. Law firm demographic statistics were reported as of the end of the 2018 calendar year.

We thank all the law firms who have taken the time to complete the survey, the corporate legal departments who have been the driving force behind this initiative, and the database sponsors without whose generous financial support this project would not be possible.

Vera Djordjevich
Managing Director, Research & Consulting
Vault Inc.

Jean Lee
President & Chief Executive Officer
Minority Corporate Counsel Association

2019 Vault/MCCA Survey Results

The Vault/MCCA Survey collects information for seven different racial/ethnic groups: White/Caucasian, African American/Black, Hispanic/Latinx, Asian American, Alaska Native/American Indian, Native Hawaiian/Pacific Islander and Multiracial. The survey breaks out the numbers by gender and also solicits data for LGBTQ attorneys and Individuals with Disabilities.

The latest survey results underscore ongoing trends, including some of the same broad issues highlighted in previous years:

➢ Law firm populations are slowly becoming more diverse, although demographic changes have been slow to trickle upward, and firms continue to struggle with retention of diverse attorneys, particularly people of color.[1]

➢ While all of the minority groups tracked in this survey contend with issues of underrepresentation, the specific challenges faced by each group vary.

➢ More women serve as partners and law firm leaders than in the past, although they have yet to achieve gender parity, and women of color enjoy fewer of these successes than their white colleagues.

Demographic	2L Summer Associates	Associates	Of Counsel	Non-equity Partners	Equity Partners	All Partners	All Lawyers
TABLE 1. OVERALL LAW FIRM DEMOGRAPHICS*							
White/Caucasian	66.39%	73.38%	85.93%	89.77%	89.87%	89.30%	81.69%
Asian American	13.13%	11.99%	5.25%	4.21%	3.73%	3.86%	7.70%
Hispanic/Latinx	7.55%	5.46%	3.41%	3.33%	2.62%	2.81%	4.08%
African American/Black	7.76%	4.83%	3.06%	2.45%	1.94%	2.08%	3.45%
Multiracial	3.81%	3.24%	1.44%	1.23%	0.76%	0.89%	2.02%
Alaska Native/American Indian	0.25%	0.18%	0.20%	0.21%	0.14%	0.16%	0.17%
Native Hawaiian/Pacific Islander	0.14%	0.08%	0.05%	0.06%	0.03%	0.04%	0.06%
Openly LGBTQ	5.61%	4.01%	2.16%	2.02%	1.90%	1.93%	2.90%
Individuals with Disabilities	0.35%	0.55%	0.64%	0.57%	0.44%	0.48%	0.53%
All Racial Minorities	32.63%	25.78%	13.41%	11.49%	9.21%	9.83%	17.48%
All Women	51.37%	46.47%	39.96%	30.11%	21.64%	23.93%	36.16%
Women of Color	19.27%	14.58%	7.05%	5.06%	3.08%	3.61%	9.00%

*Unless otherwise indicated, all data in charts and tables reflect the most recent 2019 survey results.

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[1] *For the purposes of this report, the terms "minority" and "person of color" refer to individuals identifying with one or more of the following racial/ethnic groups: African American/Black, Hispanic/Latinx, Asian American, Alaska Native/American Indian, Native Hawaiian/Pacific Islander and Multiracial.*

2019 Vault/MCCA Law Firm Diversity Report

The 2019 survey results included the highest representation of minority attorneys to date. More than 17 percent of law firm attorneys are members of a racial or ethnic minority group. Representation is strongest among summer associates—almost 33 percent of 2Ls at surveyed law firms in 2018 were members of racial or ethnic minority groups—and associates, 26 percent of whom are attorneys of color.

Although the numbers thin within the partnership ranks, minority representation among partners is higher than in prior years. Sixteen percent of the partners promoted in 2018 are attorneys of color, compared to 14 percent in 2017. Minority attorneys now represent 10 percent of all partners and 9 percent of equity partners.

More minority lawyers serve in leadership roles than in the past. Almost 11 percent of attorneys on their firms' management committees are people of color, which is more than a percentage point higher than the results from last year's survey. Minority attorneys represent 10 percent of office heads in the United States and 9 percent of those who lead practice groups.

Yet, even as recruitment and promotion of attorneys of color increase, so does their attrition, and the ranks of attorneys who leave their firms are far more diverse than those who join their partnerships. Twenty-two percent of the lawyers who left their firms last year were members of racial/ethnic minority groups, even though attorneys of color represent only 17 percent of attorneys at surveyed firms. The departure rate among associates was even higher: almost 28 percent of associates who left their firms were attorneys of color.

FIGURE 1. CONTRASTING LEVELS OF DIVERSITY AMONG ASSOCIATES AND PARTNERS
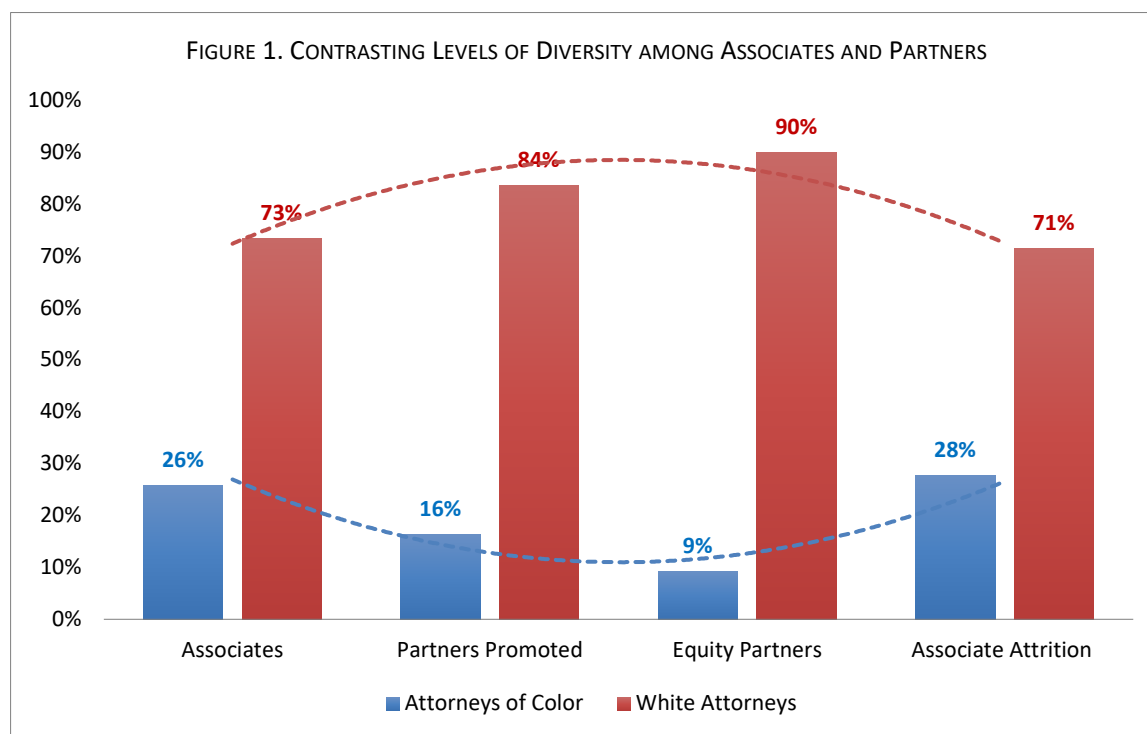
As the population of female attorneys slowly increases, more women are joining the partnership ranks and serving in leadership roles. Notably, this year's survey included the highest percentage of female summer associates to date.

The number of women in law firms, which had remained fairly level for almost a decade since 2007—hovering between 33 and 34 percent—began to climb in 2016 and now exceeds 36 percent. More than 46 percent of associates are women. Women represent 24 percent of all partners and almost 22 percent of equity partners.

Law firms reported that 38 percent of the attorneys promoted to partnership in 2018 were women; while the number is only slightly higher than it was in 2017, it has increased 8 percentage points over the last decade.

Female attorneys represent 26 percent of attorneys who serve on their firms' executive or management committees, 22 percent of attorneys who head U.S. offices and almost 25 percent of practice group leaders. Each of these figures is higher than prior surveys.

Although lateral hiring among women is down since the previous year, the 2018 summer associate classes included more women than men for the first time since Vault and MCCA have conducted this survey. Female law students represented more than 51 percent of 2L summer associates at surveyed firms.

Attrition numbers, while they show marginal increases over last year's results, remain close to the figures reported over the last 12 years. Women represented approximately 41 percent of all attorneys who left their firms in 2018 and 47 percent of departing associates.

FIGURE 2. WOMEN IN LEADERSHIP ROLES

Role	2019 Survey	2009 Survey
Executive/management committee	26%	15%
Hiring committee	39%	35%
Partner review committee	29%	18%
Associate review committee	31%	27%
U.S. office heads	22%	14%
Practice group/department leaders	25%	18%
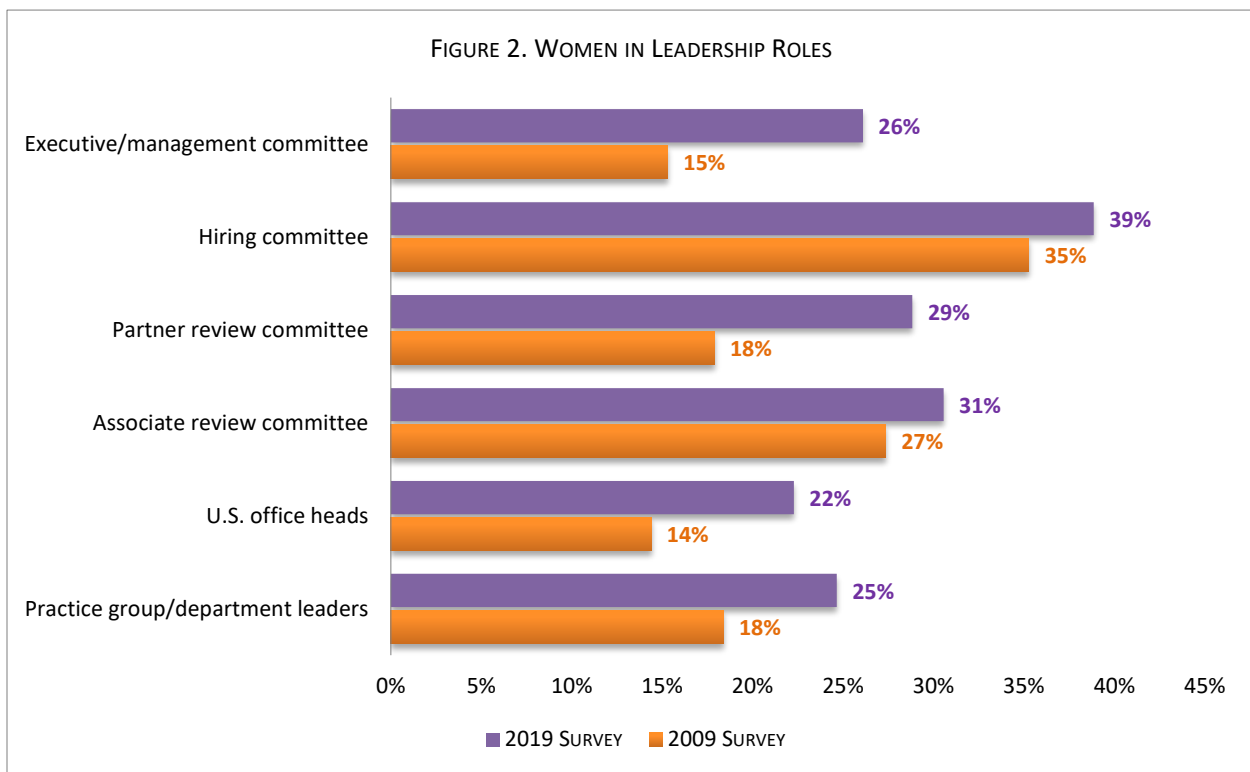
In some respects, the survey results show progress for all women, regardless of race/ethnicity. Both white women and minority women represent a larger proportion of law firm summer associates, associates and partners than they did a decade ago.

Women of color are hired in greater numbers and make up a larger share of the attorney population than men of color. Women represented 59 percent of the minority law students hired as summer associates in 2018 and more than half of all attorneys of color hired. Women of color represent more than 14 percent of associates.

The progress is not as strong at the partner level, however. Although the number of female minority partners has also grown, their representation in the partner ranks remains low. Less than 4 percent of all partners are women of color, and minority women represent just 3 percent of equity partners, compared to 6 percent for minority men and 19 percent for white women.

Attrition among women of color, especially at the associate level, continues to increase. Minority women represented almost 19 percent of the first- and second-year associates who left their firms in 2018. Twelve percent of all attorneys who left their firms in 2018 were women of color—the highest figure recorded to date.

FIGURE 3. ATTORNEY REPRESENTATION BY RACE AND GENDER
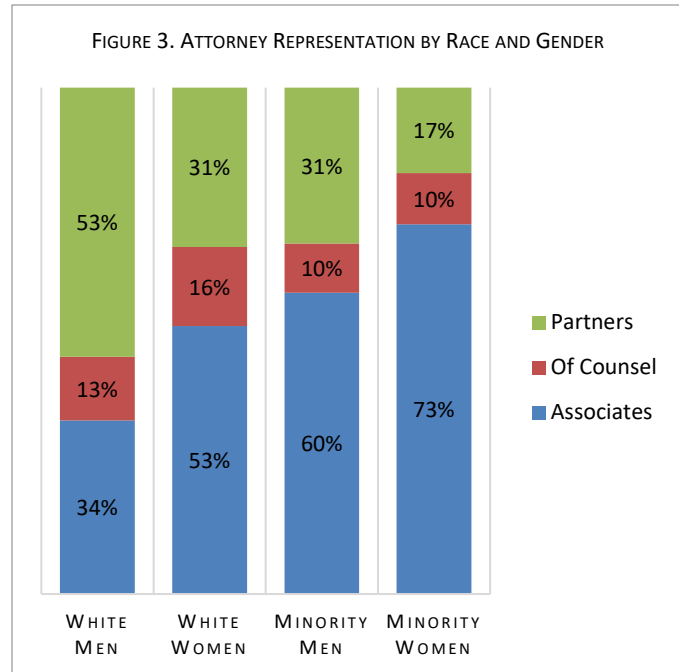
Notwithstanding the progress female attorneys have made over the years, men are still more likely to join the equity partner ranks than women, and women of color are the least likely.

TABLE 2. PERCENTAGE OF EQUITY PARTNERS AMONG NEW PARTNERS (includes both lateral hires and internal promotions)				
	White Men	**White Women**	**Minority Men**	**Minority Women**
	56%	51%	52%	48%
New Equity Partners	1,483	576	203	153
New Partners	2,671	1,126	389	319
Associates	19,934	15,324	5,383	7,006

FIGURE 4. ALL FEMALE LAWYERS: HIRES, DEPARTURES AND PROMOTIONS OVER TIME†

Attorneys Hired: 42.2% (2007), 40.7% (2008), 38.0% (2009), 42.3% (2010), 41.4% (2011), 40.6% (2012), 41.6% (2013), 41.3% (2014), 42.3% (2015), 43.8% (2016), 44.4% (2017), 41.3% (2018)

Attorneys Who Left: 40.7% (2007), 40.1% (2008), 41.0% (2009), 41.6% (2010), 41.4% (2011), 40.6% (2012), 40.5% (2013), 40.0% (2014), 40.8% (2015), 40.3% (2016), 40.2% (2017), 40.8% (2018)

Attorneys Promoted to Partner: 30.0% (2007), 31.4% (2008), 30.0% (2009), 29.7% (2010), 32.5% (2011), 33.1% (2012), 34.5% (2013), 34.6% (2014), 34.6% (2015), 36.2% (2016), 38.0% (2017), 38.1% (2018)

Legend: ATTORNEYS HIRED — ATTORNEYS WHO LEFT — ATTORNEYS PROMOTED TO PARTNER

FIGURE 5. WOMEN OF COLOR: HIRES, DEPARTURES AND PROMOTIONS OVER TIME†

Attorneys Hired: 11.6% (2007), 11.5% (2008), 9.7% (2009), 10.9% (2010), 11.1% (2011), 11.1% (2012), 11.8% (2013), 12.2% (2014), 13.3% (2015), 13.2% (2016), 14.3% (2017), 13.8% (2018)

Attorneys Who Left: 9.9% (2007), 10.5% (2008), 11.0% (2009), 10.1% (2010), 10.5% (2011), 10.4% (2012), 10.7% (2013), 10.6% (2014), 11.3% (2015), 11.1% (2016), 11.7% (2017), 12.0% (2018)

Attorneys Promoted to Partner: 5.7% (2007), 5.2% (2008), 4.7% (2009), 4.5% (2010), 5.6% (2011), 5.8% (2012), 6.5% (2013), 6.5% (2014), 6.6% (2015), 7.3% (2016), 6.7% (2017), 8.3% (2018)

Legend: ATTORNEYS HIRED — ATTORNEYS WHO LEFT — ATTORNEYS PROMOTED TO PARTNER

†*Represents percentage of women among attorneys hired each year (incoming associates as well as laterals), compared to percentage of women among attorneys who left their firms that year (associates, counsel and partners) and the percentage of women among attorneys promoted to partnership.*

The following sections highlight significant findings based on the data reported for individual racial/ethnic groups.

➢ Even compared to other minority groups, Asian Americans are significantly underrepresented at partnership and management levels, although the numbers are slowly trending upward.

➢ While the numbers remain low compared to their share of the U.S. population as a whole, Hispanic and Latinx lawyers have seen slow but steady gains according to the data.

➢ Progress for African American lawyers is less evident, as their numbers in law firms remain below pre-recession levels and they leave their firms at a higher rate than other groups.

FIGURE 6. LAW FIRM ATTORNEY DEMOGRAPHICS

- White/Caucasian
- Asian American
- Hispanic/Latinx
- African American/Black
- Multiracial
- Alaska Native/American Indian
- Native Hawaiian/Pacific Islander
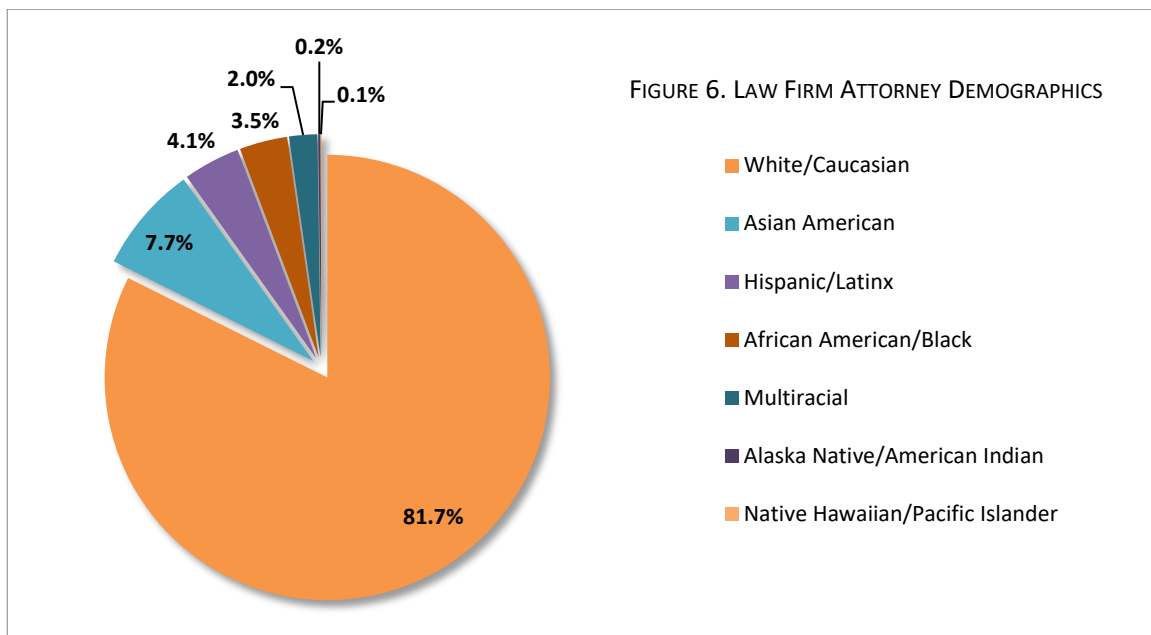
Asian Americans are the largest minority group among law firm attorneys. According to this year's survey, they represent 44 percent of minority lawyers and almost 8 percent of all attorneys in surveyed law firms. Twelve percent of associates and almost 4 percent of partners are Asian Americans. Both figures represent small increases over last year.

Although the overall population of Asian lawyers has grown, the latest survey reported slightly lower percentages of Asian Americans among summer associates and attorneys hired than the previous year.

Asian American attorneys continue to be underrepresented in the upper echelons of law firms. Only 21 percent of Asian American lawyers are partners in their firms, compared to 25 percent of African American attorneys, 29 percent of Hispanic/Latinx lawyers and 46 percent of white attorneys.

While the vast majority (almost 90 percent) of attorneys serving on firm executive or management committees are white, Asian American attorneys represent a disproportionately small share of the minority lawyer membership. Asian Americans represent 44 percent of all minority attorneys in law firms but only 33 percent of the attorneys of color who serve on executive committees.

That said, this year's results did show a slight uptick in the number of Asian Americans promoted to partnership, as well as increases in the number of Asian attorneys in leadership roles. Asian Americans represented almost 7 percent of attorneys promoted to partnership in 2018 and make up 3.5 percent of attorneys serving on executive committees, 4 percent of lawyers on partner review committees and 5 percent of attorneys on associate review committees.

FIGURE 7. MINORITY REPRESENTATION IN MANAGEMENT[†]
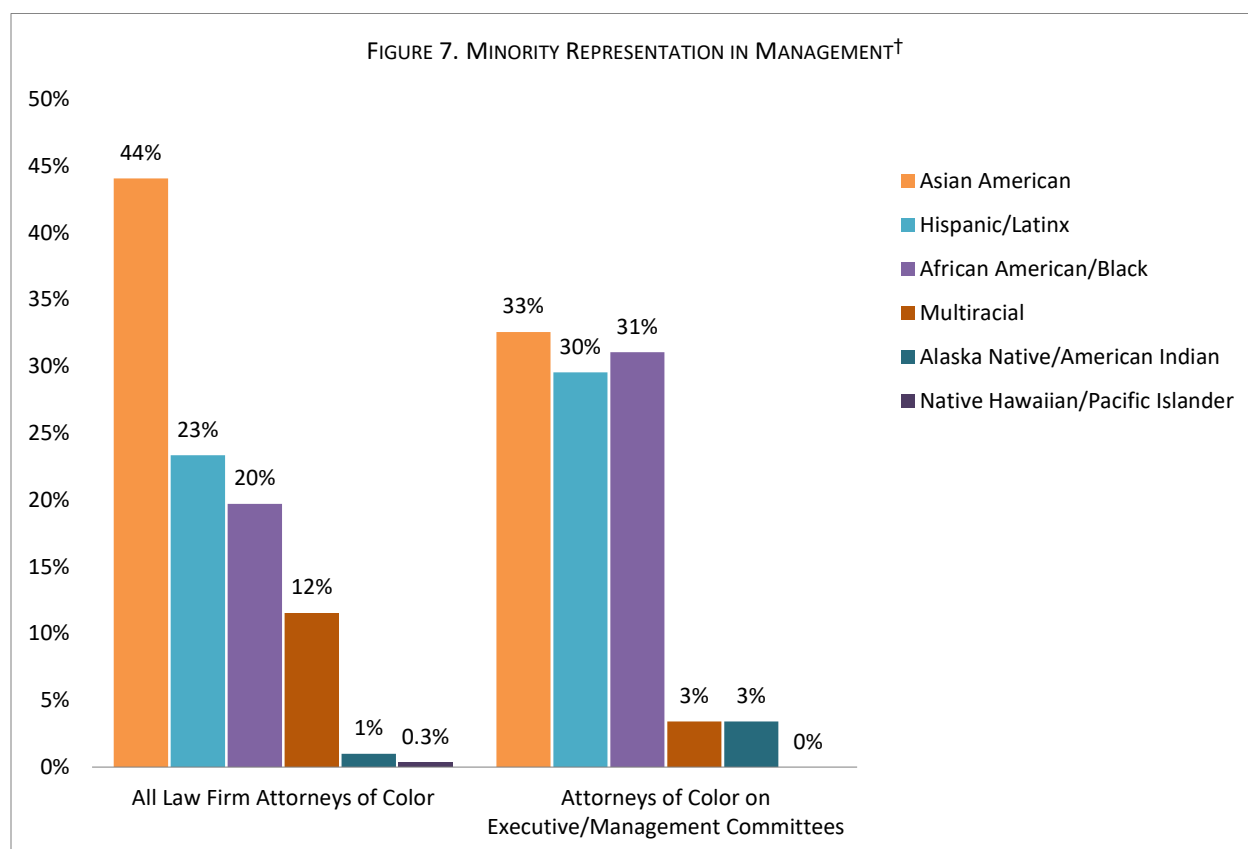
†Represents racial/ethnic breakdown of minority attorneys, comparing demographics of overall law firm population to demographics of firms' executive/management committees. Note that percentages are based on the total number of attorneys of color.

While still disproportionately low relative to their overall population in the United States, the number of Hispanic and Latinx attorneys continues to increase, albeit very slowly. In 2007, Hispanic/Latinx attorneys represented 3 percent of attorneys in law firms; now they represent more than 4 percent.

According to this year's survey, more than 5 percent of associates and just under 3 percent of partners are Hispanic/Latinx. Although the partnership numbers remain low, Hispanic and Latinx lawyers are more likely to be partners at their firms than either black or Asian attorneys. Twenty-nine percent of Hispanic/Latinx lawyers are partners at their firms, while the figures are 25 percent and 21 percent, respectively, for African American and Asian American lawyers.

In 2018, 4 percent of attorneys promoted to their firms' partnerships were Hispanic or Latinx—the highest number in the last six years. At the leadership level, Hispanic and Latinx attorneys represent 3 percent of attorneys on executive committees, 4 percent of lawyers on hiring committees, and close to 3 percent of the attorneys serving on partner review and associate review committees.

Hispanic/Latinx lawyers made up more than 5 percent of all new attorneys hired in 2018 and more than 7 percent of 2L summer associates that year. As is true for other racial/ethnic minority groups, women outnumber men among the summer associates, although the Hispanic/Latinx lawyers hired laterally included more men than women.

FIGURE 8. ATTORNEY POSITION BY DEMOGRAPHIC
(Total number of attorneys)

■ ASSOCIATES ■ OF COUNSEL ■ PARTNERS

Demographic	Associates	Of Counsel	Partners
White/Caucasian (87,113)	40%	14%	46%
Alaska Native/American Indian (185)	47%	15%	38%
Hispanic/Latinx (4,352)	60%	11%	29%
Native Hawaiian/Pacific Islander (63)	60%	11%	29%
African American/Black (3,674)	63%	11%	25%
Asian American (8,215)	70%	9%	21%
Multiracial (2,151)	72%	9%	18%
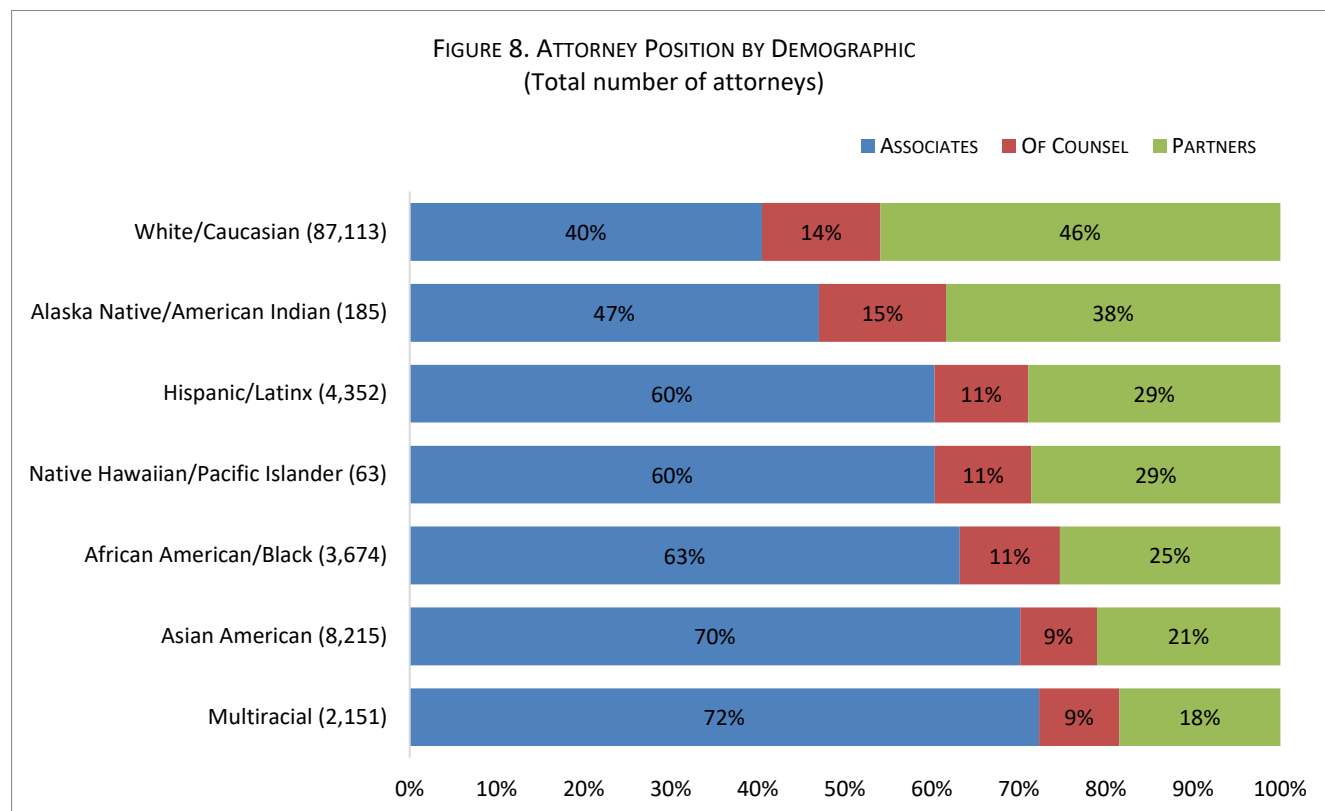
Compared to other minority groups, data for African American/Black lawyers reveal fewer signs of progress. Although the last few years have shown some small increases, the number of black attorneys has yet to return to pre-recession levels.

African Americans represent more than 3 percent of all law firm attorneys. While this year's figure is slightly higher than last year's (3.5 percent compared to 3.3 percent), prior to the recession, it was closer to 4 percent. Similarly, the percentage of black associates, which had steadily declined since 2007, has only slowly inched upward in the last three years to bring the current figure closer to—though still below—the 5 percent reported more than a decade ago.

According to this year's survey, 2 percent of all partners and just under 2 percent of equity partners are African American/Black. The percentage of black attorneys among partners promoted did increase by a small margin over the previous year, although it still remains below 3 percent.

One area in which the numbers have improved in recent years is summer associate hiring. Although the 2018 class of 2Ls included fewer African Americans than 2017, the number is approaching 8 percent and exceeds the figures reported for every other year. In addition, at a little over 5 percent, the number of black attorneys among new hires is the highest it has been since 2007.

Relative to other minority groups, African American/Black attorneys are better represented on their firms' executive/management committees. African Americans make up 3.5 percent of all law firm attorneys and they represent 3.3 percent of attorneys on executive committees. By contrast, Hispanic/Latinx lawyers represent 4.1 percent of attorneys but only 3.2 percent of executive committee members, while Asian Americans, whose population is more than that of African American and Hispanic/Latinx attorneys combined, represent just 3.5 percent of attorneys on their firms' executive committees.

Retention of black lawyers remains an ongoing issue, as they continue to leave their firms at a higher rate than other groups. More than 6 percent of associates who left their firms in 2018 were African American, the highest figure since 2011.

TABLE 3. ATTORNEY DEPARTURES AMONG LARGEST RACIAL/ETHNIC GROUPS IN 2018 AS PERCENTAGE OF THEIR OVERALL LAW FIRM POPULATION				
	African American/ Black	Asian American	Hispanic/Latinx	White/Caucasian
All Attorneys	16.7%	14.3%	12.1%	10.6%
Men	16.0%	13.9%	11.3%	10.0%
Women	17.3%	14.7%	13.0%	11.9%

FIGURE 9. MINORITY REPRESENTATION AMONG LAW FIRM ATTORNEYS
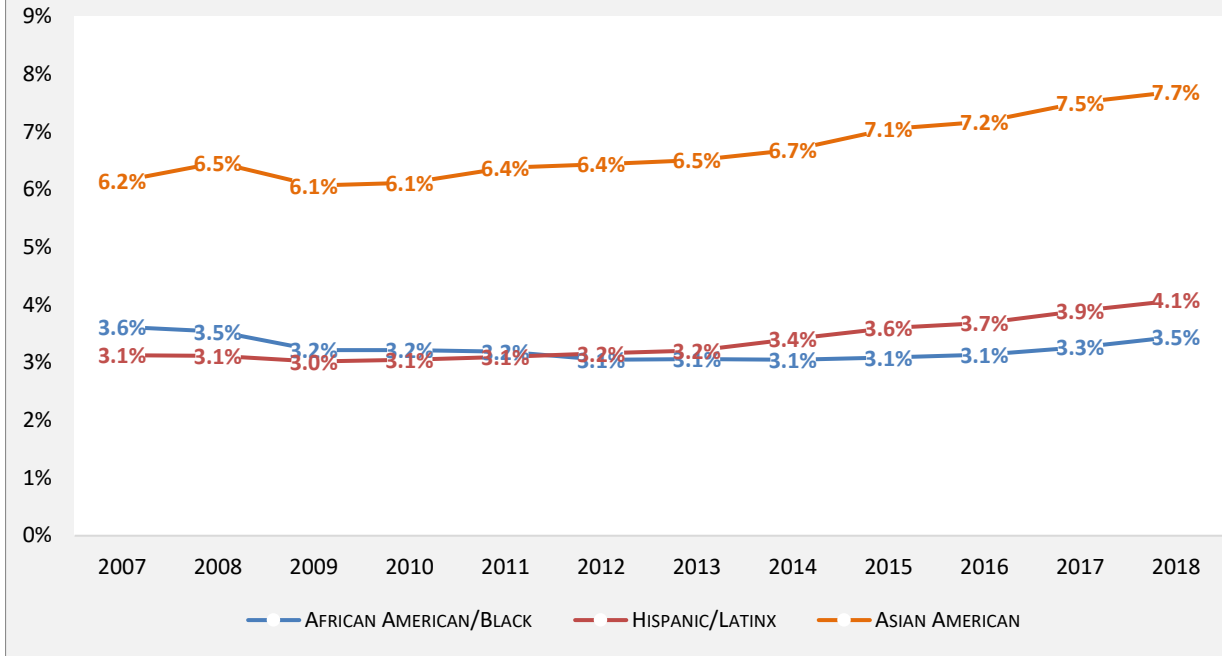
As the population of Asian American and Hispanic/Latinx lawyers has gradually increased over time, the number of African American/Black lawyers has fallen or remained flat. The numbers of Hispanic/Latinx and Asian American partners have also grown at a higher rate than that of African American/Black partners.

FIGURE 10. MINORITY REPRESENTATION AMONG LAW FIRM PARTNERS
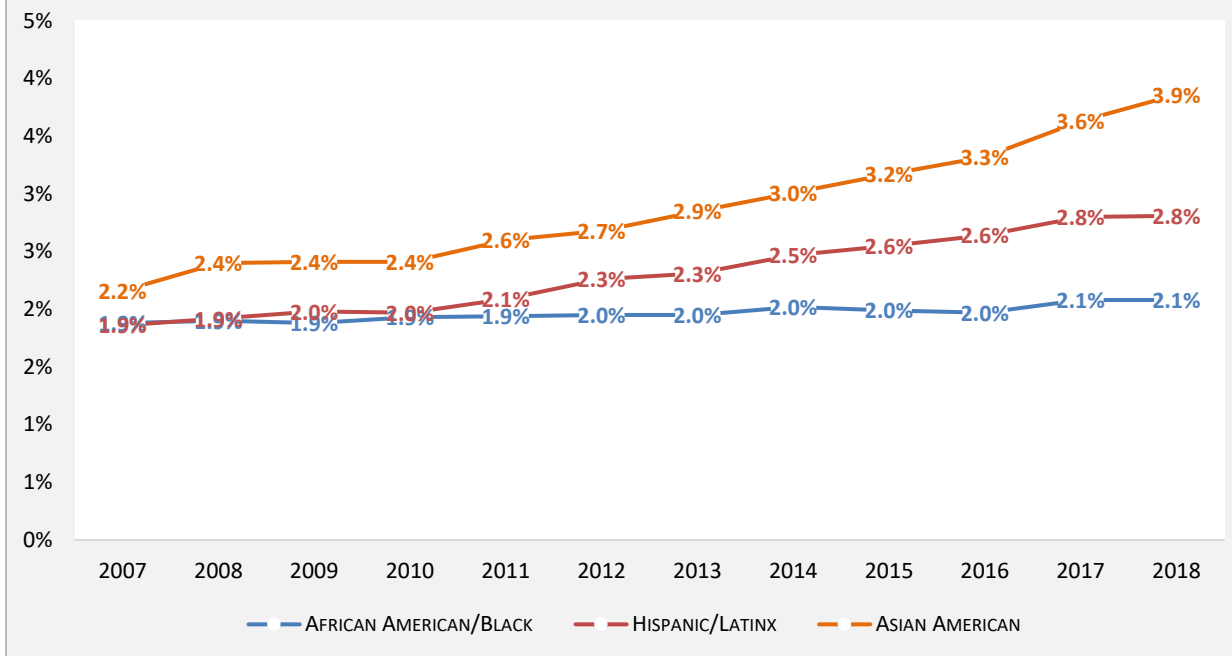
MULTIRACIAL, ALASKA NATIVE/AMERICAN INDIAN AND NATIVE HAWAIIAN/PACIFIC ISLANDER

In addition to African American/Black, Hispanic/Latinx and Asian American, other racial minority groups for which the Vault/MCCA survey collects data include multiracial lawyers (individuals who identify as two or more races), Alaska Native/American Indian attorneys and Native Hawaiian/Pacific Islanders. Although most of the law firms surveyed now report demographic data for all groups, not all have separately tracked numbers for multiracial attorneys and Native Hawaiian/Pacific Islanders, classifications that the EEOC introduced to its reporting requirements in 2007.

Both because of these reporting issues and because the groups represent a relatively small share even of the overall minority populations, it is difficult to assess changes over time.

Multiracial attorneys—those lawyers who identify with more than one racial group—represent a small but growing share of the lawyer population. According to this year's survey, they represent 2 percent of all attorneys in law firms, including 3 percent of associates and less than 1 percent of partners.

Relative to their overall numbers, multiracial attorneys are even less likely to be partners at their firms than Asian Americans or other minority groups, but their representation in law firm partnerships has been growing. Over the last three years, the percentage of multiracial attorneys who are partners at their firms has grown from 15 percent to 18 percent.

According to this year's survey, there are just 185 attorneys identifying as Alaska Native or American Indian at surveyed law firms, representing less than 0.2 percent of law firm attorneys, although their representation among summer associates is slightly higher.

Native Hawaiians and Pacific Islanders are the smallest racial group for which survey data is collected, representing less than one-tenth of 1 percent of lawyers—63 attorneys—across surveyed firms.

LGBTQ ATTORNEYS

While still low, the numbers reported for openly lesbian, gay, bisexual, transgender and queer attorneys at law firms continue to grow. According to the latest survey results, nearly 3 percent of law firm attorneys identify as LGBTQ, the highest figure reported to date. (Note that approximately 7 percent of surveyed firms did not provide LGBTQ data.)

Four percent of associates and almost 2 percent of partners identify as LGBTQ. The numbers are higher among summer associates. Law firms reported that more than 5 percent of 2L summer associates in 2018 were LGBTQ.

FIGURE 11. REPRESENTATION OF LGBTQ ATTORNEYS AND INDIVIDUALS WITH DISABILITIES AT SURVEYED LAW FIRMS
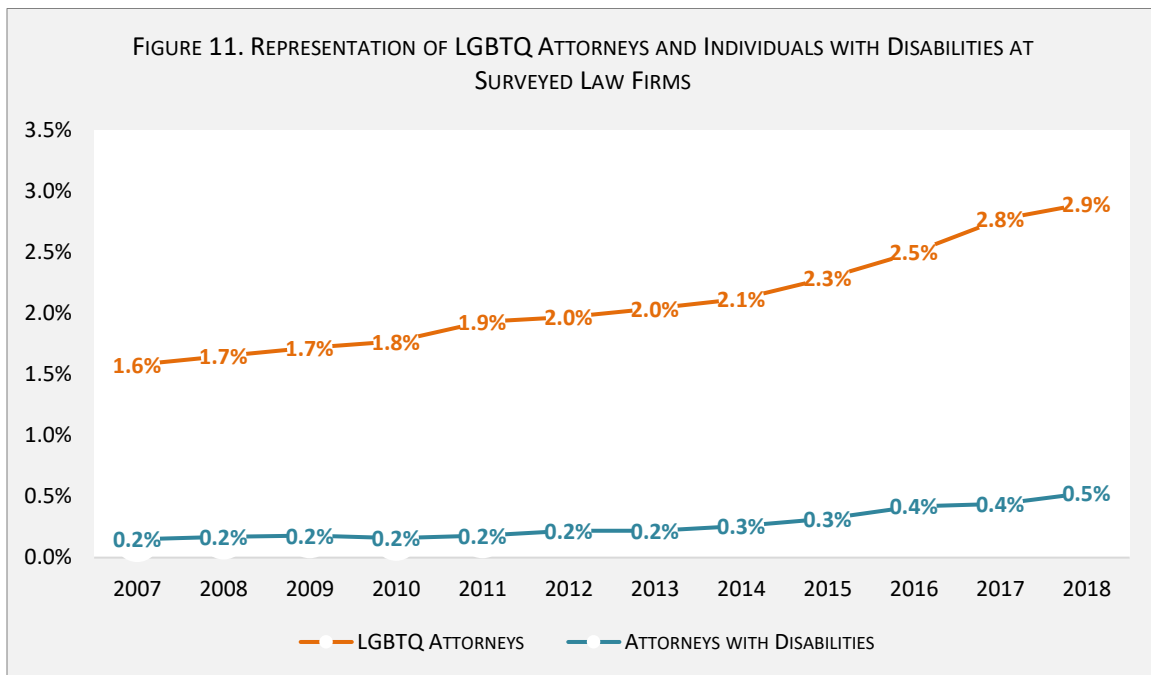
INDIVIDUALS WITH DISABILITIES

The Vault/MCCA Survey solicits information on Individuals with Disabilities, although a sizeable minority of law firms (29 percent) do not collect or report this data. While underreporting makes it difficult to draw reliable conclusions about their representation in law firms, the numbers are trending upward.

According to the latest survey results, Individuals with Disabilities represent more than 0.5 percent of law firm attorneys. Of the 563 attorneys with disabilities recorded in this year's survey, nearly 38 percent are partners, 47 percent are associates and 16 percent are of counsel.

The survey also touched upon flexible schedules and found that more than 6 percent of law firm attorneys work a part-time schedule. Women represent the majority—about 64 percent—of those lawyers.

Part-time schedules are most common among law firm of counsel and associates, while equity partners are the least likely to work part time. Almost 46 percent of attorneys working part time are of counsel, and 23 percent of all of counsel at law firms have part-time schedules.

Thirty percent of attorneys working part time are associates, 12 percent are equity partners and just under 12 percent are non-equity partners.

FIGURE 12. PERCENTAGE OF ATTORNEYS WORKING PART-TIME SCHEDULES

Category	Men	Women
Of Counsel	10.5%	12.6%
Non-equity Partners	2.6%	4.2%
Associates	0.8%	3.6%
Equity Partners	1.1%	1.7%
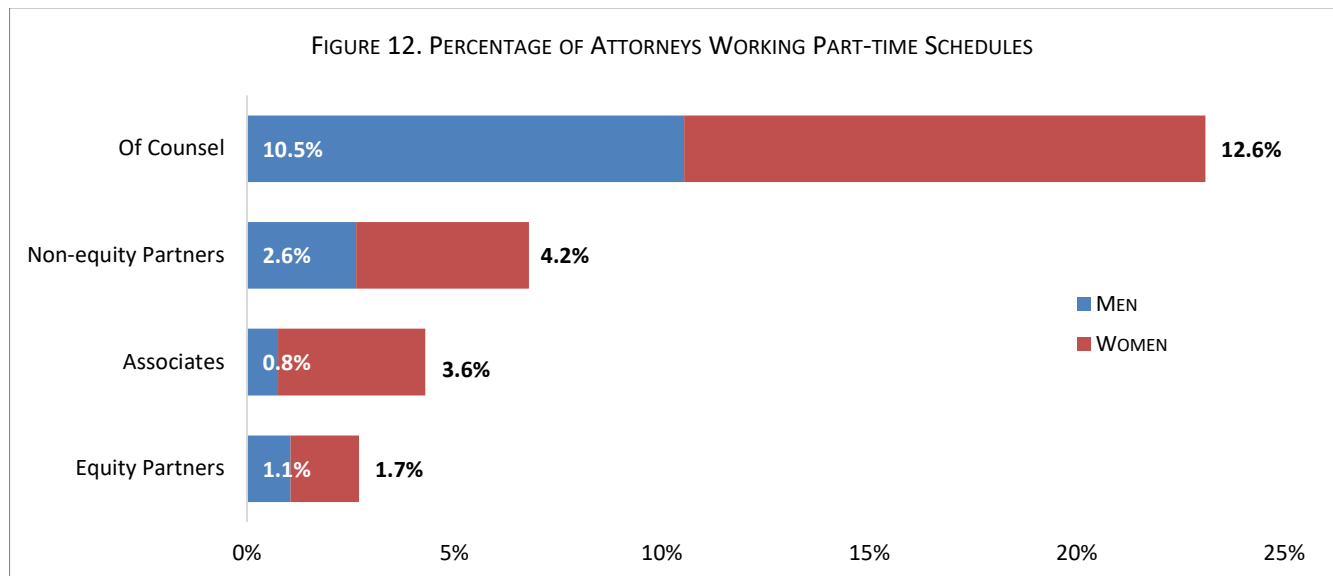
Appendices

Methodology

Findings are based on law firm responses to the annual Vault/MCCA Law Firm Diversity Survey. Survey results for the years 2007 through 2018 are available online in the Law Firm Diversity Database (http://mcca.vault.com). Data for years prior to 2007 is available in an earlier version of the database, at http://mcca.vault.com/LawDiversity/.

