170 GCs Pen Open Letter to Law Firms: Improve on Diversity or Lose Our Business

Top lawyers at major companies banded together to craft an ultimatum after seeing "largely male and largely white" new law firm partner classes at Paul Weiss and other firms.

By **Christine Simmons** | January 27, 2019 at 03:00 PM | Originally published on **The American Lawyer**

Lyft general counsel Kristin Sverchek. (Courtesy photo)

More than 170 general counsel and corporate legal officers have signed an open letter to big law firms, lamenting new partner classes that “remain largely male and largely white.” The letter says their companies will prioritize their legal spend on those firms that commit to diversity and inclusion.

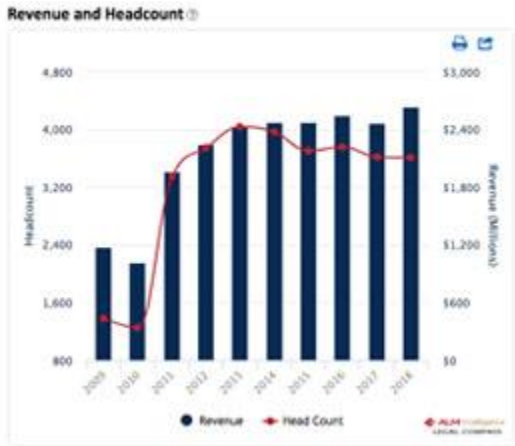
The letter, released Sunday, has been signed by chief legal officers in a variety of industries, including those in technology, retail, media, hospitality and financial services. The companies range from small tech outfits to large corporations, such as Google Fiber, Etsy, Heineken USA, Chobani Global Holdings, Waymo, Lyft, Vox Media, S&P Global Ratings and Booz Allen Hamilton. (ALM Media’s general counsel is also among the signatories.)

“We, as a group, will direct our substantial outside counsel spend to those law firms that manifest results with respect to diversity and inclusion, in addition to providing the highest degree of quality representation. We sincerely hope that you and your firm will be among those that demonstrate this commitment,” reads the letter.

The letter and signatures were shared with ALM and also posted on a general counsel group page **on LinkedIn**. Many general counsel who signed the letter also plan to email copies to the firms they work with and request that they share it with all their partners, said Michelle Fang, who spearheaded the letter and is chief legal officer at car-sharing company Turo.


Michelle Fang, chief legal officer at Turo.

The letter is a direct result of the **discussion sparked last month** by Paul, Weiss, Rifkind, Wharton & Garrison; Gunderson Dettmer Stough Villeneuve Franklin & Hachigian; and other law firms appearing to promote few women and minorities to partner in their most recent round of promotions. (Paul Weiss chairman, Brad Karp, has since said the firm "**can—and will—do better**" and has **outlined steps** the firm has taken to address the issue.)



Fang said a large network of general counsel began discussing law firms that had very diverse promotion classes and those that didn't and they agreed an open letter to firms would have a broader message compared with individual conversations between firms and general counsel.

"We applaud those firms" the letter reads, "that have worked hard to hire, retain, and promote to partnership this year outstanding and highly accomplished lawyers who are diverse in race, color, age, gender, gender orientation, sexual orientation, national origin, religion, and without regard to disabilities."

"At the same time," the letter continued, "we are disappointed to see that many law firms continue to promote partner classes that in no way reflect the demographic composition of entering associate classes. Partnership classes remain largely male and largely white."

While those lawyers in non-diverse new partner classes worked hard and deserved success, the letter said, "We also know that there are women, people of color" and others who are equally deserving but haven't been rewarded.

"We are left to wonder if you and your partners value diversity enough to put into place programs to develop, promote and retain talented and diverse attorneys," the letter said.

“Collectively, our companies spend hundreds of millions of dollars annually on legal services and we are committed to ensuring equality in the legal profession,” said the letter. “We expect the outside law firms we retain to reflect the diversity of the legal community and the companies and the customers we serve.”

‘Bottom Line’ Incentive

The letter is meant to address firms that have taken a variety of approaches to diversity, Fang said.

For those firms that have prioritized diversity efforts, Fang said the letter will give “validation and support that they may need with partners to keep doing more of it.” For those firms that are trying but not doing enough to hire and promote diverse attorneys, she said, it gives them the incentive to recommit.

And for those firms not at all focused on improving diversity, it provides an ultimatum. “If they don’t continue to invest in these areas, it will ultimately hurt their bottom line. These diversity and inclusion efforts have a good return on investment,” she said. “It will bring them more clients, more talented lawyers and more cases.”

Fang, volunteering to take the lead in drafting the letter, worked with other general counsel in writing it. The letter, which is still open for signatures, spread beyond a women’s general counsel group to many others’ professional networks.

In interviews, several general counsel ticked off reasons why diversity in law firms mattered, from ethical and equality principles to having an effect on the outcome of cases.

“The only way you can flesh out an idea is with diversity of opinion and that needs to be reflected in the diversity of people giving us the opinion,” said Lyft general counsel Kristin Sverchek, who signed the letter. She said Lyft is considering mandating diversity goals for the law firms it works with, after sharing the letter with firms.

Thomas Chow, a general counsel at online advertising platform PubMatic, said he signed the letter because he has found law firms “need to have repeated and continuous feedback” about the importance of diversity and inclusion at their firms. Sometimes firms trumpet their efforts, but “a lot of the times it feels like lip service when we look at their partner rosters” or promotion announcements, he said.

Chow said the letter was also important to encourage racial and ethnic diversity as well as gender diversity in firms.

Amy Keating, general counsel of Mozilla, the organization behind the popular Firefox browser, said she signed it because she believes collective voices “are powerful voices for change, and especially so when those voices are clients.”

As ALM and others have documented over the years, large law firms have continuously struggled to retain and promote women and diverse attorneys. Among equity partnership ranks at the country’s biggest firms in 2017, women made up 19 percent of the 31,658 total partners recorded, according to a **National Law Journal survey**. Meanwhile, the percentage of minority partners working in Am Law 200 firms and NLJ 250 firms increased just 0.5 percent in 2017, making up 9.1 percent of attorneys in Big Law, **The American Lawyer reported last year.**

2018 VAULT/MCCA LAW FIRM DIVERSITY SURVEY

Vault/MCCA Law Firm Diversity Survey
2018 Report

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The Vault/MCCA Law Firm Diversity Survey

November 2018

For more than a decade, Vault and the Minority Corporate Counsel Association (MCCA) have worked with law firms across the country to collect information about their diversity and inclusion initiatives, including detailed demographic breakdowns of law firm populations by race/ethnicity, gender, sexual orientation and disability status, as well as qualitative information outlining law firm initiatives and goals with respect to diversity and inclusion, and how management is held accountable for achieving those goals.