All data reported is based on calendar year. The most recent survey, soliciting data as of December 31, 2018, was distributed in the spring of 2019 and published in September 2019.

More than 220 law firms participate in the survey each year, representing more than 90 percent of the AmLaw 100 and Vault Law 100 and a majority of the NLJ 250. The most recent survey includes data for 238 law firms.

The Vault/MCCA Survey is administered by Vault. The results are compiled by Vault, and the annual report is written and produced under the direction of Vault's managing director of research and consulting, Vera Djordjevich.

The survey collects demographic data for permanent attorney staff in the United States and uses the following definitions:

- **Associate:** A non-partner lawyer who has no ownership rights or responsibilities but who has an opportunity to become an owner; associates are employees of the firm and are considered on partnership track, even if they ultimately leave the firm or are not chosen for partnership.

- **Summer associate:** A law student, usually between second and third year (called a 2L, in that case), who serves as a law associate for the summer and is supervised by a lawyer or lawyers.

- **Equity partner:** An attorney, generally referred to as a partner, member or shareholder, who has the right to share in the profits of the firm.*

- **Non-equity partner:** A law firm employee who has been promoted from associate to a tier of partnership in which the lawyer does not share in the profits or capital of the firm; this position is often an intermediate step toward full equity partner. (Law firms with more than one tier of partnership were asked to provide equity and non-equity partner data separately, although a small number of firms refused to publicly disclose equity/non-equity breakdowns.)*

- **Of counsel:** A lawyer, who may be known as of counsel, counsel, special counsel, staff attorney or senior attorney, who is neither an associate nor a partner; the lawyer does not currently share in the firm's profits but might be on a track that enables consideration for partnership. He or she is a permanent employee of the firm and not a temporary or contract attorney. This category may also include an attorney who has retired from a partnership position but remains an employee, sometimes on a part-time basis.

- **New hire:** An attorney who has joined the firm sometime during the year indicated on the table (e.g., in 2018); this includes all first-year associates, laterals and partners (both equity and non-equity). It does not include summer associates.

- **Minorities:** Those whose race is other than White/Caucasian, including the following categories designated by the Equal Employment Opportunity Commission: African American/Black (not Hispanic or Latinx); Hispanic/Latinx; Alaska Native/American Indian; Asian; Native Hawaiian/Other Pacific Islander; and Multiracial (those who identify with two or more of the above races).

Where the findings refer to all law firm attorneys, the figures include only those permanent attorney staff defined above: i.e., associates, equity partners, non-equity partners and of counsel.

* The majority of law firms surveyed have more than one tier of partnership, although not all disclosed the number of equity vs non-equity partners, instead combining the figures into a single category.

Tables

Table A1. Changes in Law Firm Demographics: 2018 vs 2017 vs 2007

percentage drop / percentage increase

Demographic	Year	2L Summer Associates	Associates	Of Counsel	Non-equity Partners	Equity Partners	All Partners	All Lawyers
White / Caucasian	**2018**	**66.39%**	**73.38%**	**85.93%**	**89.77%**	**89.87%**	**89.30%**	**81.69%**
	2017	67.46%	74.54%	86.69%	87.33%	90.90%	89.94%	82.64%
	2007	73.43%	78.96%	89.43%	91.17%	93.65%	93.06%	85.72%
Asian American	**2018**	**13.13%**	**11.99%**	**5.25%**	**4.21%**	**3.73%**	**3.86%**	**7.70%**
	2017	13.57%	11.85%	5.25%	3.82%	3.56%	3.63%	7.51%
	2007	12.88%	9.96%	3.43%	3.00%	1.90%	2.16%	6.15%
Hispanic / Latinx	**2018**	**7.55%**	**5.46%**	**3.41%**	**3.33%**	**2.62%**	**2.81%**	**4.08%**
	2017	6.78%	5.15%	3.22%	3.48%	2.54%	2.80%	3.90%
	2007	4.08%	4.33%	2.35%	2.21%	1.75%	1.86%	3.13%
African American / Black	**2018**	**7.76%**	**4.83%**	**3.06%**	**2.45%**	**1.94%**	**2.08%**	**3.45%**
	2017	7.86%	4.53%	2.85%	2.65%	1.87%	2.08%	3.27%
	2007	7.27%	5.11%	3.32%	2.78%	1.60%	1.88%	3.62%
Multiracial	**2018**	**3.81%**	**3.24%**	**1.44%**	**1.23%**	**0.76%**	**0.89%**	**2.02%**
	2017	3.64%	3.14%	1.41%	1.03%	0.67%	0.77%	1.91%
	2007	1.23%	1.05%	0.36%	0.21%	0.20%	0.20%	0.64%
Alaska Native / American Indian	**2018**	**0.25%**	**0.18%**	**0.20%**	**0.21%**	**0.14%**	**0.16%**	**0.17%**
	2017	0.29%	0.19%	0.20%	0.18%	0.12%	0.13%	0.17%
	2007	0.37%	0.22%	0.11%	0.16%	0.15%	0.15%	0.18%
Native Hawaiian / Pacific Islander	**2018**	**0.14%**	**0.08%**	**0.05%**	**0.06%**	**0.03%**	**004%**	**006%**
	2017	0.03%	0.09%	0.03%	0.13%	0.07%	0.08%	0.08%
	2007	0.12%	0.12%	0.08%	0.09%	0.03%	0.04%	0.08%
Openly LGBTQ	**2018**	**5.61%**	**4.01%**	**2.16%**	**2.02%**	**1.90%**	**1.93%**	**2.90%**
	2017	5.16%	3.73%	2.20%	2.01%	1.92%	1.95%	2.77%
	2007	2.01%	1.98%	1.25%	1.17%	1.16%	1.16%	1.58%
Individuals with Disabilities	**2018**	**0.35%**	**0.55%**	**0.64%**	**0.57%**	**0.44%**	**0.48%**	**0.53%**
	2017	0.26%	0.43%	0.64%	0.39%	0.39%	0.39%	0.44%
	2007	0.05%	0.13%	0.24%	0.16%	0.17%	0.16%	0.15%
All Racial Minorities	**2018**	**32.63%**	**25.78%**	**13.41%**	**11.49%**	**9.21%**	**9.83%**	**17.48%**
	2017	32.18%	24.95%	12.97%	11.29%	8.82%	9.48%	16.84%
	2007	25.95%	20.78%	9.66%	8.45%	5.62%	6.30%	13.81%
All Women	**2018**	**51.37%**	**46.47%**	**39.96%**	**30.11%**	**21.64%**	**23.93%**	**36.16%**
	2017	49.88%	46.22%	40.23%	30.36%	20.64%	23.26%	35.70%
	2007	46.53%	44.66%	35.63%	26.17%	16.05%	18.46%	33.10%
Women of Color	**2018**	**19.27%**	**14.58%**	**7.05%**	**5.06%**	**3.08%**	**3.61%**	**9.00%**
	2017	18.48%	13.96%	7.03%	4.88%	2.81%	3.37%	8.57%
	2007	14.63%	11.65%	4.78%	3.11%	1.52%	1.90%	7.01%

Table A2. Minority Lawyers among Surveyed Firms

MINORITY LAWYERS			
2019 Survey	**All**	**Men**	**Women**
Overall Law Firm Demographics			
All Attorneys (associates, partners, of counsel)	17.48%	8.48%	9.00%
Associates	25.78%	11.20%	14.58%
All Partners (both equity and non-equity)	9.83%	6.21%	3.61%
Equity Partners	9.21%	6.14%	3.08%
Non-equity Partners	11.49%	6.43%	5.06%
Of Counsel	13.41%	6.36%	7.05%
Recruitment & Promotion			
2L Summer Associates	32.63%	13.36%	19.27%
All Attorneys Hired (laterals and starting associates)	25.34%	11.51%	13.82%
Lateral Associates	28.07%	12.50%	15.58%
Lateral Partners	14.86%	9.06%	5.80%
Lateral Of Counsel	20.99%	9.82%	11.16%
Partners Promoted	16.28%	8.00%	8.27%
All New Equity Partners (both promoted and lateral)	14.62%	8.34%	6.28%
Attrition (attorneys who left their firms)			
All Attorneys (associates, partners, of counsel)	22.08%	10.07%	12.01%
Associates (all levels)	27.72%	12.17%	15.55%
Junior Associates (1st- and 2nd-years)	31.77%	13.18%	18.58%
Midlevel Associates (3rd-, 4th- and 5th-years)	30.19%	13.42%	16.76%
Senior Associates (6th-, 7th-, 8th-years and above)	23.40%	10.42%	12.98%
Equity Partners	11.28%	7.09%	4.19%
Non-equity Partners	12.19%	6.63%	5.56%
Of Counsel	15.53%	6.59%	8.94%
Membership on Management-level Committees			
Executive/Management Committee	10.74%	6.96%	3.79%
Partner Review Committee	10.53%	7.03%	3.50%
Associate Review Committee	11.10%	6.79%	4.30%
Hiring Committee	17.07%	8.67%	8.40%
Diversity Committee	41.49%	20.72%	20.77%
Other Leadership Roles*			
U.S. Office Heads	10.22%		
Practice Leaders	8.54%		

Gender-specific data is unavailable

2019 Vault/MCCA Law Firm Diversity Report

Table A3. Women among Surveyed Firms

ALL FEMALE LAWYERS			
2019 Survey	**All Women**	**White Women**	**Women of Color**
Overall Law Firm Demographics			
All Attorneys (associates, partners, of counsel)	36.16%	27.16%	9.00%
Associates	46.47%	31.89%	14.58%
All Partners (both equity and non-equity)	23.93%	20.32%	3.61%
Equity Partners	21.64%	18.56%	3.08%
Non-equity Partners	30.11%	25.05%	5.06%
Of Counsel	39.96%	32.91%	7.05%
Recruitment & Promotion			
2L Summer Associates	51.37%	32.10%	19.27%
All Attorneys Hired (laterals and starting associates)	41.27%	27.45%	13.82%
Lateral Associates	45.17%	29.59%	15.58%
Lateral Partners	25.63%	19.84%	5.80%
Lateral Of Counsel	43.59%	32.42%	11.16%
Partners Promoted	38.13%	29.86%	8.27%
All New Equity Partners (both promoted and lateral)	29.94%	23.66%	6.28%
Attrition (attorneys who left their firms)			
All Attorneys (associates, partners, of counsel)	40.79%	28.78%	12.01%
Associates (all levels)	46.85%	31.30%	15.55%
Junior Associates (1st- and 2nd-years)	49.34%	30.76%	18.58%
Midlevel Associates (3rd-, 4th- and 5th-years)	46.01%	29.25%	16.76%
Senior Associates (6th-, 7th-, 8th-years and above)	46.64%	33.66%	12.98%
Equity Partners	21.91%	17.72%	4.19%
Non-equity Partners	29.63%	24.07%	5.56%
Of Counsel	40.45%	31.51%	8.94%
Membership on Management-level Committees			
Executive/Management Committee	26.09%	22.30%	3.79%
Partner Review Committee	28.82%	25.32%	3.50%
Associate Review Committee	30.55%	26.24%	4.30%
Hiring Committee	38.85%	30.45%	8.40%
Diversity Committee	47.88%	27.12%	20.77%
Other Leadership Roles*			
U.S. Office Heads	22.27%		
Practice Leaders	24.64%		

Race-specific data is unavailable

Table A4. African American/Black, Asian American and Hispanic/Latinx Lawyers Among Surveyed Firms

2019 Survey	African American/Black			Asian American			Hispanic/Latinx		
	All	Men	Women	All	Men	Women	All	Men	Women
Law Firm Demographics									
All Attorneys	3.45%	1.59%	1.85%	7.70%	3.55%	4.15%	4.08%	2.21%	1.87%
Associates	4.83%	1.96%	2.87%	11.99%	5.04%	6.96%	5.46%	2.61%	2.86%
All Partners	2.08%	1.28%	0.79%	3.86%	2.34%	1.52%	2.81%	1.90%	0.91%
Equity Partners	1.94%	1.22%	0.71%	3.73%	2.37%	1.35%	2.62%	1.88%	0.74%
Non-equity Partners	2.45%	1.45%	1.01%	4.21%	2.25%	1.96%	3.33%	1.94%	1.39%
Of Counsel	3.06%	1.31%	1.76%	5.25%	2.33%	2.92%	3.41%	1.88%	1.52%
Recruitment & Promotion									
2L Summer Associates	7.76%	2.89%	4.86%	13.13%	5.02%	8.10%	7.55%	3.43%	4.12%
All Attorneys Hired	5.49%	2.34%	3.15%	11.03%	4.92%	6.11%	5.54%	2.81%	2.73%
Lateral Associates	6.01%	2.47%	3.53%	12.71%	5.54%	7.18%	5.78%	2.85%	2.93%
Lateral Partners	2.75%	1.85%	0.90%	6.40%	4.12%	2.28%	3.86%	2.15%	1.72%
Lateral Of Counsel	5.26%	2.36%	2.90%	8.16%	3.70%	4.46%	4.51%	2.42%	2.09%
Partners Promoted	2.79%	1.35%	1.44%	6.83%	3.28%	3.55%	4.00%	1.89%	2.11%
All New Equity Partners	2.71%	1.68%	1.03%	6.65%	3.78%	2.87%	3.49%	2.01%	1.48%
Attrition (attorneys who left their firms)									
All Attorneys	5.11%	2.26%	2.85%	9.80%	4.40%	5.40%	4.37%	2.22%	2.15%
All Associates	6.30%	2.76%	3.54%	12.67%	5.55%	7.12%	5.03%	2.37%	2.66%
Junior Associates	7.79%	3.24%	4.55%	13.42%	5.71%	7.71%	6.63%	2.62%	4.01%
Midlevel Associates	6.74%	3.08%	3.66%	13.78%	5.84%	7.94%	5.45%	2.76%	2.69%
Senior Associates	5.18%	2.22%	2.96%	11.20%	5.18%	6.02%	3.90%	1.85%	2.05%
Equity Partners	2.90%	1.61%	1.29%	4.12%	2.45%	1.68%	3.03%	2.19%	0.84%
Non-equity Partners	2.82%	1.45%	1.37%	4.80%	2.74%	2.06%	3.43%	1.83%	1.60%
Of Counsel	3.85%	1.40%	2.46%	6.59%	2.57%	4.02%	3.52%	1.96%	1.56%
Membership on Management-level Committees									
Executive/Management Committee	3.34%	2.08%	1.26%	3.50%	2.16%	1.34%	3.17%	2.16%	1.02%
Partner Review Committee	2.64%	1.79%	0.85%	4.22%	2.69%	1.53%	2.86%	1.92%	0.94%
Associate Review Committee	2.57%	1.43%	1.15%	4.84%	2.82%	2.01%	2.52%	1.68%	0.84%
Hiring Committee	5.03%	2.42%	2.60%	6.27%	3.28%	2.99%	4.03%	2.26%	1.77%
Diversity Committee	14.57%	7.73%	6.83%	14.57%	6.88%	7.68%	9.44%	4.82%	4.62%

Table A5. Multiracial, Alaska Native/Native American and Native Hawaiian/Pacific Islander Lawyers Among Surveyed Firms

2019 Survey	Multiracial			Alaska Native/American Indian			Native Hawaiian/ Pacific Islander		
	All	Men	Women	All	Men	Women	All	Men	Women
Law Firm Demographics									
All Attorneys	2.02%	1.00%	1.02%	0.17%	0.09%	0.08%	0.06%	0.03%	0.03%
Associates	3.24%	1.48%	1.76%	0.18%	0.08%	0.10%	0.08%	0.04%	0.04%
All Partners	0.89%	0.56%	0.32%	0.16%	0.10%	0.06%	0.04%	0.03%	0.01%
Equity Partners	0.76%	0.54%	0.22%	0.14%	0.10%	0.04%	0.03%	0.02%	0.01%
Non-equity Partners	1.23%	0.64%	0.59%	0.21%	0.11%	0.10%	0.06%	0.04%	0.02%
Of Counsel	1.44%	0.75%	0.70%	0.20%	0.07%	0.12%	0.05%	0.02%	0.03%
Recruitment & Promotion									
2L Summer Associates	3.81%	1.75%	2.05%	0.25%	0.19%	0.06%	0.14%	0.08%	0.06%
All Attorneys Hired	2.98%	1.31%	1.67%	0.21%	0.11%	0.11%	0.08%	0.03%	0.05%
Lateral Associates	3.24%	1.48%	1.76%	0.23%	0.12%	0.11%	0.11%	0.04%	0.07%
Lateral Partners	1.63%	0.82%	0.82%	0.17%	0.09%	0.09%	0.04%	0.04%	0.00%
Lateral Of Counsel	2.68%	1.23%	1.45%	0.32%	0.11%	0.21%	0.05%	0.00%	0.05%
Partners Promoted	2.16%	1.03%	1.12%	0.36%	0.36%	0.00%	0.13%	0.09%	0.04%
All New Equity Partners	1.48%	0.62%	0.86%	0.21%	0.21%	0.00%	0.08%	0.04%	0.04%
Attrition (attorneys who left their firms)									
All Attorneys	2.45%	1.03%	1.42%	0.25%	0.11%	0.14%	0.10%	0.05%	0.05%
All Associates	3.37%	1.37%	2.00%	0.23%	0.08%	0.15%	0.12%	0.04%	0.08%
Junior Associates	3.32%	1.31%	2.00%	0.39%	0.23%	0.15%	0.23%	0.08%	0.15%
Midlevel Associates	3.83%	1.62%	2.20%	0.29%	0.10%	0.19%	0.10%	0.03%	0.06%
Senior Associates	2.93%	1.14%	1.78%	0.10%	0.00%	0.10%	0.10%	0.03%	0.07%
Equity Partners	0.84%	0.52%	0.32%	0.26%	0.19%	0.06%	0.13%	0.13%	0.00%
Non-equity Partners	0.84%	0.46%	0.38%	0.23%	0.08%	0.15%	0.08%	0.08%	0.00%
Of Counsel	1.23%	0.50%	0.73%	0.34%	0.17%	017%	0.00%	0.00%	0.00%
Membership on Management-level Committees									
Executive/Management Committee	0.37%	0.33%	0.04%	0.37%	0.24%	0.12%	0.00%	0.00%	0.00%
Partner Review Committee	0.68%	0.55%	0.13%	0.13%	0.09%	0.04%	0.00%	0.00%	0.00%
Associate Review Committee	1.03%	0.75%	0.28%	0.11%	0.11%	0.00%	0.03%	0.00%	0.03%
Hiring Committee	1.54%	0.59%	0.95%	0.16%	0.09%	0.07%	0.05%	0.02%	0.02%
Diversity Committee	2.55%	1.07%	1.48%	0.24%	0.12%	0.12%	0.12%	0.10%	0.02%

Table A6. LGBTQ Lawyers and Attorneys with Disabilities among Surveyed Firms

2019 Survey	Openly LGBTQ			Individuals with Disabilities		
	All	**Men**	**Women**	**All**	**Men**	**Women**
Overall Law Firm Demographics						
All Attorneys	2.90%	1.97%	0.93%	0.53%	0.34%	0.19%
Associates	4.01%	2.71%	1.29%	0.55%	0.33%	0.22%
All Partners	1.93%	1.31%	0.62%	0.48%	0.34%	0.13%
Equity Partners	1.90%	1.31%	0.59%	0.44%	0.33%	0.11%
Non-equity Partners	2.02%	1.32%	0.69%	0.57%	0.38%	0.19%
Of Counsel	2.16%	1.52%	0.65%	0.64%	0.36%	0.28%
Recruitment & Promotion						
2L Summer Associates	5.61%	3.33%	2.27%	0.35%	0.19%	0.16%
All Attorneys Hired	3.66%	2.50%	1.16%	0.52%	0.31%	0.21%
Lateral Associates	4.02%	2.90%	1.12%	0.58%	0.30%	0.28%
Lateral Partners	1.89%	1.55%	0.34%	0.43%	0.26%	0.17%
Lateral Of Counsel	2.42%	1.56%	0.86%	0.75%	0.48%	0.27%
Partners Promoted	2.20%	1.35%	0.85%	0.72%	0.36%	0.36%
All New Equity Partners	2.34%	1.52%	0.82%	0.33%	0.16%	0.16%
Attrition (attorneys who left their firms)						
All Attorneys	2.88%	2.02%	0.86%	0.37%	0.21%	0.16%
All Associates	3.41%	2.41%	1.01%	0.33%	0.14%	0.19%
Junior Associates	4.47%	3.01%	1.46%	0.54%	0.23%	0.31%
Midlevel Associates	3.47%	2.50%	0.97%	0.29%	0.13%	0.16%
Senior Associates	2.89%	2.05%	0.84%	0.27%	0.10%	0.17%
Equity Partners	2.58%	1.80%	0.77%	0.06%	0.06%	0.00%
Non-equity Partners	1.60%	1.14%	0.46%	0.30%	0.15%	0.15%
Of Counsel	1.90%	1.28%	0.61%	0.84%	0.67%	0.17%
Membership on Management-level Committees						
Executive/Management Committee	2.08%	0.98%	1.10%	0.37%	0.16%	0.20%
Partner Review Committee	2.05%	0.72%	1.32%	0.34%	0.26%	0.09%
Associate Review Committee	2.18%	1.29%	0.89%	0.36%	0.28%	0.08%
Hiring Committee	3.58%	1.99%	1.58%	0.63%	0.34%	0.29%
Diversity Committee	9.39%	5.98%	3.40%	0.66%	0.24%	0.41%
Other Leadership Roles*						
U.S. Office Heads	1.83%			0.53%		
Practice Leaders	1.86%			0.56%		

Gender-specific data is unavailable.

Participating Law Firms
2019 Vault/MCCA Law Firm Diversity Survey

Law firms that have participated in the Vault/MCCA Survey every year for the past 10 years.

Adams and Reese LLP*

Akerman LLP*

Akin Gump Strauss Hauer & Feld LLP*

Allen & Overy LLP*

Allen Matkins Leck Gamble Mallory & Natsis LLP

Alston & Bird LLP*

Arent Fox LLP*

Armstrong Teasdale LLP

Arnold & Porter Kaye Scholer LLP*

Ater Wynne LLP

Atkinson, Andelson, Loya, Ruud & Romo

Axinn Veltrop & Harkrider LLP

Baird Holm LLP*

Baker & McKenzie, LLP*

Baker Botts LLP*

Baker, Donelson, Bearman, Caldwell & Berkowitz, PC*

BakerHostetler*

Ballard Spahr LLP

Banner & Witcoff Ltd

Barack Ferrazzano Kirschbaum & Nagelberg LLP

Barnes & Thornburg LLP

Best Best & Krieger LLP

Beveridge & Diamond P.C.

Blank Rome LLP*

Boies Schiller Flexner LLP*

Bookoff McAndrews, PLLC

Bowman and Brooke LLP

Bracewell LLP*

Bressler, Amery & Ross, P.C.

Bricker & Eckler LLP*

Brown & James, P.C.

Bryan Cave Leighton Paisner LLP*

Buchanan Ingersoll & Rooney PC*

Buckley LLP

Burns White LLC

Cadwalader, Wickersham & Taft LLP*

Cahill Gordon & Reindel LLP*

Calfee, Halter & Griswold LLP

Cantrell, Strenski & Mehringer, LLP

Carlton Fields*

Carter Ledyard & Milburn LLP

Chapman and Cutler LLP

Choate Hall & Stewart LLP*

Cleary Gottlieb Steen & Hamilton LLP*

Clifford Chance US LLP*

Constangy, Brooks, Smith & Prophete, LLP

Cooley LLP*

Covington & Burling LLP*

Cozen O'Connor

Cravath, Swaine & Moore LLP*

Crowell & Moring LLP*

Davis & Harman LLP*

Davis Polk & Wardwell LLP*

Davis Wright Tremaine LLP*

Day Pitney LLP

Debevoise & Plimpton LLP*

Dechert LLP*

Dentons*

Dinsmore & Shohl LLP*

DLA Piper LLP (US)*

Dorsey & Whitney LLP*

Drew Eckl & Farnham LLP*

Drinker Biddle & Reath LLP*

Duane Morris LLP*

Dykema Gossett PLLC*

Edwards Cohen Dawson Noble & Dawes, P.A.

Epstein Becker & Green, P.C.*

Eversheds Sutherland (US) LLP*

Faegre Baker Daniels LLP*

Farella Braun + Martel LLP*

Fenwick & West LLP*

Finnegan Henderson Farabow Garrett & Dunner, LLP*

Fish & Richardson P.C.*

Fisher Phillips

Fletcher Yoder PC

Foley & Lardner LLP*

Foley Hoag LLP*

Fox Rothschild LLP*

Fredrikson & Byron, P.A.

Fried, Frank, Harris, Shriver & Jacobson LLP*

Frost Brown Todd LLC

GableGotwals

Galloway, Johnson, Tompkins, Burr & Smith, APLC

Gentry Locke, LLP*

Gibbons P.C.*

Gibson, Dunn & Crutcher LLP*

Goldberg Segalla

Goodwin Procter LLP*

Gordon Rees Scully Mansukhani, LLP*

Goulston & Storrs PC

Gray Plant Mooty

Greenberg Traurig, LLP*

Greensfelder, Hemker & Gale, P.C.

Greenspoon Marder, P.A.

Groom Law Group, Chartered

Hanson Bridgett LLP

Harrity & Harrity, LLP

Haynes and Boone LLP*

Hinshaw & Culbertson LLP*

Hogan Lovells US LLP*

Holland & Hart LLP*

Holland & Knight LLP*

Howell & Fisher, PLLC

Hughes Hubbard & Reed LLP*

Hunton Andrews Kurth LLP*

Husch Blackwell LLP*

Ice Miller LLP*

Jaburg & Wilk, P.C.

Jackson Lewis P.C.*

Jackson Walker L.L.P.*

Jenner & Block LLP*

Jones Day*

Jones Walker LLP

K&L Gates LLP

Kasowitz Benson Torres LLP

Katten Muchin Rosenman LLP*

Kaufman Dolowich Voluck LLP

Kelley Drye & Warren LLP*

Kilpatrick Townsend & Stockton LLP

King & Spalding*

Kirkland & Ellis LLP*

Knobbe Martens

Kobre & Kim LLP

Kramer Levin Naftalis & Frankel LLP*

Kutak Rock LLP*

Lane Powell PC*

Latham & Watkins LLP*

Lathrop Gage LLP

Lewis Roca Rothgerber Christie LLP*

Linklaters LLP*

Littler Mendelson P.C.*

Locke Lord LLP*

Loeb & Loeb LLP*

Lowenstein Sandler LLP

Manatt, Phelps & Phillips, LLP*

Mayer Brown LLP*

Maynard Cooper & Gale PC

McCarter & English LLP*

McDermott Will & Emery LLP

McGinnis, Lochridge, & Kilgore L.L.P.

McGlinchey Stafford

McGuireWoods LLP*

Michael Best & Friedrich LLP

Milbank LLP*

Miles & Stockbridge P.C.

Miller & Chevalier Chartered

Miller & Martin PLLC*

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.*

Moore & Van Allen PLLC*

Morgan, Lewis & Bockius LLP*

Moritt Hock & Hamroff LLP

Morrison & Foerster LLP*

Morrison Mahoney LLP

Munger, Tolles & Olson LLP*

Neal, Gerber & Eisenberg LLP*

Nilan Johnson Lewis PA

Nixon Peabody LLP*

Norman, Wood, Kendrick & Turner

Norton Rose Fulbright*

Ogletree, Deakins, Nash, Smoak & Stewart, P.C.*

O'Melveny & Myers LLP*

Orgain Bell & Tucker, LLP

Orrick, Herrington & Sutcliffe LLP*

Parsons, Lee & Juliano, P.C.*

Paul Hastings LLP*

Paul, Weiss, Rifkind, Wharton & Garrison, LLP*

Pepper Hamilton LLP*

Perkins Coie LLP*

Pettit Kohn Ingrassia Lutz & Dolin PC

Phelps Dunbar LLP

Phillips Spallas & Angstadt LLP*

Pillsbury Winthrop Shaw Pittman LLP*

Pirkey Barber PLLC

Potter Anderson & Corroon LLP*

Proskauer Rose LLP*

Quarles & Brady LLP*

Rathbone Group, LLC

Reed Smith LLP*

Reinhart Boerner Van Deuren S.C.

Reminger Co., LPA*

Richards Layton & Finger, PA

Robins Kaplan LLP*

Robinson Bradshaw & Hinson, P.A.

Roig Tutan Rosenberg Martin Stoller & Bellido, PA

Ropes & Gray LLP*

Rumberger Kirk & Caldwell

Russell Oliver & Stephens, PLC*

Ryley Carlock & Applewhite

Saiber LLC

Sanchez-Medina, Gonzalez, Quesada, Lage, Gomez & Machado, LLP

Saul Ewing Arnstein & Lehr LLP*

Schiff Hardin LLP*

Schulte Roth & Zabel LLP*

Seyfarth Shaw LLP*

Shearman & Sterling LLP*

Sheppard Mullin Richter & Hampton LLP*

Shook, Hardy & Bacon L.L.P.*

Sidley Austin LLP*

Simpson Thacher & Bartlett LLP*

Skadden, Arps, Slate, Meagher & Flom LLP*

Smith Haughey Rice & Roegge*

Snyder, Clark, Lesch & Chung, LLP

Squire Patton Boggs LLP

Steptoe & Johnson LLP*

Sterne, Kessler, Goldstein & Fox, P.L.L.C.

Stinson LLP*

Stoel Rives LLP*

Stroock & Stroock & Lavan LLP

Sullivan & Cromwell LLP*

Swift, Currie, McGhee & Hiers, LLP

Taft Stettinius & Hollister LLP

Taylor, Keller & Oswald, PLLC

The Cavanagh Law Firm

Thompson & Knight LLP*

Thompson Coburn LLP*

Thompson Hine LLP*

Thompson, Coe, Cousins & Irons, LLP*

Tonkon Torp

Tressler LLP

Troutman Sanders LLP*

Ulmer & Berne LLP

Vedder Price

Venable LLP*

Vorys, Sater, Seymour and Pease LLP*

Wachtell, Lipton, Rosen & Katz*

Weil, Gotshal & Manges LLP*

White & Case LLP*

Wiggin and Dana LLP

Wiley Rein LLP*

Williams & Connolly LLP

Williams Mullen*

Willkie Farr & Gallagher LLP*

WilmerHale*

Wilson Elser Moskowitz Edelman & Dicker LLP*

Wilson Sonsini Goodrich & Rosati*

Wilson Turner Kosmo LLP

Winston & Strawn LLP*

Womble Bond Dickinson (US) LLP*

A Current Glance at Women in the Law
April 2019
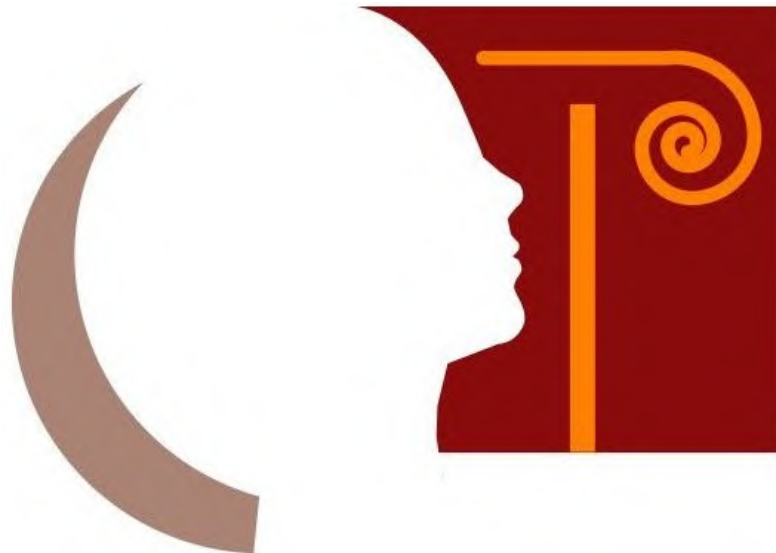
American Bar Association - Commission on Women in the Profession
321 N. Clark Street, Chicago, IL 60654
Phone: 312-988-5715 • Email: abacwp1@americanbar.org • Website: www.americanbar.org/women

![Commission on Women in the Profession — American Bar Association]

A Current Glance at Women in the Law
(April 2019)

Women in the Legal Profession
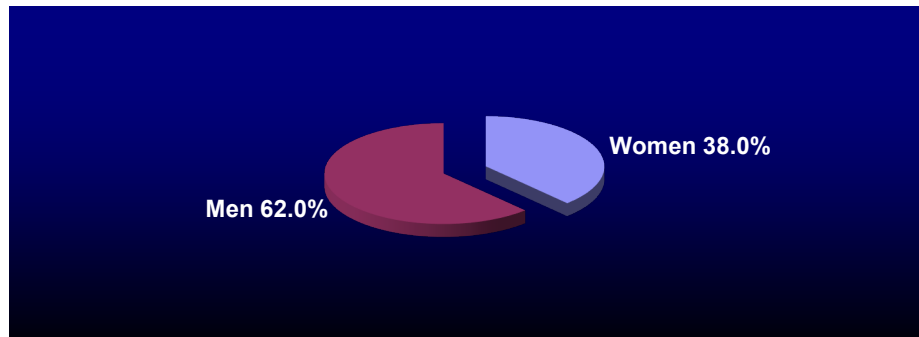
United States Census Bureau, January 18, 2019. https://www.census.gov/library/stories/2018/05/women-lawyers.html

Women in Private Practice
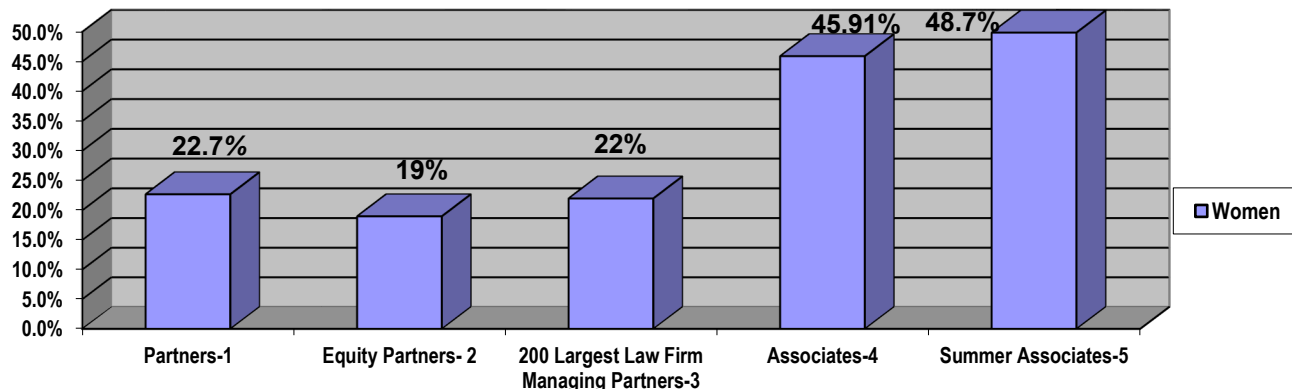
[1] *2017 Report on Diversity in U.S. Law Firms*. National Association for Law Placement, January, 2017. www.nalp.org/uploads/2017NALPReportonDiversityinUSLawFirms.pdf

[2] *Report of the Tenth Annual National Survey on Promotion and Retention of Women in Law Firms*. National Association of Women Lawyers and NAWL Foundation, September 2017. http://www.nawl.org/d/do/663

[3] *Report on Promotion and Retention of Women in Law Firms*. National Association of Women Lawyers and NAWL Foundation, 2018. https://www.nawl.org/page/2017. Women are 22% of firmwide managing partners and 20% of office-level managing partners.

[4] *2018 Report on Diversity in U.S. Law Firms*. National Association for Law Placement, February 1, 2019. Quoted in *Legal Intelligencer:* https://www.law.com/thelegalintelligencer/2019/02/01/law-firm-associates-can-play-an-important-role-in-diversity-effort/

[5] *2017 Report on Diversity in U.S. Law Firms*. National Association for Law Placement, January, 2017. www.nalp.org/uploads/2017NALPReportonDiversityinUSLawFirms.pdf

Women in Corporations

Fortune 500 General Counsel

Women 30.0%

Men 70.0%
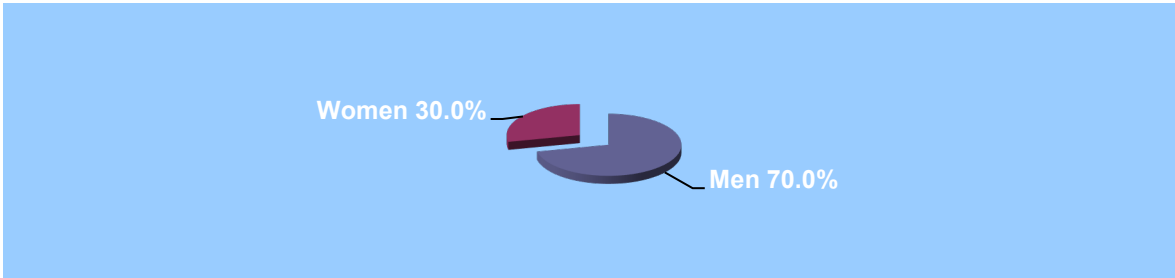
8 Stats You Need to Know about the Male-Female General Counsel Divide. Lawgeex, December 6, 2018.
https://blog.lawgeex.com/8-stats-you-need-to-know-about-the-male-female-general-counsel-divide/

Fortune 501-1000 General Counsel

Women 23.8%

Men 76.2%
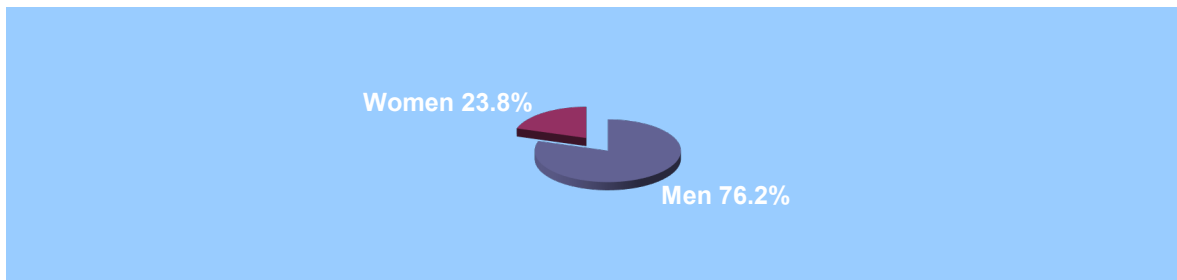
MCCA's 18th Annual General Counsel Survey: Breaking Through the Concrete Ceiling, One Woman at a Time. Minority Corporate Counsel Association, Winter 2017.
http://www.diversityandthebardigital.com/datb/winter_2017/MobilePagedReplica.action?pm=1&folio=8#pg 8

Law School Administration - Deans
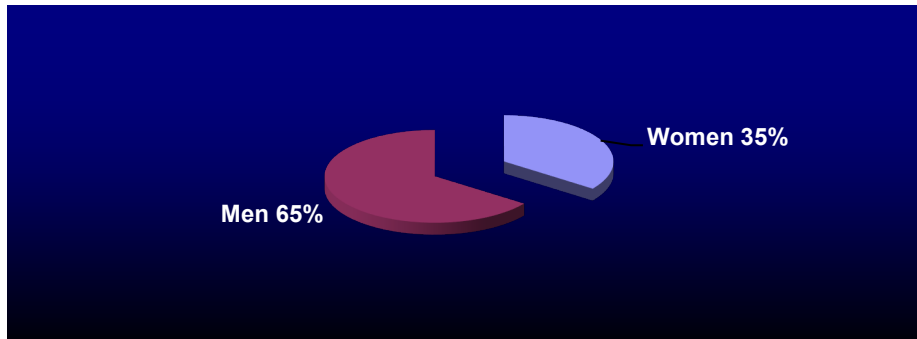
National Law Journal, January 10, 2019. https://www.law.com/nationallawjournal/2019/01/10/more-minority-women-ascend-to-law-dean-jobs/?fbclid=IwAR2-5ymSbZeehfFNK2t18G1LyXGcF5HgLhqHsbmvUV9H38jV-JMblNqv1MQ

Women in Law Schools
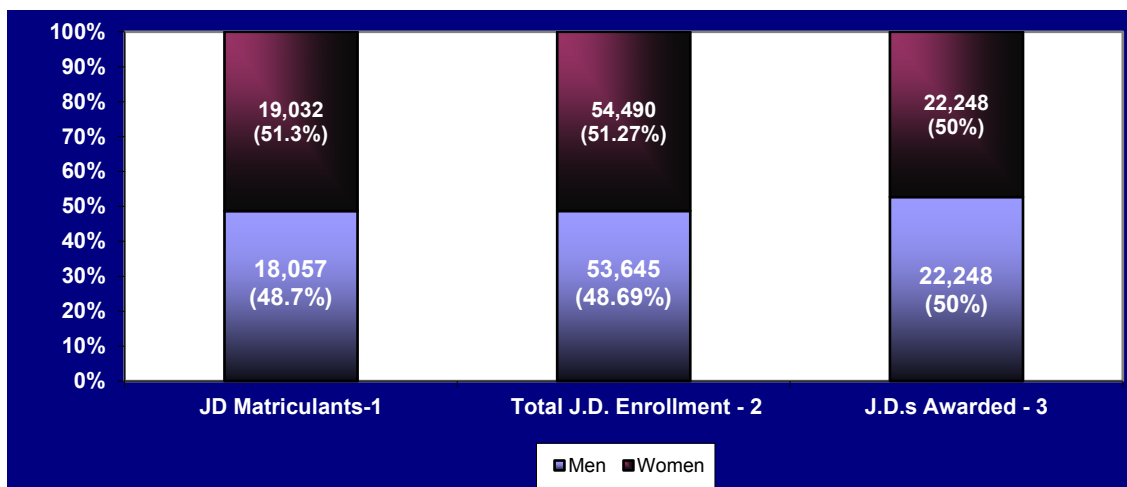
[1]*2016 JD Matriculants by Gender & Race/Ethnicity*, Fall 2016. American Bar Association Section of Legal Education and Admissions to the Bar.
[2]*ABA Required Disclosures (Standard 509 Reports),* American Bar Association Section of Legal Education and Admissions to the Bar. The ABA reported a total enrollment of 110,156 students as of Dec. 15, 2017.
https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2017_509_enrollment_summary_report.authcheckdam.pdf
[3]Wisconsin Bar Association, October 17, 2018.
https://www.wisbar.org/newspublications/insidetrack/pages/article.aspx?volume=10&issue=18&articleid=26639&fbclid=IwAR0BRiWqg1hwu5FvxXuTLBpCuz06jgnMj_bFrfrqBLRKcURHGTIpZOHnFec
.

Women on Law Reviews

"*A random sample of the top 10 law reviews suggests that the number of women authors in 2017 is around 20%.*"
https://abovethelaw.com/2018/04/are-law-review-articles-a-waste-of-time/

Women in the Judiciary

Representation of United States Federal Court Women Judges

Type of Court	Total # of Seats	Women	% of Women
United States Supreme Court	9	3	33.3%
Circuit Court of Appeals (Active)[1]	160 (active)	59	36.8%[2]
Federal District Court Judges (Active) in the U.S.[3]	570 (active)	194	34%[4]

[1] *U.S. Circuit and District Court Judges: Profile of Select Characteristics* (R43426), McMillion, Barry J. U.S. Congressional Research Service. August 1, 2017. https://fas.org/sgp/crs/misc/R43426.pdf
[2] When considering the 19 vacancies that existed as of June 1, 2017, women were appointed to 33% of the 179 U.S. circuit court judgeships.
[3] *U.S. Circuit and District Court Judges: Profile of Select Characteristics* (R43426), McMillion, Barry J. U.S. Congressional Research Service. August 1, 2017. https://fas.org/sgp/crs/misc/R43426.pdf
[4] When considering the 103 vacancies that existed as of June 1, 2017, women were appointed to 29% of the 673 federal district court judgeships.