First introduced in 2004 to support the Chief Legal Officers' Call to Action to advance diversity in the legal profession, the annual Vault/MCCA Law Firm Diversity Survey has become an essential tool for measuring diversity progress in law firms. More than 220 law firms nationwide participate in the survey each year, representing more than 90 percent of the AmLaw 100 and a majority of the NLJ 250.

In 2009, Vault and MCCA launched the Law Firm Diversity Database (http://mcca.vault.com), an online resource to make the information provided by law firms more widely available to the legal community. All individual responses to the most recent Vault/MCCA Survey are available in the Diversity Database. The database also maintains an archive of demographic data collected since 2008, presenting a uniquely detailed and comprehensive portrait of diversity progress in the legal profession. Access to the Law Firm Diversity Database is provided at no charge to encourage accountability and meaningful partnerships between clients and firms. We applaud the firms who participate in our survey annually and the clients who use our database to reward opportunities to those firms who are making meaningful efforts to improve.

This report, compiled by Vault, highlights industry-wide findings from the most recent Vault/MCCA Survey conducted in the spring of 2018. It is based on information reported by 232 law firms, the majority of whom have taken part in the survey every year since 2008. Demographic statistics were reported as of December 31, 2017.

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.

Sincerely,

Vera Djordjevich
Managing Director, Research & Consulting
Vault Inc.

Jean Lee
President & Chief Executive Officer
Minority Corporate Counsel Association

2018 Vault/MCCA Survey Results

The latest Vault/MCCA survey results reflect a continuation of many of the trends observed over the last several years:

- Law firms are bringing in more people of color but are less successful at retaining them.[1]
- Despite some clear advances for minority lawyers as a whole, progress is uneven among the different racial/ethnic groups.
- Women are making greater inroads into partnership and leadership roles, but minority women enjoy fewer of these successes than their white colleagues.
- Even with the gains recorded over the last decade, especially among new associates, demographic changes have been slow to trickle upward, as law firm partners remain overwhelmingly white and male.

Table 1. Overall Law Firm Demographics*

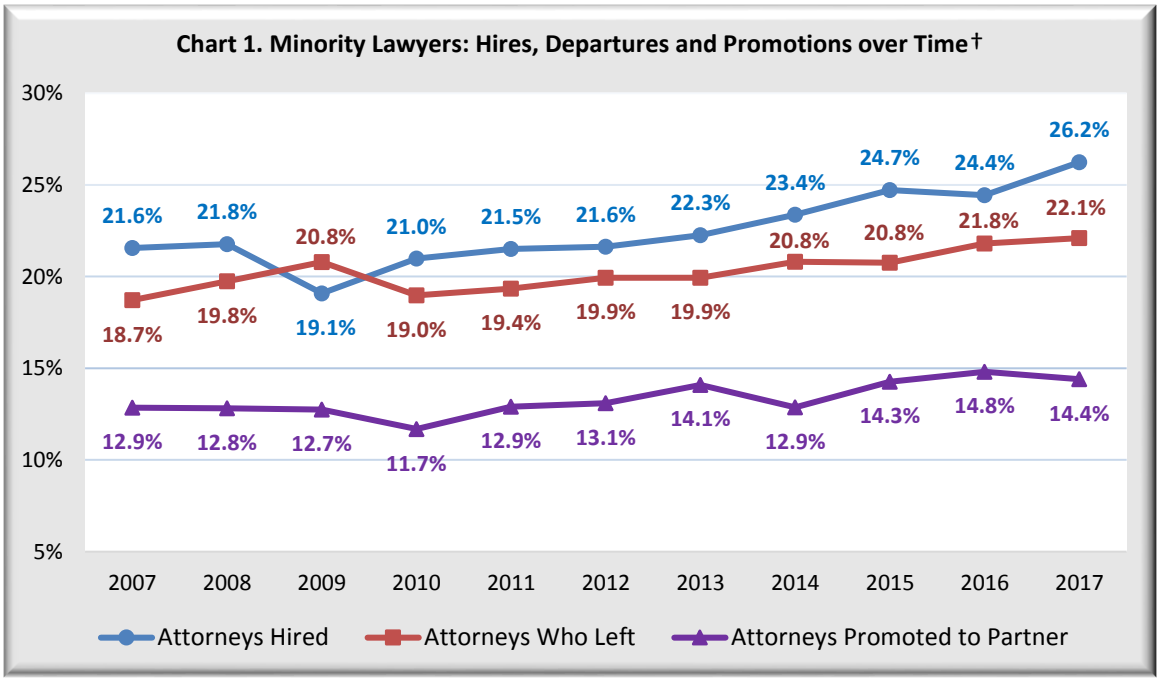
Demographic	2L Summer Associates	Associates	Of Counsel	Non-equity Partners	Equity Partners	All Partners	All Lawyers
White/Caucasian	67.46%	74.54%	86.69%	87.33%	90.90%	89.94%	82.64%
Asian American	13.57%	11.85%	5.25%	3.82%	3.56%	3.63%	7.51%
Hispanic/Latinx	6.78%	5.15%	3.22%	3.48%	2.54%	2.80%	3.90%
African-American/Black	7.86%	4.53%	2.85%	2.65%	1.87%	2.08%	3.27%
Multiracial	3.64%	3.14%	1.41%	1.03%	0.67%	0.77%	1.91%
Alaska Native/American Indian	0.29%	0.19%	0.20%	0.18%	0.12%	0.13%	0.17%
Native Hawaiian/Pacific Islander	0.03%	0.09%	0.03%	0.13%	0.07%	0.08%	0.08%
Openly LGBTQ	5.16%	3.73%	2.20%	2.01%	1.92%	1.95%	2.77%
Individuals with Disabilities	0.26%	0.43%	0.64%	0.39%	0.39%	0.39%	0.44%
All Racial Minorities	32.18%	24.95%	12.97%	11.29%	8.82%	9.48%	16.84%
All Women	49.88%	46.22%	40.23%	30.36%	20.64%	23.26%	35.70%
Women of Color	18.48%	13.96%	7.03%	4.88%	2.81%	3.37%	8.57%

*Unless otherwise indicated, all data in charts and tables reflect the most recent 2018 survey results.

[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.*

MINORITY LAWYERS

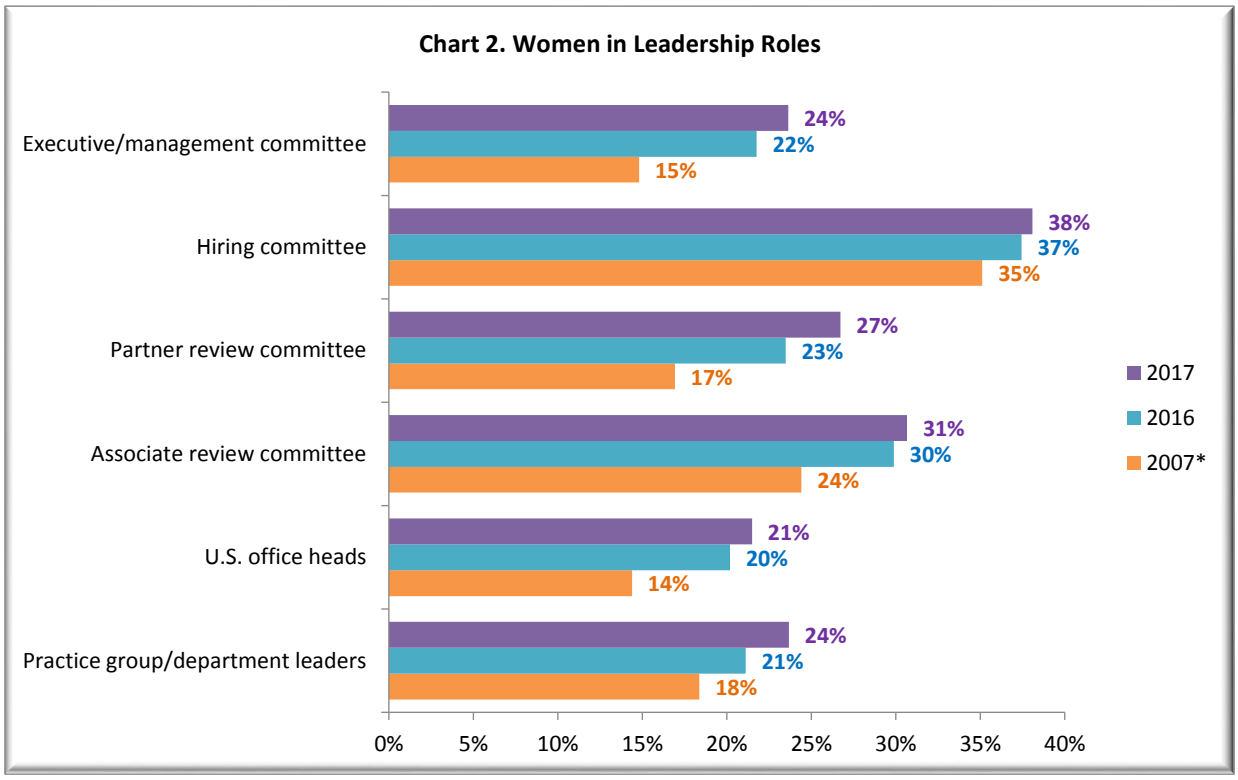
- Nearly 17 percent of law firm attorneys are members of a racial or ethnic minority group. This figure, which is almost a percentage point higher than last year, continues a steady upward trend.
- Minority representation is growing at all levels, from associates to partners to those in positions of leadership. Since 2007, representation of minority lawyers among law firm partners has grown three percentage points, from 6 percent to 9 percent. Attorneys of color now represent 25 percent of associates and 13 percent of counsel. More than 9 percent of attorneys who serve on management or executive committees are minorities. These figures are all higher than those reported in previous years.
- Law firms are recruiting more lawyers and law students of color, and women make up the majority of these new hires. Among new attorneys hired in 2017, 26 percent were people of color. Approximately 32 percent of the 2017 summer class were minorities, which is a percentage point higher than the year before and six points higher than 2007.
- At the same time, however, that law firms are bringing in more people of color, racial minorities still represent a disproportionate—and growing—segment of the lawyers who leave their firms. Minority lawyers represented 17 percent of lawyers employed by firms in 2017 but 22 percent of the attorneys who left their firms. Among associates, that number climbed to 28 percent. These figures are the highest reported in 11 years, including during the peak of the recession, when minorities were hit particularly hard by layoffs.
- Overall, the number of minority attorneys promoted to partner has grown over the last decade, from less than 13 percent in 2007 to more than 14 percent in 2018. Nevertheless, lawyers of color are still much less likely to be partners than white lawyers: 46 percent of white attorneys are partners, compared to 24 percent of minority attorneys.