2016 Representation of United States State Court Women Judges

% White Women	% Women of Color
22	8

Gavel Gap (www.gavelgap.org)

Compensation

Weekly Salary Men vs. Women Lawyers
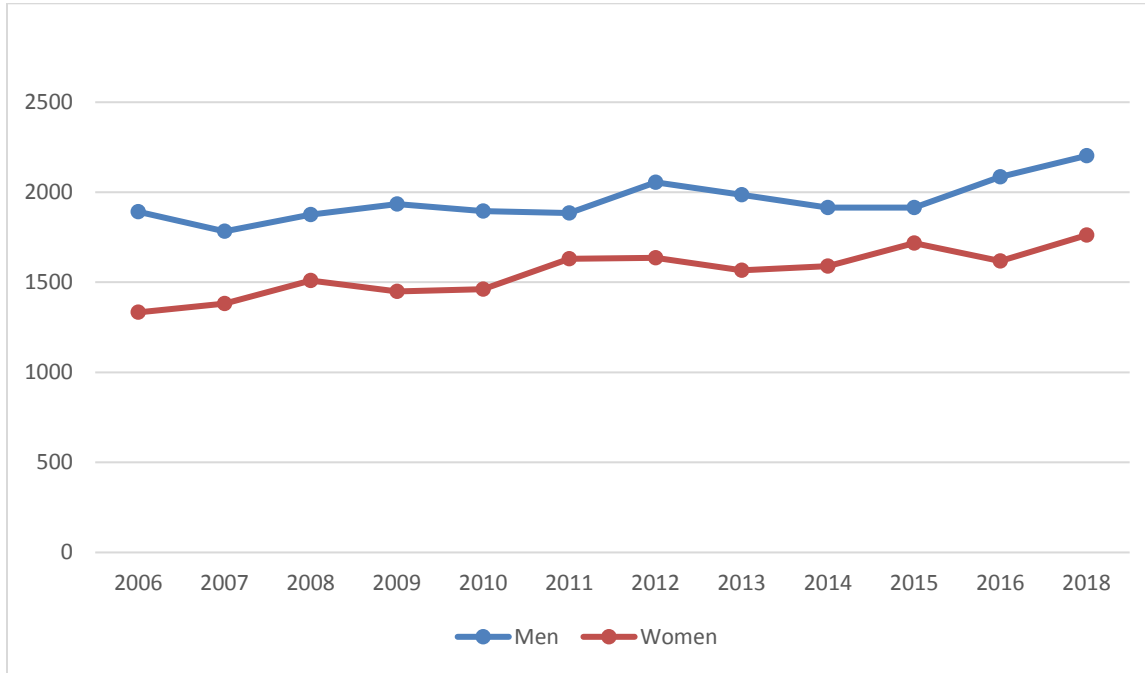
Women lawyers' weekly salary as a percentage of male lawyers' salary:

2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2018
70.5%	77.5%	80.5%	74.9%	77.1%	86.6%	79.6%	78.9%	83.0%	89.7%	77.6%	80%

2018 Bureau of Labor Statistics, *Median weekly earnings of full-time wage and salary workers by detailed occupation and sex*. https://www.bls.gov/cps/cpsaat39.htm

Women Equity Partners Compensation

Globally, male partners are paid 27% more than female.

Acritas Research, 2018. https://www.youtube.com/watch?v=2I1rOLnA8h0&feature=youtu.be

Women in the ABA through 2018

	Total	Women	% Women
ABA Lawyer Members	295,678	96,786	34.8%
Board of Governors	44	18	41.1%
Section/Division Chairs, 2017-2018 Bar Year	28	9	32.1%
Total Presidential Appointments, 2017-2018	750	385	51.3%
Committee Chair Appointments, 2017-2018	99	37	37.3%

Women Presidents of the ABA:

- Judy Perry Martinez, President-Elect (2019-2020)
- Hilarie Bass (2017-2018)
- Linda A. Klein (2016-2017)
- Paulette Brown (2015-2016)
- Laurel Bellows (2012-2013)
- Carolyn B. Lamm (2009-2010)
- Karen J. Mathis (2006-2007)
- Martha W. Barnett (2000-2001)
- Roberta Cooper Ramo (1995-1996)

Women Chairs of the House of Delegates:

- Deborah Enix- Ross (2016-)
- Patricia Lee Refo (2014-2016)
- Linda A. Klein (2010-2012)
- Laurel G. Bellows (2006-2008)
- Karen J. Mathis (2000-2002)
- Martha W. Barnett (1994-1996)

Secretaries

- Mary L. Smith (2017-)
- Mary T. Torres (2014-2017)
- Cara Lee T. Neville (2011-2014)
- Bernice B. Donald (2008-2011)
- Ellen F. Rosenblum (2002-2005)
- Donna C. Willard-Jones (1996-1999)

Treasurer

- Michelle A. Behnke (2017-)
- Alice E. Richmond (2008-2011)

First Women Members of the ABA:

- Mary B. Grossman; Cleveland, OH (1918)
- Mary Florence Lathrop; Denver, CO (1918)

For more information on women's advancement into leadership positions in the ABA, see the ABA Center for Diversity and Inclusion's *Goal III Report* at https://www.americanbar.org/groups/diversity/resources/goal3-reports/

Women in Congress

23.4% of the U.S. House of Representatives and **25%** of the U.S. Senate are now female.

Catalyst. February 1, 2019. https://www.catalyst.org/knowledge/women-government

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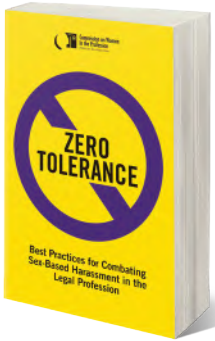
Zero Tolerance
Best Practices for Combating Sex-Based Harassment in the Legal Profession

A comprehensive update to the ABA Commission on Women in the Profession's previous sexual harassment material. The primary goal of this manual is to provide all too necessary tools to legal organizations and victims of harassment and bullying. It strives to enhance the common understanding of workplace abuse and expand it to include non-sexual abusive behavior, while introducing protections for individuals with a range of sexual orientations, genders, and racial and ethnic identities.

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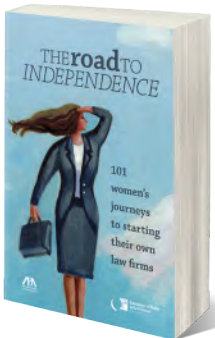
The Road to Independence

The Road to Independence is a collection of 101 letters from women who have taken the courageous and difficult step of creating a law firm of their own, either as a solo or with others. Focusing on the experiences of women-owned law firms, these women, in their personal voices, reiterate key themes: choosing a practice area true to their passion and high character and of controlling their destinies. Throughout this inspirational book, the reader will find business-savvy tidbits and practical tips for starting and growing a successful law practice in the words of the founders themselves. The letters compiled in this book reflect the voices of women who are happy with their practices, proud of their entrepreneurial spirit and business development skills, and eager to share their advice with others who may be emboldened to follow in their footsteps.

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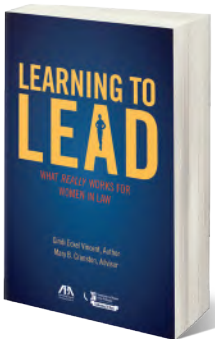
Learning to Lead
What *Really* Works for Women in Law

One of the Commission on Women in the Profession's highest priorities throughout the years has been to provide women lawyers with the information and tools they need to advance into leadership positions in all areas within the law. *Learning to Lead* provides a concise road map of the latest collective wisdom on leadership and applies those principles to women lawyers. It also features interviews with 11 women legal leaders who share their lessons learned and tips for success. Read this book, take action, and chart your course to leadership and success.

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The Women of Color Research Initiative

Following three cutting-edge research studies that analyzed the career trajectories and experiences of women of color and the prevalence of factors that support or undermine their retention and advancement, the Commission on Women in the Profession has developed the Women of Color Research Initiative Program Toolkit. This Toolkit—**available free of charge at ambar.org/WomenOfColor**—guides you every step of the way and provides you with all the necessary tools to conduct a conference to inform on the research and strategies that will ensure the success of women of color. The Toolkit includes program agendas, customizable PowerPoint slides, video and written scenarios for discussion, program handouts, and a bibliography.

The Grit Project Program Toolkit
Using Grit and Growth Mindset to Advance Women in the Law

GRIT—perseverance and passion for long-term goals

GROWTH MINDSET—the view that one's abilities can be developed

The Grit Project educates about the science behind grit and growth mindset and, through its online Toolkit, provides bar associations, law firms, corporate legal departments, and women attorneys with the resources to assess, teach, and learn these traits. Ultimately, these traits can be taught and leveraged to enhance the quality and effectiveness of women lawyers and ensure competence, better communication between attorney and client, and zealous advocacy on behalf of the client. The Toolkit—**available free of charge at ambar.org/grit**—provides all the materials needed to present a successful program on grit, including program agendas, customizable PowerPoint slides, concept guides for presenters, a library of relevant scenarios for group exercises including several digital vignettes, program handouts, and a bibliography.
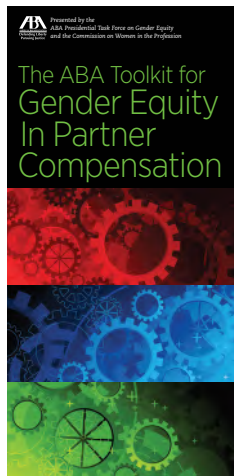
Gender Equity in Partner Compensation Toolkit
Working towards Fair Pay for Women Lawyers

The ABA Toolkit for
Gender Equity
In Partner
Compensation

June 10, 2018 marks the 55th anniversary of the passage of the Equal Pay Act, which prohibits wage discrimination on the basis of sex. Yet despite the Act, equally educated women and men in the same occupations with similar work experiences bring home very different paychecks. Women lawyers are not immune from income inequality. Women partners in law firms earn substantially less than their male colleagues even when they perform exactly the same work, have similar books of business, and make similar (or even greater) contributions to firm administration. Unequal compensation diminishes women's prospects for success, and unfairly undervalues the material contributions of women to their firms. Plus, pay inequities have a profound effect on a firm's performance and profits. The Toolkit, **available free of charge at americanbar.org/groups/diversity/women/gender_equity_task_force/toolkit_for_lawyer_compensation_achieving_gender_equity/** gives you all the materials you need to present a successful program, including: a program outline, customizable PowerPoint slides, questions for panelists, program handouts, and a bibliography. The Toolkit also provides text for use in your promotional efforts and suggested dates so that your program can coincide with national events to maximize publicity.

Zero Tolerance Program Toolkit
Combating Sex-Based Harassment in the Legal Profession

Thirty percent or more lawyers have experienced some form of sexual harassment and bullying in the workplace, and at law firms that number is likely higher. The persistence of sex-based harassment in the legal profession has profound effects on the physical and emotion well-being of female lawyers resulting in lowered job satisfaction and disillusion with the institution of law. As victims of sexual harassment come forward to the legal profession for support, what do the #MeToo and TIMES UP movements mean for lawyers who are themselves the victims? The Toolkit, **available free of charge at ambar.org/zerotolerance**, examines the effects of sex-based harassment on associates and partners when they are attacked, sexualized and in other ways victimized on the job. The program also discusses how bullying can lead to prolonged cases of discrimination against victims. It explores the new *Zero Tolerance: Combating Sex-Based Harassment in the Legal Profession* manual so participants can learn how to build and enforce a successful anti-harassment policy statement.

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Diversity and Gender Equity in Legal Practice

Deborah L. Rhode

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DIVERSITY AND GENDER EQUITY IN LEGAL PRACTICE

Deborah L. Rhode*

I. INTRODUCTION

One irony of this nation's continuing struggle for diversity and gender equity in employment is that the profession leading the struggle has failed to set an example in its own workplaces. In principle, the American bar is deeply committed to equal opportunity and social justice. In practice, it lags behind other occupations in leveling the playing field. According to the American Bar Association (ABA), only two professions (the natural sciences and dentistry) have less diversity than law; medicine, accounting, academia, and others do considerably better.[1] Part of the problem lies in a lack of consensus on what exactly the problem is. What accounts for gender, racial, and ethnic inequalities in law firms? Who is responsible for addressing them? Which proposed solutions would be worth the cost?

These are not new questions. But recent economic and client pressures have made clear the need for better answers. Many of the obstacles to diversity and equity in legal practice are symptomatic of deeper structural problems. This Article focuses primarily on barriers involving gender, race, and ethnicity. Although these are not the only relevant dimensions of diversity, they provide a useful framework because they affect the greatest number of lawyers and have been subject to the most systematic research. However, much of the analysis below has broader application to improving the quality of professional life for other groups in legal settings.

The following discussion tracks conventional usage in referring to "women and minorities," but that should neither obscure the unique experience of women of color, nor mask differences within and across racial and ethnic groups. The point, rather, is to understand how different identities intersect to structure the professional experience.

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1. ELIZABETH CHAMBLISS, MILES TO GO: PROGRESS OF MINORITIES IN THE LEGAL PROFESSION ix (2004). For example, minorities account for about 25 percent of doctors and 21 percent of accountants, but only 11 percent of lawyers. Sara Eckel, *Seed Money; Skadden Gives $10 Million to Boost Diversity*, AM. LAWYER, Sept. 1, 2008, at 20; *Legal Profession Statistics*, AM. BAR ASS'N, http://www.americanbar.org/resources_for_lawyers/profession_statistics.html (last visited Feb. 2, 2014).

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II. THE GAP BETWEEN PRINCIPLE AND PRACTICE

A. Gender

Viewed historically, the American legal profession has made substantial progress in the struggle for gender equity. Until the late 1960s, women constituted no more than about three percent of the profession and were largely confined to low-prestige practice settings and specialties.[2] Now, about half of new lawyers are female; they enter law firms at about the same rate as men, and are fairly evenly distributed across substantive areas.[3] In most surveys, women also express approximately the same overall level of satisfaction in practice as do men.[4]

Yet significant gender inequalities persist. Women constitute over a third of the profession but only about a fifth of law firm partners, general counsel of Fortune 500 corporations, and law school deans.[5] Women are less likely to make partner even controlling for other factors, including law school grades and time spent out of the work force or on part-time schedules.[6] Studies find that men are two to five times more likely to make partner than women.[7] Even women who never take time out of the labor force and who work long hours have a lower chance of

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2. Deborah L. Rhode, *Perspectives on Professional Women*, 40 STAN. L. REV. 1163 (1988).

3. For new entrants, see Andrew Bruck & Andrew Canter, *Supply, Demand, and the Changing Economics of Large Law Firms*, 60 STAN L. REV. 2087, 2103 (2008); Miguel R. Rivera, *A New Business and Cultural Paradigm for the Legal Profession*, 26 NO. 8 ACC DOCKET 66, 68 (2008). For specialties, see Fiona Kay & Elizabeth Gorman, *Women and the Legal Profession*, 4 ANN. REV. LAW & SOC. SCI. 299, 303 (2008).

4. *See* Kay & Gorman, *supra* note 3, at 316 (summarizing studies); JOHN P. HEINZ ET AL., URBAN LAWYERS: THE NEW SOCIAL STRUCTURE OF THE BAR 260 (2006).

5. ABA Comm'n on Women in the Profession, *A Current Glance at Women in Law*, AM. BAR ASS'N (Feb. 2013), http://www.americanbar.org/content/dam/aba/marketing/women/current_glance_statistics_feb2013.authcheckdam.pdf. *See also MCCA Survey: Women General Counsel at Fortune 500 Companies Reaches New High*, METRO. CORPORATE COUNSEL (Aug. 8, 2012), http://www.metrocorpcounsel.com/news/ 19992/mcca-survey-women-general-counsel-fortune-500-companies-reaches-new-high; *Women in Law in the U.S.*, CATALYST (Mar. 11, 2013), http://www.catalyst.org/knowledge/women-law-us [hereinafter *Women in Law*].

6. Theresa M. Beiner, *Not All Lawyers Are Equal: Difficulties that Plague Women and Women of Color*, 58 SYRACUSE L. REV. 317, 328 (2008); Mary C. Noonan et al., *Is the Partnership Gap Closing for Women? Cohort Differences in the Sex Gap in Partnership Chances*, 37 SOC. SCI. RES. 156, 174–75 (2008).

7. A study of young lawyers by the American Bar Foundation (ABF) found that women attained equity partner status at about half the rate of men. *See* Ronit Dinovitzer et al., *After the JD II: Second Results from a National Study of Legal Careers*, AM. BAR FOUND. AND NALP FOUND. FOR LAW CAREER RES. AND EDUC. 63 (2009), http://law.du.edu/documents/directory/publications/sterling/AJD2.pdf. A study by the Federal Equal Employment Opportunity Commission found that male lawyers were five times as likely to become partners as their female counterparts. *See Diversity in Law Firms*, EQUAL EMP'T OPPORTUNITY COMM'N 29, 33 (2003), http://www.eeoc.gov/eeoc/statistics/reports/index.cfm.

partnership than similarly situated men.[8] The situation is bleaker still at the level of equity partner. Precisely how bleak is impossible to say, because firms have resisted providing data and some use different definitions of equity partner in reporting diversity ratios and profits per partner. However, the best available evidence suggests that women constitute about fifteen to sixteen percent of equity partners.[9] Women are also underrepresented in leadership positions such as chairs and members of management and compensation committees.[10] Gender disparities are similarly apparent in compensation.[11] Those differences persist even after controlling for factors such as productivity and differences in equity/nonequity status.[12]

So too, although female lawyers report about the same overall career satisfaction as their male colleagues, women experience greater dissatisfaction with key dimensions of practice, such as level of responsibility, recognition for work, and chances for advancement.[13] In attempting to account for this paradox, theorists suggest two explanations. The first involves values. Women may ascribe less significance to aspects of their work environment on which they are disadvantaged, such as compensation and promotion, than to other factors such as intellectual challenge, which evokes greater satisfaction among female attorneys.[14] A second theory is that women have a lower sense of entitlement, in part because their reference group is other

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8. Mary C. Noonan & Mary E. Corcoran, *The Mommy Track and Partnership: Temporary Delay or Dead End?*, 596 ANNALS AM. ACAD. POL. & SOC. SCI 130, 133–34 (2004); Kenneth G. Dau-Schmidt et al., *Men and Women of the Bar: The Impact of Gender on Legal Careers*, 16 MICH. J. GENDER & L. 49, 96–97, 100–02, 107, 111–12 (2009).

9. Leigh Jones, *Percentage of Women in NLJ 350 Law Firms Remains Low*, NAT'L L.J., June 12, 2013; Barbara M. Flom, *Report of the Seventh Annual NAWL National Survey on Retention and Promotion of Women in Law Firms*, NAT'L ASS'N OF WOMEN LAWYERS AND NAWL FOUND. (Oct. 2012), http://www.nawl.org/d/do/60.

10. *Women in Law*, *supra* note 5; María Pabón López, *The Future of Women in the Legal Profession: Recognizing the Challenges Ahead By Reviewing Current Trends*, 19 HASTINGS WOMEN'S L.J. 53, 71 (2008); Joan C. Williams & Veta T. Richardson, *New Millennium, Same Glass Ceiling? The Impact of Law Firm Compensation Systems on Women*, PROJECT FOR ATT'Y RETENTION AND MINORITY CORPORATE COUNSEL ASS'N 14 (July 2010), http://worklifelaw.org/Publications/SameGlassCeiling.pdf.

11. Karen Sloan, *ABA Issues Toolkit, Aiming To Eliminate Gender Pay Gap*, NAT'L L.J., Mar. 18, 2013 (women law firm partners earn about $66,000 less than their male partners); Flom, *supra* note 9, at 15.

12. Marina Angel et al., *Statistical Evidence on the Gender Gap in Law Firm Partner Compensation* 3 (Temple U. Beasley Sch. of Law Legal Studies, Paper No. 2010-24), *available at* http://ssrn.com/abstract=1674630; Ronit Dinovitzer et al., *Differential Valuation of Women's Work: A New Look at the Gender Gap in Lawyer's Incomes*, 88 SOC. FORCES 819, 835–47 (2009).

13. Ronit Dinovitzer et al., *After the JD: First Results from a National Study of Legal Careers*, AM. BAR FOUND. AND NALP FOUND. FOR LAW CAREER RES. AND EDUC. 58 (2004), http://www.americanbarfoundation.org/uploads/cms/documents/ajd.pdf; López, *supra* note 10, at 69; Nancy J. Reichman & Joyce S. Sterling, *Sticky Floors, Broken Steps, and Concrete Ceilings in Legal Careers*, 14 TEX. J. WOMEN & L. 27, 47 (2004).

14. Kay & Gorman, *supra* note 3, at 317–18.

women or because they have "made peace with second best."[15] In either case, female lawyers' dissatisfaction with certain aspects of practice, which is reflected in disproportionate rates of attrition, should be cause for concern in a profession committed to equal opportunity and diversity.

B. Race and Ethnicity

Progress for racial and ethnic minorities has also been substantial, but slower than progress for white women. In 1960, lawyers of color accounted for less than one percent of the profession.[16] Although blacks, Latinos, Asian-Americans, and Native Americans now constitute about a third of the population and a fifth of law school graduates, they still only account for fewer than seven percent of law firm partners and nine percent of general counsels of Fortune 500 corporations.[17] In major law firms, about half of lawyers of color leave within three years.[18] Attrition is highest for women of color; about seventy-five percent depart by their fifth year and eighty percent before their seventh.[19] Compensation in law firms is lower for lawyers of color with minority women at the bottom of the financial pecking order.[20]

Satisfaction surveys reflect mixed and sometimes paradoxical results. In a large national study of young lawyers by the American Bar Foundation, blacks were happiest with their decision to become a lawyer and the substance of their legal work; whites and Asian-Americans were the happiest in their job settings.[21] Among lawyers in large firms, the ABA's Commission on Women in the Profession found stark differences among racial groups. White men graded their career satisfaction as A, white women and minority men graded theirs as B, and minority women hovered between B minus and C plus.[22]

In short, the legal profession reflects substantial gender, racial, and

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15. David L. Chambers, *Accommodation and Satisfaction: Women and Men Lawyers and the Balance of Work and Family*, 14 LAW & SOC. INQUIRY 251, 280 (1989).

16. MARC GALNATER & THOMAS PALAY, TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM 58–62 (1994).

17. *Women and Minorities in Law Firms by Race and Ethnicity—An Update*, NAT'L ASS'N FOR LAW PLACEMENT (Apr. 2013), http://www.nalp.org/0413research; *MCCA's 13th Annual Minority General Counsel Survey*, DIVERSITY AND THE BAR, Sept.–Oct. 2012, at 30.

18. NANCY LEVIT & DOUGLAS O. LINDER, THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW, 250 n.55 (2010).

19. Deepali Bagati, *Women of Color in U.S. Law Firms*, CATALYST 1–2 (2009), http://www.catalyst.org/system/files/Women_of_Color_in_U.S._Law_Firms.pdf.

20. ABA Comm'n on Women in the Profession, *Visible Invisibility: Women of Color in Law Firms*, AM. BAR ASS'N 28 (2006) [hereinafter *Visible Invisibility*].

21. Donovitzer et al., *supra* note 7, at 64.

22. LEVIT & LINDER, *supra* note 18, at 14.

ethnic differences in both subjective and objective measures of career achievement. But what accounts for those differences and how they can be addressed remain matters of dispute.

III. EXPLAINING THE GAP

A. Capabilities and Commitment

In a parody of diversity efforts during a celebrated British television series, "Yes Minister," a stodgy white male civil servant explained the folly of such initiatives. By his logic, if women had the necessary commitment and capabilities, they would already be well-represented in leadership positions. Since they weren't well-represented, they obviously lacked those qualifications. It should come as no surprise that similar views are common among law firm leaders. After all, those in charge of hiring, promotion, and compensation decisions are those who have benefitted from the current structure, and who have the greatest stake in believing in its fairness. Although many leaders are willing to concede the persistence of bias in society in general, they rarely see it in their own firms. Rather, they attribute racial, ethnic, and gender differences in lawyers' career paths to differences in capabilities and commitment.[23]

For lawyers of color, the most common explanation for underrepresentation is underperformance, measured by traditional merit standards. Minorities on average have lower law school grades than their white counterparts.[24] Because the vast majority of lawyers believe that grades and law school rank are important in hiring, racial disparities appear to be an unintended but inevitable consequence of the merit system.[25] One in-depth study of attitudes toward diversity found that the standard narrative in large firms ran something like this:

> We understand that most big firms began in an era of overt discrimination. We regret this, and for many years have attempted to do something about it. We have tried a variety of things, and will continue

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23. John M. Conley, *Tales of Diversity: Lawyers' Narratives of Racial Equity in Private Firms*, 31 LAW & SOC. INQUIRY 831, 841–42, 851–52 (2006).

24. Richard H. Sander, *The Racial Paradox of the Corporate Law Firm*, 84 N.C. L. REV. 1755 (2006); Timothy T. Clydesdale, *A Forked River Runs Through Law School: Toward Understanding Race, Gender, Age, and Related Gaps in Law School Performance and Bar Passage*, 29 LAW & SOC. INQUIRY 711, 740 (2004).

25. Around 80 percent of male partners and around 70 percent of female partners hold these views. *Sustaining Pathways to Diversity: The Next Steps in Understanding and Increasing Diversity & Inclusion in Large Law Firms*, MINORITY CORPORATE COUNSEL ASS'N 16 (2009) [hereinafter *Sustaining Pathways*], http://www.mcca.com/_data/global/images/Research/5298%20MCCA%20Pathways%20final%20version%202009.pdf.

to work very hard at the problem. However, it is very, very difficult to solve the problem without lowering our standards, which, of course, we can't do. All of this adds up to a metaphorical shrug.[26]

In midsize firms, the narrative is much the same, with the added twist that they cannot compete with large firms in money or prestige in recruiting "qualified" lawyers of color.[27] In effect, firm leaders "claim to be trapped by a system that they have created and choose to maintain."[28] Yet that system is highly imperfect in screening for talent; considerable research suggests that law firms grossly overestimate the effectiveness of credentials like grades and law school prestige in predicting performance.[29]

Although concerns about merit surface for white women as well as racial and ethnic minorities, the "woman problem" is commonly explained in terms not of credentials but of commitment and client development. Because women continue to have disproportionate family responsibilities and are more likely to reduce their schedules or to take time out of the workplace than men, they are assumed to be less available, less dependable, and less worthy of extensive mentoring. In the ABA Commission on Women study, almost three-quarters of female lawyers reported that their career commitment had been questioned when they gave birth or adopted a child. Only nine percent of their white male colleagues and fifteen percent of minority male colleagues had faced similar challenges.[30] In another bar survey, although women and men reported working similar hours, over a quarter of male lawyers thought their female counterparts worked less and a fifth rated the number of hours these women worked as "fair to poor."[31] Women are also often presumed to be less adept in business development and in the self-promotional abilities that underlie it.[32]

These attitudes may help to explain the relatively low priority that many law firm leaders attach to diversity and their relatively rosy assessment of efforts to enhance it. In a survey by the ABA Commission on Women, only twenty-seven percent of white men felt

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26. Conley, *supra* note 23, at 841.

27. *Id.* at 844.

28. *Id.* at 850.

29. David B. Wilkins & G. Mitu Gulati, *Why Are There So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis*, 84 CAL. L. REV. 493, 526–27 (1996); James B. Rebitzer & Lowell J. Taylor, *Efficiency Wages and Employment Rents: The Employer-Size Wage Effect in the Job Market for Lawyers*, 13 J. LAB. ECON. 678, 690 (1995).

30. *Visible Invisibility*, *supra* note 20, at 33–34.

31. López, *supra* note 10, at 65.

32. Bagati, *supra* note 19, at 37; Tiffani N. Darden, *The Law Firm Caste System: Constructing a Bridge Between Workplace Equity Theory & the Institutional Analyses of Bias in Corporate Law Firms*, 30 BERKELEY J. EMP. & LAB. L. 85, 125 (2009); López, *supra* note 10, at 73.

strongly that it was important to increase diversity in law firms, compared with eighty-seven percent of women of color and sixty-one percent of white women.[33] In a survey by Catalyst, only eleven percent of white lawyers felt that diversity efforts were failing to address subtle racial bias, compared with almost half of women of color. Only fifteen percent of white men felt that diversity efforts were failing to address subtle gender bias, compared with half of women of color and forty percent of white women.[34]

The research summarized below, however, suggests that many lawyers underestimate the impact of unconscious bias and overestimate the effectiveness of current responses. Those who are truly committed to a just and inclusive workplace need a better understanding of what gets in the way. This includes a deeper appreciation of how racial, ethnic, and gender stereotypes affect not just evaluations of performance but the performance itself, and the relative value attached to specific performance measures.

B. Racial, Ethnic, and Gender Stereotypes

Racial, ethnic, and gender stereotypes play a well-documented, often unconscious, role in American culture, and legal workplaces are no exception. The stereotypes vary across groups. For example, blacks and Latinos bump up against assumptions that they are less qualified. Many report that their competence is constantly questioned, and that even if they graduated from an elite law school, they are assumed to be beneficiaries of affirmative action rather than meritocratic selection.[35] Blacks who are assertive risk being viewed as angry or hostile.[36] Asian-Americans are saddled with the myths of the "model minority;" they are thought to be smart and hardworking, but also insufficiently assertive to command the confidence of clients and legal teams.[37]   The special

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33. *Visible Invisibility*, *supra* note 20, at 19.

34. Bagati, *supra* note 19, at 13.

35. MARIA CHÁVEZ & JOE R. FEAGIN, EVERYDAY INJUSTICE: LATINO PROFESSIONALS AND RACISM 72 (2011); Jill L. Cruz & Melinda S. Molina, *National Study on the Status of Latinas in the Legal Profession Few and Far Between: The Reality of Latina Lawyers*, 37 PEPP. L. REV. 971, 1010 (2010); Garner K. Weng, *Racial Bias in Law Practice*, CAL. MAG., Jan. 2003, 37–38; Lu-in Wang, *Race as Proxy: Situational Racism and Self-Fulfilling Stereotypes*, 53 DEPAUL L. RÊV. 1013, 1014 (2004).

36. *Visible Invisibility*, *supra* note 20, at 25; Weng, *supra* note 35, at 37–38.

37. Mona Mehta Stone, *Asian American Lawyers: Differences Abound*, in IILP REVIEW 2011: THE STATE OF DIVERSITY AND INCLUSION IN THE LEGAL PROFESSION 76 (2011), *available at* http://www.theiilp.com/Resources/Documents/IILPReview2011.pdf; LeeAnn O'Neill, *Hitting the Legal Diversity Market Home: Minority Women Strike Out*, 3 AM. U. MOD. AM. 7 (2007); Bagati, *supra* note 19, at 37; *Visible Invisibility*, *supra* note 20, at 25; Sonia Ospina & Erica Foldy, *A Critical Review of Race and Ethnicity in the Leadership Literature: Surfacing Context, Power, and the Collective Dimensions of Leadership*, 20 LEADERSHIP Q. 876, 880 (2009).

stigma confronting women of color is apparent in the frequency with which they are still mistaken for secretaries, court reporters, or interpreters.[38]

The result is that talented minorities lack the presumption of competence granted to white male counterparts; up and coming whites may be fast tracked based on promise, while minorities need to demonstrate performance.[39] Even outstanding capabilities of a leader of color may do little to dislodge traditional assumptions. Psychologists refer to this as the "flower blooming in winter" effect.[40] A classic example is the description Senator Joseph Biden offered of Barack Obama during the 2008 presidential campaign, as the "first mainstream African-American who is articulate and bright and clean and a nice-looking guy."[41] Although the exceptional lawyer can get a special boost, such praise does little to assist those aspiring to such roles.

Gender stereotypes also subject women to double standards and a double bind. Despite recent progress, women, like minorities, often fail to receive the presumption of competence enjoyed by white men.[42] In national surveys, between a third and three-quarters of female lawyers believe that they are held to higher standards than their colleagues.[43] A recent study of performance evaluations finds some support for those perceptions; it reveals that similar descriptions of performance result in lower ratings for women.[44] Male achievements are more likely to be attributed to capabilities, and female achievements to external factors, a

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38. *Visible Invisibility*, *supra* note 20, at 18; Cruz & Molina, *supra* note 35; O'Neill, *supra* note 37, at 8; Gladys García-López, *"Nunca Te Toman En Cuenta [They Never Take You Into Account]": The Challenges of Inclusion and Strategies for Success of Chicana Attorneys*, 22 GENDER & SOC'Y 590, 601–03 (2008).

39. David A. Thomas, *The Truth About Mentoring Minorities: Race Matters*, HARV. BUS. REV., Mar.–Apr. 2001, at 99, 104.

40. ELLA L. J. EDMONDSON BELL & STELLA M. NKOMO, OUR SEPARATE WAYS: BLACK AND WHITE WOMEN AND THE STRUGGLE FOR PROFESSIONAL IDENTITY 145 (2001).

41. Lynette Clemetson, *The Racial Politics of Speaking Well*, N.Y. TIMES (Feb. 4, 2007), http://www.nytimes.com/2007/02/04/weekinreview/04clemetson.html.

42. For competence, see Eli Wald, *Glass Ceilings and Dead Ends: Professional Ideologies, Gender Stereotypes, and the Future of Women Lawyers at Large Law Firms*, 78 FORDHAM L. REV. 2245, 2256 (2010); Cecilia L. Ridgeway & Paula England, *Sociological Approaches to Sex Discrimination in Employment*, in SEX DISCRIMINATION IN THE WORKPLACE 189, 195 (Faye J. Crosby et al. eds., 2007). For women's need to work harder, see López, *supra* note 10, at 73. Even in experimental situations where male and female performance is objectively equal, women are held to higher standards, and their competence is rated lower. Martha Foschi, *Double Standards in the Evaluation of Men and Women*, 59 SOC. PSYCHOL. Q. 237 (1996). For the special pressures faced by women of color, see García-López, *supra* note 38, at 603–04.

43. Deborah L. Rhode & Joan C. Williams, *Legal Perspectives on Employment Discrimination*, in SEX DISCRIMINATION IN THE WORKPLACE 235, 245 (Faye J. Crosby et al. eds., 2007); *Sustaining Pathways*, *supra* note 25, at 32.

44. Monica Beirnat et al., *The Language of Performance Evaluations: Gender-Based Shifts in Content and Consistency of Judgment*, 3 SOC. PSYCHOL. & PERSONALITY SCI. 186 (2011).

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pattern that social scientists describe as "he's skilled, she's lucky."[45]

Mothers, even those working full-time, are assumed to be less available and committed, an assumption not made about fathers.[46] In one representative study, almost three-quarters of female lawyers reported that their career commitment had been questioned when they gave birth or adopted a child. Only nine percent of their white male colleagues, and fifteen percent of minority male colleagues, had faced similar challenges.[47] Yet women without family relationships sometimes face bias of a different order: they are viewed as "not quite normal" and thus "not quite leadership material."[48]

Women are also rated lower than men on qualities associated with leadership, such as assertiveness, competiveness, and business development.[49] Even though women are more likely to use effective leadership styles, people more readily credit men with leadership ability and more readily accept men as leaders.[50] An overview of more than one hundred studies confirms that women are rated lower when they adopt authoritative, seemingly masculine styles, particularly when the evaluators are men, or when the woman's role is one typically occupied by men.[51] What is assertive in a man seems abrasive in a woman, and

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45. Janet K. Swim & Lawrence J. Sanna, *He's Skilled, She's Lucky: A Meta-Analysis of Observers' Attributions for Women's and Men's Successes and Failures*, 22 PERSONALITY & SOC. PSYCHOL. BULL. 507 (1996); Jeffrey H. Greenhaus & Saroj Parasuraman, *Job Performance Attributions and Career Advancement Prospects: An Examination of Gender and Race Effects*, 55 ORG. BEHAV. & HUM. DECISION PROCESSES 273, 276, 290 (1993).

46. Amy J. C. Cuddy et al., *When Professionals Become Mothers, Warmth Doesn't Cut the Ice*, 60 J. SOC. ISSUES 701, 709 (2004); Kathleen Fuegen et al., *Mothers and Fathers in the Workplace: How Gender and Parental Status Influence Judgments of Job-Related Competence*, 60 J. SOC. ISSUES 737, 745 (2004).

47. *Visible Invisibility*, *supra* note 20, at 83. *See also* Reichman & Sterling, *supra* note 13, at 63–64.

48. SYLVIA ANN HEWLETT ET AL., THE SPONSOR EFFECT: BREAKING THROUGH THE LAST GLASS CEILING 24 (2011), *available at* http://hbr.org/product/the-sponsor-effect-breaking-through-the-last-glass/an/10428-PDF-ENG; MICHELE COLEMAN MAYES & KARA SOPHIA BAYSINGER, COURAGEOUS COUNSEL: CONVERSATIONS WITH WOMEN GENERAL COUNSEL IN THE FORTUNE 500, at 129 (2011) (quoting Dana Mayer).

49. Deborah L. Rhode & Barbara Kellerman, *Women and Leadership: The State of Play*, in WOMEN AND LEADERSHIP: THE STATE OF PLAY AND STRATEGIES FOR CHANGE 7 (Barbara Kellerman & Deborah L. Rhode eds., 2007); *Women "Take Care," Men "Take Charge:" Stereotyping of U.S. Business Leaders Exposed*, CATALYST (Oct. 19, 2005), http://www.catalyst.org/knowledge/women-take-care-men-take-charge-stereotyping-us-business-leaders-exposed; Linda L. Carli & Alice H. Eagly, *Overcoming Resistance to Women Leaders: The Importance of Leadership Styles*, in WOMEN AND LEADERSHIP: THE STATE OF PLAY AND STRATEGIES FOR CHANGE 127, 127–29 (Barbara Keller & Deborah L. Rhode eds., 2007); Wald, *supra* note 42, at 2256.

50. Alice Eagly, *Female Leadership Advantage and Disadvantage: Resolving the Contradictions*, 31 PSYCHOL. WOMEN Q. 1, 5, 9 (2007); Carli & Eagly *supra* note 49, at 128–29; Laurie A. Rudman & Stephen E. Kilianski, *Implicit and Explicit Attitudes Toward Female Authority*, 26 PERSONALITY AND SOC. PSYCHOL. BULL. 1315 (2000).

51. D. Anthony Butterfield & James P. Grinnell, *"Re-Viewing" Gender, Leadership, and*

female leaders risk seeming too feminine or not feminine enough. Either they may appear too "soft" or too "strident"—either unable to make tough decisions or too pushy and arrogant to command respect.[52]

Self-promotion that is acceptable in men is viewed as unattractive in women.[53] In a telling Stanford Business School experiment, participants received a case study about a leading venture capitalist with outstanding networking skills. Half the participants were told that the individual was Howard Roizen; the other half were told that she was Heidi Roizen. The participants rated the entrepreneurs as equally competent but found Howard more likeable, genuine, and kind, and Heidi more aggressive, self-promoting, and power hungry.[54] Even the most accomplished lawyer leaders can encounter such biases. Brooksley Born, now widely acclaimed for her efforts to regulate high-risk derivatives while chair of the Commodity Futures Commission was dismissed at the time as "abrasive," "strident," and a "lightweight wacko."[55] In commenting on those characterizations, a former aid noted, "She was serious, professional, and she held her ground against those who were not sympathetic to her position . . . . I don't think that the failure to be 'charming' should be translated into a depiction of stridency."[56] Hillary Clinton has been subject to even more vitriolic descriptions: "power-hungry," "castrating," "Hitlerian," and "feminazi."[57] During her presidential campaign, she coped with sales of a Clinton nutcracker, charges that she reminded men of a scolding mother or first wife, and

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Managerial Behavior: Do Three Decades of Research Tell Us Anything?, in HANDBOOK OF GENDER AND WORK 223, 235 (Gary N. Powell ed., 1999); JEANETTE N. CLEVELAND ET AL., WOMEN AND MEN IN ORGANIZATIONS: SEX AND GENDER ISSUES AT WORK 106–07 (2000).

52. Alice H. Eagly & Steven J. Karau, *Role Congruity Theory of Prejudice Toward Female Leaders,* 109 PSYCH. REV. 574, 576 (2002); Alice H. Eagly, *Achieving Relational Authenticity in Leadership: Does Gender Matter?,* 16 LEADERSHIP Q. 459, 470 (2005); *see generally The Double-Bind Dilemma for Women in Leadership: Damned if You Do, Damned if You Don't,* CATALYST (July 15, 2007), http://www.catalyst.org/knowledge/double-bind-dilemma-women-leadership-damned-if-you-do-doomed-if-you-dont-0; LINDA BABCOCK & SARA LASCHEVER, WOMEN DON'T ASK: THE HIGH COST OF AVOIDING NEGOTIATION—AND POSITIVE STRATEGIES FOR CHANGE 87–89 (2007); MAYES & BAYSINGER, *supra* note 48, at 131.

53. Carli & Eagly, *supra* note 49, at 130; Williams & Richardson, *supra* note 10, at 48; Laurie A. Rudman, *To Be or Not To Be (Self-Promoting): The Consequences of Counterstereotypical Impression Management, in* POWER AND INFLUENCE IN ORGANIZATIONS 287, 290 (Roderick M. Kramer & Margaret A. Neale eds., 1998).

54. Francis Flynn et al., *Too Tough Too Soon, Familiarity and the Backlash Effect 2011* (Stanford Business School, unpublished paper) (on file with author).

55. Rick Schmitt, *Prophet and Loss,* STANFORD MAG., Mar.–Apr. 2009, *available at* https://alumni.stanford.edu/get/page/magazine/article/?article_id=30885 (quoting Arthur Levitt); MICHAEL HIRSH, CAPITAL OFFENSE: HOW WASHINGTON'S WISE MEN TURNED AMERICA'S FUTURE OVER TO WALL STREET 1, 12 (2010) (quoting Robert Rubin and unnamed staffer).

56. Schmitt, *supra* note 55 (quoting Michael Greenberger) (internal quotation marks).

57. Katha Pollitt, *Hillary Rotten: Sexist Sticks and Stones, in* THIRTY WAYS OF LOOKING AT HILLARY: REFLECTIONS BY WOMEN WRITERS 16–18 (Susan Morrison ed., 2008).

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hecklers with signs demanding "Iron my shirt."[58]

Other cognitive biases compound the force of traditional stereotypes. People are more likely to notice and recall information that confirms their prior assumptions than information that contradicts those assumptions; the dissonant facts are filtered out.[59] For example, when lawyers assume that a working mother is unlikely to be fully committed to her career, they more easily remember the times when she left early than the times when she stayed late. So too, when female and minority lawyers are assumed to be less effective, their failures will be recalled more readily than their achievements. Both women and minorities also receive less latitude for mistakes.[60] That, in turn, may make these lawyers reluctant to seek risky "stretch assignments" that would demonstrate outstanding capabilities. Biased assumptions about lawyers' commitment or competence can also affect the allocation of work. The result is to prevent women and minorities from getting opportunities that would demonstrate or enhance their capabilities, which creates a cycle of self-fulfilling prophecies.[61]

C. In-Group Bias: Mentoring Sponsorship, Networks, and Assignments

A related set of obstacles involves in-group favoritism. Extensive research has documented the preferences that individuals feel for members of their own groups. Loyalty, cooperation, favorable evaluations, mentoring, and the allocation of rewards and opportunities are greater for individuals who are similar in important respects, including gender, race, and ethnicity.[62] As a consequence, women and minorities face difficulty developing "social capital:" access to advice, support, sponsorship, desirable assignments, and new business opportunities.[63] In law firms, racial and ethnic minorities often report

58. Marie Cocco, *Misogyny I Won't Miss*, WASHINGTON POST, May 15, 2008, at A14; Kathleen Deveny, *Just Leave Your Mother Out of It*, NEWSWEEK, Mar. 17, 2008, at 32.

59. David L. Hamilton & Jim W. Sherman, *Stereotypes*, in HANDBOOK OF SOCIAL COGNITION 1–68 (Robert S. Wyer, Jr. & Thomas K. Srull eds., 1994). For confirmation bias generally, see PAUL BREST & LINDA HAMILTON KRIEGER, PROBLEM SOLVING, DECISION MAKING, AND PROFESSIONAL JUDGMENT: A GUIDE FOR POLICY MAKERS 277–89 (2010).

60. Robin J. Ely et al., *Taking Gender into Account: Theory and Design for Women's Leadership Development Programs*, 10 ACAD. MGMT. LEARNING & EDUC. 474, 477 (2011); Foschi, *supra* note 42; *Visible Invisibility*, *supra* note 20, at 27.

61. Linda Hamilton Krieger, *The Content of Our Categories: A Cognitive Bias Approach to Discrimination and Equal Employment Opportunity*, 47 STAN. L. REV. 1161, 1234 (1995).

62. Williams & Richardson, *supra* note 10, at 49–50; Ridgeway & England, *supra* note 42, at 197; Marilyn B. Brewer & Rupert J. Brown, *Intergroup Relations*, in THE HANDBOOK OF SOCIAL PSYCHOLOGY 554 (Daniel T. Gilbert et al. eds., 1998); Susan T. Fiske, *Stereotyping, Prejudice, and Discrimination*, in THE HANDBOOK OF SOCIAL PSYCHOLOGY 357 (Daniel T. Gilbert et al. eds., 1998).

63. The term comes from Pierre Bourdieu, *The Forms of Capital*, in HANDBOOK OF THEORY AND RESEARCH FOR THE SOCIOLOGY OF EDUCATION 241, 248–49 (John G. Richardson ed., 1986). For

isolation and marginalization, while many white women similarly experience exclusion from "old boys" networks.[64] In ABA research, sixty-two percent of women of color and sixty percent of white women, but only four percent of white men, felt excluded from formal and informal networking opportunities; most women and minorities would have liked better mentoring.[65]

Part of the problem lies in numbers. Many organizations lack sufficient women and minorities at senior levels who can assist others on the way up. The problem is not an absence of commitment. Recent research finds no evidence for the Queen Bee syndrome, in which women reportedly keep others from getting ahead.[66] In a Catalyst study, almost three-quarters of women who were actively engaged in mentoring were developing female colleagues, compared with thirty percent of men.[67] But the underrepresentation of women in leadership positions, and the time pressures for those juggling family responsibilities, leaves an insufficient pool of potential mentors. Although a growing number of organizations have formal mentoring programs, these do not always supply adequate training, rewards, or oversight to ensure effectiveness.[68] And these formal programs cannot substitute for relationships that develop naturally and that yield not simply advisors but sponsors—individuals who act as advocates and are in positions to open opportunities. As participants in one ABA study noted, female leaders may have "good intentions," but are already pressed with competing work and family obligations or "don't have a lot of power so they can't really help you."[69] Concerns about the appearance of sexual harassment or sexual affairs discourage some men from forming mentoring relationships with junior women, and discomfort concerning issues of race and ethnicity deters some white lawyers from crossing the color divide.[70] In cross racial mentoring

discussion in the legal context, see Cindy A. Schipani et al., *Pathways for Women to Obtain Positions of Organizational Leadership: The Significance of Mentoring and Networking*, 16 DUKE J. GENDER L. & POL'Y 89 (2009); *see generally* Fiona M. Kay & Jean E. Wallace, *Mentors as Social Capital: Gender, Mentors, and Career Rewards in Legal Practice*, 79 SOC. INQUIRY 418 (2009).