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

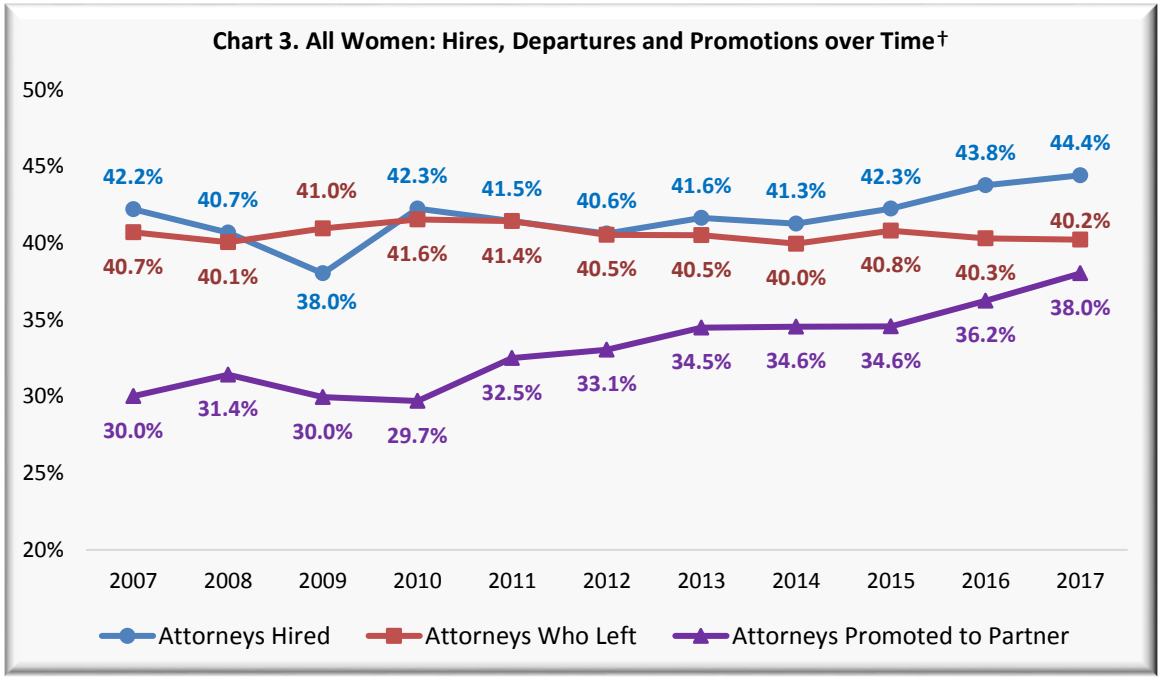
WOMEN

- While the increases are not dramatic and most firms are far from gender parity, the number of women in law firms has grown over time. According to the latest data, close to 36 percent of law firm attorneys are female, up from 35 percent in 2016.
- Women represented more than 44 percent of all lawyers hired in 2017, also a slight uptick from the previous year. And just about half (49.9%) of the 2L summer associates at surveyed law firms last year were women—the highest number reported to date.
- Women make up more than 46 percent of law firm associates and 23 percent of all partners. Although their representation remains higher at the non-equity level, the number of women equity partners has also grown and, for the first time since Vault and MCCA began collecting this data 14 years ago, now exceeds 20 percent.
- The rising number of female partners can be attributed to increases in both lateral hiring and promotions. In 2017, women represented 38 percent of attorneys promoted to their firms' partnerships, a gain of nearly two percentage points over 2016 and significantly higher than the 30 percent reported for 2007. Law firms also brought in more female partners as laterals than they have in the past: 28 percent of lateral partners hired in 2017 were women, compared to 24 percent in 2016. And even though women are better represented in the non-equity ranks, many of the new female partners are equity partners. Women represented 29 percent of all new equity partners in 2017, a figure higher than any previous year.
- Women also hold more leadership positions than they did in the past, serving in increasing numbers on law firm executive committees, as heads of office and practice leaders. Almost 24 percent of management committee members are female, as are 24 percent of attorneys leading practice departments and 21 percent of U.S. office heads.

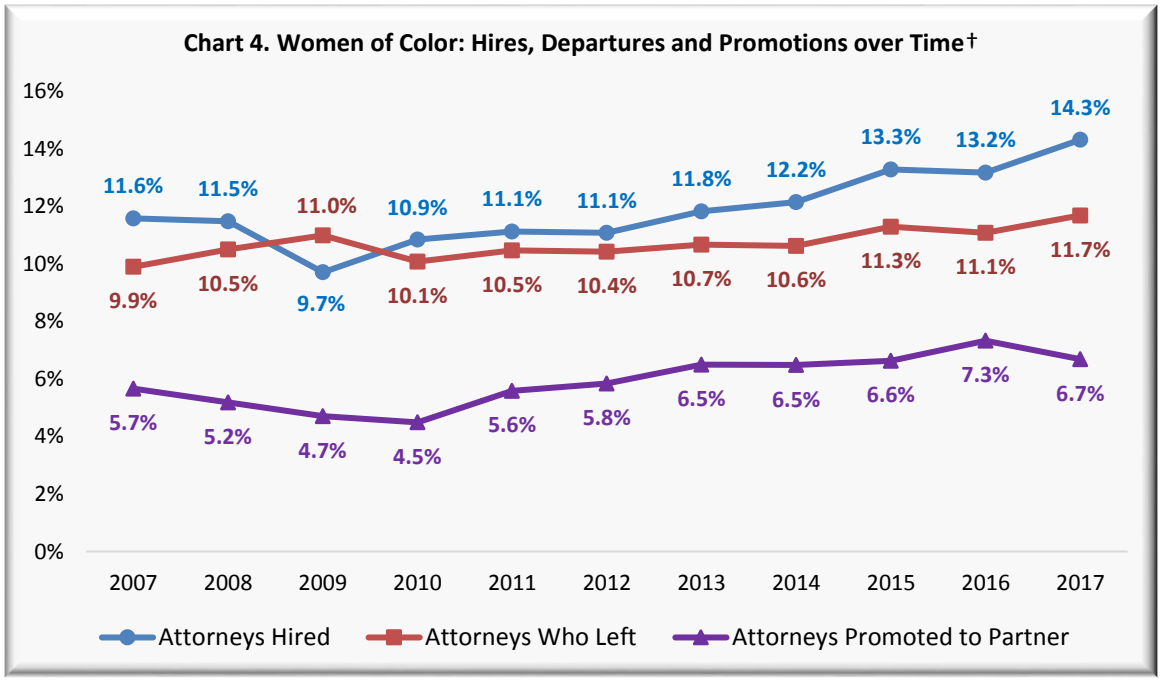


*2008 for US office heads and practice leaders

- When it comes to retention, the results also show some progress—at least for white women. The overall percentage of women among attorney departures has hovered between 40 and 41 percent for most of the last 11 years. However, since 2010, when more than 31 percent of attorneys who left their firms were white women, that number has slowly declined and, in 2017, dropped below 29 percent. Unfortunately, the number of women of color leaving has increased over that same period. In 2010, 10 percent of lawyers who left their firms were minority women; in 2017, that number was closer to 12 percent.
- Although associate attrition numbers have fluctuated since the recession, the overall trend is similarly downward for white women and upward for women of color. Women represented 46 percent of all associates who left their firms in 2017, and a third of those were women of color. In 2010, more than 34 percent of associates who left their firms were white women; that number dropped to 31 percent in 2017. Meanwhile, minority women represented 13 percent of associate departures in 2010 but more than 15 percent in 2017.



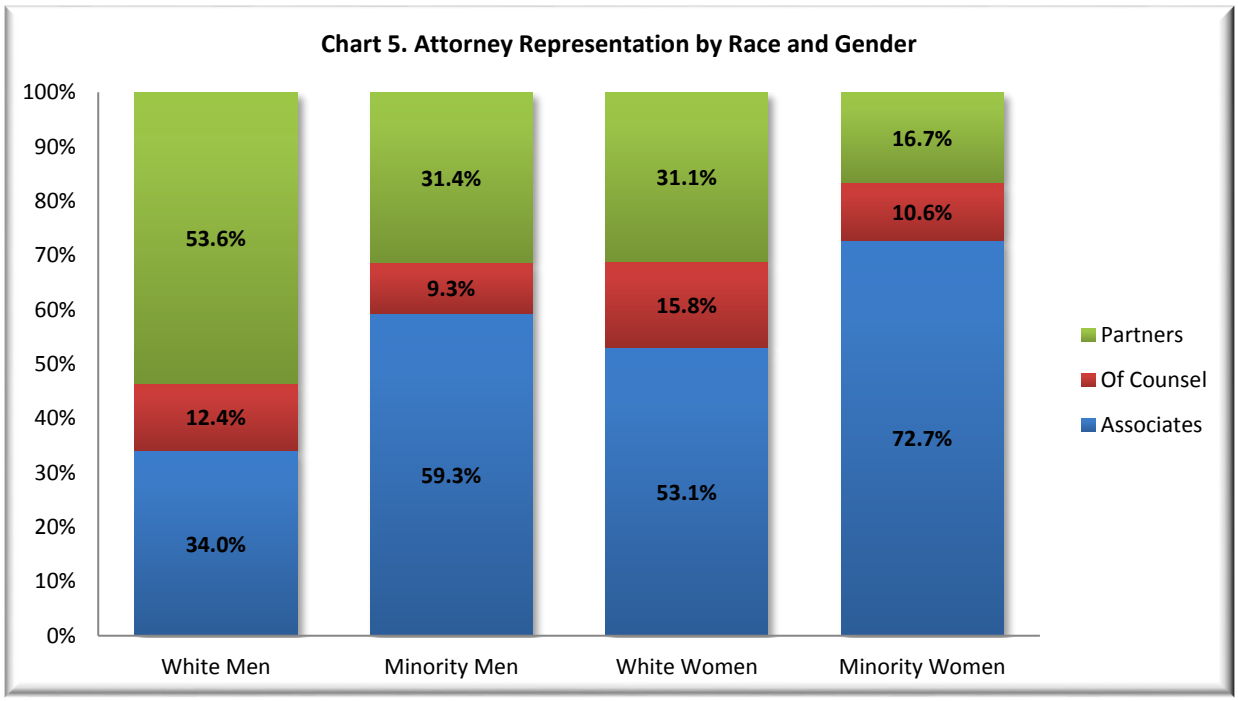
As attrition has slowed among female attorneys, law firms have stepped up the hiring and promotion of women. Progress is less obvious for women of color, however, among whom departures have increased.



†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 to percentage of women among attorneys promoted to partnership.

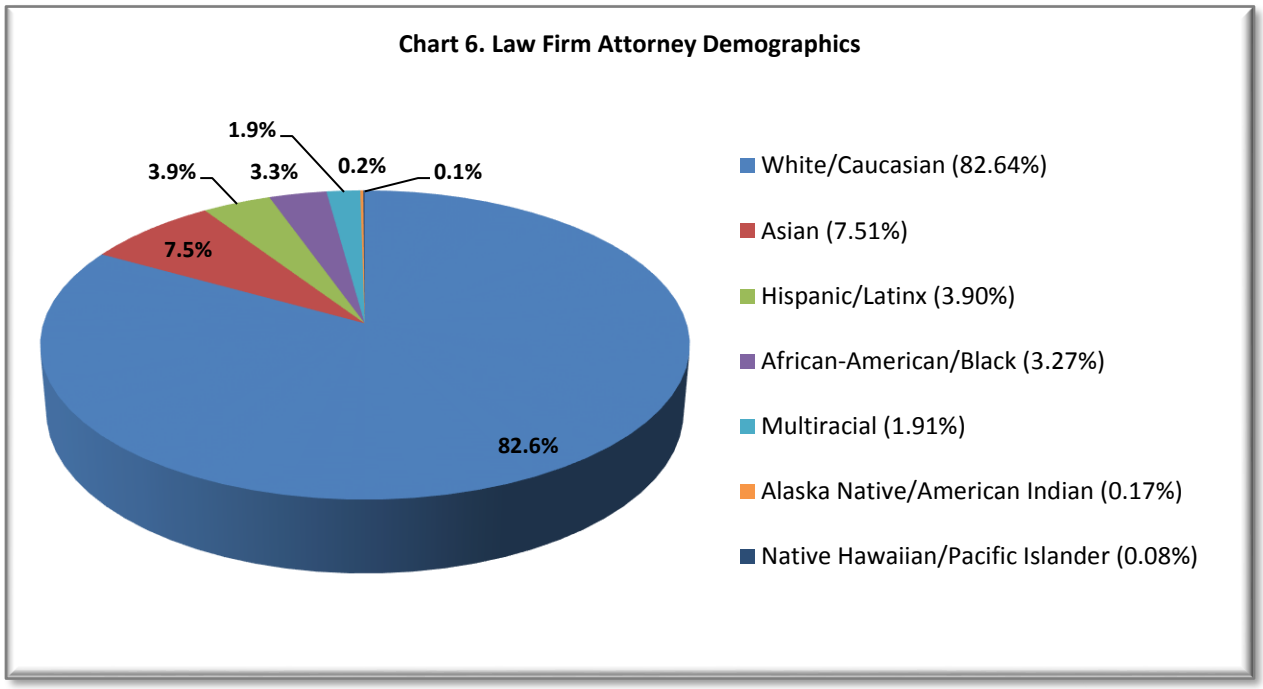
WOMEN OF COLOR

- While the number of minority women in law firms is growing, at least a little, at all attorney levels, women of color remain underrepresented as law firm leaders and overrepresented among the attorneys who leave their firms.
- Roughly one in four women at surveyed law firms is a member of a racial/ethnic minority group. According to the latest results, women of color represent more than 8 percent of all lawyers and 14 percent of associates. Both numbers are higher than any reported in the last 11 years.
- Representation of women of color at the partnership level has also grown, from under 2 percent in 2007 to more than 3 percent in 2017. Minority women represent close to 3 percent of equity partners and 5 percent of non-equity partners.
- Women of color are being hired in greater numbers than minority men and make up a larger share of the associate population. Minority women represent 14 percent of associates, compared to 11 percent for men. More than 14 percent of attorneys hired in 2017 were women of color, up from 13 percent in 2016. And over 18 percent of 2L students who summered at law firms last year were minority women, compared to 14 percent for minority men.
- Yet, in the upper echelons of firm hierarchies, minority women face both a gender gap and a racial divide. Although a majority of the attorneys of color in law firms are female, women of color are far less likely to be partners than either minority men or their white colleagues of either gender. While 54 percent of white men are partners, and 31 percent of both white women and minority men are partners, only 17 percent of minority women are.
- The seeming limits on opportunities within their own firms may be contributing to the increase in attrition among women of color. As the number of white women leaving firms has declined over the last several years, the number of departures among minority women continues to climb. In 2007, 10 percent of lawyers who left their firms were minority women; in 2017, that number was closer to 12 percent. In 2017, more than 15 percent of associates who left firms were women of color, the highest number to date.