    64. For minorities, see *Visible Invisibility, supra* note 20, at 18; Wilkins & Gulati, *supra* note 29, at 593. For women, see Reichman & Sterling, *supra* note 13, at 65; Timothy O'Brien, *Up the Down Staircase*, N.Y. TIMES, Mar. 19, 2006, at A4; Williams & Richardson, *supra* note 10, at 16–17.

    65. *Visible Invisibility, supra* note 20, at 35; Jill Schachner Chanen, *Early Exits*, 92 A.B.A. J. 32, 36 (2006).

    66. Sarah Dinolfo et al., *High Potentials in the Pipeline: Leaders Pay it Forward*, CATALYST 7 (2012), http://www.catalyst.org/system/files/High_Potentials_In_the_Pipeline_Leaders_Pay_It_Forward.pdf.

    67. *Id.*

    68. *See* Rhode, *Platitudes to Priorities, supra* note *, at 1071 nn.202–203, 1072 nn.204–206.

    69. *Visible Invisibility, supra* note 20, at 12–17.

    70. For the role of sexual concerns, see HEWLETT ET AL., *supra* note 48, at 35. For race-related

relationships, candid dialogue may be particularly difficult. Minority protégés may be reluctant to raise issues of bias for fear of seeming oversensitive. White mentors may be reluctant to offer candid feedback to minority associates for fear of seeming racist or of encouraging them to leave. The result is that midlevel lawyers of color can find themselves "blindsided by soft evaluations:" "your skills aren't what they are supposed to be, but you didn't know because no one ever told you."[71]

Assumptions about commitment and capabilities also keep mentors from investing in female or minority subordinates who seem unlikely to stay or to succeed.[72] Such dynamics also put pressure on these lawyers to assimilate to prevailing norms. As one attorney of color put it, the only way to succeed in a large firm is to "make them almost forget you're Hispanic . . . ."[73] If a minority lawyer "just doesn't fit in," the assumption is that the problem lies with the individual not the institution.[74]

In-group favoritism is also apparent in the allocation of work and client development opportunities. Many organizations operate with informal systems that channel seemingly talented junior lawyers (disproportionately white men), to leadership tracks, while relegating others to "workhorse" positions.[75] In the ABA Commission study, forty-four percent of women of color, thirty-nine percent of white women, and twenty-five percent of minority men reported being passed over for desirable assignments; only two percent of white men noted similar experiences.[76] Other research similarly finds that women and minorities are often left out of pitches for client business.[77]

Lawyers of color are also subject to "race matching"; they receive work because of their identity, not their interests, in order to create the right "look" in courtrooms, client presentations, recruiting, and

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barriers in mentoring, see Monique R. Payne-Pikus et al., *Experiencing Discrimination: Race and Retention in America's Largest Law Firms*, 44 LAW & SOC'Y REV. 553, 561 (2010).

71. *Visible Invisibility, supra* note 20, at 27. *See also* Thomas, *supra* note 39, at 105.

72. *Visible Invisibility, supra* note 20, at 15–16; Marc Galanter & William Henderson, *The Elastic Tournament: A Second Transformation of the Big Law Firm*, 60 STAN. L. REV. 1867 (2008); Payne-Pikus et al., *supra* note 70, at 576.

73. Melinda S. Molina, *Los Puentes y Las Barreras: Latinas in the Legal Profession*, in IILP REVIEW 2011: THE STATE OF DIVERSITY AND INCLUSION IN THE LEGAL PROFESSION 42, 46 (2011), *available at* http://www.theiilp.com/Resources/Documents/IILPReview2011.pdf.

74. Bagati, *supra* note 19, at 16; *Diversity in the Legal Profession: The Next Steps*, AM. BAR ASS'N   43   (Apr.   2010)   [hereinafter   *Next   Steps*], http://www.americanbar.org/content/dam/aba/administrative/diversity/next_steps_2011.authcheckdam.pdf.

75. *Visible Invisibility, supra* note 20, at 21; Wilkins & Gulati, *supra* note 29, at 565–71.

76. *Visible Invisibility, supra* note 20, at 21.

77. Williams & Richardson, *supra* note 10, at 42.

marketing efforts. Although this strategy sometimes opens helpful opportunities, it can also place lawyers in what they describe as "mascot" roles in which they are not developing their own professional skills.[78] Linda Mabry, the first minority partner in a San Francisco firm, recounts an example in which she was asked to join a pitch to a shipping company whose general counsel was African-American:

> When the firm made the pitch about the firm's relevant expertise, none of which I possessed, it was clear that the only reason I was there was to tout the firm's diversity, which was practically nonexistent. In that moment I wanted to fling myself through the plate-glass window of that well-appointed conference room.[79]

Race matching is particularly irritating when lawyers of color are assumed to have skills and affinities that they in fact lack. Examples include a Japanese-American asked to a meeting to solicit a Korean client and a Latina who was assigned documents in Spanish even after she explained that she wasn't fluent in the language.[80] "Oh, you'll be fine," she was told, "look [anything unfamiliar] up in a dictionary." [81]

D. Workplace Structures and Gender Roles

Escalating workplace demands and inflexible practice structures pose further obstacles to diversity and inclusion. Hourly demands have risen significantly over the last quarter century, and what hasn't changed are the number of hours in the day. Technology that makes it possible for lawyers to work at home makes it increasingly impossible not to. Constant accessibility has become the new norm, with attorneys electronically tethered to their workplaces. The cost is disproportionately born by women, because as noted below, they are disproportionately likely to assume primary caretaking responsibilities.

The problem is compounded by the inadequacy of structural responses. Despite some efforts at accommodation, a wide gap persists between formal policies and actual practices concerning work/life conflicts. Although over ninety percent of American law firms report policies permitting part-time work, only about six percent of lawyers actually use them.[82] Many lawyers believe, with good reason, that any

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78. *Visible Invisibility, supra* note 20, at 21; O'Neill, *supra* note 37, at 10.

79. Linda A. Mabry, *The Token,* CAL. LAWYER, July 2006, at 76.

80. *Visible Invisibility, supra* note 20, at 26; David B. Wilkins, *From "Separate Is Inherently Unequal" to "Diversity Is Good For Business": The Rise of Market-Based Diversity Arguments and the Fate of the Black Corporate Bar,* 117 HARV. L. REV. 1548, 1595–96 (2004).

81. *Visible Invisibility, supra* note 20, at 26 (internal quotation marks omitted).

82. *Most Lawyers Working Part-Time Are Women—Overall Number of Lawyers Working Part-Time Remains Small,* NAT'L ASS'N FOR LAW PLACEMENT 7 (Dec. 17, 2009),

reduction in hours or availability would jeopardize their careers.[83] Part-time status and time out of the workforce generally results in long-term losses in earnings as well as lower chances for partnership.[84] In one survey of University of Michigan law school graduates, just a single year out of the workforce correlated with a third lower chance of making partner and an earnings reduction of twenty-eight percent.[85] Stories of the "faster than a speeding bullet" maternity leave are all too common. One woman who drafted discovery responses while timing her contractions saw it as a sensible display of commitment. After all, if you are billing at six minute intervals, why waste one? Those who opt for a reduced schedule after parental leave often find that it isn't worth the price. Their schedules aren't respected, their hours creep up, the quality of their assignments goes down, their pay is not proportional, and they are stigmatized as "slackers."[86]

Although these are not only "women's issues," women bear their greatest impact. Despite a significant increase in men's domestic work over the last two decades, women continue to shoulder the major burden.[87] It is still women who are most likely to get the phone call that federal district judge Nancy Gertner received on the first day that she was about to ascend the bench: "Mama, there's no chocolate pudding in my [lunch]."[88] In the American Bar Foundation's Survey of young lawyers, women were about seven times more likely than men to be working part-time or to be out of the labor force, primarily due to childcare.[89] In the University of Michigan study, only one percent of fathers had taken parental leave, compared with forty-two percent of

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http://www.nalp.org/uploads/NALP_09PartTimePressRel.pdf.

83. Paula A. Patton, *Women Lawyers, Their Status, Influence, and Retention in the Legal Profession*, 11 WM. & MARY J. WOMEN & L. 173, 180 (2005). For lower partnership rates, see Beiner, *supra* note 6, at 326; Dau-Schmidt et al., *supra* note 8; Mona Harrington & Helen Hsi, *Women Lawyers and Obstacles to Leadership*, MIT WORKPLACE CTR. 28–29 (2007), http://web.mit.edu/workplacecenter/docs/law-report_4-07.pdf.

84. David Leonhardt, *Financial Careers Come at a Cost to Families*, N.Y. TIMES, May 26, 2009, at B1; Dau-Schmidt et al., *supra* note 8, 95–96; Beiner, *supra* note 6, at 326.

85. Noonan & Corcoran, *supra* note 8, at 146.

86. *See* Deborah L. Rhode, *Balanced Lives for Lawyers*, 70 FORDHAM L. REV. 2207, 2213 (2002). For stigma, see HOLLY ENGLISH, GENDER ON TRIAL: SEXUAL STEREOTYPE AND WORK/LIFE BALANCE IN THE LEGAL WORKFORCE 212 (2003) (reporting perceptions about slackers); López, *supra* note 10, at 95–96; Cynthia Thomas Calvert et al., *Reduced Hours, Full Success: Part-Time Partners in U.S. Law Firms*, PROJECT FOR ATT'Y RETENTION 17 (Sept. 2009), http://amlawdaily.typepad.com/files/part-timepartner.pdf (reporting that even among lawyers who had achieved partnership, about 40 percent feel stigma from taking part-time schedules).

87. Bureau of Labor Statistics, *American Time Use Survey—2010 Results*, U.S. DEP'T LABOR TABLE 1 (Jun. 22, 2011), http://www.bls.gov/news.release/archives/atus_06222011.pdf.

88. NANCY GERTNER, IN DEFENSE OF WOMEN: MEMOIRS OF AN UNREPENTANT ADVOCATE 246 (2011).

89. Dinovitzer et al., *supra* note 7, at 62.

women.[90] Part of the reason for those disparities is that the small number of fathers who opt to become full-time caretakers experience particular penalties. Male lawyers suffer even greater financial and promotion consequences than female colleagues who make the same choice.[91]

The problems are likely to increase. "Millennial" lawyers have expectations inconsistent with prevailing norms.[92] Growing numbers of men as well as women are expressing a desire for better work–life balance, and examples of lawyers of all ages who insist on it are increasingly visible. A *New York Times* article titled, "He Breaks for Band Recitals," reported that Barack Obama was willing to leave key meetings in order to get home for dinner by six or attend a school function of his daughters.[93]

Although bar   leaders generally acknowledge the problem of work/life balance, they often place responsibility for addressing it anywhere and everywhere else. In private practice, clients get part of the blame. Law is a service business, and their expectations of instant accessibility reportedly make reduced schedules difficult to accommodate. Resistance from supervisors can be equally problematic. Particularly in a competitive work environment, they have obvious reasons to prefer lawyers at their constant beck and call.[94]

Yet the problems are not as insurmountable as is often assumed. The evidence available does not indicate substantial resistance among clients to reduced schedules. They care about responsiveness, and part-time lawyers generally appear able to provide it.[95] In one recent survey of part-time partners, most reported that they did not even inform clients of their status and that their schedules were adapted to fit client needs.[96] Accounting, which is also a service profession, and anything but indifferent to the bottom line, has developed a business model that more than offsets the costs of work/family accommodation by increasing retention.[97] Considerable evidence suggests that law practice could do the same, and reap the benefits in higher morale, lower recruitment and training expenses, and less disruption in client and collegial

90. Noonan & Corcoran, *supra* note 8, at 137.

91. Dau-Schmidt et al., *supra* note 8, at 112–13; LEVIT & LINDER, *supra* note 18, at 12–13.

92. Virginia Grant & Marci M. Krufka, *The Young and the Restless*, L. PRACTICE, July–Aug. 2004, at 48; Galanter & Henderson, *supra* note 72, at 1922–23.

93. Sheryl Gay Stolberg, *He Breaks for Band Recitals*, N.Y. TIMES (Feb. 12, 2010), http://www.nyuimes.com/2010/02/14/fashion/14dad.html.

94. Galanter & Henderson, *supra* note 72, at 1921.

95. Calvert et al., *supra* note 86, at 13, 22.

96. *Id.* at 9, 13, 21.

97. Deloitte and Touche has been a leader. *See* Susan Sturm, *Second Generation Employment Discrimination: A Structural Approach*, 101 COLUM. L. REV. 458, 493 (2001).

relationships.[98]   Although some leadership positions may be hard to reconcile with substantial family demands, many women could be ready to cycle into those positions as family obligations decrease.   The challenge lies in creating workplace structures that make it easier for lawyers of both sexes to have satisfying personal as well as professional lives and to ensure that those who temporarily step out of the workforce or reduce their workload are not permanently derailed by the decision.

E. Backlash

A final obstacle to diversity and gender equity initiatives involves backlash; the concern is that addressing these issues might add more to the problem than the solution.   Firm leaders who appear to support "special" treatment of women and minorities also have to worry about resentment among their white male counterparts.   In their view, too much "reverse discrimination" causes backlash, and "stretch hires of minorities who are not qualified sometimes does much to undermine . . . acceptance of diversity and inclusion."[99]   As one white male lawyer put it, "taking opportunities . . . from those with merit and giving [them] . . . to people based upon race, gender, or sexual identity is forcing us apart not bringing us together . . . .   I can think of few things worse for an ostensibly color blind and meritocratic society."[100] In a letter to the editor of the *National Law Journal*, a self-described "young, white straight male attorney, who also happens to be politically progressive" similarly protested employment termination decisions partly attributable to "meeting an important client's newly asserted diversity demands."[101]   From his perspective, "surely firing people even partially on the basis of an immutable characteristic is as unjust when done in the name of increasing diversity as it is when done to maintain homogeneity."[102]   Many white lawyers appear to agree.   In one ABA survey, only forty-two percent supported affirmative action.

By contrast, ninety-two percent of blacks expressed support.[103]   And a strong case can be made that the insistence on color blindness comes generations too early and centuries too late.   As David Wilkins argues, diversity initiatives remain necessary to "detect and correct the myriad subtle, but nevertheless pervasive, ways that . . . current practices

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98. LEVIT & LINDER, *supra* note 18, at 170; Calvert et al., *supra* note 86, at 10–12.

99. *Sustaining Pathways*, *supra* note 25, at 25.

100. *Id.* at 15.

101. Ben Martin, *Letter to the Editor*, NAT'L L.J., Nov. 6, 2006.

102. *Id.*

103. Wendell Lagrand, *Getting There*, 85 A.B.A. J. 54 (1999).

differentially disadvantage certain [groups based on color]."[104]

IV. THE LIMITS OF LAW

Although antidiscrimination law provides some protection from overt bias, it is ill-suited to address contemporary racial, ethnic, and gender obstacles. Close to fifty years experience with civil rights legislation reveals almost no final judgments of discrimination involving law firms.[105] The frequency of informal settlements is impossible to gauge, but the barriers to effective remedies are substantial. Part of the problem is the mismatch between legal definitions of discrimination and the social patterns that produce it. To prevail in a case involving professional employment, litigants generally must establish that they were treated adversely based on a prohibited characteristic, such as race, ethnicity, or sex.[106] Yet as the preceding discussion suggested, many disadvantages for women and minorities do not involve such overtly discriminatory treatment.

Nor is it often possible for individuals to know or to prove whether they have been subject to bias, given the subjectivity of evaluation standards. Evidentiary barriers are often insurmountable, both because lawyers generally are smart enough to avoid creating paper trails of bias and because colleagues with corroborating evidence are reluctant to provide it for fear of jeopardizing their own positions.[107] Even those who believe that they have experienced discrimination have little incentive to come forward, given the high costs of complaining, the low likelihood of victory, and the risks of informal blacklisting.[108] Many women and minorities do not want to seem "too aggressive" or "confrontational," to look like a "bitch," or to be typecast as an "angry black."[109] Lawyers who do express concerns are often advised to "let

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104. Wilkins, *supra* note 80, at 1572–73.

105. *See* Eyana J. Smith, *Employment Discrimination in the Firm: Does the Legal System Provide Remedies for Women and Minority Members of the Bar?*, 6 U. PA. J. LAB. & EMP. L. 789 (2004).

106. Title VII of the federal Civil Rights Act prohibits employment discrimination based on race, color, religion, sex, or national origin. 42 U.S.C. § 2000e-2(a)(1) (2012). For an overview, see KATHERINE T. BARTLETT ET AL., GENDER AND LAW: THEORY, DOCTRINE, COMMENTARY 89 (6th ed. 2013).

107. Rhode & Williams, *supra* note 43, at 243; Riordan v. Kempiners, 831 F.2d 690, 697 (7th Cir. 1987).

108. The problem is true of employment discrimination litigation generally. *See* Laura Beth Nielsen & Robert L. Nelson, *Rights Realized? An Empirical Analysis of Employment Discrimination Litigation as a Claiming System*, 2005 WIS. L. REV. 663 (2005); Linda Hamilton Krieger, *The Watched Variable Improves: On Eliminating Sex Discrimination in Employment, in* SEX DISCRIMINATION IN THE WORKPLACE 295, 296, 309–10 (Faye J. Crosby et al. eds., 2007).

109. *Visible Invisibility, supra* note 20, at 20 ("aggressive," "bitch"); Williams & Richardson, *supra* note 10, at 38 ("confrontational"); Reichman & Sterling, *supra* note 13, at 69 ("bitch"); Cruz & Molina,   *supra*   note   35,   at   1019   ("rock   the   boat");   Marcia   Coyle,

bygones be bygones," or to "move on."[110] Channels for candid dialogue are all too rare. Most law firms do not give associates opportunities to offer feedback about their supervisors, and of lawyers who provide such evaluations, only about five percent report changes for the better.[111] The message in many law firm cultures is that "[c]omplaining never gets you anywhere . . . because then you're [perceived as] not being a team player . . . ."[112]

Lawyers who persist in their complaints are putting their professional lives on trial, and the profiles that emerge are seldom entirely flattering. In one widely publicized case involving a gay associate who sued Wall Street's Sullivan and Cromwell for bias in promotion, characterizations of the plaintiff in press accounts included "smarmy," and "a paranoid kid with a persecution complex."[113]   In an equally notorious sex discrimination suit, Philadelphia's Wolf, Block, Schorr & Solis-Cohen denied a promotion to Nancy Ezold, whom firm leaders believed lacked both analytic abilities and other characteristics that might compensate for that deficiency. According to one partner, "'It's like the ugly girl. Everybody says she's got a great personality. It turns out [that Ezold] didn't even have a great personality.'"[114] What she did have, however, was sufficient evidence to prevail at trial. At the time she was rejected for partnership, the firm's litigation department had just one woman out of fifty-five partners; nationally, by contrast, about eleven percent of partners at large firms were female.[115] Ezold had positive evaluations by the partners for whom she had worked, and a comparison with other male associates who had been promoted revealed performance concerns at least as serious as those raised about her. Characterizations of some of those men included: "wish-washy and immature," "[m]ore sizzle than steak," and "[n]ot real smart."[116] The record also revealed gender stereotypes, such as some partners' belief that Ezold was too

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Black Lawyer's Life, Suit Told By A White Author; New Book By a WSJ Editor Tells of a Harvard Law Grad Who Sued Katten Muchin, NAT'L L.J., Jan. 11, 1999, at A14 (quoting Mungin) ("angry black").

110. For the advice, see Robert Kolker, *The Gay Flannel Suit*, N.Y. MAG. (Oct. 24, 2007), http://nymag.com/news/features/28515/; *see also Visible Invisibility, supra* note 20, at 21. For negative consequences following complaints about compensation, see Williams & Richardson, *supra* note 10, at 38.

111. NAT'L ASS'N FOR LAW PLACEMENT, HOW ASSOCIATE EVALUATIONS MEASURE UP: A NATIONAL STUDY OF ASSOCIATE PERFORMANCE ASSESSMENTS 74 (2006).

112. *Visible Invisibility, supra* note 20, at 27 (internal quotation marks omitted).

113. Kolker, *supra* note 110.

114. Deborah L. Rhode, *What's Sex Got to Do With It: Diversity in the Legal Profession, in* LEGAL ETHICS STORIES 233, 246 (Deborah L. Rhode & David Luban eds., 2006) (quoting Charles Kopp).

115. *Id.* at 235.

116. Ezold v. Wolf, Block, Schorr & Solis-Cohen, 751 F. Supp. 1175, 1184–87 (E.D. Pa. 1990), *rev'd*, 983 F.2d 509 (3d Cir. 1992), *cert. denied*, 510 U.S. 826 (1993).

"assertive" and too preoccupied with "women's issues."[117] Despite such evidence, the court of appeals found for the firm. In its view, the performance concerns of the two-thirds of partners who voted against Ezold were not so "obvious or manifest" a pretext to show discrimination.[118] Yet, given the damage to the firm's reputation and recruiting efforts, the victory was hardly a full vindication. In reflecting on the decision not to settle the matter, one firm leader concluded: "'This may have been a case that wasn't worth winning.'"[119]

Similar evidentiary difficulties confront women who take reduced schedules and find themselves out of the loop of challenging assignments and career development opportunities. In dismissing a class action complaint brought by mothers against Bloomberg News, the district court expressed widely prevailing views: "[t]he law does not mandate 'work-life balance.'"[120] In an organization "which explicitly makes all-out dedication its expectation, making a decision that preferences family over work comes with consequences."[121] Attorneys who experience such consequences seldom see options other than exit. One mother who returned from leave after three years at a firm found her situation hopeless: "I was simply dropped from all my work, with no questions or discussion . . . . It was as if I had fallen off the planet."[122]

Not only does current antidiscrimination law provide insufficient remedies for individuals, it also offers inadequate incentives for institutions to address unintended biases. Columbia Law Professor Susan Sturm's research suggests that fear of liability can discourage organizations from collecting "information that will reveal problems . . . or patterns of exclusion that increase the likelihood that they will be sued."[123] Yet while law has supplied inadequate pressures for diversity initiatives, other considerations are pushing strongly in that direction. Both the moral and business case for diversity should inspire leaders in law to do more to build inclusiveness in their institutions and in their own ranks as well.

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117. *Id.* at 1188.

118. Ezold v. Wolf, Block, Schorr & Solis-Cohen, 983 F.2d 509, 534 (3d Cir. 1992). *See also* Rhode, *supra* note 114, at 243.

119. Rhode, *supra* note 114, at 245 (quoting Robert Segal).

120. Equal Emp't Opportunity Comm'n v. Bloomberg L.P., 778 F. Supp. 2d 458, 485 (S.D.N.Y. 2011).

121. *Id.*

122. Amelia J. Uelmen, *The Evils of "Elasticity": Reflections on the Rhetoric of Professionalism and the Part-Time Paradox in Large Firm Practice*, 33 FORDHAM URB. L.J. 81, 83 (2005).

123. Sturm, *supra* note 97, at 476.

V. THE CASE FOR DIVERSITY

Beginning in the late 1980s, bar leaders launched a series of initiatives designed to increase minority representation and influence in the profession. Drawing on arguments gaining influence in the corporate sector, they stressed the business case for diversity. As the Minority Corporate Counsel Association puts it: "law firms commit to becoming diverse because their future, market share, retention of talent, continuation of existing relationships with corporate clients, and performance depend on understanding and anticipating the needs of an increasingly diverse workforce and marketplace."[124]

A 2010 report by the ABA Presidential Initiative Commission on Diversity similarly emphasized that "[i]t makes good business sense to hire lawyers who reflect the diversity of citizens, clients, and customers from around the globe. Indeed, corporate clients increasingly require lawyer diversity and will take their business elsewhere if it is not provided."[125]

Advocates of gender equity take a similar approach. A widely recognized 2009 *Manifesto on Women in Law* elaborates the business case. Its core principles state:

A. The depth and breadth of the talent pool of women lawyers establishes a clear need for the legal profession to recruit, retain, develop, and advance an exceptionally rich source of talent.

B. Women increasingly have been attaining roles of influence throughout society; legal employers must achieve gender diversity in their leadership ranks if they are to cultivate a set of leaders with legitimacy in the eyes of their clients and members of the profession.

C. Diversity adds value to legal employers in countless ways—from strengthening the effectiveness of client representation to inserting diverse perspectives and critical viewpoints in dialogues and decision making.[126]

In support of these claims, advocates rely on a variety of evidence. For example, some social science research suggests that diverse viewpoints encourage critical thinking and creative problem solving; they expand the range of alternatives considered and counteract "group think."[127] Some studies also find a correlation between diversity and

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124. Wilkins, *supra* note 80, at 1570 n.101 (quoting Scott Mitchell) (internal quotation marks omitted).

125. *Next Steps*, *supra* note 74, at 9.

126. *The Austin Manifesto*, CTR. FOR WOMEN IN LAW (May 1, 2009), http://www.utexas.edu/law/centers/cwil/the-austin-manifesto/.

127. Cedric Herring, *Does Diversity Pay?: Race, Gender, and the Business Case for Diversity*, 74

profitability in law firms as well as in Fortune 500 companies.[128] Other research has drawn on signaling theory to argue that diversity conveys a credible commitment to equal opportunity and responsiveness to diverse stakeholders.[129]

It is, however, important not to overstate the business case for diversity. Not all social science research finds strong performance benefits from diversity.[130] If poorly managed, it can heighten conflict, arid communication problems, or cause outsiders to suppress divergent views.[131] Nor do all studies find a correlation between diversity and profitability.[132] In those that do, it is unclear which way causation runs. Financial success may sometimes do more to enhance diversity than the converse; organizations that are on strong financial footing are better able to invest in diversity initiatives and sound employment practices such as mentoring and work/life accommodations that promote both diversity and profitability.[133]

There are, however, other strong reasons to support diversity initiatives. As the ABA Presidential Initiative Commission noted, increasing numbers of corporate clients are making diversity a priority in allocating work. Over a hundred companies have signed the *Call to Action: Diversity in the Legal Profession*, in which they pledge to "end or limit . . . relationships with firms whose performance consistently evidences a lack of meaningful interest in being diverse."[134] A growing number impose specific requirements, including reports on diversity within the firm and in the teams working on their matters, as well as

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AM. SOC. REV. 208, 220 (2009); Elizabeth Mannix & Margaret A. Neale, *What Differences Make a Difference? The Promise and Reality of Diverse Teams on Organizations*, 6 PSYCHOL. SCI. PUB. INT. 31, 35 (2005); Douglas E. Brayley & Eric S. Nguyen, *Good Business: A Market-Based Argument for Law Firm Diversity*, 34 J. LEGAL PROF. 1, 13 (2009).

128. *See* Brayley & Nguyen, *supra* note 127, at 13–14; David A. Carter et al., *Corporate Governance, Board Diversity, and Firm Value*, 38 FIN. REV. 33, 51 (2003). For a review of this evidence and its methodological limitations, see Deborah L. Rhode & Amanda K. Packel, *Diversity on Corporate Boards: How Much Difference Does Difference Make?* (Rock Ctr. for Corp. Governance, Working Paper No. 89, 2010).

129. Lissa Lamkin Broome & Kimberly D. Krawiec, *Signaling Through Board Diversity: Is Anyone Listening?*, 77 U. CIN. L. REV. 431, 446–48 (2008).

130. See studies discussed in Rhode & Packel, *supra* note 128.

131. See studies discussed in Brayley & Nguyen, *supra* note 127; Frank Dobbin & Jiwook Jung, *Corporate Board Gender Diversity and Stock Performance: The Competence Gap or Institutional Investor Bias?*, 89 N.C. L. REV. 809 (2011); Jonathan S. Leonard et al., *Do Birds of a Feather Shop Together? The Effects on Performance of Employees' Similarity with One Another and with Customers*, 25 J. ORG. BEHAV. 731 (2004); Wilkins, *supra* note 80, at 1588–90.

132. See studies discussed in Rhode & Packel, *supra* note 128; Dobbin & Jung, *supra* note 131.

133. Brayley & Nyugen, *supra* note 127, at 34; Kathleen A. Farrell & Philip L. Hersch, *Additions to Corporate Boards: The Effect of Gender*, 11 J. CORP FIN. 85 (2005).

134. *A Call to Action: Diversity in the Legal Profession Commitment Statement*, MINORITY CORP. COUNSEL   ASS'N   (Oct.   2004),   http://www.acc.com/vl/public/Article/loader.cfm?csModule= security/getfile&pageid=16074.

relevant firm policies and initiatives.[135] Wal-Mart, which has been the most public and detailed in its demands, specifies that firms must have flexible time policies and include as candidates for relationship partner for the company at least one woman, one lawyer of color, and one partner on a flexible schedule. It has also terminated relationships with firms that have failed to meet its diversity standards.[136] The Gap also inquires into flexible time policies and sets out expectations for improvements with firms that fail to meet its goals.[137] Microsoft provides incentives for firms to hit its diversity targets.[138]

Again, it is important not to overstate the reach of these initiatives. Almost no research is available to assess the impact of these policies, to determine how widely they are shared, or to ascertain how often companies that have pledged to reduce or end representation in appropriate cases have actually done so. The only national survey on point, conducted in 2007, did not find that diversity was one of the most important factors in general counsels' choice of outside law firms, and it is unclear how much has changed in the intervening years.[139] Still, the direction of client concerns is clear, and in today's competitive climate, the economic and symbolic leverage of prominent corporations should not be discounted.

Moreover, there are other benefits of diversity initiatives. As noted earlier, some policies, such as those involving work–family accommodations, make business sense. So does fostering diverse perspectives when any resulting conflict can be effectively managed. In addition, as the discussion below suggests, many practices that would improve conditions for women and lawyers of color serve broader organizational interests. Better mentoring programs, more equitable compensation and work assignment, and greater accountability of supervising attorneys are all likely to have long-term payoffs, however difficult to quantify with precision. Skeptics of the business case for diversity often proceed as if the business case for the current model is

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135. Christopher J. Whelan & Neta Ziv, *Privatizing Professionalism: Client Control of Lawyers' Ethics*, 80 FORDHAM L. REV. 2577 (2012).

136. *Id.* at 2597–2600; Clare Tower Putnam, Comment, *When Can a Law Firm Discriminate Among Its Own Employees to Meet a Client's Request? Reflections on the ACC's Call to Action*, 9 U. PA. J. LAB. & EMP. L. 657, 660 (2007); Karen Donovan, *Pushed by Clients, Law Firms Step Up to Diversity Efforts*, N.Y. TIMES (July 21, 2006), http://www.nytimes.com/2006/07/21/business/21legal.html.

137. *Diversity Business Matters: 2011 Corporate Programs Supporting Business for Diverse Outside Counsel*, CAL. MINORITY COUNSEL PROGRAM 18 (Mar. 2011), http://c.ymcdn.com/sites/www.cmcp.org/resource/resmgr/files/diversity_business_matters.pdf.

138. Melanie Lasoff Levs, *Carrot Money to Diversify*, DIVERSITY & THE BAR, Sept.–Oct. 2008, at 59.

139. Mary Swanton, *18th Annual Survey of General Counsel: Survey Snapshots*, INSIDECOUNSEL, July 2007, at 55.

self-evident. Few experts on law firm management agree.[140]

The fact that data is lacking on many of these benefits is a reason to avoid exaggerating their significance, but not to dismiss their relevance. In a world in which the talent pool is half women and one-fifth lawyers of color, it is reasonable to assume that firms will suffer some competitive disadvantage if they cannot effectively recruit and retain these groups. Part of the reason that such disadvantages have been hard to quantify is that comparative data on diversity traditionally have been hard to come by. Now, with the emergence of more complete and accessible databases, job candidates and clients who care about racial, ethnic, and gender equity can make more informed decisions.[141] Their decisions are likely to be significant, particularly if diversity is at least a potential tie breaker in today's increasingly competitive legal market.

The question then becomes how organizations can help institutionalize diversity and build cultures of inclusiveness. And equally important, what can women and minorities do to enhance their own career options?

VI. STRATEGIES FOR INDIVIDUALS

To improve their chances for success, women and minorities should be clear about their goals, seek challenging assignments, solicit frequent feedback, develop mentoring relationships, and cultivate a reputation for effectiveness. Succeeding in those tasks also requires attention to unconscious biases and exclusionary networks that can waylay careers.

So, for example, aspiring female lawyers need to strike the right balance between "too assertive" and "not assertive enough." Surveys of successful managers and professional consultants underscore the importance of developing a leadership style that fits the organization, and is one "with which men are comfortable . . . ."[142] That finding is profoundly irritating to some lawyers. At an ABA Summit on Women's Leadership, many participants railed against asking women to adjust to men's needs. Why was the focus always on fixing the female? But as others pointed out, this is the world that women inhabit, and it is not just men who find overly authoritative or self-promoting styles off putting. To maximize effectiveness, women need ways of projecting a decisive

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140. For a sampling of criticism, see Williams & Richardson, *supra* note 10, at 51–55.

141. *See,   e.g.,*   BUILDING   A   BETTER   LEGAL   PROFESSION, http://www.betterlegalprofession.org/index.php/php (making large firms' relative performance on diversity and other measures readily available online) (last visited May 8, 2014).

142. *Women   in   U.S.   Corporate   Leadership: 2003*, CATALYST 13 (2003), http://www.catalyst.org/knowledge/women-us-corporate-leadership-2003; ELEANOR CLIFT & TOM BRAZAITIS, MADAM PRESIDENT: SHATTERING THE LAST GLASS CEILING 321, 324 (2000).

and forceful manner without seeming arrogant or abrasive. Experts suggest being "relentlessly pleasant" without backing down.[143] Strategies include frequently smiling, expressing appreciation and concern, invoking common interests, emphasizing others' goals as well as their own, and taking a problem-solving rather than critical stance.[144] Successful lawyers such as Sandra Day O'Connor have been known for that capacity. In assessing her prospects for success in the Arizona state legislature, one political commentator noted that "Sandy . . . is a sharp gal" with a "steel-trap mind . . . and a large measure of common sense . . . . She [also] has a lovely smile and should use it often."[145] She did.

Formal leadership training and coaching can help in developing interpersonal styles, as well as capabilities such as risk-taking, conflict resolution, and strategic vision. Leadership programs designed particularly for women or minorities provide especially supportive settings for addressing their special challenges.[146] Profiles of successful leaders can also provide instructive examples of the personal initiative that opens professional opportunities. These lawyers did not wait for the phone to ring. Michele Mayes, one of the nation's most prominent African-American female general counsels, recalls that after receiving some encouragement from a woman mentor, she approached the chief legal officer at her company and "told him that I wanted a job like his."[147] After the shock wore off, he worked up a list of the skills and experiences that she needed and recruited her to follow him to his next general counsel job. She never replaced him, but with his assistance she prepared for his role in other Fortune 500 companies. Louise Parent, the general counsel of American Express, describes learning to "raise my hand" for challenging assignments and being willing to take steps down and sideways on the status ladder in order to get the experience she needed.[148] Terry McClure, the general counsel of United Parcel Service, was told she needed direct exposure to business operations if she wanted to move up at the company. After accepting a position as district manager, she suddenly found herself as a "lawyer, a black woman,

143. LINDA BABCOCK & SARA LASCHEVER, ASK FOR IT: HOW WOMEN CAN USE THE POWER OF NEGOTIATION TO GET WHAT THEY REALLY WANT 253 (2008).

144. *Id.* at 252–62.

145. JOAN BISKUPIC, SANDRA DAY O'CONNOR: HOW THE FIRST WOMAN ON THE SUPREME COURT BECAME ITS MOST INFLUENTIAL JUSTICE 56 (2005) (quoting Benie Wynn) (internal quotation marks omitted).

146. Ely et al., *supra* note 60; Erin White, *Female Training Classes Flourish*, WALL ST. J. (Sept. 25, 2006, 12:01 AM), http://online.wsj.com/news/articles/SB115914673783772716. The Leadership Council on Legal Diversity also offers a fellowship program for minorities on the leadership track.

147. MAYES & BAYSINGER, *supra* note 48, at 82.

148. *Id.* at 69.

[with] no operations experience . . . [w]alking into [a] warehouse the first day with all the truck drivers . . . ."[149] Her success in that role was what helped put her in the candidate pool for general counsel.

Setting priorities and managing time are also critical leadership skills. Establishing boundaries, delegating domestic tasks, and giving up on perfection are essential for those with substantial caretaking commitments.   What lawyers should not sacrifice is time spent developing relationships with influential mentors.[150]   To forge those strategic relationships, lawyers need to recognize that those from whom they seek assistance are under similar time pressures.   The best mentoring generally goes to the best mentees: those who are reasonable and focused in their needs and who make sure the relationship is mutually beneficial. Lawyers who step out of the labor force should find ways of keeping professionally active.   Volunteer efforts, occasional paying projects, continuing legal education, and reentry programs can all aid the transition back.

VII. STRATEGIES FOR ORGANIZATIONS

The most important factor in ensuring equal access to professional opportunities is a commitment to that objective, which is reflected in organizational policies, priorities, and reward structures.[151]   That commitment needs to come from the top. An organization's leadership needs not simply to acknowledge the importance of diversity, but also to establish structures for promoting it, and to hold individuals accountable for the results. The most successful approaches generally involve task forces or committees with diverse and influential members who have credibility with their colleagues and a stake in the results.[152]   The mission of that group should be to identify problems, develop responses, and monitor their effectiveness.

As an ABA Presidential Commission on Diversity recognized, self-

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149. *Id.* at 77.

150. Susan A. Berson, *The Rules (For Women): Steps May Be Unspoken But They Are Necessary, Successful Partners Say,* 98 A.B.A. J. 28 (2012); Linda Bray Chanow & Lauren Stiller Rikleen, *Power in Law: Lessons from the 2011 Women's Power Summit on Law and Leadership,* CTR. FOR WOMEN IN LAW   27,   32   (Jan.   2012),   http://www.utexas.edu/law/wp/wp-content/uploads/centers/cwil/Summit_White_Paper-FINAL.pdf.

151. Frank Dobbin et al., *Diversity Management in Corporate America,* 6 CONTEXTS 21 (2007); CATALYST, ADVANCING WOMEN IN BUSINESS 6, 12–13 (1998); CATALYST, WOMEN OF COLOR IN CORPORATE MANAGEMENT: A STATISTICAL PICTURE 69 (1998).

152. Frank Dobbin & Alexandra Kalev, *The Architecture of Inclusion: Evidence from Corporate Diversity Programs,* 30 HARV. J.L. & GENDER 279, 283 (2007); Jeanine Prime et al., *Strategy Matters: Evaluating Company Approaches for Creating Inclusive Workplaces,* CATALYST 6 (May 15, 2010), http://www.catalyst.org/knowledge/strategy-matters-evaluating-company-approaches-creating-inclusive-workplaces; Beiner, *supra* note 6, at 333.

assessment should be a critical part of all diversity initiatives.[153] Leaders need to know how policies that affect inclusiveness play out in practice. That requires collecting both quantitative and qualitative data on matters such as advancement, retention, assignments, satisfaction, mentoring, and work/family conflicts. Periodic surveys, focus groups, interviews with former and departing employees, and bottom-up evaluations of supervisors can all cast light on problems disproportionately experienced by women and minorities. Monitoring can be important not only in identifying problems and responses, but also in making people aware that their actions are being assessed. Requiring individuals to justify their decisions can help reduce unconscious bias.[154]

Whatever oversight structure an employer chooses, a central priority should be effective systems of evaluation, rewards, and allocation of professional development opportunities. Supervising lawyers and department heads need to be held responsible for their performance on diversity-related issues, and that performance should be part of bottom-up evaluation structures.[155] Such accountability is, of course, far easier to advocate than to achieve, particularly given the absence of systematic research on what oversight strategies actually work. Our knowledge is mainly about what doesn't. Performance appraisals that include diversity but lack significant rewards or sanctions are unlikely to affect behavior.[156] However, little is known about what has helped firms deal with powerful partners who rate poorly on diversity, or whether incentives like mentoring awards and significant bonuses are effective in changing organizational culture. More experimentation and sharing of information could help organizations translate rhetorical commitments into institutional priorities. Many bar associations as well as groups such as the Leadership Counsel on Legal Diversity have initiatives to promote such collaboration.

Some research is available on specific strategies that are frequently part of diversity initiatives. One of the least effective is training. Surveyed lawyers tend to be at best "lukewarm" about the usefulness of diversity education, and experts who have studied its effectiveness are

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153. *Next Steps*, *supra* note 74, at 28.

154. Emilio J. Castilla, *Gender, Race, and Meritocracy in Organizational Careers*, 113 AM. J. SOC. 1479, 1485 (2008); Stephen Benard et al., *Cognitive Bias and the Motherhood Penalty*, 59 HASTINGS L.J. 1359, 1381 (2008).

155. Bagati, *supra* note 19, at 49; Rhode & Kellerman, *supra* note 49, at 27; Ridgeway & England, *supra* note 42, at 202; Ely et al., *supra* note 60, at 481; Joanna Barsh & Lareina Yee, *Unlocking the Full Potential of Women at Work*, WALL ST. J., at 11 (Apr. 30, 2012), http://online.wsj.com/public/resources/documents/womenreportnew.pdf.

156. Dobbin & Kalev, *supra* note 152, at 293–94; Dobbin et al., *supra* note 151, at 23–24.

even less enthusiastic.[157]   In a large-scale review of diversity initiatives across multiple industries, training programs did not significantly increase the representation or advancement of targeted groups.[158]   Part of the problem is that such programs typically focus only on individual behaviors not institutional problems; they also provide no incentives to implement recommended practices, and sometimes provoke backlash among involuntary participants.[159]

Another common strategy is networks and affinity groups for women and minorities. Almost all large firms report women's initiatives that include networking.[160]   Many organizations also support groups for minority lawyers within or outside the firm.   These vary in effectiveness. At their best, they provide useful advice, role models, contacts, and development of informal mentoring relationships.[161] Affinity groups for women of color can be especially important in reducing participants' sense of isolation. By bringing potential leaders together around common interests, these networks can also forge coalitions on diversity-related issues and generate useful reform proposals.[162]   Yet the only large-scale study on point found that networks had no significant positive impact on career development; they increased participants' sense of community but did not do enough to put lawyers "in touch with what they need to know, or whom they need to know, to move up."[163]

One of the most effective interventions involves mentoring, which directly address the difficulties of women and minorities in obtaining the support necessary for career development.   Many organizations have formal mentoring programs that match employees or allow individuals to select their own pairings. Well-designed initiatives that evaluate and reward mentoring activities can improve participants' skills, satisfaction,

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157. Darden, *supra* note 32, at 100. For the limited research and mixed or negative findings on effectiveness, see Deborah L. Rhode, *Social Research and Social Change: Meeting the Challenge of Gender Inequality and Sexual Abuse*, 30 HARV. J.L. & GENDER 11, 13–14 (2007); Elizabeth Levy Paluck, *Diversity Training and Intergroup Contact: A Call to Action Research*, 62 J. SOC. ISSUES 577, 583, 591 (2006).

158. Dobbin & Kalev, *supra* note 152, at 293–95; Dobbin et al., *supra* note 151, at 23–25.

159. Darden, *supra* note 32, at 117; Diane Vaughan, *Rational Choice, Situated Action, and the Social Control of Organizations*, 32 L. & SOC'Y. REV. 23, 34 (1998).

160. *National Survey on Retention and Promotion of Women in Law Firms*, NAT'L ASS'N OF WOMEN LAWYERS 15 (Nov. 2007), http://www.nawl.org/p/cm/ld/fid=82#surveys.

161. Cindy A. Schipani et al., *Pathways for Women to Obtain Positions of Organizational Leadership: The Significance of Mentoring and Networking*, 16 DUKE J. GENDER L. & POL'Y 89, 131 (2009); Alexandra Kalev et al., *Best Practices or Best Guesses? Assessing the Efficacy of Corporate Affirmative Action and Diversity Policies*, 71 AM. SOC. REV. 589, 594 (2006); Rhode & Kellerman, *supra* note 49, at 30.

162. Bob Yates, *Law Firms Address Retention of Women and Minorities*, CHICAGO LAWYER, Mar. 2007, *available at* http://www.mbtlaw.com/pubs/lfam2007.pdf.

163. Dobbin et al., *supra* note 151, at 25.

and retention rates.[164]   However, most programs do not require evaluation or specify the frequency of meetings and goals for the relationship.[165]   Instead, they permit a "call me if you need anything" approach, which leaves too many junior attorneys reluctant to become a burden.[166]   Ineffective matching systems compound the problem; lawyers too often end up with mentors with whom they have little in common.[167] Formal programs also have difficulty inspiring the kind of sponsorship that is most critical. Women and minorities need advocates, not simply advisors, and that kind of support cannot be mandated.

The lesson for leaders is that they cannot simply rely on formal structures. They need to model, cultivate, and reward sponsorship of women and minorities, and to monitor the effectiveness of mentoring programs. Identifying and nurturing high performers should be a priority.[168] In building cultures of inclusion, it is important to emphasize the mutual benefits that can flow from mentoring relationships. Quite apart from the satisfaction that comes from assisting those in need of assistance, mentors may receive more tangible payoffs from fresh insights and from the loyalty and influence that their efforts secure. They can also take pride in laying the foundations for an organization that is reflective of, and responsive to, the public it serves.