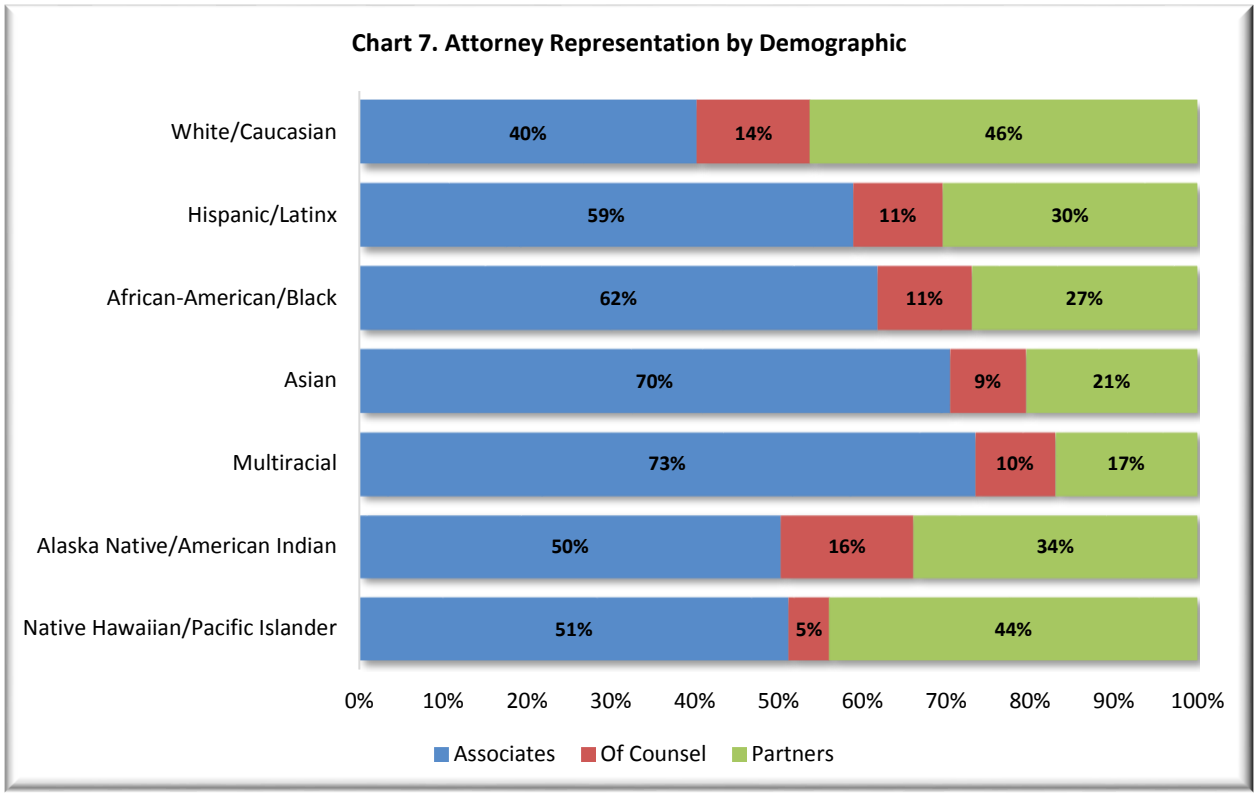
Results by Race/Ethnicity

- 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. Although results for all attorneys of color are often combined, the survey data reveals disparate levels of progress among these groups.
- Last year's report highlighted some of the differences in progress among individual minority groups, trends that have largely continued in this year's survey. Although Asian Americans represent the single largest racial minority group, they are the least likely to be partners at their firms. Hispanic and Latinx lawyers are the most likely, and their overall numbers have grown steadily over time, although they remain low compared to their representation among the U.S. population as a whole. Progress for African-American lawyers has been the most elusive, as their hiring remains below pre-recession levels and they continue to leave their firms at a higher rate than other groups.



ASIAN AMERICAN

- Although law firms hired fewer Asians into their 2L summer classes last year than they had in 2016, the number of Asian American attorneys has increased in nearly every other category. More than 7 percent of law firm attorneys are of Asian background, and Asians represent almost 12 percent of law firm associates.
- The number of Asian partners has also slowly increased over the last decade, from just over 2 percent in 2007 to more 3 percent in 2017. Yet their numbers remain disproportionately low, even compared to other minority groups. Asians represent almost 45 percent of all attorneys of color but just 38 percent of all minority partners. Twenty-one percent of Asian lawyers are partners, compared to 27 percent of African-American attorneys and 30 percent of Hispanic/Latinx lawyers.
- The data shows similar underrepresentation in law firm management. Asian attorneys represent under 3 percent of executive committee members—less than either black or Hispanic/Latinx attorneys, even though the number of Asian lawyers at these firms is more than that of African-American and Hispanic/Latinx lawyers combined.
- That said, the number of Asians promoted or hired into law firm partnerships has steadily grown at a greater rate than other minority groups. At almost 7 percent, the percentage of Asians among promotions in 2017 is nearly 2 percentage points higher than it was back in 2007. Asians also represent 6 percent of partners hired laterally in 2017.
- More than 11 percent of all new lawyers hired in 2017, including starting associates as well as laterals, were of Asian descent—the highest figure to date. Summer associate numbers have shown more variation over the years. Asians represented more than 13 percent of 2L summer associates in 2017, which is somewhat lower than the prior two years.
- While overall attrition among Asian lawyers dropped slightly in 2017, there was a slight increase in departures at the associate level. Asian Americans represented under 10 percent of all attorneys who left their firms in 2017 and almost 13 percent of associate departures.



HISPANIC/LATINX

- After Asian Americans, Hispanic and Latinx attorneys represent the largest minority group in law firms. Although the overall percentage of Hispanic/Latinx attorneys remains relatively small, at just under 4 percent, their numbers have slowly but steadily risen over the last decade. According to the latest survey results, Hispanic and Latinx attorneys represent 5 percent of law firm associates and almost 3 percent of partners.
- Law firms have been hiring more Hispanic and Latinx law students into their summer programs over the last decade. In 2007, 4 percent of 2Ls at law firms were Hispanic/Latinx; by 2017, that number approached 7 percent. Lateral hiring has also increased, and in 2017 more than 5 percent of all new lawyers hired were Hispanic or Latinx.
- Promotion figures have varied over the years, and in 2017 Hispanic/Latinx attorneys represented 3.5% of the lawyers promoted to partner, lower than the previous two years, when it was closer to 4 percent. Nevertheless, Hispanic and Latinx attorneys are still more likely to be partners than either African-Americans or Asian Americans. More than 30 percent of Hispanic/Latinx lawyers are partners, compared to 27 percent of African-Americans and 21 percent of Asians.
- Attrition is another area where figures have fluctuated over the years. But the latest survey results show an uptick in the number of Latinx lawyers leaving their firms. Hispanic/Latinx attorneys have generally represented about 4 percent of attorney departures, but in 2017 that number approached 5 percent. Among associates, the figure, which had hovered between 4 and 5 percent, climbed to 6 percent.

Table 2. Demographics: US Population Compared to JD Enrollment, Summer Associates and Attorneys

Demographic	US Population[2]	JD 1L Enrollment[3]	2L Summer Associates[4]	Law Firm Attorneys[5]
Female	50.8%	52.3%	49.9%	35.7%
White/Caucasian	60.7%	60.3%	67.5%	82.6%
Asian	5.8%	6.0%	13.6%	7.6%
Hispanic/Latinx	18.1%	13.3%	6.8%	3.9%
African-American/Black	13.4%	8.6%	7.9%	3.3%
Multiracial (Two or More Races)	2.7%	3.5%	3.6%	1.9%
Alaska Native/American Indian	1.3%	0.6%	0.3%	0.2%
Native Hawaiian/Pacific Islander	0.2%	0.2%	0.03%	0.1%

[2] *Source: US Census 2017*

[3] *Source: ABA Annual Questionnaire reports, 2017 reporting Fall 2017 JD 1L enrollment (posted 04/02/2018)*

[4] *2L law students in law firm summer programs in 2017, according to 2018 Vault/MCCA Survey*

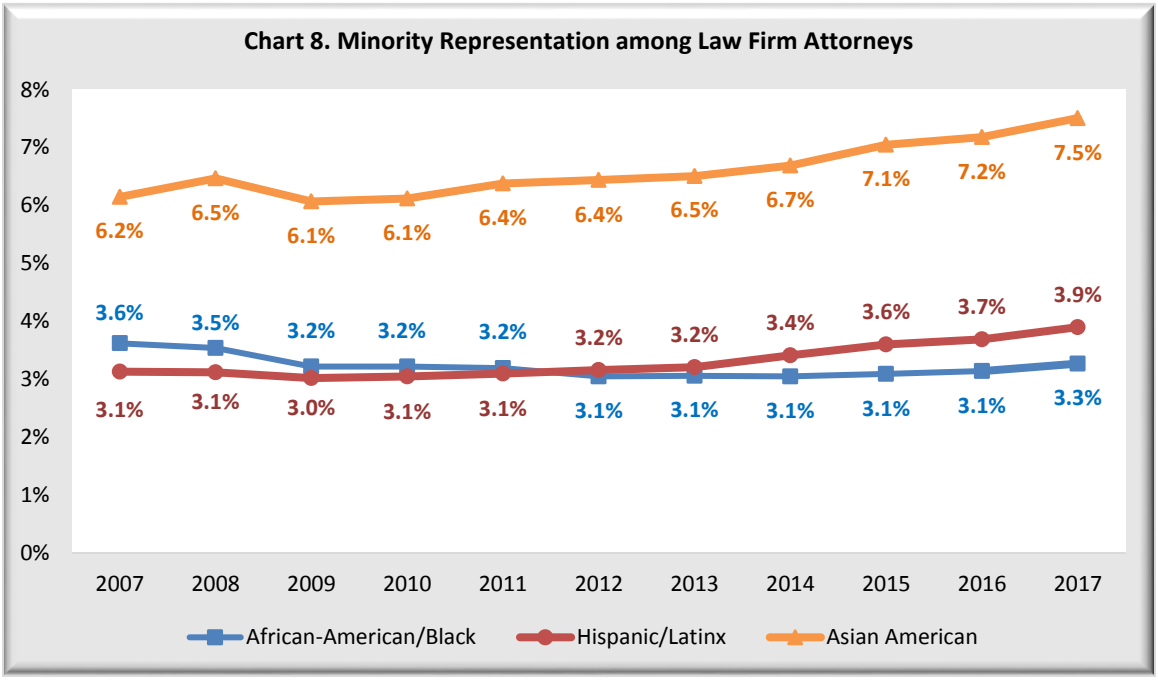
[5] *All associates, of counsel and partners as of 2017, according to 2018 Vault/MCCA Survey*

AFRICAN-AMERICAN/BLACK

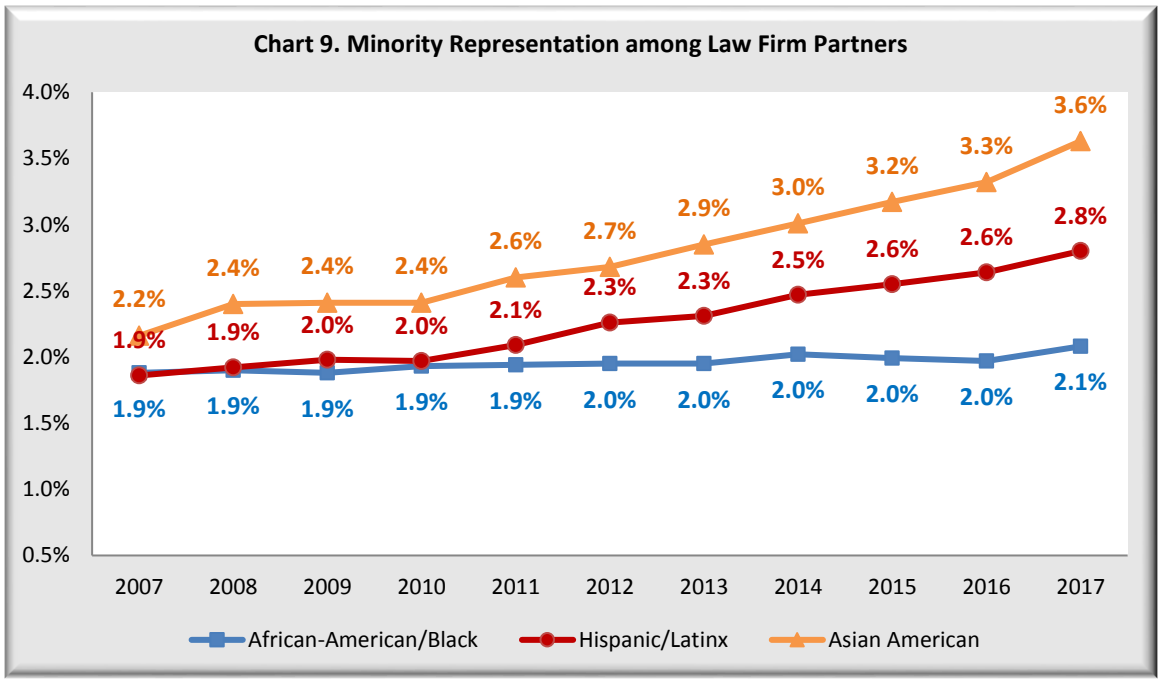
- Alone among the three largest minority groups, the numbers of African-American/Black attorneys hired and promoted remain lower than they were prior to the recession. Black lawyers have represented about 3 percent of law firm attorneys for nearly a decade. At 3.3%, the latest figure is somewhat higher than the previous year (3.1%) but still lower than it was back in 2008 (3.5%). Although the latest results show a slightly higher percentage of African-American/Black associates than the previous year, the figure is still only 4.5%, lower than it was back in 2007, when more than 5 percent of associates were African-American.
- As the legal profession has collectively made greater diversity a goal, data reported by law firms show higher percentages of historically underrepresented groups among new partner classes than within the current partnership. For example, women represent 23% of current partners but 38% of those promoted in 2017, and Asian Americans, who represent 3.6% of current partners, made up 6.7% of the 2017 partner class.
- But those signs of progress are less evident in the results for African-American/Black lawyers. Last year's report noted that, at 2.3%, the representation of black lawyers among attorneys promoted to partner was the lowest to date. That figure, which remains unchanged in the latest results, also varies little from current partnership demographics. Just under 2.1% of law firm partners are black, a number that has barely moved in the last 10 years.
- Retention also remains an issue among African-American/Black attorneys. Overall, the percentage who leave their firms has been declining over the last decade, although African-Americans represented a slightly higher number of associates who left their firms in 2017 than the previous year (5.7% compared to 5.6%). But even with slowing attrition rates, departures among black lawyers—especially women—continue to outpace those of other minority groups as well as white lawyers.
- One positive sign in the latest survey results is that the 2017 class of summer associates included the highest percentage of black law students to date. Almost 8 percent of 2Ls at surveyed law firms last year were black. And among new attorneys hired, that number climbed over 5 percent for the first time since 2008.