Organizations can also support efforts to expand the pool of qualified minorities through scholarships and other educational initiatives. For example, the law firm Skadden and Arps has pledged ten million dollars for a ten-year program offering law school preparation to students from disadvantaged backgrounds.[169] As one ABA official noted, "it's the kind of money we need to make a difference . . . . Now we need just 500 other law firms to take action . . . ."[170]

To make these reforms possible, organizations need leaders who are personally invested in building a broad consensus for diversity and in

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164. Kalev et al., *supra* note 161, at 594; Rhode & Kellerman, *supra* note 49, at 30; Schipani et al., *supra* note 161, at 100–01; IDA O. ABBOTT, THE LAWYER'S GUIDE TO MENTORING 25, 32–33 (2000).

165. *Diversity and Gender Equity in the Legal Profession: Best Practices Guide*, MINN. STATE BAR ASS'N (June 2008), http://www2.mnbar.org/committees/DiversityImplementation/ DiversityBestPracticesGuideFinal.pdf.

166. *Id.* at 77 (internal quotation marks omitted).

167. Ida O. Abbott, *Mentoring Across Differences*, DIVERSITY AND THE BAR, July–Aug. 2006, *available at* https://mcca.com/index.cfm?fuseaction=page.viewpage&pageid=959; Leigh Jones, *Mentoring Plans Failing Associates; High Attrition Rates Still Hit Firms Hard*, NAT. L.J., Sept. 18, 2006.

168. Nancy M. Carter & Christine Silva, *Pipeline's Broken Promise*, CATALYST 5 (2010), http://www.catalyst.org/system/files/Pipeline's_Broken_Promise_Final_021710.pdf.

169. Eckel, *supra* note 1, at 20.

170. *Id.* at 20 (quoting Ruthe Ashley) (internal quotation marks omitted).

addressing any sources of backlash or inertia.[171] This agenda has to be seen not as a "women's" or "minority" issue, but as an organizational priority in which women and minorities have a particular stake. As consultants emphasize, *"[i]nclusion can be built only through inclusion.*"[172] Change "needs to happen in partnership *with* the people of the organization not *to* them."[173] Leaders are critical in creating that sense of unity and in translating rhetorical commitments into organizational priorities.

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171. RHODE, LAWYERS AS LEADERS, *supra* note *, at 153.

172. FREDERICK A. MILLER & JUDITH H. KATZ, THE INCLUSION BREAKTHROUGH: UNLEASHING THE REAL POWER OF DIVERSITY 37 (2002).

173. *Id.* at 38.

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Explaining the Persistence of Gender Inequality: The Work–family Narrative as a Social Defense against the 24/7 Work Culture*

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Abstract

It is widely accepted that the conflict between women's family obligations and professional jobs' long hours lies at the heart of their stalled advancement. Yet research suggests that this ''work–family narrative'' is incomplete: men also experience it and nevertheless advance; moreover, organizations' effort to mitigate it through flexible work policies has not improved women's advancement prospects and often hurts them. Hence this presumed remedy has the perverse effect of perpetuating the problem. Drawing on a case study of a professional service firm, we develop a multilevel theory to explain why organizations are caught in this conundrum. We present data suggesting that the work–family explanation has become a ''hegemonic narrative''—a pervasive, status-quo-preserving story that prevails despite countervailing evidence. We then advance systems-psychodynamic theory to show how organizations use this narrative and attendant policies and practices as an unconscious ''social defense'' to help employees fend off anxieties raised by a 24/7 work culture and to protect organizationally powerful groups—in our case, men and the firm's leaders—and in so doing, sustain workplace inequality. Due to the social defense, two orthodoxies remain unchallenged—the necessity of long work hours and the inescapability of women's stalled advancement. The result is that women's thin representation at senior levels remains in place. We conclude by highlighting contributions to work–family, workplace inequality, and systems-psychodynamic theory.

Keywords: 24/7 work culture, hegemonic narrative, social defense, work–family conflict, systems-psychodynamic theory

The progress women made in the 1970s and 1980s in accessing positions of power and authority slowed considerably in the 1990s and has stalled in this century (Stainback and Tomaskovic-Devey, 2012). In 2013, 14.6 percent of executive officers in *Fortune* 500 companies were women, down from their 15.7 percent share in 2002 (Catalyst, 2006, 2014). In professional service firms, as well, women remain dramatically underrepresented in the partnership ranks, where they are 18 percent of equity partners in U.S. law firms (Rikleen, 2015) and 23 percent of partners and principals in U.S. accounting firms (Wilson-Taylor Associates, 2016), despite having reached parity with men at the associate level long ago and despite policies to counteract the problem. ''Stagnation'' is the word many use to describe women's stalled movement into high-level positions that offer opportunities to wield power and influence (e.g., Catalyst, 2014). This stagnation is a key component of gender inequality in the labor force, but its persistence is still poorly understood.

Drawing on data from a global professional service firm, we generate a new explanation to help account for the persistence of this gender inequality. This explanation arose in the course of conducting research for a firm that, having already tried off-the-shelf solutions, sought our help in understanding how its culture might have been inadvertently hampering women's success. Our study of the firm's culture revealed that virtually all employees recited essentially the same narrative to explain this lack of success: the job requires extremely long hours, and women's family commitments (but not men's) conflict with these time demands; hence, women quit or fail to make partner. We call this explanation the work–family narrative.

We also observed disconnects that begged explanation. Whereas firm members attributed distress over work–family conflict primarily to women, we found high levels of distress among men as well; whereas the firm instituted accommodation policies to help women, we found that women who used them failed to advance; and whereas firm leaders' rationale for requesting our help included higher turnover for women, we found equivalent rates. Moreover, when we proposed to firm leaders a fuller, empirically grounded explanation—that the firm's long-work-hours culture was detrimental to both women and men but that women paid a higher price—these clearly well-intentioned, otherwise empirically minded professionals rejected out of hand the data and analysis they had requested, maintaining their belief that work–family conflict was primarily a women's problem, that it explained women's lack of success, and that any solution must therefore target women.

These disconnects not only cast doubt on this firm's work–family conflict explanation and solution, they also replicated a puzzle found in the work–family literature. According to work–family research, a widely accepted explanation for the stagnation in women's gains is that women's family obligations conflict with professional jobs' long hours (Ramarajan, McGinn, and Kolb, 2012; Ely, Stone, and Ammerman, 2014), and the widely championed solution has been policies offering flexible work arrangements designed to mitigate such conflict (Galinsky et al., 2010; Perlow and Kelly, 2014). Yet closer examination reveals holes in this logic and a solution similar to what we found in our firm. For example, while work–family accommodations have been shown to reduce women's conflict (Ezra and Deckman, 1996; Madsen, 2003; Hill et al., 2004), they have done little to help women's advancement prospects and often have hurt them by offering off-ramps that can stigmatize users and derail their careers (Kossek,

Lewis, and Hammer, 2010; Williams, Blair-Loy, and Berdahl, 2013; Perlow and Kelly, 2014). Moreover, men increasingly experience work–family conflict and nevertheless continue to advance (Reid, 2015). Hence the popular work–family conflict explanation for women's stalled advancement does not square with women's or men's lived experience, either in our firm or more broadly, and the currently popular solution to the problem has the perverse effect of maintaining it in both places.

We took these parallels between our firm and the research as the basis for our orienting research questions: why does work–family conflict persist as the dominant explanation for women's stalled advancement despite evidence that calls it into question, and why do accommodations persist as the dominant solution despite evidence that they perpetuate the problem? In other words, why do organizations' prevailing beliefs and remedies regarding women's stalled advancement systematically, if unwittingly, maintain gender inequality?

In the spirit of abduction, a form of discovery that begins with ''surprising'' findings or ''discrepancies'' and ''works backward to invent a plausible world or a theory that would make the surprise meaningful'' (Van Maanen, Sørensen, and Mitchell, 2007: 1149), we used leaders' resistance to engaging with the study's findings as the starting point for our investigation. These data-driven analysts' reflexive commitment to empirically dubious beliefs raised for us questions about the possible presence of an unacknowledged, hidden invest-ment in preserving these beliefs.

While resistance could be explained by invoking more facile explanations (e.g., people do not like change), they fail to capture the complexity of what we observed. The widely shared nature of organization members' belief in a ques-tionable proposition—one that had the insidious effect of pointing to remedies that derail women's careers—together with the intensity of leaders' reactions when presented with data that challenged it, suggested to us that leaders' resistance might be a smoking gun—a tip-off that something profound was at play. Working backward from this smoking gun, we sought to construct a ''plausible world,'' one in which systemic forces (not just individual ones) and emotions (not just cognitive and practical considerations) hold sway.

For a literature able to speak to the dynamics we observed, we turned to systems-psychodynamic theory, a multilevel, psychological theory of uncon-scious, emotional dynamics in organizations (see Jaques, 1955; Menzies, 1960; Long, 2006; Petriglieri and Petriglieri, 2015). This theory gave us direction for exploring the possibility of hidden motivations and the unconscious maneuvers organizations and their members collectively mobilize to keep them hidden. Our study tells the organizational and psychological backstory of how the work–family narrative, as part of a social defense system, functions to maintain gender inequality in the workplace. To begin, we turn to the literature on work–family, which points to our firm as classically culturally stymied—an exem-plar—in its efforts to advance women, suggesting that building theory from our firm is a potentially fruitful endeavor that will yield generalizable insights.

THE WORK–FAMILY EXPLANATION FOR WOMEN'S STALLED ADVANCEMENT

Although sociologists have critiqued the work–family explanation as simplistic (Stone, 2007; Damaske, 2011; Cha, 2013), it is culturally endorsed in many

arenas. Its prominence in the national press rose beginning in 2001, eclipsing such themes as stereotyping, harassment, and the ''old boys' network'' (Ramarajan, McGinn, and Kolb, 2012). An example is Lisa Belkin's (2003) *New York Times Magazine* article, which argued that women fail to reach the top because they ''find other parts of life more fulfilling'' and which added ''opting out'' to the popular lexicon. The work–family explanation resonates with many managers and executives, as well. A 2013 study of over 6,500 Harvard Business School alumni from virtually every industry found that more than three-quarters overall—73 percent of men and 85 percent of women— attributed women's blocked advancement to their having prioritized family over work (Ely, Stone, and Ammerman, 2014).

Work–family Accommodations as Intervention Strategy and Source of Stigma

Companies understand the problem similarly, and many have offered policies that feature flexible work arrangements designed to mitigate work–family conflict (Galinsky et al., 2010; Kossek, Kalliath, and Kalliath, 2012). Part-time work and a wide variety of ''flex'' options—including periodic and daily flextime, time off, leaves, and sabbaticals, among others (Galinsky et al., 2010)—are common among companies concerned about retaining and promoting highly qualified women professionals.

Research shows, however, that taking accommodations often creates a ''flexibility stigma'' that results in negative career outcomes (Glass, 2004; Stone and Hernandez, 2013; Williams, Blair-Loy, and Berdahl, 2013). Flexibility stigma is a bias against policy users that ''causes the target to fall into social disgrace'' (Williams, Blair-Loy, and Berdahl, 2013: 214). Taking an accommodation indicates an unwillingness to work long hours, and in a professional-work culture that valorizes virtually unceasing labor, seeking time away is stigmatized. Costs can be steep, negatively affecting wages (Coltrane et al., 2013; Goldin, 2014), performance ratings (Wharton, Chivers, and Blair-Loy, 2008), and promotion chances (Judiesch and Lyness, 1999; Cohen and Single, 2001). While research shows that costs can be mitigated by such factors as supervisors' support (Blair-Loy and Wharton, 2002), supervisors' attributions about users' reasons for uptake (Leslie et al., 2012), having an organizationally powerful supervisor (Briscoe and Kellogg, 2011), and the regulatory environment (Blair-Loy and Wharton, 2002; Kalev, Dobbin, and Kelly, 2006), the general pattern is that people who take advantage of these policies are likely to find their careers derailed.

Theoretically, the ''work-devotion schema'' (Blair-Loy, 2003) is the bedrock that undergirds flexibility stigma. This schema is the cultural assumption that work ''demands and deserves single-minded focus and allegiance'' (Blair-Loy, 2003: 6; see also Moen and Roehling, 2005). The use of the word ''devotion'' is not accidental. Weeks (2011), drawing on Marx and Weber, also describes a moral component: Western society endorses an ideology that considers work ''the highest calling,'' a ''moral duty,'' and an ''ethical practice.'' In professional settings, workers with part-time schedules face the possibility of dishonor. Part-timers in law firms, for example, were considered ''time deviants'' for having broken the rule that lies ''at the heart of what it means to be a true professional'' (Epstein, 1999: 133). Among women financial professionals,

Blair-Loy (2003: 184) noted that part-timers "are viewed as apostates, unworthy of advancement into the firm's celestial ranks." The real-world manifestation of the work-devotion schema is that employed Americans worked an average of 1,868 hours annually in 2007, an increase of 181 hours—more than one month—since 1979 (Mischel, 2013), and work hours for professionals are often longer (Jacobs and Gerson, 2004; Briscoe, 2007; Goldin, 2014). Both women and men are subject to the work-devotion schema, but women face an additional constraint: the expectation that they comply with a "family-devotion schema" (Blair-Loy, 2003).

Gendered Impact of the Work-devotion and Family-devotion Schemas

The family-devotion schema assigns women, not men, the primary responsibility of childrearing and housework and holds them accountable. Women are to find fulfillment in the intimacy of "intensive motherhood"—a child-centered, emotionally absorbing, and labor-intensive form of parenting (Hays, 1996)—and their devotion to family is expected to override all other commitments (Roth, 2006; Turco, 2010). Failure to do so may bring the sanction of being considered a bad mother (Blair-Loy, 2003). This prescription is at complete odds with the work-devotion schema, of course: in fulfilling the family-devotion imperative, professional women with children take more responsibility for childcare and thus are more likely to take accommodations (Ely, Stone, and Ammerman, 2014), become victims of flexibility stigma (Stone and Hernandez, 2013), and experience career derailment (Judiesch and Lyness, 1999; Cohen and Single, 2001). As a result, many women feel torn by the demands of these competing schemas (Stone, 2007).

For their part, professional men tend to follow the work-devotion schema. They thus typically do not face flexibility stigma, nor are they judged on the family-devotion schema (except insofar as showing too much family devotion evokes penalties; Berdahl and Moon, 2013; Coltrane et al., 2013). Even today, being a good worker is culturally compatible with being a good husband and father. In fact, the breadwinner ideal confers manly status on men who leave caregiving behind and put in long hours at work (Cooper, 2000; Kellogg, 2011; Berdahl and Moon, 2013). Nevertheless, men do experience the pull of family life. While the breadwinner contribution to family is still culturally honored, it is no longer the sole template, and many men today feel a pull toward greater involvement in home life and the frustration that can accompany that desire when work impinges on it (Winslow, 2005; Glavin, Schieman, and Reid, 2011; Humberd, Ladge, and Harrington, 2015; Reid, 2015, 2018).

Thanks to these deep-seated ideologies about work and family, organizations seeking to advance women face a conundrum: the dominant explanation for women's stalled advancement points to an intervention strategy that, if taken, often derails their careers. In addition, the work–family explanation oversimplifies the problem by neglecting the fact that men also experience work–family conflict yet nevertheless advance. Work–family scholars have grappled with these problems, responding by, for example, testing new intervention strategies that seek to provide non-stigmatized flexibility to all workers (Kelly, Moen, and Tranby, 2011; Perlow and Kelly, 2014), but none has sought to understand why companies have become caught in this conundrum in the first place. Without such an understanding, explanations for the persistence of

workplace gender inequality remain incomplete, and strategies for undermining it continue to be elusive. To find a better explanation, we turn to systems-psychodynamic theory.

Systems-psychodynamic Theory

To examine the possibility that the firm had an unacknowledged, hidden investment in maintaining the work–family explanation for women's stalled advancement and accommodations as the solution, we turned our attention to unconscious dynamics, an area of renewed interest in the social sciences (Kahn, 1990; Barsade, Ramarajan, and Westen, 2009; Pratt and Crosina, 2016). The fields of social psychology, decision sciences, and behavioral economics are now replete with studies showing how individuals habitually, unwittingly, and without conscious awareness stray from rationality (Greenwald and Banaji, 1995; Newman, Duff, and Baumeister, 1997; Schimel, Greenberg, and Martens, 2003; Zhong and Liljenquist, 2006), and neuro-scientific evidence for the existence of unconscious processes bolsters claims about people's possible motives for doing so (Westen et al., 2006; Schacter, Addis, and Buckner, 2007). As Barsade, Ramarajan, and Westen (2009: 144) concluded from their review of the literature on implicit affect in organizations, ''[T]he notion that much of what we do is influenced by processes outside our conscious awareness is no longer a theoretical claim or the province of clinical observation.''

The theory of unconscious dynamics we draw on is systems psychodynamics (see Bion, 1955; Jaques, 1955; Menzies, 1960). This theory moves the analysis of unconscious dynamics from the individual to the meso level, drawing attention to the interplay between organizational arrangements and individuals' emotions and emotion regulation. This perspective considers how the emotional needs of individuals shape structures, narratives, and practices in organizations and how these structures, narratives, and practices, in turn, shape the experiences of those individuals (Petriglieri and Petriglieri, 2010). Two central constructs of the theory are the social defense, an unconscious, organization-level defensive scheme, and psychological defense mechanisms, the unconscious strategies employees use to regulate their emotions.

Social defenses are defined as ''collective arrangements—such as an organizational structure, a work method, or a prevalent discourse—created or used by an organization's members as a protection against disturbing affect derived from external threats, internal conflicts, or the nature of their work'' (Petriglieri and Petriglieri, 2010: 47). They function as ''a collective psychopathology—a necessary evil—allowing the institution to hold together and pursue its task while at the same time limiting its flexibility and its members' awareness'' (Petriglieri, 2013: 1). We investigated the possibility that the firm's work–family narrative functioned as a social defense.

A classic example of a social defense analysis is Menzies' (1960) investigation of a hospital whose presenting problem was burnout and turnover among student nurses. According to Menzies' analysis, this problem was the result of a social defense—practices the hospital had instituted for the unconscious purpose of helping nurses, both student and fully trained alike, fend off the more deeply disturbing emotions that arose daily when caring for sick and dying people. Such defensive practices included, for example, nurses' use of bed numbers, diseases, or diseased organs in lieu of patients' names (e.g., ''the

liver in bed 10''). These practices allowed depersonalization, an unconscious psychological defense mechanism, and together they kept at bay the primary anxiety—angst raised by repeated confrontations with illness and mortality. Yet they also kept nurses from developing meaningful caregiving relationships, depriving them of the very gratification that inspired many to join the profession in the first place. This deprivation gave rise to another problem—the presenting one: nurses' burnout and turnover. While troublesome and anxiety-provoking, confronting the burnout-and-turnover problem was less threatening than confronting illness and mortality, and for this reason it served as a useful substitute focus for the organization.

The result of such dynamics is a system in which the social defense diverts attention away from deeply disturbing emotions arising from the organization's work and, at the same time, creates or perpetuates a substitute (''presenting'') problem. Importantly, the substitute problem is unresolvable precisely because its sustaining mechanism—the social defense—must remain intact (and its functioning invisible) if it is to serve its protective purpose. The operation of the social defense is thus circular and self-reinforcing.

Unconscious defense mechanisms are emotion-regulation strategies people reflexively use to protect themselves from disturbing emotions (Barsade, Ramarajan, and Westen, 2009) and are often mobilized as part of a social defense system. In Menzies' study, employees used depersonalization as an unconscious defense mechanism to distance themselves from the discomfort aroused by confrontations with disease and death. Other research has examined employees' use of other defense mechanisms. In particular, studies have shown how employees use splitting, projection, and projective identification (Gould, Ebers, and Clinchy, 1999; Ashforth and Reingen, 2014; Petriglieri, Petriglieri, and Wood, 2018), defense mechanisms mobilized to ease the psychic tension that arises when experiencing two seemingly contradictory emotions or facing two desirable but seemingly contradictory choices (see Kernberg, 1985; Smith and Berg, 1987; Smith, 1989). As that experience is not unlike work–family conflict, we considered whether these defense mechanisms were in evidence in our firm.

Petriglieri, Petriglieri, and Wood (2018: 22, 24–25) offered the following definitions:

> Splitting occurs when people partition a set of conflicting thoughts or feelings into two distinct subsets and then claim one subset and ignore or disown the other. It is a psychological defense mechanism because it reduces the discomfort of ambiguity and ambivalence (Klein, 1959). . . . [Projection and] projective identification [are] defense mechanism[s] whereby members of one group project the split-off, disowned parts of themselves onto another group and distance themselves from it, while at the same time keeping the other group close enough that they can identify with it. It is defensive because the simultaneous dismissal, while not completely letting go of the other group, bolsters the self's clarity and value while sustaining some semblance of wholeness through identification with the other (Petriglieri and Stein, 2012).

These defense mechanisms appear at the center of two recent systems-psychodynamic studies of organizations. In one study, members of a food coop experiencing tension between the social and financial parts of the

organization's hybrid mission formed two informal groups—idealists and pragmatists—splitting the mission between them. The social part of the mission was projected onto and owned by the idealists, and the financial part became the province of the pragmatists (Ashforth and Reingen, 2014). Each group then projectively identified with the other group, denigrating it but remaining connected to it, thus ensuring that both parts survived. A similar process was reported in a study of a business school with dual ideologies, leading students to split into camps aligned with either the instrumental ideology or the humanistic one while denigrating but still projectively identifying with the other (Petriglieri, Petriglieri, and Wood, 2018). In both studies, these unconscious defense mechanisms reduced the anxiety prompted by the prospect of holding two seemingly contradictory but essential parts of the organization, while also enabling the organization itself to function effectively. In these studies, we note that the groups were relatively equal in power and that both domains were indisputably central to the functioning of the organization.

Research has yet to examine how social defenses and unconscious defense mechanisms play out between groups of unequal power or in organizations in which one domain represents an organizationally devalued sphere, as was the case in our firm, where men had more power than women and where the family domain was devalued relative to the work domain. These omissions are surprising, given that most organizations are characterized by inequality and given that power dynamics often operate outside of conscious awareness (Smith, 1989). Thus taking a systems-psychodynamic perspective on the conundrum we sought to understand held promise for generating new insights into the theory. To this end, we pursued the notion that the conundrum might be the result of a social defense system at play in organizations.

This idea led us to a more refined set of research questions. Does the work–family narrative serve as a social defense? If so, what are the components of the social defense system, and how do they operate to maintain the narrative as the dominant explanation and accommodations as the dominant solution for women's stalled advancement and thus the persistence of gender inequality? Finally, how does this new application of the construct to the problem of gender inequality, in turn, extend or refine theory about how social defense systems operate?

METHOD

Research Setting

We were invited by a mid-sized global consulting firm to investigate how aspects of the firm's culture might have been inadvertently limiting women's success and to design initiatives to stem the loss of women in pre-partner ranks, an industry-wide problem. We accepted this invitation in exchange for permission to use data from this investigation for research purposes and to collect data for additional research projects.

The firm, with offices located primarily in the U.S., provides advisory services in such areas as strategy, marketing, and finance. It draws its consultants from elite colleges and MBA programs, prides itself on its analytical rigor, and typically places high on lists of prestigious consulting firms. As is increasingly common among professional service firms, this firm had a clearly defined

promotion path but did not adhere to a strict ''up or out'' system, and employees could remain despite not having been promoted. Employees could move from client- to internal-facing roles, although promotion to partner from the latter ranks was rare. Years to promotion into the partnership averaged 9 for men and 11 for women. Like other professional service firms, it was male-dominated, particularly at senior levels, with men constituting 63 percent of junior associates, 70 percent of associates, 77 percent of senior associates, and 90 percent of partners. Formal work–family accommodations were available to women and men but were individually negotiated and consisted of reduced-hours schedules, internal-facing assignments, and leaves of absence.

Participants

This paper draws on data collected in this firm over 18 months for three separate interview-based studies centering on gender-related research questions: the requested culture study, a study of men's professional identities, and a study of women's and men's leadership identities. We refer to these latter two studies as tandem studies. Two senior leaders served as our liaisons to the firm and provided the contact information for potential participants. Samples for each study were randomly drawn from the same sampling domain—the four largest U.S. offices—except where noted. We relied on random sampling for our initial research questions, which was an appropriate strategy for yielding a set of broadly representative views and experiences related to the topics we set out to study (i.e., the firm's culture and the two identity-related questions of the tandem studies). For the culture study, we especially wanted to ensure that the data were comprehensive and not biased toward any particular view of the firm. Serendipitously, the random sample allowed us to ascertain how widely shared the narratives and processes were that became the focus of our research. At the same time, it was sufficient for reaching saturation on the new constructs of interest (e.g., men's and women's experiences of the work–family nexus).

   Our total sample included 107 consultants (including partners and associates) and five human resource (HR) personnel. Of the 33 women consultants interviewed, 8 were partners (5 married and 7 with children), and 25 were associates (16 married and 14 with children); of the 74 men consultants, 21 were partners (20 married and 20 with children), and 53 were associates (32 married and 18 with children). Most participants were white. We also interviewed the head of HR and four other senior HR personnel. For quotations in the findings section, we number each respondent and indicate sex using the designation ''F'' or ''M'' for female or male; we indicate consultants' rank using ''P'' or ''A'' for partner or associate; and we use ''HR'' to designate human resource personnel.

   Potential participants received an e-mail from our liaisons introducing the research projects, alerting them that they might be contacted, and assuring them that their participation was voluntary and confidential. Everyone who responded to our e-mailed invitation (only a handful did not) and who anticipated being available agreed to participate. Because of work schedules or unexpected travel, most interviews were rescheduled at least once and some as many as five times. The response rate (the number interviewed relative to the number solicited) for associates was about 70 percent, with

non-participation largely due to insurmountable scheduling conflicts or leaves. The response rate for men partners was close to 100 percent. We invited all 11 client-facing women partners in the four largest U.S. offices to participate and interviewed 8 (73 percent). Of the three client-facing women partners we did not interview, one was on leave and two were unavailable during our visits.

Data

Data come largely from employee interviews. Interviews with consultants involved a series of open-ended questions covering, at a minimum, the following topics: perceptions of what it takes to be successful at the firm and particular challenges women may face; explanations for women's slower advancement rate than men's; and, for those participating in the tandem studies, personal accounts of how they experience themselves in their roles as professionals or leaders, including challenges they have faced. Online Appendix A presents a sample of these questions (http://journals.sagepub.com/doi/suppl/ 10.1177/0001839219832310).

Interviews with human resource personnel centered on the firm's professional development system and on employees' use of work–family accommodation policies. These HR personnel also supplied data on men's and women's turnover rates.

Interviews were mainly face-to-face on the premises, although some were in nearby venues, and interviews with overseas employees and with a few in distant U.S. offices were conducted via telephone. Most interviews lasted a minimum of an hour, and several lasted for two. Interviews were tape-recorded and transcribed.

We also considered as data the firm's reaction to study findings that failed to confirm the work–family explanation for women's mobility problems. In an experience not uncommon for field researchers (Berg and Smith, 1985), we became players in the organizational drama, caught up in the firm's ongoing process of legitimating women's stalled advancement as its primary problem and the work–family narrative as the primary explanation. In this case, upon learning that our proposed interventions were not targeted to women but instead would address the long-work-hours problem both women and men faced, the firm's CEO lost interest in the project and ultimately terminated it (see also Bain, 1998: 419, on termination of the research relationship). Tandem studies continued without disruption.

This parting of ways on the culture study after a cordial and productive relationship was puzzling, and its timing on the heels of our feedback gave us pause: our analysis had upended the firm's preferred explanation, and we were expelled. This sequence led us to a deeper level of analysis. Following Berg and Smith (1985), we analyzed firm leaders' reaction as clinical data pointing to the possibility that a defensive operation was underway, specifically, that the firm was enacting a social defense in our midst.

Analyses

We moved iteratively between key concepts in the systems-psychodynamic literature, operationalized below, and the data, seeking to identify elements of the social-defense system as specified in existing literature and to reject,

extend, or refine the theory upon encountering data that either did not fit or could not be easily accommodated.[1] Drawing on data about unconscious meanings and motives is necessary for analyzing psychodynamic processes such as social defenses. Capturing psychodynamic processes empirically, however, is not straightforward because they are driven by emotional conflicts sufficiently disturbing that people tend to experience and regulate them outside of conscious awareness and therefore cannot easily access or discuss them. Hence conventional content analysis of interview data, in which the meaning and significance of what people say are taken at face value, is, by itself, insufficient for this analysis.

To identify unconscious emotional dynamics in the interview data, we developed a more interpretive coding scheme, paying attention to both *what* interviewees said (or did not say) and *how* they said it, and we paid attention to coherence and contradictions. We flagged interview segments that reported accounts of work–family matters and that also contained signals of unconscious emotional dynamics. Work–family matters included interviewees' references to their own and others' circumstances, decisions, views, or feelings, as well as comparisons they made between women and men. Signals derive from noticing elements in interviews and transcripts that are typically ignored in ordinary social discourse, such as attempts to avoid distressing feelings, which can appear, for example, in ''subtle shifts of topic when certain ideas arise'' and other maneuvers (Shedler, 2010: 99). Signals include hesitations, stumbling, abrupt shifts, setting up stark contrasts, striking use of metaphors, equivocation, deflections, incoherence, and contradictions (Peebles-Kleiger, 2002; Shedler, 2006, 2010). These signals are visible, almost tangible manifestations of internal contradictions or feelings of distress. They serve as ''tells'' indicating that the content is potentially conflicted and warrants attention; they are ''markers'' similar to the ''repetition, sequence, emotion, discontinuities, spontaneous communications, and idiosyncratic communications'' of interest to therapists (Peebles-Kleiger, 2002: 69).

We then speculated about the emotional dynamics that gave rise to these signals by undertaking an iterative process of interpretation. One author or another would propose an interpretation of an interview segment, and the others would comment by agreeing, raising questions, or suggesting revisions. Sometimes the discussion led to multiple iterations, either face-to-face or in writing. A general criterion was how close or far the interpretation was to the data, with the solution always being to choose the interpretation that was closest. Examples of this iterative process, drawn from our analytic memos and notes from our conversations, appear in Online Appendix B.

Identifying these verbal behaviors and their meaning requires no deep knowledge of a person's intrapsychic life, however, and the researcher need not have an ongoing therapeutic relationship to recognize them, because the purpose here is not to understand individual psychology per se but rather to identify patterns of emotional expression (and lack of expression) across people

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[1] This approach of using existing theory to help explain phenomena observed in the field and analyzing field data to further understand the phenomena, while also seeking to extend the theory, is not uncommon in qualitative research, particularly research that draws on theories of unconscious dynamics. For examples, see Ashforth and Reingen's (2014) and Petriglieri, Petriglieri, and Wood's (2018) use of systems-psychodynamic theory, and also Petriglieri and Obodaru's (2018) use of attachment theory.

within a system. What is required is ''clinical judgment'' involving an ''attuned clinical ear'' (Shedler, 2006: 228) turned toward individuals but, in this case, for the purpose of identifying common themes and patterns in groups (e.g., among men, among women) and in the organization as a whole. The ''clinical ear'' listens to interviews on multiple frequencies and is especially attuned to the frequency that conveys unconscious strategies people use to manage their emotions (Wells, 1998). ''Clinical judgment'' is acquired, as is the case with any analytical skill set, through reading, experiential learning, and practice, which can be gained in programs and institutions—in this case, those that sponsor systems-psychodynamic training.[2]

The content of unconscious emotional conflict—and hence, its signals—differed for men and women. Table 1 presents examples of unconscious emotional conflict in men's interviews, which tended to revolve around feelings of guilt about time away from their families; table 2 presents examples in women's interviews, where the conflict centered on ambivalence (examples 1–3) and self-doubt about their personal competence (examples 4 and 5). We did not expect different signals for men and women but simply noted what we observed and speculated about why. Men's guilt, we reasoned, would be less likely to manifest itself as either the ''back-and-forthing'' or ''stark contrasts'' that women evidenced in describing their ambivalence or the ''foreclosure of options'' and ''equivocating'' they evidenced in describing their sense of competence. For their part, women, whose guilt is quite conscious, would face less need than men to engage in ''deflecting feelings onto others'' or other unconscious maneuvers that minimize feelings of guilt. This unexpected sex difference became data for use in developing new theory about how social defenses operate in contexts of structural inequality.

Once we charted patterns in the emotional landscape of men's and women's conflicts regarding work and family, we sought to identify what they did with these conflicted emotions—how they mobilized specific unconscious defense mechanisms to deal with them. Here, we saw evidence of employees engaging in splitting, projection, and projective identification—unconscious strategies activated at the intergroup level as a tacit arrangement between women and men.

To the extent that people experience emotional conflict stemming from internal pulls toward both work and family domains, while nevertheless describing the work domain as primarily men's and the family domain as primarily women's, we can say that they have engaged in splitting and projection at the intergroup level. Each gender takes the key parts of being a whole person and ''splits'' them in two—a committed parent and a committed worker. Consistent with cultural norms about the gendered division of labor (Ridgeway, 2011), the committed parent role is attributed to—''projected'' onto—women, and the role of committed worker is projected onto men.

To the extent that women and men accept their assigned roles as natural and appropriate, we can say that each gender has ''introjected'' the projection

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[2] The second author received such training while earning her Ph.D. in organizational behavior at Yale University in the 1980s and added to that knowledge base by attending a five-day experiential group relations seminar given by the A. K. Rice Institute while writing this manuscript. We also presented an earlier draft of this paper at the International Society for the Psychoanalytic Study of Organizations, in New York City, where we received feedback from scholars and practitioners trained in organizational applications of systems-psychodynamic theory.

Table 1. Examples of Unconscious Emotional Dynamics Relating to Guilt in Men's Interview Data: Signals, Interview Excerpts, and Interpretations

Interview excerpts	Interpretations
Example 1: Signals are using strong words, stumbling, abruptly shifting from emotionally charged to emotionally neutral language/topic	
I am taking a road of putting clients first in a lot of situations. I'm trying to actively work against that. . . . But, I—I can get myself in danger [that] family time will always come second. Now, all that said, I mean I—I don't—I don't think I'm a terrible father, because you know I—I—my typical routine in the day is to get up at seven. The boys have already piled into our bed at 6:30 and kicked and rolled around and talked. Get out of bed at around 7:00. Help [my wife] do breakfast for the kids. Help them get dressed. I leave at about 8:00 or 8:10. They're leaving for school around the same time. [*He continues with the day's routine for several sentences.*] And then the weekends are—you know they're overwhelmingly family oriented with the exception of a call here or a call there. So, they've got a lot of sports. We'll go to a friend's place for dinner with the kids. Or, so at least I'm not one of those you know—you know Hollywood bad dads.	He admits to prioritizing family second and being troubled by it, and the rest of the excerpt is about warding off the fear that he is a bad father. His anxiety is conveyed by strong word choices (''danger,'' ''terrible father,'' ''overwhelmingly,'' ''bad Hollywood dads''), by stumbling (''I mean I—I don't—I don't think''), and by his abrupt shift in topic away from the emotionally charged possibility that his parenting is ''terrible'' to instead focus on the emotionally neutral daily routine he engages in with the children that shows he is there for them—''overwhelmingly'' so on weekends. His summary statement affirms only the absence of a negative (rather than a claim that he is a good father), implying that some element of doubt remains.
Example 2: Signals are equivocating, self-justifying, hesitating, stumbling, minimizing	
Q: So, are you pretty happy . . . with your home life at this point? A: Yes. I think so. The [Australia] thing was a little rough. [*He had spent six months away from his wife and two children for work.*] But [my wife] was part of the decision to go do that in the first place. It wasn't like I sprung it on her. . . . And she actually was advocating for it at one point when I didn't want to do it. . . . Another guy that I worked with who was in a similar boat—whose wife didn't want him to do it—but he did it anyway and that was a much different experience for him, so. Q: Oh, really? A: Yes, so. He had to talk her into it, so. . . . He stayed for about five months and then came back—and refused to go back again. . . . But yes, I mean, that was tough—but actually—I think we look back on it—and say it was tough—but it was—I think—I mean it didn't cause any damage or anything, so. The hardest part was when I came back. I think she had gotten used to making all the decisions by herself—so (*laughter*)—so. Q: She didn't appreciate your contribution? A: Well, it took her a while to get used to having a coalition—not a monarchy.	His response begins with equivocation (an initial ''yes'' is modified to ''I think so'' and concludes with ''a little rough''), implying some difficulty with the question about his happiness with home life. He follows up only on the ''bit rough'' element, not on the positive element, possibly indicating guilty feelings about his absence. He justifies his actions by pinning the decision to go on his wife (''she actually was advocating for it'') and by pointing to a colleague who had failed to get his wife's buy-in, thus positioning himself as the more considerate husband. Yet it appears that he nevertheless has worries about how his absence affected the family: his initial impulse is to characterize the experience in negative terms (''rough,'' ''tough''), but then, after hesitating and stumbling (in a sentence with three ''but'' phrases), he revises his assessment by minimizing the potential impact (''it didn't cause any damage or anything''). His concluding comment—that his reentry to the family was difficult because he had been made effectively irrelevant—implies that his absence was hard on his relationship with his wife, at least for a time.

(continued)

Table 1. (continued)

Interview excerpts	Interpretations
Example 3: Signals are suppressing, deflecting feeling onto others	

Q: Do you feel your experience at the firm is different from men who have stay-at-home wives?
A: . . . I worry about my kids. You know, I—especially when they were young. I just think of them kind of like sitting in their rooms with—Some of the nannies we hired were like pretty surly. And I just feel sad about it. I go like, my poor [child's name] is like sitting there with his train set, and grouchy [Julia], the nanny, like won't take him out today! So it's more like the impact on the kids that I—that I worry about. And are these childcare things good for them? And—but it's not really me so much, it's more I guess the kids.

His answer goes back and forth between his children's sadness and his own, and the latter is apparent in the poignancy of the account of the child sitting in his room with a train set and a grouchy nanny. He suppresses his sadness partly by putting it in the past (''especially when they were young''), partly by ending with a denial that his pain matters, and more generally by deflecting his sadness onto his children.

Example 4: Signals are using strong words, avoiding and minimizing emotions	

Q: How does having children affect how you manage work?
A: First off, there's a big difference in that they're not adults, obviously. But if you have a significant other. . . they take care of themselves. . . . It's like—if I got to go on a trip—well—you know—whatever—or if I have to work late tonight—whatever. But if they're kids, then they're kids. And they don't understand that. And [they think] ''Why are you going?'' So, that, in my mind, ups the consequences.
Q: Ups the consequences in what way?
A: Well, their just kind of emotional well-being. ''Why is Daddy choosing the trip over me?'' So, there's that. And then there's—your spouse can get pissed off at you—but it's not like—and she can say—''Why is he choosing work over me?'' But it's not going to scar her kind of emotionally (*chuckles*). She may say, ''I'm divorcing you, you asshole'' . . . which would be bad, obviously. But it's not a formative experience. So, there's that.
And then the other thing is—how kids are affected depends so much on the spouse and kind of what their attitude is about it. And I don't think it depends too much on the kids' personalities, because the kids' personalities, I think, unless they're just—what's the word?—Alzheimer's?—not Alzheimer's—but—
Q: Like ADD?
A: No, not ADD. It will come to me. Autistic—right. Unless they're just [autistic], they want you to be there all the time. It's like completely unreasonable, right, because they're unreasonable. They're kids. So, they're kind of a given. They want you there all the time.

In considering the effect of his absence, he explains that it will not ''scar'' (strong word choice) his wife, implying that it may scar his children, and this concern repeatedly appears (upped consequences, the children's formative experiences). He says that small children can't understand a parent's absence, and in using ''understand,'' he stresses the cognitive rather than the emotional. Moving away from the idea of damaging his children, he shifts to an imagined scene of his wife name-calling and divorcing him, suggesting that it would be easier to receive her wrath than his children's. Again, the implication is that he worries that his children are hurt by his absence—by ''Daddy choosing the trip over me''—but he minimizes the worry by instead focusing on and making light of how his wife might react.
In his next move, he launches into an analysis of his children's reactions to his long work hours that effectively nullifies their potential for inducing guilt: his characterization of his children's wish for him to ''be there'' as both utterly normal (a ''given''; all children feel this way unless they have a serious disorder, like autism) and as ''completely unreasonable'' (''they want you to be there all the time'') enables him to dismiss their reactions and avoid feeling guilty. It is notable that he does not characterize his children as having emotional needs in this regard, simply unreasonable desires.

Table 1. (continued)

Interview excerpts	Interpretations
Example 5: Signals are minimizing emotional ties, abruptly shifting from emotionally charged to emotionally neutral language/topic, transforming one emotion into a less painful one	

[Before the baby], I could be gone for three days at a time. I could talk to my wife for an hour on the phone every day. . . . Emotionally, it's not too different from when you're at home. . . . My wife would always hate it when I'd say I actually missed the cats more than her when I travel, because I can't actually interact with the cats, because an interaction with the cat is all physical.

With our baby, it's actually the same thing [as with the cats]: You can't interact with the baby [on the phone]. It's all physical. It's been much harder to go for three days at a time. . . . It's even difficult to do an overnight. There's a week where I came back [after three days away] and [the baby] just hit a growth spurt. I came back and it was like, God! She's grown up! Relatively speaking. There was a week I was away and she started crawling! In addition to [the fact that] even when I'm home, I'm working crazy hours. It's pushed more of the managing the whole burden onto my wife. She was always the one that made dinner before. The dishes would sit in the sink until I got around to them. Now, she's doing the dishes. She is basically taking care of the baby all the time, except for the usually 45 minutes that I get in the morning and the half hour that I get over the weekends if I'm working one day. She's basically taking care of the baby by herself. There's ways around that. We try to get her household help and have somebody that comes in once a week, and we've been thinking about doing it more often than that. But it still doesn't make up for the fact that the other person now that's getting time with my kid is not me. So even if my wife is getting the relief—[breaks off].

He first sets himself up as missing the cats (phone calls are all he needs from his wife), whereas his wife misses him (her objection to the cat quip implies he realizes she wants more). With the baby, however, his glibness disappears. He begins to develop his feelings of loss, but ceases just as they were starting to come out strongly (missing the baby's growth spurt and first crawling attempt). He switches gears and uses the term ''burden''—the baby is suddenly something to be managed—and continues by expressing sincere sympathy for how the burden has fallen on his wife, perhaps transforming intolerable pangs about missing his child's key developmental moments into less intolerable guilty feelings about her burden. After some talk about dealing with the practical need for assistance, his sense of loss powerfully reasserts itself: it is ''household help,'' not he, who will get time with his child; he has been displaced. He abruptly breaks off without expressing sadness at this thought.

(although not necessarily completely), which enables each gender to experience the other as having the characteristics associated with their assigned role, thus setting the stage for ''projective identification.'' Individuals engage in projective identification when they unconsciously identify with those who enact the disowned—split off—parts of themselves. In other words, they experience those enactments as emotionally gratifying (Klein, 1946), as, for example, when men project their emotional need for family onto women and women introject that need as their own, allowing men to experience their disowned need vicariously.[3]

Men and women demonstrated splitting and projection when they described both work and family domains as personally compelling while nevertheless making repeated references to family as women's domain and work as men's (appearing, for example, as setting up stark contrasts and contradictions). The

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[3] As Petriglieri and Stein (2012) pointed out, projections need not be negative—desired aspects of the self can also be projected, leading to positive identification with the recipient.

Table 2. Examples of Unconscious Emotional Dynamics Relating to Ambivalence and Sense of Competence in Women's Interview Data: Signals, Interview Excerpts, and Interpretations

Interview excerpts	Interpretations
Example 1: Signal is going back and forth	
Q: What's on your mind now? What worries you? What keeps you up nights? A: The biggest question is what comes next for me in terms of trying to figure out what is my career path. When I joined the firm I always said I will stay here as long as I feel like I'm learning at a pretty good pace. And that's pretty much been true for my entire career here. But now that I'm doing the family/baby balance work thing, I have more questions. I can't and I don't want to just throw myself into the job anymore. I like reserving my evenings and my weekends to spend with my baby. And at the same time, I still have this discomfort with sort of seeing my peers be on this trajectory if I'm on this [other] trajectory. So there's a little bit of discomfort I have about that. At some level, I'm sort of willing to trade off, because I know I'm getting the time with my daughter and I'm not getting on a plane and flying across the country. On the flip side, I want to know that there is a path [to promotion] that makes sense.	As a junior person and new mother working an 80% schedule and hoping to advance, her career path is her chief worry. She notes that her career with the firm has largely been rewarding, but having a child has forced a reconsideration (''I have more questions'') and—more strongly—a rejection (''I can't and I don't want to just throw myself into the job anymore''). That rejection, however, is quickly second-guessed, as she raises the cost of maintaining such a stance: her position compared to peers will suffer, and she twice mentions ''discomfort'' on this score. It is clearly difficult to renounce ambition unequivocally. The quotation concludes with a final back-and-forth: She returns temporarily to her family-first stance, although far more tentatively (''At some level,'' ''I'm sort of willing'') and counterposes it to her desire for promotion. Thus ambivalence appears in the sequencing of affirmations (in order: work, family, work, family, work) in the space of a few sentences.
Example 2: Signals are going back and forth, setting up stark contrasts	
Q: So do you ever think about leaving? A: Yeah. . . . So, I like [the firm] a lot, I should say. It has been my home for my whole professional career. I think about it sometimes for work–life balance reasons. . . . Sometimes I think about—I mean I definitely think about it given that I'm about to have a [second] baby. . . . I feel like recently I've barely—I'm managing to have some time with my toddler and get my work done. But it feels very precarious. . . . I haven't put him to bed any night [this week]. He gets mad at me if I'm not there. Last week was pretty busy, too. I came home one day, early actually, relatively early. . . . He actually ran away from me because he was mad at me. . . . At first he actually ran back to his nanny, which was the first time that has ever happened. . . . I came in, he looked at me and ran the other way and sort of made a terrible face at me. I was like, ''Oh, my gosh!'' . . . It was very painful. It was shocking. . . . [Regarding travel], frankly, I would be scared to say that [I don't want to travel out of town]. I would be scared that it would be the beginning of the end of my career here. . . . If I had to go abroad all the time that would absolutely be unworkable for me, right now. I don't know. I'm not actually sure. That is why I don't think about it lightly because I don't have illusions that there are so many other positions at the level of remuneration that I'm getting and the level of professional challenge that I would want. I don't want a boring job, either. . . . My career is a big part of my identity. I don't want to be a stay-home mother. But I feel I have to deal with my kids. That is so hard a balance. . . .	She is clearly ambivalent, and this excerpt is replete with back-and-forthing about the importance of career versus being with her child—and about staying or quitting. She starts by referring to her commitment to the job (''So, I like [the firm] a lot,'' ''It has been my home for my whole professional career''). She then tells a story about how her job hours wreaked havoc on her relationship with her toddler (''he looked at me and ran the other way''). But she returns to a statement of her career commitment, first at the rational level, speaking of the high pay, and then with a declaration of its personal importance (''My career is a big part of my identity. I don't want to be a stay-home mother''). The two sentences immediately following, however, summarize her ambivalence: ''But I feel I have to deal with my kids. That is so hard a balance.'' She then she sets up a dichotomy (the classic ''want to stay home'' versus ''want to return to work'') and barely refrains from inserting herself in the ''stay-home'' group; instead, she creates a new, ambivalent, category (''didn't want to come back to work''), which stops just short of declaring herself as all about child rearing. The ''pro-work'' stance reappears as she worries about boredom if she were to stay home. She then performs another about-face to return to the side of motherhood (''But I like to be with my little guy. I mean I really do, and when I'm with him I want to be totally focused on him''). In the final segment, she compares her focused mothering to her husband's distracted fathering and conjectures the possibility of a gender difference in explaining her greater caretaking skill and devotion.

Table 2. (continued)

Interview excerpts	Interpretations
You know how people say ''You will not know how you feel as a mother until your child is born''? And some women will say, ''All I want to do is stay home with the baby,'' and other women can't wait to go back to work, and you just can't tell who you would be. And I think everyone who knows me thought I might be more of a can't-wait-to-go-back-to-work kind of people. But I actually find that I didn't actually want to come back to work. I mean if my husband had an income I probably would have stayed longer. Or maybe I wouldn't. Maybe I would have eventually gotten bored. But I like to be with my little guy. I mean I really do, and when I'm with him I want to be totally focused on him. . . . My husband, who is an incredibly involved father and takes care of my son a lot. . . . You know, he loves our son dearly but he still will sit there and hold him on his lap and read the paper online or try to work while holding him. Whereas when I'm with him, I don't try to do anything except totally focus on him. So I do think that—and I don't know if this is just me as an individual versus my husband—if there is a gender component or not. I don't know.	The emotional intensity of the examples, the fast speed of declarations and reversals, and the length of her response all indicate ambivalence. Noticeable is the tension she seems to feel between the potential loss of her relationship with her child, on the one hand, and the potential loss of her job, on the other, heightening the emotional intensity of the challenge she faces: after the painful story of her toddler avoiding her, she reports being ''scared'' about ''the beginning of the end'' of her career. In sum, this narrative contains a series of work–family tensions framed as stark contrasts that are seemingly irreconcilable: quitting versus staying; family as ''home'' versus the firm as ''home''; ''me as an individual [attentive to family] versus my husband [attentive to work]''; losing her relationship with her child versus losing her job.

<div align="center">

Example 3: Signals are contradicting herself, being incoherent

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Interview excerpts	Interpretations
I've had a baby and I was told—I kept being reassured—''There are different career paths for women that become moms.'' And I kept thinking to myself, ''Well, I actually really love working with clients. That's why I'm here!'' So what are my models or opportunities in the context of client-facing roles? So there was a feeling [my way] forward that I had to do there. But there are a lot of great examples of leaders, both men and women, I think, at the firm for having the confidence to think about your role more broadly and think about your role as an owner and as a leader, from my perspective. So I don't like to think too—in the context of my job—like my job title. I like to think about, again, how I can truly advise clients, how I can help them be successful, how I can help my teams, how I can help ensure that they're as successful as they can be, as well.	The reassurance she received about the possibility of accommodations is anything but reassuring. Foregoing client contact (a typical accommodation for mothers) would mean renouncing the part of the job she most ''loves.'' Her response to the rhetorical question ''what are my models or opportunities?'' suggests a sense of having to find her own way forward in the face of both the discouraging communication and the lack of models or opportunities. She seems to contradict herself, however, by jumping to think of counterexamples of leaders, both men and women, who show that it is possible ''to think about the role more broadly.'' The arc of her response suggests that she does not have this conundrum fully worked out and remains vulnerable to cross-pressures and discouragement. Having had a child, she seems unable to articulate a consultant identity—or pathway to such an identity—that would allow her to pursue the parts of the role she loves (advising clients, helping her teams). It is notable that after the first three sentences, the remainder of the excerpt is not fully coherent, which may indicate anxiety about the issue.

Table 2. (continued)

Interview excerpts	Interpretations

<div align="center">Example 4: Signal is equivocating</div>

Q: What does it take to succeed? A: I think you have to be ambitious, and you have to be hungry and thirsty, and you have to be willing to get on the planes and go your own when you can't find . . . help. You do have to be thirsty, I guess, hungry, whatever the expression is. I think if you don't have ambition, you're not going to break through. People have to be able to see that in you and recognize it, or you're never going to be able to break into ''I'm a commercial leader!'' . . . I think it's a great thing. . . . If you're not going to kind of say, ''I'm in it, I'm fully in, and I'm hungry for this, and I recognize all the drawbacks, but I still want it,'' people are going to be, ''Then go find another line of work.'' Q: Do you think you face any particular challenges here as a woman? A: I don't know. I don't know. It's less known. I think there might be, and I'm not sure. And that feels bad, in a way. Q: When does it occur to you? A: When I think about becoming a group leader, for example. I've had times in my career, again, where I feel like people have discounted me a little bit, and they've said, ''Well, she's going on maternity leave, so we're not sure if she's coming back, so we'll affect her comp, or we'll kind of adjust our view of her trajectory.'' I've had people sort of say that to me.	Her statement about the importance of drive is unequivocal and reiterated (''hunger'' or ''thirst'' appears five times), and such drive is endorsed as ''a great thing.'' The definitiveness—even bluster—of that answer stands in stark contrast to the deflation that appears in her answer to the question about whether women face challenges: she equivocates five times in a row (''I don't know. I don't know. It's less known. I think there might be, and I'm not sure.'') This collapse may indicate uneasiness about women's ability to comply with the hunger-and-thirst script for success, an uneasiness that turns personal in the next set of sentences as she reflects on the negative impact of having taken maternity leave. Her description of how she might be perceived because of the leave bears no resemblance to her success script. In sum, in her mind there appears to be uncertainty about women's likelihood (or at least her own likelihood) of meeting the requirements for success.

<div align="center">Example 5: Signals are setting up stark contrasts, reflexively foreclosing options</div>

Q: Have you had role models for leadership? A: . . . So, for example, [male partner]. He is impressive with clients. And I've watched him with clients before and thought, ''That is amazing!'' What he does is amazing! But that, even if I could do—even if I had the skill to do what he is doing at the moment with the client, it is such a kind of aggressive in a way, or kind of very ''alpha male,'' very kind of masculine, whatever that means, you know, mode of being. I couldn't—I just couldn't. That would be silly. People would laugh if I said the things he says!	She almost immediately dismisses the notion of emulating a male partner whose approach she admires, labeling his ''impressive'' and ''amazing'' qualities as fundamentally grounded in his maleness. Relative to him, she comes up short by virtue of being a woman. By assuming an unbridgeable distinction between women and men, she quickly banishes any internal conflict that might arise if she were to seriously consider modeling his leadership style. She then invokes the possibility of ridicule (''silly'' and ''people would laugh''), making the banishment even more necessary. It is notable that she imagines the scene of humiliation rather than simply thinking about what it would be like to emulate his style. This visceral, in-the-moment quality of being publicly humiliated underscores the wrongness, in her mind, of women (or at least herself) attempting such tactics.

more firmly and consistently they located themselves and others in the gender-appropriate domain, the more wholly they were engaging in splitting and projection. Interviewees evidenced projective identification when their convictions about this gendered arrangement could be seen as an attempt to resolve the underlying conflict (appearing, for example, as abrupt shifts and deflections).

The more widespread this dynamic across the firm, the more evidence we have that it operated at the intergroup level. The more fully it operates at the intergroup level, the more we can expect this arrangement to provide a collective experience of wholeness, giving employees some relief from the primary anxiety. The success of these strategies was variable, with some people seeming to experience more relief than others, suggesting more or less complete identification with the projection and, concomitantly, a more or less satisfactory resolution of the underlying conflict.

To identify the primary anxiety, we searched the interview data for discussions of work features that raised angst—what it was about the nature of work itself that might have given rise to this unconscious social defense system. The aspect of work that raised the greatest angst was the firm's relentless demand for 24/7 availability, a demand that was widely regarded as problematic. The angst, or primary anxiety, was the internal conflict arising from that demand that daily forces a choice between love (family) and work, undermining individuals' sense of human wholeness.[4]

Finally, to identify any further elements of the social defense, we reviewed the data for evidence of additional firm-wide narratives, policies, and practices that reinforced the work–family narrative or that supported organization members' unconscious psychological defense mechanisms.

THE WORK–FAMILY EXPLANATION AS A HEGEMONIC NARRATIVE: ONE FIRM'S STORY

Below, we describe the plot elements of the work–family narrative and then, by recounting what we heard from interviewees and what we experienced while working with this firm, show how these elements cohere into a tale that constitutes a ''hegemonic narrative''—a pervasive, status-quo-preserving story that is uncontested, even in the face of countervailing evidence (Ewick and Silbey, 1995). We used the hegemonic narrative concept to elaborate the qualities of the work–family narrative that made it an ideal social defense for our firm's purposes and, in so doing, present the all-important context in which the work–family narrative unfolded as a social defense.

Plot Elements of the Work–family Narrative

The work–family narrative as articulated in this firm contained two ''plot elements,'' told and retold by members across the firm: (1) the job requires extremely long hours, and (2) these hours are impossible for women—but not men—who have family responsibilities; hence, women do not advance.

The story begins with tales of a job that demands long work hours and frequent travel. As is the case in professional service firms generally (Wharton and Blair-Loy, 2006; Briscoe, 2007; Goldin, 2014), hours at this firm were grueling. Interviews revealed no disagreements about the firm's demands that employees put in long hours. Echoing many, one consultant described his work habit: ''[S]hoot me something on Saturday by 10 P.M., and I'll work on it from

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[4] We use ''love'' and ''family'' as shorthand for the larger domain that encompasses all elements of personal, nonwork life. We refer to the two domains as ''love and work,'' drawing on Freud's famous statement, ''Love and work are the cornerstones to our humanness.''

10 to midnight. Because I don't have a life'' (A51 M). Weekly hours averaged
60 to 65, although quite a few claimed to regularly work 70 hours or more.
Such hours made it difficult to meet basic physical needs. According to one
interviewee, ''People here are probably doing 14, 15 hours of work a day.
Pretty much just working and sleeping during the week. They sleep 6 hours a
night or less. . . . Your ability to sleep little is a necessary skill set'' (A12 M).
This conflict between work and sleep was a recurring theme that points to the
sheer raw demands of long work hours. One woman reported her coworker's
admonition on this point: '''You can't make all these plans at night. You have to
be there. You have to be on call. You have to respond to e-mails.' [The team
leader] said about me, when they were working late into the night, 'It's 3:00
A.M., how come she isn't working?''' (A66 F).

The second plot element is that women's commitment to family conflicts with
the time demands of the job, thus hindering women's career advancement.
When asked why the partnership had so few women, partners indicted work–
family issues, and this account filtered down the ranks. According to one partner,
conflict is built in for women, making it hard for them to be seen as leaders:

> We have great intentions and I think pure intentions, genuine intentions, about getting
> the best involved regardless of gender, race, creed, religion, what have you. I frame it
> in the following way. What do I want people to worry about when they wake up first
> thing in the morning? So business development people, I want them to worry about
> business development. For project managers, I want them to worry about the project.
> . . . Women are . . . the project manager in the home, [so] it is hard for them to spend
> the necessary time, energy, and effort to be viewed here as a senior leader. (P19 M)

Some wove this narrative into their personal stories, as did a partner who
described how his professionally successful wife ''gave up work. . . . In the
end, she decided—very difficult choices—that she wanted to have more time
with the children'' (P21 M).

Associates concurred with this analysis. One male associate opined, ''I just
think mothers have a different type of bond with their children . . . and it makes
it that much more stressful and frustrating to be away . . . overnight'' (A42 M).
According to another, the conflicting requirements of motherhood and the job
meant women reject the fast track:

> It's just basic math, right? So you take 100 people. Fifty are women and 50 are men.
> Twenty-five of the women are going to have kids and not want to work. Twenty-five
> of the women are going to have kids and might want to work but won't want to
> travel every week and live the lifestyle that consulting requires of 60- or 70-hour
> weeks. (A01 M)

This unrealistic picture is the extreme version of the pervasive storyline:
motherhood renders women inadequate to the task and explains their relative
lack of success. Note how after being introduced (''50 are men''), men never
reappear in this narrative. It is a work–family problem, and it is women's prob-
lem, not men's. Note also that in this calculation all women are mothers, a con-
flation that was common in our interviews. Logically, the work–family narrative
would acknowledge that childless women can succeed (because they can
avoid the caregiving impediment the narrative highlights), yet this demographic
group figured nowhere in the discussions of women's advancement prospects

and rarely in the stories we heard. It was as if all women were tarred with the brush of motherhood or incipient motherhood.

By and large, women associates agreed with the work–family narrative. According to one mother:

> There's no overt sexism. Once you've proved yourself, people work with you. No one would hold me back from being on a hard-core partner track if I were willing to work 70-hour weeks and get on a plane every week. The issue is that women are choosing to have kids and be their primary caregiver. (A73 F)

The problem focus firm-wide was firmly on women, who were seen as less able or willing than men to compromise their family commitments. We note two word usages endemic to the narrative at the firm: ''mother'' acted as a stand-in for all women, and ''family'' acted as a stand-in for all personal (non-work) commitments. These word choices represent archetypes that capture the power of the narrative to subsume all characters and settings into its story-line, even when they patently failed to fit.

The Work–family Narrative as Hegemonic

Numerous features of the work–family explanation for women's stalled advancement suggested it may be a hegemonic narrative. According to Ewick and Silbey (1995: 200), a hegemonic narrative is a pervasive, uncontested, see-mingly natural account that makes singular sense of an array of personal experi-ences and is resilient to countervailing evidence. It is an overarching strategic story that preserves dominant cultural meanings and power relations and repro-duces them. In the case of the work–family narrative, the story preserves meanings and relations surrounding gender; the plot centers on the work-devotion and family-devotion schemas; and dominant meanings and power relations are reproduced by the career-derailing work–family accommodations that organizations take up as the ostensibly best resolution of this plot dilemma. Table 3 summarizes how the characteristics of a hegemonic narrative correspond to features of the work–family narrative in this firm. Most of the characteristics described in the table need little further explication, but two are crucial to the analysis and require more detail.

First is the role work–family accommodations played in derailing women's careers and thereby reproducing the gender status quo. According to the HR personnel we interviewed, the two most popular accommodations were switching from client- to internal-facing roles and working reduced hours, and women were more likely than men to do both. Although HR did not keep records of associates' policy use, of the associates with children we inter-viewed, nearly half the women were taking one or both of these accommoda-tions at the time of the interview, compared with only one of the men.

Women's family demands were cited as the primary reason for their move to internal roles, a move that typically took one out of consideration for positions of real power. Because client-facing work is ''travel intensive and time intensive [and] unpredictable, it's harder for those with primary caregiver responsibility,'' explained the head of HR. As a result, he continued, internal-facing roles are ''disproportionately women because the hours are a little more predictable'' (HR4 M). Almost 20 percent of women partners in the firm compared with 10

Table 3. Characteristics of a Hegemonic Narrative and Evidence from One Firm*

Characteristic	Description	Evidence
1. Pervasive	The work–family narrative (WFN) is known and is recounted frequently and easily by members of a social setting.	The WFN was consistently the top explanation for women's underrepresentation in high-level ranks.
2. Uncontested	The narrative is typically not challenged in any structured, collective way: it is accepted by members of the social setting.	Alternative narratives were rarely offered, and usually by way of claiming they were invalid (e.g., references to the firm's ''pure intentions, genuine intentions'' and to ''no overt sexism'').
3. Polyvocal	People's unique personal stories are spun into the same narrative (even when stories contradict the narrative), thus inoculating the narrative from criticism.	Interviews included personal experiences made consonant with the narrative and impossible to gainsay (e.g., ''My career is a big part of my identity; I don't want to be a stay-home mother. . . . [After my baby] I actually found that I didn't actually want to come back to work'').
4. Seemingly natural	The narrative is consistent with other shared cultural beliefs and is taken for granted as a truthful account of how things are.	Interviewees buttressed the WFN by references to women's and men's natural proclivities and to the cultural assumption that women are responsible for the home (e.g., ''I just I think mothers have a different type of bond with their children'').
5. Reproduces dominant cultural meanings and power relations	The narrative legitimizes existing roles as well as inequalities in status, power, and resources, and it informs formal arrangements and practices that hold these existing inequalities and power disparities in place.	The WFN explains women's underrepresentation and men's overrepresentation in the top jobs and encourages women to prioritize family and men to prioritize work; it also institutionalizes these prescriptions by encouraging women and not men to take family accommodations, which come with career costs that reproduce the status quo.
6. Resilient	When presented with facts at odds with the narrative, members of the social setting resist this challenge, ignoring and questioning the validity of the facts.	Firm leaders rejected the culture-study results, which had contradicted the WFN. They challenged the factual basis for the claim that work hours also perturbed men. Future plans for testing interventions were scuttled upon leaders' learning that these would not be targeted to women but instead would address problems both women and men face.

* Source: Adapted from Ewick and Silbey (1995).

percent of men had completely transitioned to these non-revenue-generating roles. And while both men and women associates periodically took short-term staff assignments as part of their portfolio of responsibilities, it was different for women, who, many noted, bear the main responsibility for raising children and thus were more likely to remain in such roles.

Working reduced hours also damaged one's prospects at the firm, according to HR personnel and many consultants. An associate noted that reducing availability—for example, by limiting travel—is ''not necessarily held against you, but I think it's just tougher to sort of prove your worth [to] a client'' (A26 M). Yet

a partner felt it could, in fact, be ''held against you,'' offering the following account of how flexibility stigma attaches to those who receive ''special treatment'':

> You work as a team, so if you get any special treatment, your team members are going to feel you are not doing your share. No one wants to be working til midnight every night, so if you let women negotiate something special, it would be tough on the team. And the women will not want to be seen as not contributing, so it is a dilemma. (P08 M)

He went on to describe another consequence of taking accommodations:

> The special issue it presents for women is that sometimes senior leaders will know a woman has three kids and say, ''I know this project is going to be a killer; I'd better not take a chance on her because she might ask for special accommodation or need to leave at 5:00 or something to go get her kids.''

The upshot for women as individuals was sacrifices of power, status, and income, and for women as a group was the continuation of a pattern in which powerful positions remained the purview of men, while women's progress stagnated. Hence work–family policies flowing from the narrative helped reproduce the gender status quo, which meant that women constituted only 10 percent of partners and, among those who made it to partner, women's track was two years longer than men's.

The second feature of a hegemonic narrative that is crucial to our analysis is resilience—its ability to withstand a challenge—which was evident in events surrounding our feedback to the firm in which we pointed out disconnects between our findings and the work–family narrative, particularly that men (and not just women) experienced distress over long work hours. We found that firm leaders were unable or unwilling to consider the possibility that their work–family analysis was incomplete or that an alternative explanation for women's stalled advancement might be valid, and we offer their resistance as evidence of the work–family narrative's resilience. The sequence of events unfolded as follows.

In the feedback to firm leaders, we provided detailed data showing that men were at least as likely as women to say work interfered with their family lives. Among associates we interviewed who were parents, two-thirds of men reported work–family conflict compared with slightly more than half of women (nearly all of the remaining mothers were taking accommodations to ease the conflict). Men's dissatisfaction with schedules that pulled them away from their families came through strongly in numerous statements such as this one: ''I was traveling three days a week and seeing my children once or twice a week for 45 minutes before they went to bed. Saturday came, and I couldn't go to my son's soccer game. He burst into tears. I wanted to quit then and there'' (A45 M). According to another, ''Last year was hard with my 105 flights. I was feeling pretty fried. I've missed too much of my kids' lives'' (P09 M).

Thus, contrary to the work–family narrative's exclusive focus on women, men too were troubled by the strain that long work hours placed on their families—and some of them left the firm as a result. According to one father, ''I wouldn't characterize myself as unhappy. It's more overworked,

and under-familied. If I were a betting man, I'd bet that a year from now I'm working somewhere else'' (A34 M). And a year later, he was.

We pointed out this disconnect to the firm's leadership, challenging the work–family narrative as oversimplified, and offered a broader, more nuanced analysis implicating unnecessarily long work hours and their disproportionately negative effect on women's careers. Specifically, we presented interview data revealing a culture of overwork stemming from the firm's practices of overselling and over-delivery. Regarding overselling, the sentiments of this interviewee were echoed by many: ''[Some partners will] promise the client the moon . . . and not even think about what that means for their team. . . . 'We'll do X, Y and Z, and we're going to do it all in half the time that you think it should take.' And the client's going to say, 'Wow, that's great! Why don't we sign up?!''' (A26 M). And from another: ''With no controls on how to scope a project, [a person] can sell anything whether it's reasonable or not. If you kill your people, there is no cost to you'' (A08 M).

The culture also valorized overdelivery, priding itself on delivering ''110 per-cent'' to clients and offering ''smart'' solutions to clients' problems. Commenting on overdelivery, an associate complained:

> [A]ccount managers are very cerebral, and they're all about the answer. And so they would always be like, ''Oh, we should do this'' and ''Can we do this analysis? And can we do this?'' Just because it would be interesting. . . . So [my team] worked all these weekends. . . . And I've been in the [same] spot as my team so many times where I just worked really, really hard and sacrificed family stuff, sacrificed my health for it, and at the end of the day, I look back on it, ''Well, did we really have to do that? Probably not.'' (A62 F)

Associates went along with overdelivery and overwork partly to stand out as stars in a pool of highly qualified people: ''We do these crazy slide decks that take hours and hours of work. It's this attitude of 'I'm going to kill the client with a 100-slide deck.' But the client can't use all that! People do it so others on the team will see they're smart'' (A70 F).

While everyone suffers from the long-hours problem, we explained to the leadership, it disproportionately penalizes women because, unlike men, they take accommodations, which come with a career price. We noted that most men suffered in silence or otherwise made do, thereby leaving the woman-centric focus of the work–family narrative intact.

When we provided this feedback to the firm's leaders, the CEO reacted negatively. The firm had requested an analysis of the firm's organizational cul-ture, but upon hearing that the gender problem was only a piece of a larger work-management problem and that the solution would involve a change in work practices that transcended work–family accommodations, he balked. Although we had interviewed over 70 men across all levels, many of whom had been there for decades, the firm head suggested we had not spoken to the ''right'' men but instead must have interviewed only new associates or uncommitted ones. He also questioned the intervention strategy that flowed from our analysis, which targeted overselling and overdelivery, on the grounds that it did not explicitly focus on women.

A few months later, our partner-liaisons presented the study findings to the rest of the partnership and, in an e-mail to us, reported that the partners and

CEO remained ''stuck on [understanding] how [our proposed interventions] were going to help women.'' They shared with us the slides they had created, which were ostensibly based on our analysis and recommendations. We were struck by the absence of our data pointing to the dubiousness of their cultural assumptions about time (i.e., the necessity of 24/7 availability) and excellence (i.e., the necessity of overdelivery). Their presentation concluded by proposing such interventions as ''Conduct joint research with the Center for Work–Life Policy's Hidden Brain Drain Task Force,'' ''Actively engage with the Council for Women World Leaders,'' and ''Establish a head of Diversity & Inclusion who reports to the CEO,'' none of which had any discernable relationship to the study's findings. Without buy-in from the top, interest in the project flagged, and over the course of a year, e-mails about the project stopped and the engagement effectively ended.

If not for the work–family blinders, the firm might have seen and addressed work problems that hurt all employees. Instead, firm leaders maintained their original assessment—that the problem was women's difficulty balancing work and family and that men were largely immune to such difficulties. Leaders' unwillingness to engage with our evidence illustrates the resilient, Teflon quality of the work–family narrative, further highlighting its hegemonic nature, which in turn helps explain its stranglehold on the problem definition.

Yet this unwillingness on the part of evidence-driven analysts to engage the evidence begged further examination of the data. Upon revisiting company records, we learned that although one of the firm's key concerns was ''women's higher turnover rate,'' in fact women's and men's turnover rates did not significantly differ in any of the preceding three years.[5] We wanted to understand at a deeper level why data-oriented and clearly well-meaning firm leaders had failed to read the turnover data accurately and, in the face of feedback about the widespread problem of work hours, clung to their belief in the work–family narrative.

While the notion of resilience in a hegemonic narrative gave us some insight into why the work–family narrative was so tenacious, tracking the implicit emotional content in our interviews, guided by constructs from systems-psychodynamic theory, gave us further traction. We drew on this theory—specifically, the idea of a social defense—to consider the basis for participants' unwavering conviction that women's family lives were the ultimate obstacle to women's advancement, a conviction that ultimately preserves the gender status quo.

THE WORK–FAMILY NARRATIVE AS A SOCIAL DEFENSE

In the findings from our analysis of the emotional dynamics accompanying this conviction, the plot elements of the narrative thicken. A workplace socially constructed as requiring 24/7 availability gave rise to a primary anxiety: the threat of losing one's sense of human wholeness prompted by the daily forced choice between love and work. To quell this anxiety, employees mobilized gender-based splitting, projection, and projective identification that, together with firm narratives, policies, and practices, reinforced the idea of

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[5] The gender discrepancy at the partner level persisted despite comparable turnover because lateral partner hires were more likely to be men and because derailed associates, who remained with the firm in internal-facing roles, were more likely to be women.

women's fitness for family and men's fitness for work. Below, we describe men's and women's internal conflicts around the pulls of parenting and working, how they managed these conflicts, and how the social defense system functioned for each group.

The Problem for Men

The psychic tension men face is the demand that they have no identity other than as a labor commodity, which creates an internal conflict that must be resolved. Capitalism's system of competition among firms compels overwork for many professionals.[6] This imperative sets up an ongoing demand that other, nonwork identities (and the needs generated within them, such as being a good parent) be contingent. With nonwork identities in the backseat, the identity that remains is that of the ideal worker: fully committed to work and fully available (Acker, 1990). Those striving to be the ideal worker must adopt the psychological stance of ''my job is all-important.'' But always chipping away at this stance is the raw reality of the requirement to stifle the demands of other identities.

These other identities—being a good parent, life partner, citizen—are contingent and expendable for the ideal worker. Yet for real people, these identities—particularly the parent one—are compelling. According to one man, ''I definitely want my daughter relying on me. But she's asking her mama, 'Put me to bed,' asking her mama, 'Give me a bath.' It's because she knows that *she* can be relied on'' (A25 M). Although he does not explicitly express it, his sense of guilt is palpable, a feeling many other men shared. While they were quick to describe missing their families, their defensive maneuvers, illustrated in table 1, typically intercepted the feeling and diverted the logical leap to feelings of guilt.

We show how projective identification keeps such feelings at bay by examining the psychological jujitsu one man demonstrated as he drew on the work–family narrative to explain women's lack of advancement in the firm.

> I believe deeply in my heart and soul that women encounter different challenges. There's the collusion of society that it's the woman who takes the extended maternity leave, and there are some biological imperatives, too. When my first child was born, I got to carry her from the delivery room to the nursery. It's almost like I could feel the chemicals releasing in my brain. I fell so chemically, deeply in love with my daughter. I couldn't imagine a world without her. I mean here it was in [just] the first eight minutes of her life. So I can understand, ''How can I possibly give this up and go back to work?'' (P20 M)

But back to work he went, and his take-away understanding was that *women* face problems with work–family. He could be said, from the standpoint of a defense analysis, to be splitting off his deep connection to his daughter, projecting it onto women in the firm, and projectively identifying with what he imagines to be the women's emotional gratification. If he relinquishes that intense feeling of connection to his daughter, he has no need to feel sad and guilty about returning to work.

Unpacking the components of the last quotation helps clarify the defensive process. The narrative flow that seems smooth when he tells his story is in fact

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[6] See Sharone (2004) on management strategies that lead to long work hours. See Jacobs and Gerson (2004), Briscoe (2007), and Goldin (2014) on overwork for professionals.

revealed as illusory when we track what happens to the intensity of his feelings of attachment to his daughter. The first two sentences make a distinction between women and men and link biology to motherhood. It is women and not men who have the parenting experience. He then says almost the exact opposite by abruptly shifting to his own biologically framed, intense emotional experience of parenting. In so doing, he is momentarily taking back the projection he just placed on mothers. His act of ''understanding'' women's experience via his own, however, signals that projective identification has occurred. He is in effect saying, ''I was having this experience, but it was transient, and now that I've sampled it, now that I've been a tourist in this emotional land, I have a way to understand what is happening to women in the firm.'' The powerful emotional experience—with all the psycho-biochemical force he described—is no longer his. It is now theirs. He now knows it but is not governed by it.

In fact, he immediately shifts in his next statement to aligning himself not with women but with men, explaining how men are different from women. He continues, ''I can't think of a single instance where the fella took a six-month paternity leave to care for the baby while mom went back to work.'' Speculating vaguely about how the firm works, he then says, ''I think that we have a way of problem solving and a way of engaging with clients that doesn't necessarily give a greater advantage to cowboy style or, kind of, the certainty that seems to be a social aspect of masculinity in North America. But . . . it's clear to me there are clients who like that certainty.'' He concludes by situating himself squarely in the male-dominated world of work: ''You know, kind of like the—the work I do in the beer world. It [the brewery industry] is dominated by men, and I mean men slapping each other on the back and talking about golf and shit like that.'' Thus he ends by placing himself where he began, in a different world from women's, in the world of work (the ''beer world''), where men and masculinity dominate. In this world, there is no room for the emotional experience of parenting. Here he is able to exist, however unhappily, unencumbered by the ''different challenges'' he ascribed to women in his opening statement. While this account was the most vivid and complete illustration of the dynamic of men projectively identifying with women in the firm, we argue that he is describing a work–family resolution that is not idiosyncratic but rather shared by other men.

This man drew directly on his understanding of women in the firm to achieve this resolution; more typically, men drew on their understandings of their wives, blurring the distinction among women and ultimately consigning them all to the private sphere. For psychodynamic purposes, the firm's women become privatized and thus made indistinguishable from wives. Here is a man engaging in this process as he draws on the work–family narrative to explain women's lack of advancement in the firm.

> Consulting can be a bit more difficult for women. There's a lot more traveling. It's my personal—what I've seen—sometimes women are more attached to kids. They feel guilty. With my wife—. Sometimes they feel guilty if they're taking time away from home, in a way that men don't. You do travel a lot, you do work longer hours. So men don't feel certain things that women do. (A08 M)

We note how in trying to talk about the difficulties the firm's women face (''consulting can be a bit more difficult for women''), he feels the need to invoke his ''personal''—shortly revealed to be his wife, a representative of the

private sphere. We then see him moving back and forth in a fragmentary way between women in the private and public spheres of his life—his women coworkers and his wife: after invoking his ''personal,'' he returns to women coworkers (they're ''more attached to kids'' and ''feel guilty''), goes back momentarily to his wife (''with my wife''), and then reverts again to women coworkers' guilt, a guilt men do not feel. In psychologically consigning the firm's women to the private sphere, he paves the way for the splitting and projection appearing at the end of the passage: women carry the guilt associated with work; men (ostensibly) do not.

In light of this apparent interchangeability between the firm's women and men's wives, it is unsurprising that men often invoked their wives as the recipients of their projective identifications. An example of such a projective identification comes from a father of two as he was discussing how he managed work and family and clearly communicating how—in accord with the work–family script—he is exempt from the emotional pull of home. He said:

> So you tell the older kid, ''Hey, get ready for school,'' and he basically does. Not a hundred percent, but certainly ninety percent. And you even tell the little one—I mean he's 7—he can get dressed. He can actually open his drawers and get the right clothes and get dressed. He can't make his breakfast, but in a pinch, he can. The older one can definitely open up a thing of Pop-Tarts and pop them in the toaster. It's not what you call healthy eating, but for this week, it's fine. So, it's—I mean—they don't cry when I leave. Sometimes the younger one does. But—
>
> Interviewer: Oh, really?
>
> Interviewee: Before they would kind of *both* cry. And yes. I mean it's—so, it's a lot easier [now that they are older]. (P05 M)

We note that he breaks off very suddenly after mentioning the crying with the comforting thought that ''it's a lot easier'' now that they no longer ''*both* cry.'' This move appears to be a deflection of guilty feelings about his children's self-serve breakfasts and tears. In the next segment, he jumps to talk about sympathy with his wife having suffered from the boredom of being with children: ''And the other thing is, she [his wife] wasn't working, which is brutal. I mean it's just boring. We love the kids—but it's just not that interesting [to stay home with them].'' His jump to his wife and his use of the word ''brutal,'' coming on the heels of the description of his interactions with his children, is suggestive. Does witnessing his children's tears when he departs brutalize *him*? Perhaps. He may be eliding the emotions he feels about the morning routine—probably a bundle of guilt, shame, and sadness—by splitting them off and projecting them onto his wife: he conjectures that she is the one who feels brutalized, and he empathizes with that experience, thereby circumventing his own feelings and completing the projective identification. This interpretation raised for us the question: could they each feel brutalized by the loss of one domain—he the domestic, she the employment? Finally, he raises the idea of a shared boredom, perhaps numbing himself to his emotions. The problem of sadness and guilt vis-à-vis the children is gone. In all these men's accounts, we see the invocation of the work–family narrative, which relieves them, at least to some degree, from the conflict.

Splitting off personal needs and feelings about family and projecting them onto women enables men to show up at work every day and fulfill both the

cultural dictates about male breadwinning and the organization's desire for the committed, ambitious workers it believes it needs to remain competitive. These arrangements provide men the illusion of a fulfilled life. The work–family narrative is crucial in supporting the psychological defenses that help men assuage the pain of losing the domestic realm, and the fact that the narrative is hegemonic ensures the palliative's staying power. The splitting, projection, and projective identification keep the collective whole, but at the individual level, the wholeness is illusory and leaves men in a state of constantly grasping for what is called "psychic integration" (Menzies, 1960). Those unable to sustain this pursuit quit. These defenses work as Band Aids, but for most men, the reality of the on-the-ground, relentless demands of family continually poke through the defense.

The Problem for Women

The capitalist imperative for overwork creates a different psychic tension for women. While men construct at least the appearance of being ideal workers, fulfilling the demand for overwork and relegating nonwork identities to the backseat, women are asked to be ideal mothers, fulfilling the demands of intensive parenting and relegating the work identity to the backseat (see also Blair-Loy, 2003). Women striving to be ideal mothers must adopt the psychological stance of "my family is all-important," yet jettisoning opportunities to contribute meaningfully beyond the domestic realm exacts costs (see also Stone, 2007). At a macro level, this splitting apart of work and family domains and assigning work to men and family to women allows the system of overwork to remain in place, however unsatisfyingly at the personal level.

For professional women like the ones in our firm, who have tasted success and reaped some of the rewards of their years of schooling—and who have persisted in the work sphere, despite messages that home is where they belong—this psychic tension is especially acute. Men struggle internally, often unconsciously, with the requirement to give up intimate connections, but they are at least conforming to cultural norms. For men, the parental role as breadwinner, as cut off from intimate connections as it may be, nevertheless goes hand in hand with their work commitment; indeed, for ideal workers, family devotion takes the form of breadwinning and is entirely compatible with overwork (see also Townsend, 2002). For women, however, the parental role as caregiver flies in the face of work commitment; for ideal mothers, family devotion takes the form of intensive parenting and is not only incompatible with overwork, it often compels reduced work (see also Ridgeway, 2011: 130). But for many ambitious women, both caregiver and worker identities are compelling (see also Stone, 2007).

Thus it is unsurprising that the professional women in our firm struggled openly with the push to split off the work component of their identity, even as they willingly complied with the family-devotion schema. Regarding the latter, one mother talked about her inability to shirk the home front, despite having a stay-at-home husband:

> I think there's just a difference between the way a mother and a father look at their kids and the sense of responsibility that they feel. I don't know, but I feel my male counterparts can more easily disconnect from what's happening at home. . . . If I did

sort of disconnect [from home], things wouldn't fall apart. But I wouldn't feel good about it, so it's just not going to happen. (A57 F)

At the same time, her work commitment was strong: ''If I make a commitment to this company and to this organization, which I've made, I'm going to do it. I don't doubt myself.'' Yet she did have doubts about whether her family commitment would allow her to do what it would take to develop professionally:

I know I'll fall down from time to time. I know I need to learn, and there are going to be things that—I don't doubt myself . . . from a place of doubting myself—it's more from a place of needing to learn and needing to grow. I doubt myself generally in being able to honor that, while also honoring the commitments I've made [to my family]. That is a constant worry.

The emotional conflict she feels is evident in her flip-flopping around the notion of self-doubt: ''I don't doubt myself . . . I doubt myself.'' Whether she can handle it is, as she notes, ''a constant worry.'' Her unambivalent claiming of her mother identity, conveyed in the first part of the quotation, is not matched by an unambivalent repudiation of her work identity. Rather, she describes herself as both committed and doubtful when it comes to work. Table 2 presents further examples of women describing this ambivalence.

Thus women who embrace commitments to both family and work do not fully comply with the work–family narrative, and as a result, they are unable to reap all of its psychological benefits as a social defense. Specifically, although many women did seem to take in the family-caregiver projection handed them by their male coworkers and by the firm, thereby enabling men to identify vicariously with that split-off aspect of themselves, they did not seem to fully reciprocate by splitting off and projecting onto men their worker identity. Thus the psychological resolution many men found in projective identification was not fully available to these women, leaving them holding identities organizationally and socially constructed as contradictory. While men mourned the loss of the family-caregiver role, they had, in fact, given it up (more or less); women had not (yet) given up the worker role. The social defense could ease women's dilemma only to the extent that they abdicated their worker identity—the way many men abdicated the intimate connections involved in caregiving. Unwilling to quit or substantially ratchet down their career aspirations, many women remained caught in this dilemma, struggling more openly than men did with whether and how they would be able to fulfill both their work and their family commitments. Thus by reifying the work–family narrative, the organization facilitated men's resolution while remaining a thorn in women's side, constantly reminding them that they were in the wrong place by being at work instead of at home.

These reminders appeared as three push factors women had to withstand to hold onto their work identity as ambitious professionals, all of which reinforced the work–family narrative as a social defense, solidified its hegemony, and further pressured women to split off their worker identity. First was the firm's career-derailing work–family accommodation policies, together with the firm-wide practice of users being primarily women; second was a shared narrative about the mismatch between women's selling style and the style the firm valued; and third was a shared narrative derogating women partners' mothering. Research has documented these factors (see Williams, Blair-Loy, and

Berdahl, 2013, on work–family accommodation policies; Kellogg, 2011, and Ibarra and Petriglieri, 2016, on mismatches between feminine stereotypes and valued work attributes; and Blair-Loy, 2003, on women professionals as bad mothers), but the idea that they function together as solidifying elements of a social defense is new.

The first push factor was the firm's policies and practices that created the strong expectation that mothers take work–family accommodations, as elaborated above. Thus women had available a ready off-ramp from the path of overwork, which also meant, for women associates, an off-ramp from the fast track to partner and, for women partners, an off-ramp from the path to real power.

The second push factor was the firm's narrative about the purported mismatch between women's relational style of selling and the hard-charging style the firm venerates, qualities a number of women had difficulty embracing personally but easily attributed to men. Whereas the first push factor reinforced the work–family narrative by emphasizing women's fitness for family, this push factor emphasized the flipside: their unfitness for work. This selling-style narrative loosened women's identification with work and affirmed men's, further easing the way toward women's stepping back at work.

This push factor arose from the firm's construction of the job of selling, the most valued skill in the firm. The biggest accolades and biggest sales come from selling to CEOs, and virtually without exception, people named men as the star rainmakers, whose style they described as hard-charging and unequivocal. Here's how one of the firm's most powerful women partners imitated the selling style of the person named by everyone as the firm's most shining star.

> He'll walk into an executive meeting and say . . . ''Okay, you want to achieve this. . . . It's going to take an organizational intervention, an innovation . . . a broader corporate strategy. It's going to be a multi-year program, let's just be very clear. That will be . . . about $15 million over two years. Are you tracking, are you with me?'' (P26 F)

In contrast, here is how she described her default style: ''I walk into a client, I check in. I like to be friends with them. . . . I tend to say, 'Here's what I heard you saying, your agenda.' . . . And I start to build, and then I hope that they get to this *delightful* conclusion that this is going to be a $15 million program.'' Clearly she sees a mismatch between her reflexive relational style and the style the firm venerates and demands, a perception reinforced early in her career by a partner who warned her that relying on relationship building when making cold calls on prospective clients would communicate that ''you don't have a lot going on between your ears.''

Other women reported the same mismatch. Developing the selling skill as the firm defines it was especially hard for people who saw their chief strengths as the ability to be responsive to clients and to build relationships with them. According to one woman just below the partner rank:

> It's hard for me. So much of it is based on this relationship that I develop. . . . I tend to form these extraordinarily close relationships with my clients, and I was going to meet with the person the next level up [whom I didn't know]. I didn't know how to create that impression with that person, because what my strong suit is, is making people feel listened to and trusted and cared for. (A59 F)

Thus this narrative about women's relationality disqualifies them from sales super-stardom, pushing them away from work (and possibly toward home).

Compounding women's presumed disadvantage in selling to CEOs was an unwillingness to exude a certainty they did not feel, an unwillingness they believed men did not share. As one woman explained:

> I think that in general men need to have this much knowledge to talk with authority [holds up thumb and index finger close together], and women need to have this much [opens them]. Right? And I think that my goal is to try to get away with this much [halfway between the two]. Not that I want to turn into a bullshitter, but giving myself slack on my internal burden of proof [would help]. (A67 F)

Another woman suspected that this unwillingness to make unfounded claims may be a problem for many women: ''You also have to be a certain kind of woman to do well in [sales]. You need to be able to give advice about things you don't know much about and be really confident, and maybe a lot of women don't have those skills. I don't see a lot of role models'' (A58 F).

So the message is that the selling job is best done by men enacting a conventionally masculine style—hard-charging and unequivocal—and that enacting a conventionally feminine style—like being a ''relationship builder''—risks the label of lacking something between the ears. Not on the radar screen was the notion that other selling styles—perhaps ones that maximize the trust that comes from cautiousness in making claims—might be effective in sales; also missing was any shared narrative that women could learn the venerated style. The firm had constructed effective selling in only one way, and women fell short. Thus the message that women are ill-equipped for sales bolsters the work–family narrative by giving further momentum to any inclination to scale back.

The third and final push factor was the firm's negative message about women partners with children, a group that had held fast to their identity as ambitious professionals and had achieved recognized career success. These women had resisted ratcheting down via accommodations and had successfully overcome their supposed selling deficits, and we heard positive references to their professional success. The very existence of these successful women partners, although few in number, suggests the possibility of integrating worker and mother roles, and yet women partners with children were roundly condemned as bad mothers, undermining that possibility. To more-junior women witnessing such condemnation—both those who were mothers and those contemplating motherhood—career commitment would seem to exact a terrible cost.

We heard zero positive comments about women partners as mothers but many negative comments from both men and women. Women partners' family lives were scrutinized and found lacking in a way that we did not hear about men, an observation noted by a woman associate: ''When I look at a female partner, it does leak into my thinking: how do I think she is as a mother in addition to how do I think she is as a partner? When I look at men, I don't think about what kind of father they are'' (A63 F). Men were equally critical. According to one, ''There is this one really senior woman . . . and she has two nannies. . . . I would never want my life to be like—my family to be like clients. That would just be horrible. . . . I look at the women in the office, and it's like

they're either divorced or they work so much'' (A47 M). A junior woman summarized the impact of such sentiments: ''What I do not have is a positive role model of a working mom'' (A73 F).

Another junior woman who was married and planned to be a mother told us the following about a woman partner: ''She tells a story she thinks is funny about how her kid was surprised when she picked him up from school. He said, 'I'm so honored that you came to get me.' But I'm appalled by that story! That is not who I want to be!'' (A55 F). Both the woman partner in telling this story and the junior woman in recounting it and repudiating the behavior reveal women's struggle combining (or anticipating combining) the maternal role with professional ambition. What impels the partner to tell her junior colleague this potentially incriminating story? We speculate it is an unconscious attempt to exonerate herself of guilt. In making a public statement, she may be seeking to normalize her behavior, while at the same time implicitly giving the opportunity for condemnation. A response of silence or approval—the only two viable responses from a junior colleague—would allow her to feel exonerated, at least for a while. As for the junior woman, why is she impelled to relate this story to us? We suggest she may be making a public declaration of who she is not (but fears she could become if she were to live out her career ambition). In making this declaration, she paints herself into a corner: she either has to leave the firm or contemplate the possibility of being a bad mother. By declaring ''that is not who I want to be,'' she affirms her devotion to motherhood and guarantees a moment of emotional surcease.

The women in our study faced an unresolvable dilemma: responding to the pull of family and taking accommodations meant undermining their status at work, and retaining their ambition rendered them subpar performers (given the definition of superior performance as masculine) or—for women partners—subpar mothers. Thus the leitmotif around motherhood is that a woman cannot excel in this job and be the ideal mother. We speculate that when women fully take in the work–family narrative's belief that motherhood and career commitment are incompatible, they ratchet down by cutting back their work hours or by taking an internal-facing role, or else they leave, offering ''family'' as the reason. Either way, women's careers are derailed, and the work–family narrative gains even further support.

From a broader perspective, men's and women's internal struggles differed (see tables 1 and 2). For men, the firm's social defense was more or less effective, allowing their internal conflict (guilt) to remain largely hidden—not just from themselves but also from the rest of the firm. But the social defense failed women, who openly struggled with their still-unresolved and conscious conflict (ambivalence), speaking of it often. The work–family narrative practically compels them to do so by making such expressions normative for women. Thus in a one–two punch, not only did women fail to receive the full anxiety-assuaging benefit of the work–family narrative as a social defense, but also their anxiety and the work–family narrative that encourages them to talk about it further freed up men to take on the identity of the ideal worker. All the while, the social defense system is helping supply the firm with a steady stream of seemingly amenable (male) workers. In short, work–family conflict was conscious for women, rendering it discussable, and by talking about it they effectively owned the conflict for the firm, reifying the notion that it is only a women's problem.

A SYSTEMS-PSYCHODYNAMIC EXPLANATION FOR ENTRENCHED WORKPLACE INEQUALITY: GENDER AS A CASE IN POINT

Figures 1 and 2 summarize our study's findings and, by naming constructs and introducing new insights into how they play out between groups of unequal power, offer an analytically generalizable model (Yin, 2010) for using systems-psychodynamic theory to understand the entrenched nature of workplace inequality. The basis for the model's generalizability derives from our firm's similarity to other professional service firms in its demand for 24/7 availability (e.g., Turco, 2010); evidence for the broad cultural endorsement of the work–family explanation for women's stalled advancement and its grounding in widely shared cultural schemas that assign women to family and men to work (e.g., Blair-Loy, 2003; Ely, Stone, and Ammerman, 2014); reports based on nationally and internationally representative samples of men's struggles with work–family conflict (e.g., Shockley et al., 2017); and studies documenting the career-derailing effects of taking work–family accommodations (e.g., Williams, Blair-Loy, and Berdahl, 2013). These broadly shared characteristics suggest the transferability of our results to other professional service firms, at a minimum.

Figure 1 presents an overview of the model. The generalizable components are the constructs, shown in capital letters, and the processes linking them, shown in italic; the remaining text in the figure displays our study's findings. The model begins at the bottom of the figure, where the organization's work context gives rise to a primary anxiety, leading employees to turn to unconscious defense mechanisms for relief. In our study, the unremitting demands of the 24/7 work culture gave rise to the wrenching anxiety of sacrificing either work or personal life—both integral components of human wholeness—leading employees to employ splitting, projection, and projective identification to reduce the internal conflict. These defense mechanisms operate at the intergroup level and in our study were based on the cultural association of men with work and women with family (see figure 2 for details about how this dynamic plays out). The organization-level social defense operates symbiotically with these unconscious processes. In our firm, the social defense was made up of several elements: discourses centered on the hegemonic work–family narrative that presents women as less-than-ideal workers, the supposed mismatch between women's selling style and the optimal one, and the supposed bad mothering of women partners; policies that cohered around providing work–family accommodations despite their career-derailing effects; and practices that situated women as the primary policy users. Together, the social defense and the unconscious defense mechanisms mitigate the primary anxiety, although, as explained below, success is likely to be mixed in contexts of intergroup power disparities, as it was in our firm.

All the while, the social defense creates or perpetuates a problem that serves as a substitute focus for the organization. While disconcerting, the substitute problem is less threatening than the real problem and gives rise to a substitute and less distressing anxiety. Preoccupation with the substitute problem is a red herring; a tell-tale sign is that ostensible efforts to fix it are unconsciously designed to fail. In our study, the substitute problem was the firm's inability to retain and promote women, and the tell-tale sign was that the firm's efforts to resolve it—most notably, offering work–family accommodations—perpetuated gender disparities, giving firm leaders an unresolvable (and

Figure 1. Operation of a social defense system that sustains intergroup inequality: Gender as a case in point.
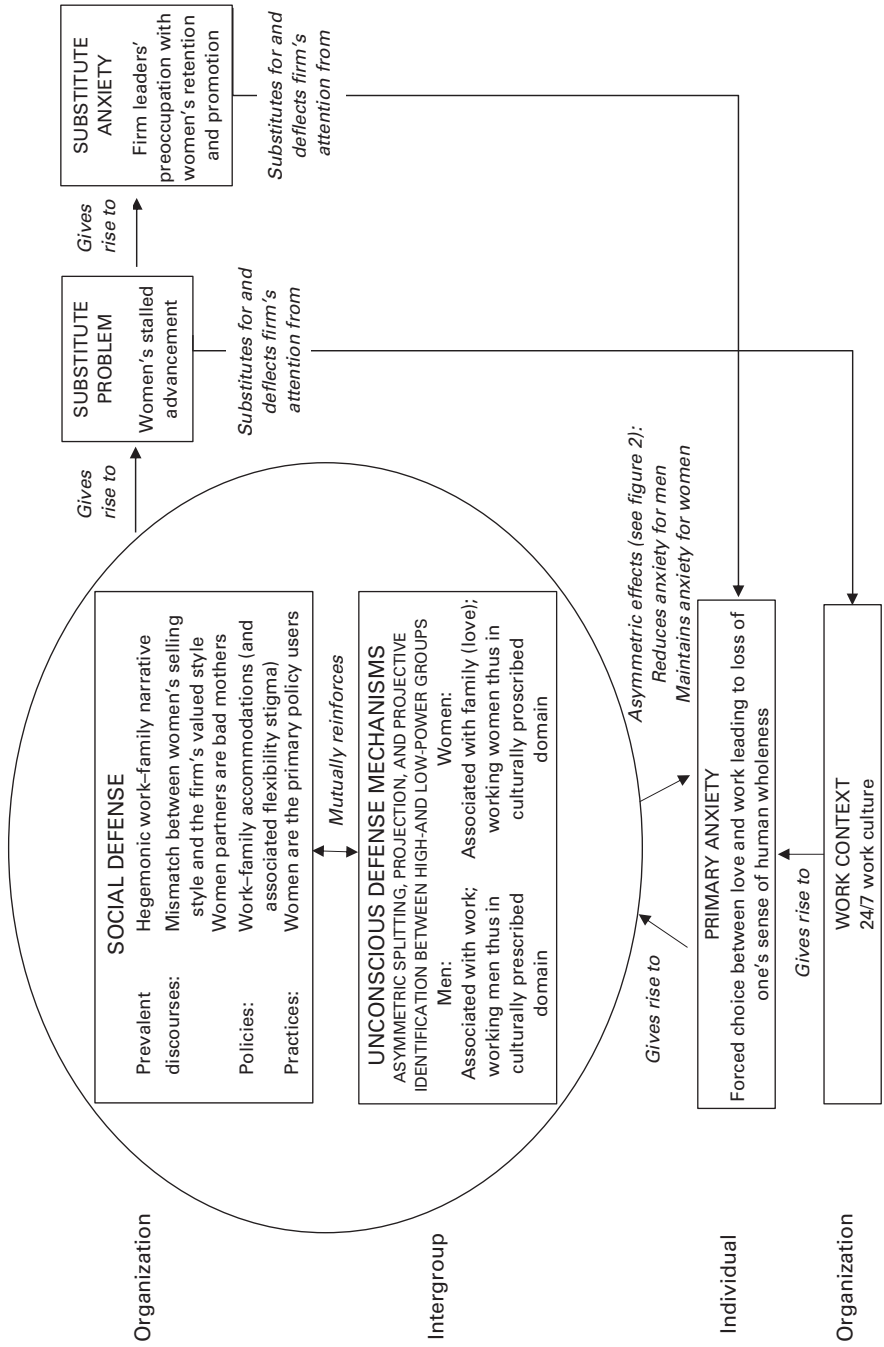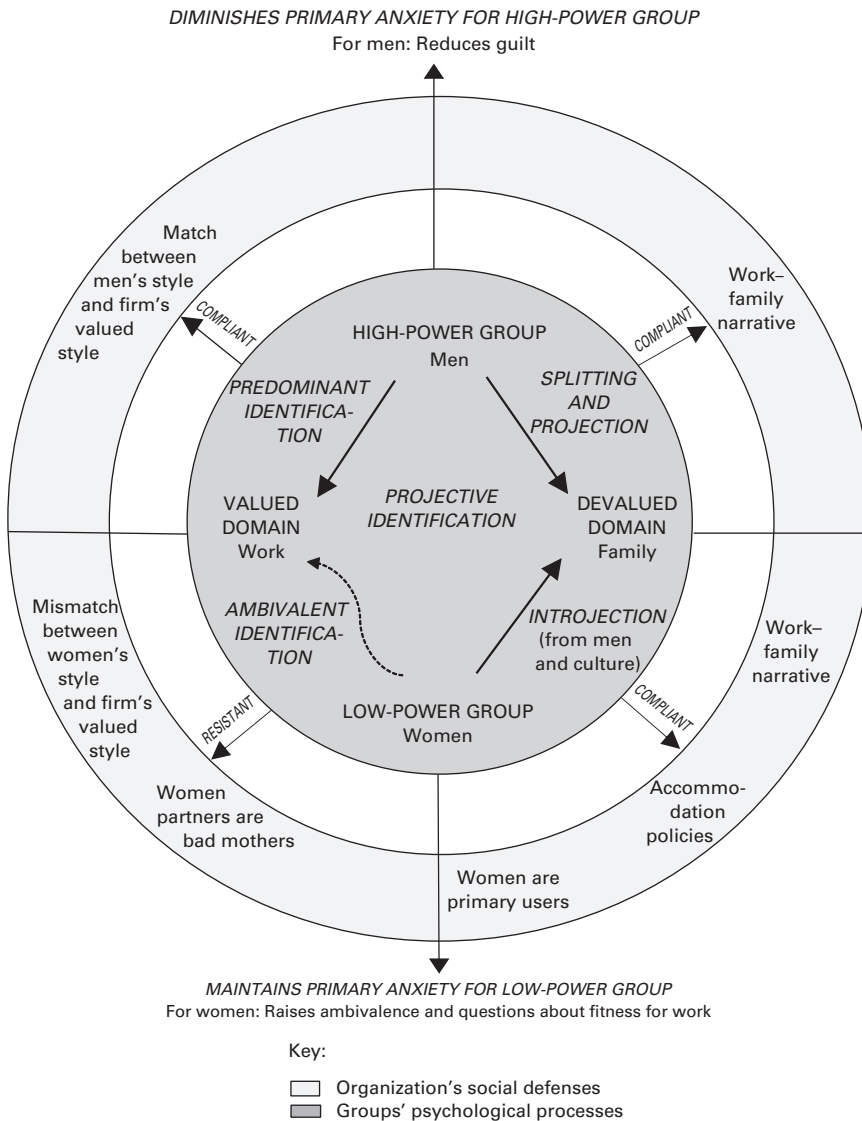
Figure 2. Operation of an asymmetric social defense system.

DIMINISHES PRIMARY ANXIETY FOR HIGH-POWER GROUP
For men: Reduces guilt

Match between men's style and firm's valued style

COMPLIANT

Work–family narrative

HIGH-POWER GROUP
Men

PREDOMINANT IDENTIFICA-TION

SPLITTING AND PROJECTION

COMPLIANT

VALUED DOMAIN
Work

PROJECTIVE IDENTIFICATION

DEVALUED DOMAIN
Family

AMBIVALENT IDENTIFICA-TION

INTROJECTION
(from men and culture)

Mismatch between women's style and firm's valued style

Work–family narrative

RESISTANT

LOW-POWER GROUP
Women

COMPLIANT

Women partners are bad mothers

Accommo-dation policies

Women are primary users

MAINTAINS PRIMARY ANXIETY FOR LOW-POWER GROUP
For women: Raises ambivalence and questions about fitness for work

Key:

☐ Organization's social defenses
▨ Groups' psychological processes

therefore always available) problem to worry about. By directing firm members' focus, laser-like, on women's worrisome retention and promotion rates—the substitute anxiety—the social defense system leaves the primary anxiety more or less languishing in the neglected, out-of-focus periphery. The result is an invisible, self-reinforcing, protective system that diverts attention away from the real culprit—in our firm, the 24/7 work culture.

Yet when intergroup inequality suffuses these dynamics, as was the case in our setting between women and men, the defensive pattern may well play out asymmetrically between the two groups, protecting the high-power group more fully than the low-power group. Whereas men were willing to split off

their committed-parent identity and project it onto women, women, who read-ily took in that identity, did not reciprocate by fully splitting off and projecting their committed-worker identity onto men, despite the organizational push fac-tors encouraging them to do so. This gender difference stems from the fact that men were more fully ensconced in their culturally prescribed domain (work), whereas women, because they were working, were at best only par-tially ensconced in their assigned domain (family), keeping one foot, however ambivalently, in the culturally proscribed one (work) as well. Because women complied less fully with this tacit arrangement, they experienced less psychic relief than men and thus enjoyed a less satisfactory resolution of the underlying conflict.

Generalizing from this finding, figure 2 unpacks the asymmetric operation of these processes between groups of unequal power. As in figure 1, the general-izable components are constructs, shown in capital letters, and the processes linking them, in italic; the rest of the figure text represents our findings. The center of the figure is arrayed around two orthogonal dimensions: the two groups under consideration—one high power and one low power—and their respective organizationally valued and devalued domains. Arrows depict the psychological processes linking each group's members to one another and to valued and devalued domains. The outer ring depicts the social defenses in the organization we studied, arrayed to show which ones support each psychologi-cal process. The arrows between the circle and the outer ring indicate the nature of each group's relationship to these elements, either compliant with or resistant to them.

To return to the center of the figure, while members of both low- and high-power groups have a fundamental connection to both domains, the work context is such that the two domains are experienced as contradictory, thus raising anxiety and setting in motion the social defense system. Systems-psychodynamic theory would predict that groups might manage that anxiety by engaging in a fully reciprocated process of splitting, projection, and projective identification; our findings suggest, however, that full reciprocation is unlikely in contexts of inequality where low-power groups have entered a high-status position (working women, in our study). In these contexts, whereas high-power groups (men) are more likely to comply with the defensive arrangement, low-power groups in high-status positions are more likely to resist. High-power groups would maintain a predominant cultural identification with the valued domain (work) while splitting off and projecting onto the low-power group the devalued one (family), where they can projectively identify with it. Meanwhile, members of the low-power group would continue to introject the devalued domain (family)—it is, after all, familiar and congruent with expectations. But they would also identify, however ambivalently, with the valued domain (work) associated with their high-status position and would resist the social defenses urging them to relinquish it. Thus the low-power group cannot parry the internal struggle stemming from the primary anxiety, while the high-power group receives some relief from it.

DISCUSSION

Findings from a study of a professional service firm seeking to retain and pro-mote women illustrated how the firm-wide explanation for women's stalled

advancement—that women's work–family conflict keeps them from being able to work the requisite long hours—operated as an unconscious social defense, deflecting attention away from the firm's culture of overwork.

This analysis invites speculation about what other functions the work–family narrative might serve in this organization and in others that similarly venerate long work hours. We suggest that the narrative also allowed the firm to deflect responsibility for women's stalled advancement: firm leaders' diligent efforts to solve the problem gave them an airtight alibi against any accusation that women's failure to advance might be their fault. The narrative also justified the gender imbalance at senior levels: if women themselves prefer to be with their families, as the work–family narrative has it, leaders cannot be accountable for the glaring gender inequality in their senior ranks. Nor do they need to confront the disturbing possibility that they themselves might be biased or might have discriminated against women. Nor need women, for their part, confront the possibility that they might have been in any way ill-treated or victims of discrimination. To the contrary, in the course of detailing the work–family account, many participants of all ranks and both sexes went to great lengths to assure interviewers that women's lack of advancement could not be the result of discrimination, suggesting that this unpleasant possibility existed, at some level, in their consciousness. The defense system, however, ensured that it was never seriously broached.

More fundamentally, leaders promulgated a work culture that pitted two fundamental social institutions—work and family—against each other, a culture at odds with the progressive and caring image the organization sought to cultivate. The solution to this contradiction again lay in the commitment to the work–family narrative, which protected the leadership from being seen as the source of the 24/7 requirements by instead deflecting blame to clients' demands and industry norms. In showing concern for women's problems, the narrative placed leaders on the side of ''the people'' rather than on the side of profits, rendering them innocent. This study thus shows how a social defense can maintain existing power relations while enabling those in power to appear as if they were invested in precisely the opposite.

This research makes three theoretical contributions. First, we deepen work–family scholarship by revealing the psychodynamic underpinnings of the central problems and constructs it examines. Work–family scholars have recognized the flexibility stigma that attaches to taking accommodations (Stone and Hernandez, 2013; Williams, Blair-Loy, and Berdahl, 2013) and the conundrum that lies at the heart of this problem: the work–family explanation for women's stalled advancement points to an intervention strategy—accommodations—that, when taken, derails women's careers. Our research is the first to offer a theoretical account for why this conundrum exists. In our analysis, women's stalled advancement is a substitute problem that must be preserved because it deflects attention away from the problem of long work hours; accommodations, for their part, serve the unconscious function of keeping the substitute problem in play. This perspective suggests that scholars advocating accommodation strategies may be unwitting players in a game rigged against women from the start. While some research has begun to identify factors that mitigate the costs of accommodation-policy uptake, our findings suggest that disrupting core elements of the social defense, such as the gendered splitting of work and family, may be necessary. How organizations might systematically

undertake such disruptions—and what might compel them to do so in the face of the powerful countervailing pressures we have described—would be worth investigating.

Recognizing the accommodation-policy conundrum—but not its systems-psychodynamic underpinnings—has led many work–family scholars to recommend sidelining accommodation policies in favor of a more broadly framed approach: changing companies' culture of long work hours on the rationale that doing so will improve work processes more generally and enhance the personal lives of all employees (Ely and Meyerson, 2000b; Sturm, 2001; Rapoport et al., 2002; Bailyn, 2006; Perlow and Kelly, 2014). Such an approach, advocates argue, would enlist broad support for change and remove flexibility stigma while also eliminating an important source of gender inequality. This broader-based approach has been difficult to implement and sustain, however. One study showed that despite all employees being encouraged to work flexibly, women were more likely than men to take advantage of the opportunity and continued to be marginalized for doing so (Kelly et al., 2010). Moreover, the initiative was eventually terminated. Analogous culture-change initiatives have encountered similar problems (Ely and Meyerson, 2000a; Rapoport et al., 2002). Scholars have offered sociological accounts for these outcomes, highlighting the deeply entrenched nature of the masculinized ideal-worker norm (Bailyn, 2006; Kelly et al., 2010). Our findings take this explanation a crucial step further by demonstrating how that norm is embedded within a set of psychodynamic processes in which women and men—and the firm as a whole—unconsciously collude. According to our analysis, a sustainable, gender-equitable solution to the long-work-hours problem would require women and men to reclaim disowned, split-off parts of themselves and face the fact that their painful compromises are neither natural nor inevitable. While potentially a relief to some, this reclaiming would likely be psychologically intolerable to many, as evidenced by the widespread, unconscious commitment to splitting we witnessed, which protected employees from having to confront such a possibility. Yet absent this reclaiming (and firm leaders' willingness to respond to it), the problem of long work hours will continue to reside squarely in women's domain, ensuring that the substitute problem of women's stalled advancement remains both front and center and unsolvable. In short, our study shows why these kinds of culture-change solutions, by themselves, are dubious at best.

Further, while our focus has been on the workplace, home and work are tightly connected, and our research has implications for how work–family scholars might further consider that connection. It stands to reason that home is part of a larger system that is integral to the functioning of the work–family narrative. Thus splitting dynamics undoubtedly traverse the work–home boundary, raising an intriguing question about whether social defenses exist in the home. For example, do norms, practices, or discourses in the home similarly divert attention from the forced choice between love and work (the primary anxiety) raised by the 24/7 work culture? And might childrearing approaches that mimic project management (see Stone, 2007) be one way that formerly professionally ambitious stay-at-home mothers quell the pain associated with the loss of work? Or does bringing home into the picture suggest a different, perhaps broader, primary anxiety? More generally, how does home join work as part of a larger, psychodynamically managed system that sustains women's subordinate position and upholds traditional gender norms? These questions suggest

that examining the systems-psychodynamic underpinnings of the work–home nexus may be worthwhile.

Second, our study contributes to scholarship on workplace inequality. Our findings point the way to a vast, unexamined territory—the role of unconscious, systems-level processes in sustaining inequality—and systems-psychodynamic theory is particularly well suited for examining this terrain. Inequality is fraught with ambivalence and anxiety, and it is the theory's stock-in-trade to consider how people are motivated—and how the systems within which they are embedded are set up—to keep such feelings at bay. We note, for example, that while inequality has become increasingly objectionable across the globe, it persists as a system from which many nevertheless continue to derive benefits—however short term or highly compromised—across the power–inequality spectrum (Jost, Banaji, and Nosek, 2004). This contradiction implies a deep well of ambivalence underlying organizations' conscious efforts to eliminate gender and other forms of inequality. Thus to suggest that such efforts may serve as a social defense is not farfetched and may help explain their frequent failure: the overriding purpose of consciously well-intentioned initiatives may be less about reducing inequality and more about fending off the disturbing emotions it raises while allowing it to persist.

As a case in point, we are struck by the proliferation of organizational initiatives, such as unconscious bias training, networking groups, and managerial diversity-performance evaluations, that endure despite evidence that they are ineffective and can even backfire (Kalev, Dobbin, and Kelly, 2006; Castilla and Benard, 2010; Duguid and Thomas-Hunt, 2015). A systems-psychodynamic perspective on these outcomes would investigate the emotional landscape—ambivalence, anxiety, and guilt—surrounding these initiatives. Are these initiatives inequality's ''insidious camouflage'' (Carmichael, 2017)? If a company's faith in its own progressivism can perpetuate inequality, as research suggests (e.g., Castilla and Benard, 2010), then might unconscious emotional conflicts be fueling this faith? In short, are companies' good-faith efforts to eliminate inequality systematically and unconsciously blinding them to the errors of their ways? Our study illustrates not only how such covert processes can be empirically studied but also how failing to recognize them perforce maintains the status quo. This understanding begins to break the theoretical and practical gridlock scholars have faced when seeking to explain why the problem of inequality has been so resistant to remedy even in the face of remarkable social change on many fronts (see, e.g., Ridgeway, 2011).

The third theoretical contribution is bringing a power-based perspective to the systems-psychodynamic literature. We demonstrate how social defenses, like much else in collectivities, may work better for powerful groups, bringing greater nuance to scholars' understanding of how social defenses operate. This insight is new; previous research has assumed that an organization's social defense works equally well for all members of the system, whereas in our case, it worked better for men than for women, likely owing to men's greater power.

To consider this possibility, we propose a hypothetical example based on racial inequality. This example roughly parallels the categories presented in figure 1. The work context in many organizations, and in this hypothetical one, is stratified, with people of color underrepresented in top positions and overrepresented in lower-level ones. Employees going about their daily work lives

confront the situation of racial minorities' virtual absence in upper-level jobs, reflecting a history and wider cultural context of white domination, which arouses an unconscious and unspoken primary anxiety centered on worries about one's fundamental worthiness. In the case of whites, such an anxiety could take the form of ''deep down, I'm a racist,'' while for racial minorities in high-status jobs it could take the form of ''deep down, I'm not good enough.'' With employees unable to directly confront such deep-seated fears, the organization creates a social defense involving a narrative about concern for the organization's lack of racial diversity as well as a set of practices designed to increase the pipeline of racial minorities. Meanwhile, with a focus on the pipeline (the substitute problem), racial disparities in the organization are left unaddressed, and anxiety about meeting recruitment goals largely displaces whites' primary anxiety about their moral goodness; racial minorities' anxiety remains intact because the organization's narratives about diversity and efforts to increase pipelines (the social defense) fail to address their worries and may even exacerbate them (see Heilman, Block, and Stathatos, 1997). Such an understanding of organizations' inability to move the needle on workplace inequality itself is new, as we noted above. Moreover, only whites' primary anxiety about worthiness is reduced. As in our firm, social defenses operating in contexts of intergroup inequality seem to work better for high-power groups than for low-power ones, a new insight we bring to systems-psychodynamic theory. We propose that social-defense analyses would be enriched to the extent that they are sensitive to how intergroup power disparities may produce varying levels of protection for different groups.

Our finding that social defenses are especially effective at protecting powerful groups from confronting their unconscious emotional conflicts also speaks to how this new insight might inform a systems-psychodynamic approach to organizational change geared toward advancing equality. Powerful groups, who have the institutional means to undertake such change and yet the most to lose from it, may experience the greatest ambivalence and anxiety about inequality. Thus, like the leaders in our firm, they are positioned as key protagonists in maintaining any social defense designed to alleviate such anxiety. Future research on the covert organizational processes that sustain gender and other axes of inequality thus should be attentive to the unconscious dynamics underlying powerful groups' weddedness to existing policies and practices.

More generally, these contributions involve linking the micro and macro realms. By elaborating how organizational features mediate between individual- and societal-level processes, our model of how organizations' unconscious social-defense systems perpetuate inequality responds to the call for organizational scholars—especially those studying gender (Ely and Padavic, 2007)—to develop ''meso''-level theory (House, Rousseau, and Thomas-Hunt, 1995).

We also make a methodological contribution. Scholars have recently called for greater attention to unconscious emotions in organizational settings (Barsade, Ramarajan, and Westen, 2009). Yet while experimentalists have developed tools for identifying and studying these emotions in the lab (e.g., Schimel, Greenberg, and Martens, 2003), field researchers have thus far lacked such a methodological toolkit. We begin to lay out a method for how field researchers might notice, bring to the surface, and interpret unconscious emotions in interview data. In reporting our methods, we paid particular attention to showing the moments in people's interviews that we took to be signals of

unconscious emotions (e.g., hesitations, contradictions, deflections), and we aimed for transparency in spelling out how we interpreted them.

We note that our work–family analysis is generalizable only to a particular stratum of the workforce—professionals in 24/7 work cultures—and to a particular manifestation of gender inequality—women's lower representation in firms' upper ranks. Hence the particular processes we uncovered may not apply to other groups of workers or to other sites of gender inequality. Workers at the bottom of the labor force, for example, are far more likely to face a shortage than a proliferation of work hours (Jacobs and Gerson, 2004; Lambert, 2008; Jacobs and Padavic, 2015) and are less likely to have access to work–family accommodations (Kelly and Kalev, 2006); these workers would therefore not suffer from overwork or its attendant anxieties, rendering the particular social defense we identified moot for this group.

Black women may be another exception. Firms' upper ranks are overwhelmingly white, and the cultural expectation that (white) women enact the family-devotion schema might not extend to black women (Hurtado, 1989; Kennelly, 1999; Collins, 2004). Cultural prescriptions for black women dictate that working take precedence over family caregiving (Cuddy and Wolf, 2013). Moreover, black women are accorded more latitude than their white counterparts to enact at least some of the masculine behaviors normatively associated with leadership (Livingston, Rosette, and Washington, 2012). Accordingly, black women might be immune to organizational social defenses predicated on beliefs about women's family primacy and lack of fit for leadership roles. Other social defenses, however, may help explain the persistence of black women's underrepresentation in top ranks, and future research might examine this possibility.

Conclusions

We conclude with two thoughts. The first is what our findings mean for the larger project of gender equality in society. In her consideration of the cultural forces deployed to resist movement toward gender equality, Ridgeway (2011: 53) noted that both women and men have a ''deep sociocognitive interest in maintaining . . . cultural beliefs . . . differentiating them'' and thus ''an interest in resisting a real erasure of gender difference.'' We agree that the culture's deep investment in cultural beliefs about gender differences is a key impediment on the road to equality (see also Ely and Padavic, 2007). Indeed, the wider culture is responsible for the creation of the work–family narrative. But we question the idea that people's motivation is purely ''sociocognitive,'' with all the rational capacities implied by ''cognitive.'' Our findings suggest that psychodynamic desires and conflicts are also at play, making the path toward equality even more difficult to traverse. Thus if our analysis is correct, women's advancement is slowed because of social defenses at the organizational level, along with the equally resistant-to-change wider cultural beliefs Ridgeway discussed.

There is hope, however, which brings us to our second point: the work–family narrative-based social defense suffers from weaknesses. First, hegemonic narratives may have staying power—that is what it means to be hegemonic—but that does not mean they are impossible to dislodge (Ewick and Silbey, 1995). As women and men employees continue to feel frustrated and as researchers point to productivity losses from long work hours, other

accounts may displace it, making it less available for social defense purposes and creating space for other, less-entrenched formulations of the problem.

The other weakness of the work–family narrative as a social defense is that, like all social defenses, it is not completely effective. It fails to fully alleviate either the pain men feel over disconnection from family or the pain women feel over the stark choice they are handed between work and family. As Menzies (1960: 116) noted in her classic study of social defenses, the social defense system inhibited ''self-knowledge and understanding'' and thus ''fail[ed] . . . its individual members desperately.'' This was also the case with the employees in our firm. While the social defense was more effective for men than for women, it was not foolproof or absolute for them either, and discontents were ever-present for both sexes.

In closing, we note that our findings square with recent observations that progress toward gender equality will be slowed to the extent that efforts are focused exclusively on women (Coontz, 2011; Ridgeway, 2011; Joshi et al., 2015), but our findings also suggest that to be effective, expanding efforts to include men requires a broad vision. For example, a popular recommendation is to encourage men to use accommodation policies at a rate similar to women so as to level the playing field. We would argue, however, that accommodation policies alone—regardless of who uses them—will not dismantle the culture of overwork, nor will they dislodge the deep-rooted, multilevel, psychodynamically motivated association of women with family and men with work. They thus are unlikely to significantly advance the project of gender equality.

Instead, solutions require a thoroughgoing reconsideration of gender at work and at home, one that begins with exploring people's ''psychological invest-ments in cherished identities'' (Williams, Berdahl, and Vandello, 2016: 526). While this challenge may seem daunting, invoking Ridgeway and Correll's (2000) metaphor of ocean waves moving a sandbar makes realizing a broader vision seem more possible (see also Butterfield and Padavic, 2014): one set of families embracing egalitarianism—one wave—has little effect; one company's action to humanize work demands—another wave—similarly has little effect. But as the waves continue—as other families and companies follow—the old gender system will be eroded to the point of irrelevance. Only when women and men can pursue their lives so that the demands and gratifications of one domain—whether work or home—need not take precedence over the other will women achieve workplace parity with men.

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Supplemental Material

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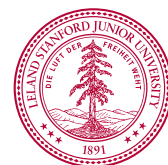
DIVERSITY IN THE C-SUITE
THE DISMAL STATE OF DIVERSITY AMONG FORTUNE 100 SENIOR EXECUTIVES

BY DAVID F. LARCKER AND BRIAN TAYAN
APRIL 1, 2020

INTRODUCTION

There has been a broad push in recent years to increase diversity at the board and CEO levels of public corporations. Proponents argue that increased representation across gender and ethnic groups improves corporate decision making.[1] Furthermore, it is consistent with fairness and demonstrates that leadership opportunities should be equally available to all qualified members of the workplace.

To this end, State Street launched the "Fearless Girl" campaign in 2017, calling on its portfolio companies to increase the number of women on their boards.[2] Catalyst Group has long advocated for greater representation by females in both the boardroom and higher levels of corporations. And Goldman Sachs announced that, as of summer 2020, the company would not help companies go public unless they have at least one diverse board member.[3,4]

Despite these and other efforts, however, diversity on boards and in senior leadership positions has not reached the levels to which advocates aspire. According to Institutional Shareholder Services, women comprise 27 percent of S&P 500 board seats and 19 percent of mid- and small-cap company board seats (see Exhibit 1). Non-white ethnic minorities hold only 10 percent of directorships among Russell 300 companies (see Exhibit 2). Despite most companies explicitly expressing an interest in recruiting new directors from these groups, gains have been modest for females and almost nonexistent for racially diverse candidates.[5]

Diversity efforts at the CEO level have been less successful, with women holding only 7 percent and ethnically diverse executives only 9 percent of CEO positions among Fortune 500 companies (see Exhibit 3).

Companies are not silent on this topic. Many publicly express their commitment to diversity at all levels of their organizations. Almost all Fortune 100 companies (96 percent) promote their diversity efforts through mission and value statements on their websites, or in human capital, diversity, or corporate social responsibility reports.[6] These statements typically include the importance of diversity in the employee base or supply chain; metrics on employee, board, or executive diversity; internal efforts—such as women or diversity councils—to further the recruitment and development of these employees; financial commitments to diversity; or awards and public recognition of diversity (see Exhibit 4).[7] Half of companies disclose diversity and human capital oversight efforts at the board level through the annual proxy (see Exhibit 5).[8] Half of the Fortune 100 also signed the Business Roundtable's revised Statement on the Purpose of a Corporation, which embraced a commitment to serve all stakeholders and makes specific mention of "fostering diversity and inclusion, dignity, and respect" as an important objective.[9]

Some companies signal their commitment to diversity by including diversity-related metrics in the performance-evaluation process for awarding executive bonuses. For example, Microsoft and Intel both include "diversity and inclusion" as a factor in their bonus calculations for named executive officers. The specific contribution that diversity makes to the overall performance award is not disclosed. (Diversity is included as a subcomponent of broader organizational or cultural goals. See Exhibit 6.)

These efforts, however, have not contributed to tangible progress in increasing the prevalence of diverse executives in corporate leadership positions. Are companies actually preparing diverse executives to be viable successors to the CEO? Are they effectively equipping them to serve as board members at other corporations?

We provide new insight into this question by examining the size, structure, and demographic makeup of the C-suite (the CEO and the direct reports to the CEO). This data allows us to better understand the actual pipeline, as it stands today, for next year's newly appointed CEOs and future board members. While many diversity advocates claim to "know" that diverse executives are underrepresented at the senior leadership level, the data in this Closer Look methodically documents their number and specific functional roles in the largest 100 U.S. companies (see Exhibit 7 for our methodology).

Our intention is not to criticize any specific company, but instead to highlight the current composition of the C-suite across the entire Fortune 100. We recognize that this analysis represents a single point in time. The composition of each company can and will change over time, resulting in either increased or decreased diversity. However, in aggregate, these numbers reflect the degree of diversity as it stands today.

DEMOGRAPHIC COMPOSITION OF THE C-SUITE

In order for an executive to be a viable CEO or board candidate, they must first have the managerial and functional skills required for those jobs. For a board candidate, this typically means having CEO, operating, or senior finance experience. In 2019, 68 percent of new independent directors had these backgrounds (see Exhibit 8).[10] For a CEO, this means having profit or loss (P&L) responsibility or CFO experience. Over 90 percent of internally promoted CEOs served in a role with one of these responsibilities prior to appointment. Very few CEOs (5 percent) are promoted from functional groups outside of these roles, such as marketing, risk management, human resources, or general counsel (see Exhibit 9).[11] In the case of CEO promotions, being a direct report to the CEO is also critical. Almost no companies promote a CEO from more than one level below the CEO.[12]

If companies are adequately preparing executives for board and CEO positions, it therefore follows that diverse candidates must be represented in these specific roles (operating, P&L, or finance). Diverse executives are much less likely to be CEO candidates (and have lower potential to be a board candidate) if they serve in non-P&L positions, even if they directly report to the CEO. That is, *not all direct reports of the CEO are equally positioned to become CEO or join a board*.

To better understand the current pipeline for future leadership, we examine the composition of the direct reports to the CEO.[13] (We use the term "C-suite" to refer to the CEO and his or her direct reports; the term "C+1" refers only to the direct reports.)

Our findings on gender diversity are as follows:

- *Women are severely underrepresented in the C-suite.* Only 25 percent of total C-suite positions are held by women. Only 7 companies have a female CEO. Nine of the Fortune 100 have no women directly reporting to the CEO (C+1 level).
- *Women are underrepresented in the most common C+1 positions.* The three most common direct reports of the CEO are P&L leaders, CFOs, and general counsel. Women hold only 15 percent, 14 percent, and 35 percent of these roles, respectively.
- *Women are underrepresented in positions that directly feed into future CEO and board roles, and they have greater representation in positions that are less likely to lead to these appointments.* Women hold only 13 percent of positions with high potential for CEO promotion and board recruitment (CEO, CFO, and P&L leaders). By contrast, they hold 38 percent of positions with lower potential for advancement (general counsel, human resources, chief risk officer, etc.). That is, the representation of women in the C-suite is skewed toward lower potential positions.
- *Very few companies have a "deep bench" of female executives.* Nine companies have no women in the C-suite. Women comprise a third or more of the C-suite in 27 Fortune 100 companies, 40 percent or more of the C-suite in 10 companies, and half in only 2 companies. No Fortune 100 company has a majority of female executives in the C-suite.

Our findings on racial and ethnic diversity are as follows:

- *C-suite is even less diverse by race.* Racially diverse executives hold only 16 percent of total C-suite positions. Only 16 have a non-white CEO.[14] Twenty-six of the Fortune 100 have no ethnic diversity at the C+1 level, and 6 have no ethnic or gender diversity at this level.
- *The CFO role is the least racially diverse position in the C-suite.* There are only 4 CFOs who are not white.
- *The representation of racially diverse executives in the C-suite is slightly skewed toward positions with lower potential for advancement.* Similar to our finding above, we find that ethnically diverse executives have lower representation in positions that directly feed into future CEO and board roles—although the degree to which this occurs is much lower than it is among female executives. Racially diverse executives hold only 13 percent of high potential positions (CEO, CFO, and P&L), and 20 percent of lower potential positions. The very low prevalence of non-white CFOs accounts for almost all of this skewing.
- *Few companies have a large number of racially diverse executives in the C-suite.* Twenty-six companies have no racially diverse executives in the C-suite. Non-white executives comprise a third or more of the C-suite in only 13 companies, 40 percent or more in only 5 companies, and half or more in only 2 companies.

(This data is summarized in Exhibits 10-13. Organizational charts of the C-suites of each of the Fortune 100 as of January and February 2020 are available here.)

All of this data demonstrates that while companies tout their

efforts and their commitment to diversity, diversity is substantially missing at the CEO and C+1 levels. Furthermore, among CEO direct reports, diversity is less prevalent in positions that are most likely to be prime candidates for advancement. Instead, we find that many diverse executives serve in terminal functional roles that are not typically on a path to becoming CEO, and also not on a path (as it stands today compared with what boards look for in new directors) to corporate board service. Unless changes are made, the current composition of the C-suite of Fortune 100 does not portend well for increased diversity of corporate leadership in coming years.

WHY THIS MATTERS

1. While companies promote their diversity efforts, they have not been especially successful bringing diversity to the C-suite. C-suites of the Fortune 100 are characterized by low representation of female executives and even lower representation of ethnically diverse executives. What accounts for this lack of representation? At what step along the way does the process of promoting diverse executives break down?

2. Many companies publish diversity statistics on their website to demonstrate their commitment to diversity and their success in adding more diverse individuals to managerial roles. However, these data generally do not include the diversity of the C-suite and, in fact, somewhat obscure the degree to which the highest level of corporate leadership lacks diversity. How "honest" are diversity statistics? Should companies disclose diversity in greater detail by level or function? Would this highlight deficiencies and accelerate the rate of advancement?

3. The representation of racially diverse executives is low and fairly constant across job functions. This is not true of female executives, who have much higher representation in lower potential leadership roles—such as human resources, general counsel, and corporate communications. What accounts for this difference in distribution?

4. If P&L and CFO experience are key determinants of future promotion to the CEO role and board seats, companies need to do more to prepare diverse executives for these roles. Decisions are made on a company-by-company basis, presumably based on the individual talent pool and job openings available, and yet in aggregate company promotion efforts are failing. Do company diversity initiatives actually lead to tangible improvement? If so, when will this show up in the C-suite? ■

[1] This is a common claim for those arguing for more diversity. The research evidence on this point is not conclusive. See: David F. Larcker and Brian Tayan, "Diverse Boards: Research Spotlight," Stanford Quick Guide Series (April 2016), available at: https://www.gsb.stanford.edu/faculty-research/publications/diverse-boards.

[2] State Street, "State Street Global Advisors Calls on 3,500 Companies Representing More Than $30 Trillion in Market Capitalization to Increase Number of Women on Corporate Boards," press release (March 10, 2017).

[3] Hugh Son, "Goldman Won't Take Companies Public Without 'At Least One Diverse Board Candidate,' CEO Says," *CBNC* (January 23. 2020).

[4] It is interesting to note that diversity advocates in recent years have focused their efforts primarily on increasing female representation on boards and less so on representation by non-white ethnic minorities. Search consultants we have interviewed acknowledge this fact but do not have an explanation for it.

[5] According to Spencer Stuart, recruiting female directors was the highest priority profile for new directors in 2019 (above directors with technical expertise, active CEO experience, financial experience, or operating experience); and recruiting female and minority directors are each among the top five highest priorities over the next three years. See Spencer Stuart, "U.S. Board Index," (2019); see also Heidrick & Struggles, "Board Monitor: U.S. 2019" (2019).

[6] Research by the authors, conducted February and March 2020.

[7] Some companies publish diversity employment statistics or make their Equal Employment Opportunity data available through their website to demonstrate diversity representation in their organization. For example, see Amazon, "Our Workforce Data," available at: https://www.aboutamazon.com/working-at-amazon/diversity-and-inclusion/our-workforce-data; and Apple, "Equal Employment Opportunity, 2018 Employer Information Report," available at: https://www.apple.com/diversity/pdf/2018-EEO-1-Consolidated-Report.pdf.

[8] This statistic includes only reference to the board's role in overseeing diversity or inclusion efforts in the employment ranks. It excludes board diversity efforts, which are required by the SEC under Regulation S-K. See Securities and Exchange Commission, "17 CFR Parts 229, 239, 240, 249, and 274. Proxy Disclosure Enhancements [Release Nos. 33-9089; 34-61175; IC-29092; File No. S7-13-09]."

[9] Business Roundtable, "Business Roundtable Redefines the Purpose of a Corporation to Promote 'An Economy that Serves All Americans,'" press release (August 19, 2019).

[10] The rest of new independent directors have experience outside the corporation, either as an investment professional, banker, accountant, consultant, academic, or lawyer. Spencer Stuart, U.S. Board Index (2019).

[11] Crist Kolder Associates, "Volatility Report of America's Leading Companies," (2019).

[12] Estimate provided to the authors by a professional recruiter.

[13] Studies have been done that examine the named executive officers (NEOs) of public companies. However, an analysis that includes only NEOs does not provide the full picture because it includes only five individuals: the CEO, the CFO, and the three other most highly paid executive officers. It is possible that a group of NEOs might include executives who are not direct reports to the CEO, and it is very likely that a CEO has direct reports in addition to NEOs. An analysis of the full C+1 level is therefore more accurate and complete.

[14] This is higher than the number of female CEOs but still very low (16 percent).

The Stanford Closer Look Series is dedicated to the memory of our colleague Nicholas Donatiello.

The Stanford Closer Look Series is a collection of short case studies that explore topics, issues, and controversies in corporate governance and leadership. It is published by the Corporate Governance Research Initiative at the Stanford Graduate School of Business and the Rock Center for Corporate Governance at Stanford University. For more information, visit: http:/www.gsb.stanford.edu/cgri-research.

EXHIBIT 1 — PREVALENCE OF FEMALE DIRECTORS ON PUBLIC COMPANY BOARDS

FEMALES AS A PERCENT OF ALL DIRECTORS
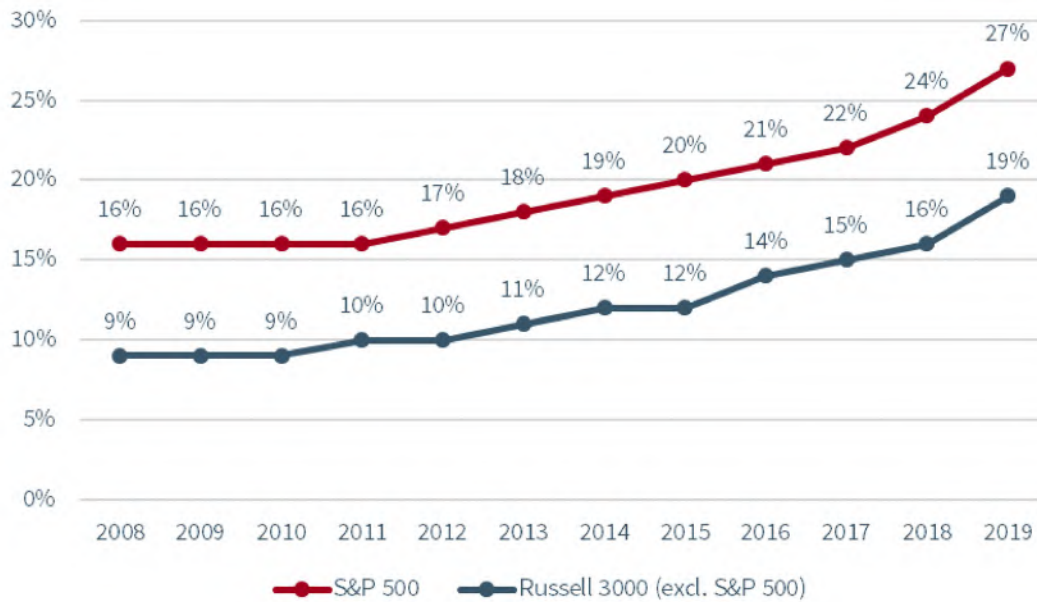
FEMALES AS A PERCENT OF NEW DIRECTORS
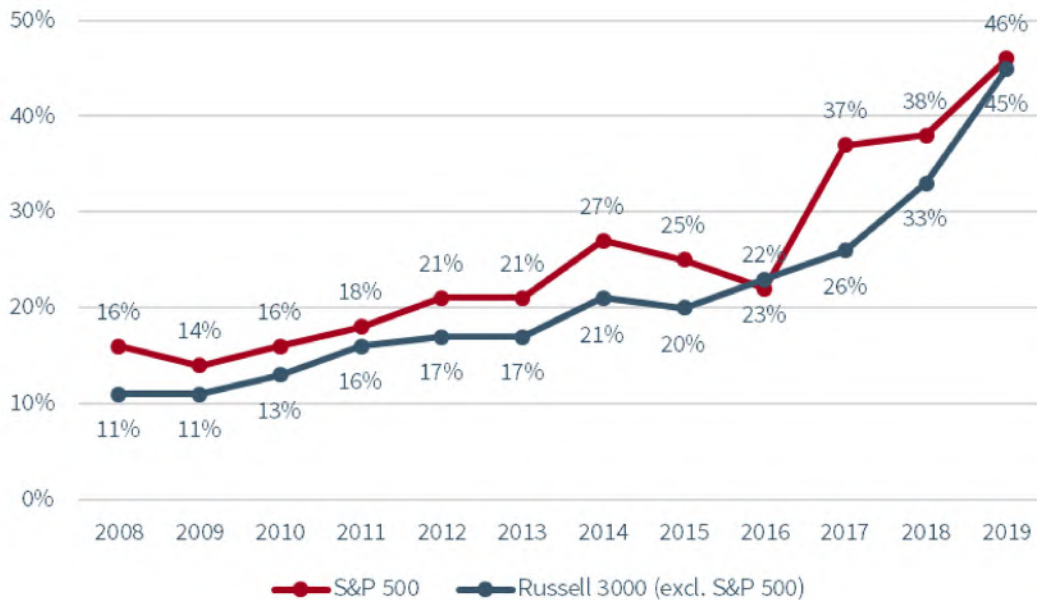
Source: Institutional Shareholder Services, "U.S. Board Diversity Trends in 2019," (May 31, 2019).

EXHIBIT 2 — PREVALENCE OF ETHNIC MINORITY DIRECTORS ON PUBLIC COMPANY BOARDS

ETHNIC MINORITIES AS A PERCENT OF ALL DIRECTORS
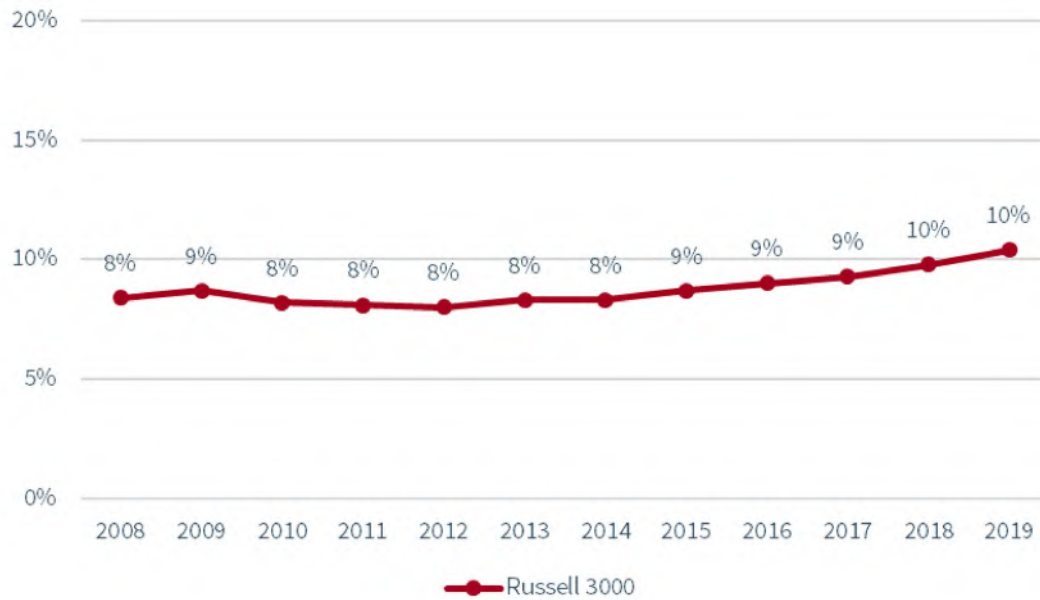
ETHNIC MINORITIES AS A PERCENT OF NEW DIRECTORS
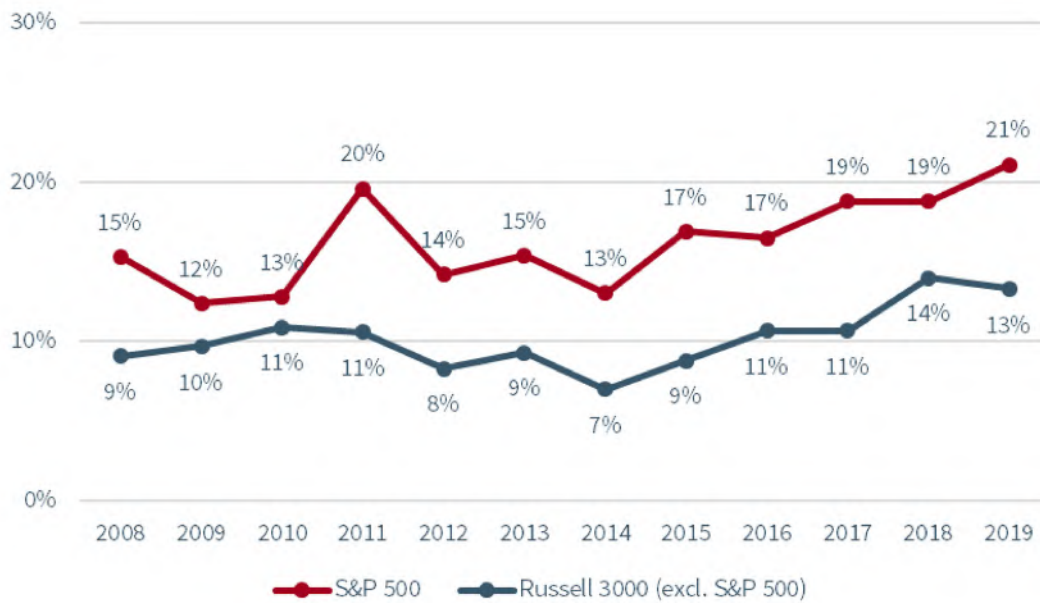
Source: Institutional Shareholder Services, "U.S. Board Diversity Trends in 2019," (May 31, 2019).

EXHIBIT 3 — PREVALENCE OF ETHNIC MINORITY DIRECTORS ON PUBLIC COMPANY BOARDS

FEMALES AS A PERCENT OF CEOS
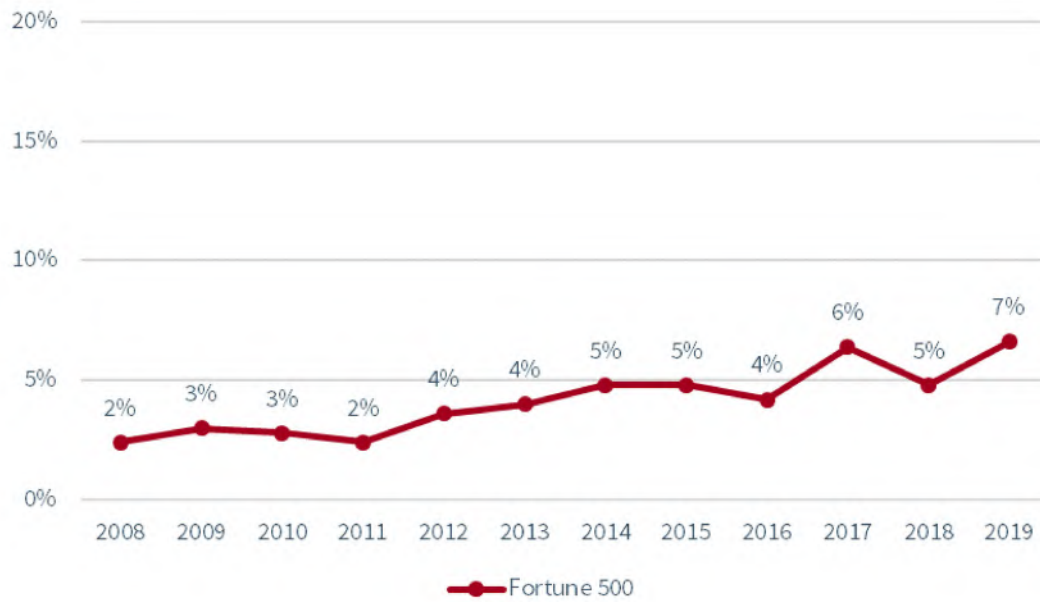
ETHNIC MINORITIES AS A PERCENT OF CEOS
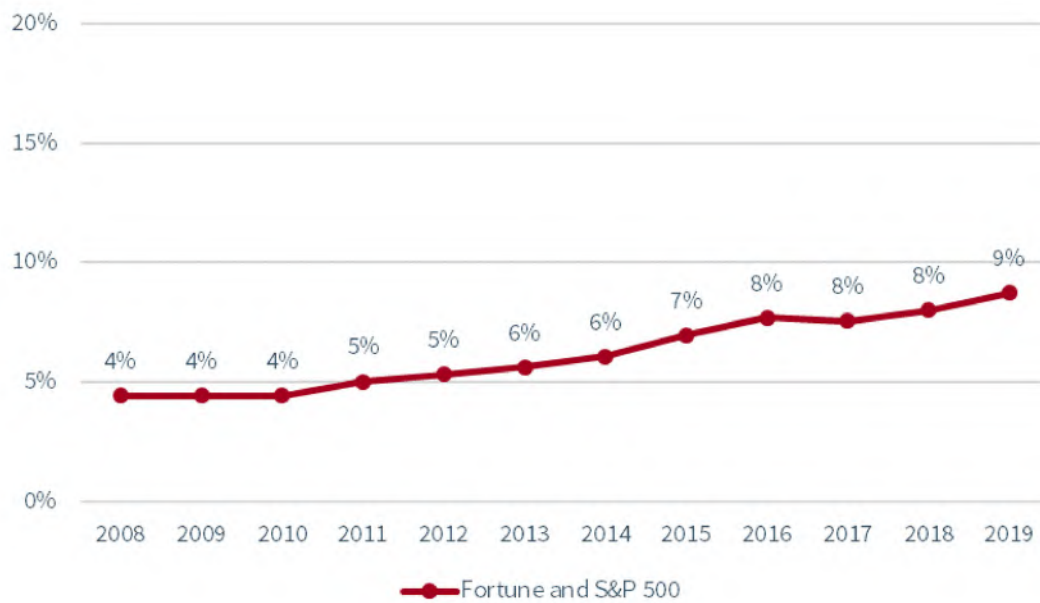
Chart 2 sample includes 682 sitting CEOs across 675 companies in Fortune 500 and S&P 500 companies.

Sources: Claire Zillman, "The Fortune 500 Has More Female CEOs Than Ever Before," Fortune (May 16, 2019); and Crist Kolder Associates, "Volatility Report of America's Leading Companies," (2019).

EXHIBIT 4 — SELECTED LANGUAGE FROM HUMAN CAPITAL AND DIVERSITY STATEMENTS

EXXONMOBIL

Through a range of programs, activities and investments, we strive to create and maintain a diverse workforce representative of the numerous geographies where we do business. Our Global Diversity Framework is the foundation for this approach, with three interrelated objectives:

- Attract, develop and retain a premier workforce, from the broadest possible pool, to meet our business needs worldwide;
- Actively foster a productive work environment where individual and cultural differences are respected and valued, and where all employees are encouraged to contribute fully to the achievement of superior business results;
- Identify and develop leadership capabilities to excel in a variety of international and cultural environments.

The framework communicates these existing principles in the context of our increasing global operations.

AMERICAN EXPRESS

Diversity by the Numbers
- Women comprise over 50 percent of our global workforce and more than 30 percent of senior executives
- We contributed to 7 research studies in partnership with Center for Talent Innovation, focusing on how to advance women in the workplace
- 21 percent of our board are women
- 46 percent of our senior management team is diverse
- 16 Employee networks with nearly 100 chapters globally, bringing together employees with shared backgrounds
- 3 Executive employee networks that support black, Hispanic, and female executive leaders

BOEING

Diversity Councils and Business Resource Groups
Diversity Councils are integrated groups of site leaders, managers and employees who work to improve employee engagement, provide learning and leadership opportunities, increase communication and facilitate implementation of organizational diversity plans. Diversity Councils are supported by a local executive champion. Boeing has more than 40 Diversity Councils.

Business Resource Groups are employee-led associations designed to further personal and professional development, promote diversity within the company and strengthen networking. The members share a common interest, such as race, gender or cultural identity. The nine groups collectively have more than 130 chapters around the world. Membership is open to all employees.

Boeing Business Resource Groups include:
- Boeing Asian Professional Association
- Boeing Black Employees Association
- Boeing Employee Ability Awareness Association
- Boeing Employee Pride Alliance
- Boeing Familia
- Boeing Generation to Generation
- Boeing Native American Network
- Boeing Veteran Engagement Team
- Boeing Women Inspiring Leadership

Sources: ExxonMobil, available at: https://corporate.exxonmobil.com/en/company/careers/global-diversity#globalDiversityFramework;
American Express, available at: https://www.americanexpress.com/us/global-diversity-and-inclusion/index.html; and
Boeing, available at: https://jobs.boeing.com/diversity (Accessed March 6, 2020).

EXHIBIT 5 — SELECTED BOARD DISCLOSURE OF DIVERSITY AND HUMAN CAPITAL EFFORTS

GENERAL MOTORS

The Board reviews candidates for all senior executive positions to confirm that qualified and diverse successor-candidates are available for all positions and that development plans are being utilized to strengthen the skills and qualifications of successor candidates.

The Board's investment in people development does not stop with management succession planning. It actively takes an interest in making sure all employees are fully engaged and realizing their potential. To accomplish this, the Board annually reviews the diversity pipeline at all levels of the Company and receives an update on various hiring initiatives for diversity groups supported by the Company. At this time, the Board believes it has a deep and diverse talent pipeline from which to promote employees at all levels of the Company.

JOHNSON & JOHNSON

The Board and Committees are actively engaged in overseeing the company's talent development and human capital management strategies designed to attract, develop and retain global business leaders who can drive financial and strategic growth objectives and build long-term shareholder value. The Board's involvement in leadership development and succession planning is systematic and ongoing, and the Board provides input on important decisions in each of these areas. [...]

To improve the Board's understanding of the company's culture and talent pipeline, the Board conducts meetings and schedules site visits at the company's locations and meets regularly with high-potential executives in formal and informal settings. More broadly, the Board is regularly updated on key talent indicators for the overall workforce, including diversity and inclusion, recruiting and development programs, and is updated on the company's human capital development strategy.

PEPSICO

Beyond leadership development, our Board is continuously focused on developing an inclusive and respectful work environment where our employees across the entire workforce are empowered to speak with truth and candor, raise concerns and implement new ideas in the best interests of the business. The Board and its applicable Committees regularly engage with employees at all levels of the organization, including through periodic visits to PepsiCo's operations, to provide oversight on a broad range of human capital management topics, including corporate culture, diversity and inclusion, pay equity, health and safety, training and development and compensation and benefits.

Sources: General Motors, DEF 14A (April 18, 2019); Johnson & Johnson, DEF 14A (March 13, 2019); and PepsiCo, DEF 14A (March 22, 2019).

EXHIBIT 6 — DIVERSITY METRICS IN EXECUTIVE COMPENSATION PROGRAMS

MICROSOFT

Culture & Organizational Leadership (33.3% weight)

Mr. Nadella continued to demonstrate his commitment to evolve Microsoft culture, where his successes include achieving aspirational goals for diversity goals in hiring and retention. In fiscal year 2019, nearly 80% of employees and managers surveyed indicated they understand how to leverage a new core priority for inclusion to contribute towards building a more diverse and inclusive workplace. Moreover, 90% of employees said their managers created an inclusive environment. Work remains to be done to provide additional training and resources for the Company's mid-level managers and address the needs of the millennial workforce.

Surveys of employee sentiment and Senior Leadership Team feedback show strong support for Mr. Nadella's cultural push for One Microsoft and Growth Mindset initiatives.

INTEL

We set ambitious goals for our company and make strategic investments to advance progress in the areas of environmental sustainability, supply chain responsibility, diversity and inclusion, and social impact that benefit the environment and society. […]

Long-term total stockholder return provides one measure of value creation, though we also consider other indicators of success for our deployment of capital, such as diversity advancement for our human capital. […]

Operational Performance (50% Weighting)

Corporate-level and administrative group employees, including each of our listed officers other than Mr. Shenoy, are paid based on average of 10 business units' scores, subject to any adjustment for performance against corporate-level diversity and inclusion goal (focused on hiring and retaining diverse talent—not achieved).

Sources: Microsoft, Form DEF 14A (October 16, 2019); and Intel, Form DEF 14A (April 3, 2019).

EXHIBIT 7 — METHODOLOGY AND DATA COLLECTION

During the time period December 2019 to February 2020, a group of skilled, professional researchers methodically collected and verified information to identify the exact direct reports to the CEOs of all Fortune 100 companies, including their title, race, and gender. This is a difficult and tedious task because an executive's being listed as a named executive officer in the proxy statement or on an executive leadership webpage does not guarantee that the executive reports to the CEO.

Our methodology for the research study was as follows:

Step 1: Identify the executive leadership team of each company and their position.

Step 2: Use research tools to verify who does and does not report to the respective CEOs, including:

• A proprietary database that includes employment information about executives
• Public filings, including proxy statements, 10-Ks, and annual reports
• RelSci, a relationship capital platform that includes corporate executives
• LinkedIn
• Company websites
• Company press releases indicating hire or promotion dates for executives

Step 3: Call an executive at each company to verify the CEO's direct reports. In most cases, a second or third executive was called to ensure high confidence in the data.

The data for each company and the date that each company was verified is noted on each company organizational chart available at here.

EXHIBIT 8 — PROFESSIONAL BACKGROUNDS OF NEWLY ELECTED INDEPENDENT DIRECTORS

New Director Backgrounds - 2019	Total	Men	Women
Active CEOs	15%	20%	9%
Retired CEOs	15%	21%	7%
Line and functional leaders	14%	6%	23%
Financial executives/CFOs/treasurers	10%	8%	13%
Investors/investment managers	9%	13%	6%
Division/subsidiary presidents	9%	8%	11%
Bankers/investment bankers	5%	6%	4%
Academics/nonprofit executives	4%	4%	5%
Active chairs/presidents/COOs	3%	4%	3%
Consultants	3%	2%	5%
Public accounting executives	3%	2%	3%
Retired chairs/presidents/COOs	2%	2%	2%
General counsel	1%	0%	2%
Lawyers	1%	1%	1%
Others	6%	3%	8%

Sources: Spencer Stuart, U.S. Board Index (2019).

EXHIBIT 9 — IMMEDIATE PREVIOUS POSITION OF SITTING CEOS
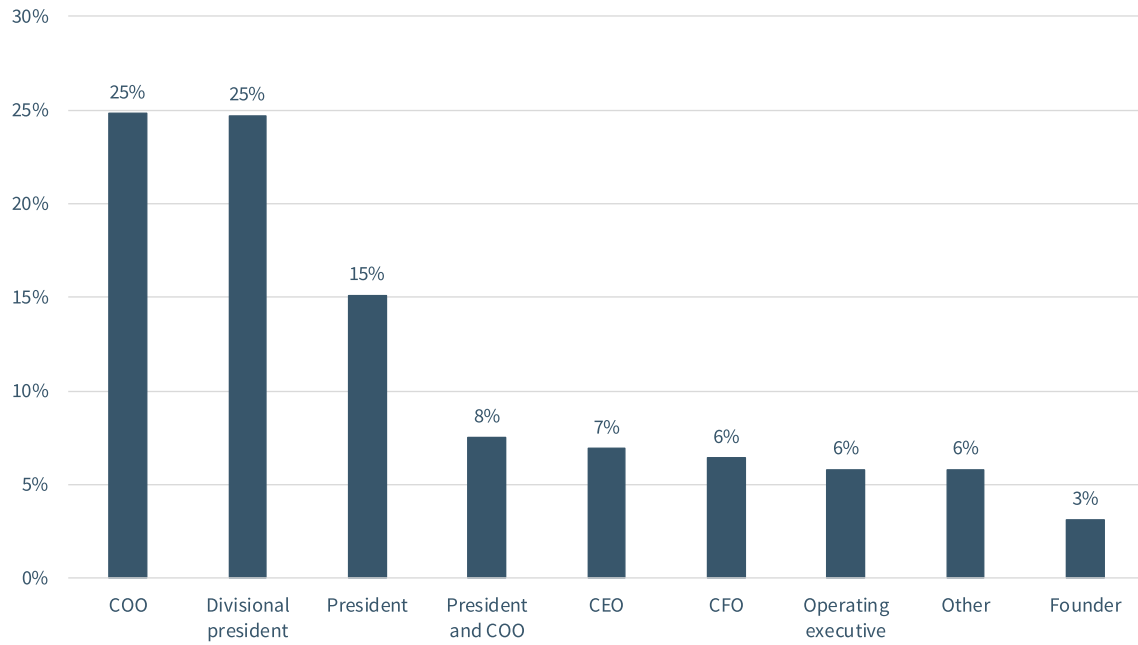
Note: Sample includes 675 companies and 682 sitting CEOs among the Fortune 500 and S&P 500 Index.

Source: Crist Kolder Associates, Volatility Report of America's Leading Companies, (2019).

EXHIBIT 10 — C-SUITE SIZE AND COMPOSITION (FORTUNE 100)

Sample Characteristics	
Total Companies	100
Total # C-Suite Executives[a]	1,007
Average # Executives in C-Suite	10
Total # CEOs[b]	101
Total # Direct Reports (C+1)	906
Average # Direct Reports	9
Largest # Direct Reports[c]	16
Smallest # Direct Reports[d]	3
Female Representation in C-Suite	
# Companies with no females in C-Suite[e]	9
# Companies with no females in C+1[f]	9
# Companies with female CEO[g]	7
# Companies with ≥ 33% female C-Suite	27
# Companies with ≥ 40% female C-Suite	10
# Companies with ≥ 50% female C-Suite[h]	2
Ethnically Diverse Representation in C-Suite	
# Companies with all white C-Suite	25
# Companies with all white C+1[i]	26
# Companies with non-white CEO	16
# Companies with ≥ 33% non-white C-Suite	13
# Companies with ≥ 40% non-white C-Suite[j]	5
# Companies with ≥ 50% non-white C-Suite[k]	2

Notes:

a. C-suite refers to the CEO and direct reports; C+1 includes only the direct reports of the CEO.

b. Enterprise Products has co-CEOs.

c. IBM and Procter & Gamble

d. ExxonMobil

e. ExxonMobil, Berkshire Hathaway, Amazon, Costco, FedEx, Energy Transfer, TJX, Enterprise Products, and Plains Group

f. Same. No company has a female CEO with all male direct reports.

g. General Motors, Anthem, Lockheed, Best Buy, Oracle (co-CEO), General Dynamics, Progressive

h. Anthem and Cisco

i. Plains Group has an Asian CEO with all white direct reports. All others have all white C-Suite.

j. HP, Merck, UnitedContinental, TIAA, and Coca-Cola

k. TIAA and Coca-Cola

Source: Research by the authors.

EXHIBIT 11 — GENDER REPRESENTATION IN C-SUITE POSITIONS AND THEIR POTENTIAL FOR PROMOTION TO CEO OR BOARD

Position	CEO / Board Potential	Male	Female
CEO	High	93%	7%
CFO	High	86%	14%
P&L Leaders	High	85%	15%
Other Business (Functional) Executives	Lower	74%	26%
Chief (Lead) Human Resource Officer	Lower	29%	71%
Chief (Lead) Communications Officer	Lower	41%	59%
General Counsel	Lower	65%	35%
Chief (Lead) Marketing Officer	Lower	65%	35%
Chief Information (Technology) Officer	Lower	85%	15%
Chief Risk Officer	Lower	79%	21%
Chief (Lead) Strategy Officer	Lower	91%	9%
Chief (Lead) Sales Officer	Lower	40%	60%
Chief (Lead) Administration Executive	Lower	29%	71%
Other Staff (Functional) Executive	Lower	55%	45%
	Total	75%	25%
	High	87%	13%
	Lower	62%	38%

Source: Research by the authors.

EXHIBIT 12 — RACIAL REPRESENTATION IN C-SUITE POSITIONS AND THEIR POTENTIAL FOR PROMOTION TO CEO OR BOARD

CEO / Board Potential	CEO / Board Potential	White	Black	Hispanic	Asian	Other
CEO	High	84%	3%	5%	5%	3%
CFO	High	96%	1%	1%	2%	0%
P&L Leaders	High	85%	3%	3%	8%	0%
Other Business (Functional) Executives	Lower	76%	10%	6%	7%	1%
Chief (Lead) Human Resource Officer	Lower	83%	13%	3%	3%	0%
Chief (Lead) Communications Officer	Lower	81%	4%	15%	0%	0%
General Counsel	Lower	84%	6%	3%	7%	0%
Chief (Lead) Marketing Officer	Lower	78%	9%	4%	9%	0%
Chief Information (Technology) Officer	Lower	80%	0%	5%	15%	0%
Chief Risk Officer	Lower	79%	0%	0%	16%	5%
Chief (Lead) Strategy Officer	Lower	73%	0%	5%	18%	5%
Chief (Lead) Sales Officer	Lower	40%	20%	40%	0%	0%
Chief (Lead) Administration Executive	Lower	57%	43%	0%	0%	0%
Other Staff (Functional) Executive	Lower	84%	13%	0%	3%	0%
	Total	84%	5%	4%	7%	1%
	High	87%	3%	3%	7%	1%
	Lower	80%	7%	5%	8%	1%

Source: Research by the authors.

EXHIBIT 13 — GENDER AND RACIAL REPRESENTATION BY C-SUITE POSITION

Chief Executive Officer (n=101)

Total Race/Ethnicity

5% 3%
5%
3%
84%

- White (85)
- Black (3)
- Hispanic (5)
- Asian (5)
- Other (3)

Total Gender

7%
93%

- Male (94)
- Female (7)

Male Race/Ethnicity

5% 2%
5%
3%
85%

- White (79)
- Black (3)
- Hispanic (5)
- Asian (5)
- Other (2)

Female Race/Ethnicity

0% 14%
0%
0%
86%

- White (6)
- Black (0)
- Hispanic (0)
- Asian (0)
- Other (1)

1

Chief Financial Officer (n=96)

Total Race/Ethnicity

1% 2% 0%
1%
96%

- White (92)
- Black (1)
- Hispanic (1)
- Asian (2)
- Other (0)

Total Gender

14%
86%

- Male (83)
- Female (13)

Male Race/Ethnicity

1% 1% 0%
1%
97%

- White (80)
- Black (1)
- Hispanic (1)
- Asian (1)
- Other (0)

Female Race/Ethnicity

0% 8% 0%
0%
92%

- White (12)
- Black (0)
- Hispanic (0)
- Asian (1)
- Other (0)
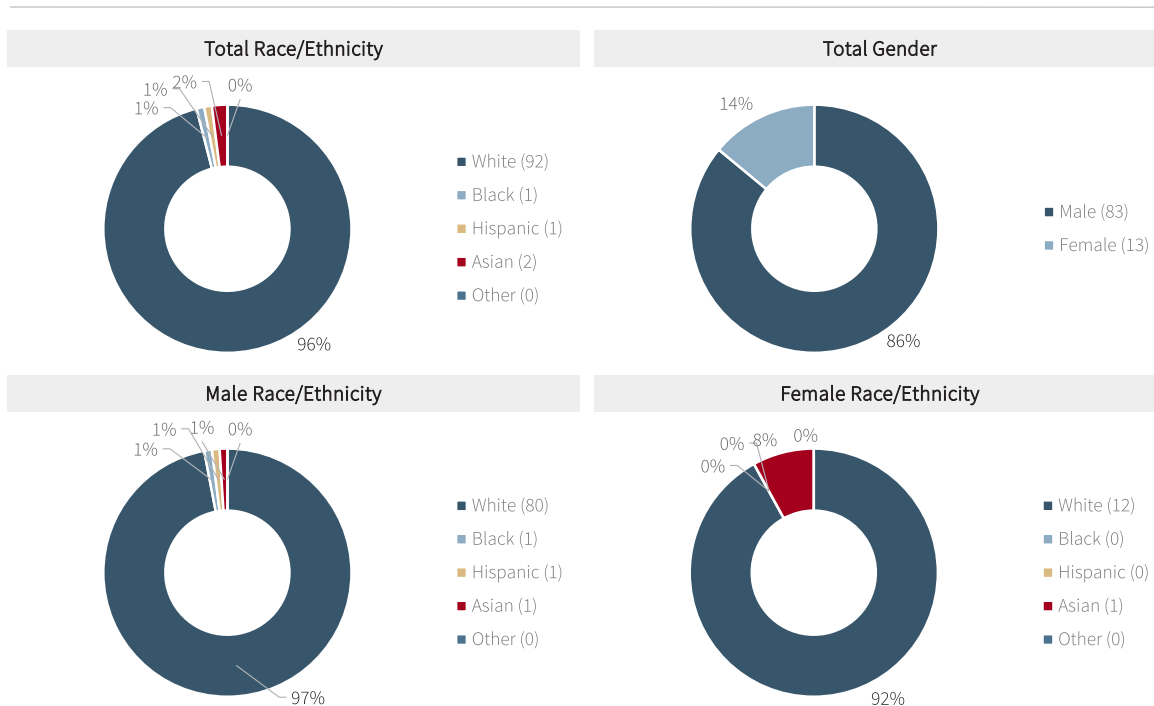
EXHIBIT 13 — CONTINUED

P&L Leaders (n=349)

Total Race/Ethnicity

8% 3% 4% 0%
85%

- White (298)
- Black (12)
- Hispanic (9)
- Asian (29)
- Other (1)

Total Gender

15%
85%

- Male (296)
- Female (53)

Male Race/Ethnicity

8% 3% 3% 0%
86%

- White (256)
- Black (9)
- Hispanic (9)
- Asian (22)
- Other (0)

Female Race/Ethnicity

13% 2%
0% 6%
79%

- White (42)
- Black (3)
- Hispanic (0)
- Asian (7)
- Other (1)

3

Other Business (Functional) Executives (n=72)

Total Race/Ethnicity

7% 1%
6%
10%
76%

- White (55)
- Black (7)
- Hispanic (4)
- Asian (5)
- Other (1)

Total Gender

26%
74%

- Male (53)
- Female (19)

Male Race/Ethnicity

4% 4% 0%
7%
85%

- White (45)
- Black (4)
- Hispanic (2)
- Asian (2)
- Other (0)

Female Race/Ethnicity

5%
16%
10%
16%
53%

- White (10)
- Black (3)
- Hispanic (2)
- Asian (3)
- Other (1)

EXHIBIT 13 — CONTINUED

Chief (Lead) Human Resource Officer (n=80)

Total Race/Ethnicity
- White (66)
- Black (10)
- Hispanic (2)
- Asian (2)
- Other (0)

82%, 12%, 3%, 3%, 0%

Total Gender
- Male (23)
- Female (57)

29%, 71%

Male Race/Ethnicity
- White (20)
- Black (3)
- Hispanic (0)
- Asian (0)
- Other (0)

87%, 13%, 0%, 0%, 0%

Female Race/Ethnicity
- White (46)
- Black (7)
- Hispanic (2)
- Asian (2)
- Other (0)

81%, 12%, 3%, 4%, 0%

5

Chief (Lead) Communications Officer (n=27)

Total Race/Ethnicity
- White (22)
- Black (1)
- Hispanic (4)
- Asian (0)
- Other (0)

81%, 4%, 15%, 0%, 0%

Total Gender
- Male (11)
- Female (16)

41%, 59%

Male Race/Ethnicity
- White (9)
- Black (1)
- Hispanic (1)
- Asian (0)
- Other (0)

82%, 9%, 9%, 0%, 0%

Female Race/Ethnicity
- White (13)
- Black (0)
- Hispanic (3)
- Asian (0)
- Other (0)

81%, 0%, 19%, 0%, 0%

EXHIBIT 13 — CONTINUED

General Counsel (n=88)

Total Race/Ethnicity

- White (74)
- Black (5)
- Hispanic (3)
- Asian (6)
- Other (0)

7% 0%
3%
6%
84%

Total Gender

- Male (57)
- Female (31)

35%
65%

Male Race/Ethnicity

- White (49)
- Black (2)
- Hispanic (2)
- Asian (4)
- Other (0)

7% 0%
4%
3%
86%

Female Race/Ethnicity

- White (25)
- Black (3)
- Hispanic (1)
- Asian (2)
- Other (0)

6% 0%
3%
10%
81%

7

Chief (Lead) Marketing Officer (n=23)

Total Race/Ethnicity

- White (18)
- Black (2)
- Hispanic (1)
- Asian (2)
- Other (0)

8% 0%
5%
9%
78%

Total Gender

- Male (15)
- Female (8)

35%
65%

Male Race/Ethnicity

- White (11)
- Black (2)
- Hispanic (1)
- Asian (1)
- Other (0)

7% 0%
7%
13%
73%

Female Race/Ethnicity

- White (7)
- Black (0)
- Hispanic (0)
- Asian (1)
- Other (0)

13% 0%
0%
0%
87%

EXHIBIT 13 — CONTINUED

Chief Information Officer/Technology Officer (n=81)

Total Race/Ethnicity

0%
15%
5%
0%
80%

- White (65)
- Black (0)
- Hispanic (4)
- Asian (12)
- Other (0)

Total Gender

15%
85%

- Male (69)
- Female (12)

Male Race/Ethnicity

0%
14%
3%
0%
83%

- White (57)
- Black (0)
- Hispanic (2)
- Asian (10)
- Other (0)

Female Race/Ethnicity

0%
16%
17%
0%
67%

- White (8)
- Black (0)
- Hispanic (2)
- Asian (2)
- Other (0)

9

Chief Risk Officer (n=19)

Total Race/Ethnicity

5%
16%
0%
0%
79%

- White (15)
- Black (0)
- Hispanic (0)
- Asian (3)
- Other (1)

Total Gender

21%
79%

- Male (15)
- Female (4)

Male Race/Ethnicity

7%
20%
0%
0%
73%

- White (11)
- Black (0)
- Hispanic (0)
- Asian (3)
- Other (1)

Female Race/Ethnicity

0% 0% 0% 0%
100%

- White (4)
- Black (0)
- Hispanic (0)
- Asian (0)
- Other (0)

EXHIBIT 13 — CONTINUED

Chief (Lead) Strategy Officer (n=22)

Total Race/Ethnicity

5%
18%
4%
0%
73%

- White (16)
- Black (0)
- Hispanic (1)
- Asian (4)
- Other (1)

Total Gender

9%
91%

- Male (20)
- Female (2)

Male Race/Ethnicity

5%
15%
5%
0%
75%

- White (15)
- Black (0)
- Hispanic (1)
- Asian (3)
- Other (1)

Female Race/Ethnicity

0%
50%
50%
0% 0%

- White (1)
- Black (0)
- Hispanic (0)
- Asian (1)
- Other (0)

11

Chief (Lead) Sales Officer (n=5)

Total Race/Ethnicity

0% 0%
40%
40%
20%

- White (2)
- Black (1)
- Hispanic (2)
- Asian (0)
- Other (0)

Total Gender

60%
40%

- Male (2)
- Female (3)

Male Race/Ethnicity

0% 0%
50%
50%
0%

- White (0)
- Black (1)
- Hispanic (1)
- Asian (0)
- Other (0)

Female Race/Ethnicity

0% 0%
33%
0%
67%

- White (2)
- Black (0)
- Hispanic (1)
- Asian (0)
- Other (0)

EXHIBIT 13 — CONTINUED

Chief (Lead) Administrative Executives (n=7)

Total Race/Ethnicity

0% 0% 0%
43%
57%

- White (4)
- Black (3)
- Hispanic (0)
- Asian (0)
- Other (0)

Total Gender

29%
71%

- Male (2)
- Female (5)

Male Race/Ethnicity

0% 0% 0%
0%
100%

- White (0)
- Black (2)
- Hispanic (0)
- Asian (0)
- Other (0)

Female Race/Ethnicity

20% 0% 0% 0%
80%

- White (4)
- Black (1)
- Hispanic (0)
- Asian (0)
- Other (0)

13

Other Staff (Functional) Executives (n=38)

Total Race/Ethnicity

13% 0% 3% 0%
84%

- White (32)
- Black (5)
- Hispanic (0)
- Asian (1)
- Other (0)

Total Gender

45%
55%

- Male (21)
- Female (17)

Male Race/Ethnicity

9% 0% 5% 0%
86%

- White (18)
- Black (2)
- Hispanic (0)
- Asian (1)
- Other (0)

Female Race/Ethnicity

18% 0% 0% 0%
82%

- White (14)
- Black (3)
- Hispanic (0)
- Asian (0)
- Other (0)

The United States Law Week

Virus Crisis Could Be Big Test of Law Firms' Diversity Efforts

By Meghan Tribe and Stephanie Russell-Kraft

April 27, 2020, 5:40 AM

- Law firm cost cuts could affect minorities more

- Diversity experts fear repeat of Great Recession backslide

It has taken nearly a decade for the legal industry to recover from Great Recession era lawyer job cuts that disproportionately affected women and attorneys of color, but there are new fears that the coronavirus crisis could erase progress made since.

Firms are turning to layoffs, pay cuts, and furloughs to weather the economic storm caused by the pandemic, and diversity experts are anxious that minority lawyers and the efforts designed to help them could bear the worst of the financial pain.

"Law firms have an opportunity to do the right thing here and that is to continue to ramp up on the diversity work that they are trying to do or have been talking about doing," said Tsedale Melaku, sociologist and author of "You Don't Look Like a Lawyer: Black Women and Systemic Gendered Racism."

There's a real risk law firms will make cuts that affect minorities more or let pipeline building and mentorship programs backslide due to the pressures of the Covid-19 crisis. But diversity advocates hope firms have learned the hard lessons from the last economic downturn.

"Now is the best time to stop talking and start doing," Melaku said.

'All Eyes On Them'

As law firms make personnel decisions ranging from layoffs to pay cuts, there's "all eyes on them right now given what happened in 2008," said Manar Morales, president and CEO of the Diversity and Flexibility Alliance, which helps law firms build diversity and inclusion.

Following the massive lawyer layoffs and de-equitization of firm attorneys during the Great Recession, which saw an estimated 10,000 lawyers lose their jobs, overall representation of women and minority lawyers in law firms declined between 2009 and 2010, according to the National Association for Law Placement.

NALP's diversity data shows that minority associates during the Great Recession were especially hard hit. Only 3.89% of law firm associates in 2009 were Latinx, the data said, but that number trended downward, until finally beginning to turn around in 2012. Asian associates saw only very minor gains in representation during the years immediately following the recession.

It has taken an entire decade for overall black associate representation to recover. According to NALP data, it took until 2019 to again surpass the 4.66% mark this metric reached in 2009. However, the percentage of black women working as associates in 2019 still remained below 2009 level.

"In each economic downturn that we've seen, including the most recent one in 2008, the hardest hit populations were often minority populations and younger professional workers," said Stacy Hawkins, professor at Rutgers Law and former diversity counsel to Holland & Knight.

Law firms tend to be much more focused on recruitment and hiring of minority attorneys rather than retention, so minority lawyers tend to be more junior, Hawkins said, making them more vulnerable to personnel and pay cuts in crisis times.

In 2019, associates of color made up 25.44% of law firm associates, according to NALP. By contrast, people of color made up only 7.6% of equity partners last year.

Making matters worse, studies have shown that minority attorneys tend to be outgrouped at work, giving them less access to billable hours and quality work opportunities. This dynamic could put them in harm's way during a period of cutbacks.

"It's one thing to tout your overall representation numbers," Hawkins said of law firms. "But when at the end of the day you're forced to make decisions based on productivity and the hardest hit attorneys are minority lawyers, then you're failing."

Aneesh Mehta, president of the South Asian Bar Association of North America, said minority lawyers certainly have reason to be concerned based on past experience. "But in the next months we'll see how impactful and how engrained the past decade's D&I efforts really were," he said.

Keeping It Going

A shift of focus to minority attorney retention programs is one reason to hope for better this time around, according to Hawkins.

Also, since the Great Recession, pressure from clients for more diversity in their outside counsel has increased and changed the approach many firms take in navigating their diversity and inclusion initiatives.

"Cooley definitely has learned from the past recession and is placing more value on the continued focus on diversity and inclusion," said Amie Santos, that firm's director of diversity and inclusion.

The firm has been upfront and openly talking about the mistakes of the past in the legal industry, and the need to ensure equitable work distribution, which is paramount as its attorneys shift to work-from-home arrangements, Santos said.

Shifting from a physical space to a virtual one is another aspect of the pandemic that poses drawbacks for minority attorneys, particularly younger ones, who have benefited from in-person mentorship and training opportunities.

"Since there's not an opportunity to run into your mentee in the hall or grab lunch on the fly, mentoring definitely becomes tougher," said Caren Ulrich Stacy, founder and chief experimentation officer at Diversity Lab, an incubator for legal industry diversity and inclusion work.

"With the high levels of personal and professional uncertainly in the world, mentoring and sponsorship are critical right now — especially for diverse lawyers who were potentially feeling isolated or undervalued in the workplace prior to the pandemic," she added.

It was already very difficult for attorneys of color to gain access to mentorship, and perhaps more importantly, sponsorship, which is key for minority associates trying to make partner, Melaku said.

She said the onus should be on partners, because of their seniority, to strengthen connections during this period of remote work.

"This is also a referendum on partners and how they think about themselves in terms of the relationships they have developed previous to this pandemic with associates of color that they can now foster in a virtual environment," she said.

One firm, Haynes and Boone, has several check-ins or "snack breaks" with its diverse associates per week, said Jennifer Reddien, the firm's director of diversity and inclusion.

"I find that with mentorship programs, the burden is on an associate to reach out to a mentor," Reddien said. That burden is even harder with the potential awkwardness of a video call. So for the first few weeks of remote work, Reddien instead asked partners to reach out to their mentees and schedule some time to connect.

Advocates believe that strong contributions from leadership are fundamental to turning firms' talk about diversity into action, especially because the Covid-19 crisis is only compounding already longstanding legal industry inequality.

Otherwise, said Melaku, "it's just going to create an even harder mountain to climb and we haven't even climbed the first one."

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DECEMBER 2019 | AROUND THE ABA

Why senior women leave the law — and how to stem the tide

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Roberta D. Liebenberg and Stephanie A. Scharf call it the "leaky pipeline" problem that's long been discussed at law firms. That's the one with "women representing approximately half of the new associates but then leaving their firms at higher rates than their male counterparts as they approach partnership consideration," they say.

The two note that the new report they co-authored for the American Bar Association and ALM Intelligence, "Walking Out the Door: The Fact, Figures, and Future of Experienced Women Lawyers in Private Practice," "shines a spotlight on the far less frequently discussed issue of the attrition of senior women lawyers, who leave their firms when they should be in the primes of their careers."

"Our report is the first of its kind to provide empirical data, rather than simply anecdotal opinions and experiences, concerning the reasons why so many experienced women lawyers are voting with their feet and leaving their firms," say the authors, who are former and current chairs of the ABA Commission on Women in the Profession.

The study sought to answer three related questions:

- What are the everyday experiences that contribute to the success of women and men in big firm practice?

- Why do experienced women stay in large firms and why do they leave?

- What are law firms doing to advance women into the top echelons of leadership, what actually works and where is innovation needed?

The report includes input from more than 1,200 big firm lawyers who have been in practice for at least 15 years, and shows that women surveyed were far more likely than men to report factors that blocked their "access to success," including lacking access to business development opportunities, being perceived as less committed to career and being denied or overlooked for promotion.

Male and female lawyers reported similar levels of job satisfaction regarding the intellectual challenge of their practice areas and the work they perform. But they had dissimilar levels of satisfaction regarding:

- the recognition they receive for their work

- the methods by which compensation is determined

- their opportunities for advancement

- the commitment to workplace gender diversity

- the leadership diversity of their firm.

Among the top reasons female lawyers gave for leaving the practice of law included: caretaking commitments, the level of stress at work, the emphasis on marketing or originating business and the number of billable hours.

The research showed that although firm leaders and male partners believe their firms do well in advancing experienced women, those women disagree:

- 82% of managing partners agreed that their firms were "active advocates of gender diversity," and 91% of experienced men agreed, compared to just 62% of women.

- 84% of managing partners agreed that their firms have succeeded in promoting women into leadership, and 75% of experienced men agreed, whereas just 55% of women agreed.

- 74% of managing partners said their firms have successfully retained experienced women, and 64% of experienced men agreed, while just 47% of women agreed.

The report concludes with nine concrete recommendations for law firms to keep senior women, including:

- Develop a strategy, set targets and establish a timeline for what the firm wants to achieve

- Take a hard look at the data, including gender metrics and statistics, to measure and track the status of key factors over time

- Take steps to ensure there is a critical mass of female partners on key committees

- Assess the impact of firm policies and practices on female lawyers

- Increase lateral hiring of female partners

- Provide resources to relieve pressures from family obligations that women more often face than their male colleagues.

"The nine recommendations serve as a roadmap to increasing a firm's retention of experienced women lawyers," ABA President Judy Perry Martinez says. "Women lawyers stay where women lawyers know that the culture, policies and practices drive success and career satisfaction."

Walking Out the Door, which is an outgrowth of the ABA Presidential Initiative on Achieving Long-Term Careers for Women in Law, will be followed by three additional reports over the course of the next six months, pertaining to career trajectories over 20 to 30 years after law school graduation; and two other studies that use focus group techniques for a more nuanced understanding of why women have long-term legal careers and why they leave the profession, with a heightened focus on diversity.

ABA American Bar Association
/content/aba-cms-dotorg/en/news/abanews/publications/youraba/2019/december-2019/new-report-details-how-law-firms-can-keep-experienced-women-from