Table 3. Attorney Departures among Largest Racial/Ethnic Groups in 2017
As Percentage of their Overall Law Firm Population

	African-American/ Black	Asian American	Hispanic/Latinx	White/Caucasian
All Attorneys	14.1%	12.8%	12.7%	9.4%
Men	13.4%	12.1%	12.2%	8.8%
Women	14.7%	13.4%	13.2%	10.5%



As the population of Asian and Hispanic/Latinx lawyers has gradually increased over time, the number of African-American/Blacks in law firms has fallen. Representation of Hispanic/Latinx and Asian American attorneys among partners has also grown, while the number of black partners has remained more static.



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 seven 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.
- Because of these reporting anomalies and because the data for these three groups are relatively small, it is difficult to assess changes over time.
- Of the three groups, individuals who identify with more than one race represent the largest. Of the more than 100,000 attorneys at surveyed law firms, fewer than 2,000 identify as multiracial. But their numbers have been increasing over time. Multiracial lawyers now represent just under 2 percent of all lawyers, 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 than Asians or other minority groups, but their representation has been growing. In 2016, 15 percent of lawyers identifying with more than one race were partners at their firms; in 2017, that number reached 17 percent.
- Alaska Natives and American Indians make up less than 0.2**%** of attorneys at surveyed law firms (171 out of 103,331 lawyers), including 0.2% of associates and 0.13% of partners.
- Native Hawaiians and Pacific Islanders are the smallest racial group for which survey data is collected, representing just 0.08% of lawyers—82 attorneys—across surveyed firms. More than 40 percent of those attorneys (36) are partners.

LGBTQ Attorneys

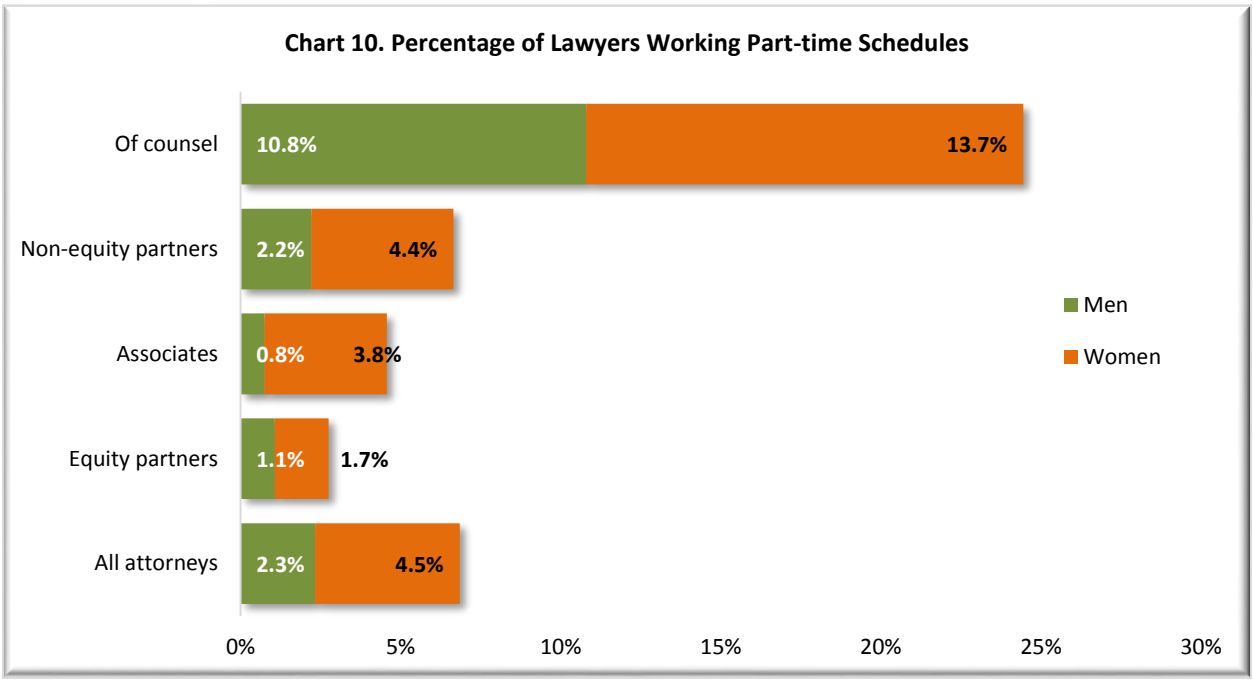
- The numbers reported for openly lesbian, gay, bisexual, transgender and queer attorneys at law firms continue to grow. Increased reporting of LGBTQ figures may have had an impact on the percentages reported, so not every numerical increase necessarily translates to an actual increase in the LGBTQ population. The vast majority of law firms surveyed in 2018—94 percent—reported data for LGBTQ attorneys.
- According to the latest survey results, openly LGBTQ lawyers represent almost 3 percent (2.8%) of law firm attorneys, the highest figure reported to date. The number of associates rose from 3.3% in 2016 to 3.7% in 2017, and almost 2 percent (1.95%) of partners now identify as LGBTQ.
- Law firm data also indicate that more openly LGBTQ lawyers are being hired and advancing to partnership. Among the 2L summer associate class, more than 5 percent were openly LGBTQ, and 2.7% of partners promoted in 2017 are LGBTQ.

Individuals with Disabilities

- While the Vault/MCCA Survey solicits information on individuals with disabilities, underreporting makes it difficult to draw reliable conclusions about their representation in law firms. Thirty percent of law firms surveyed do not track or report disability information. The numbers that were reported, while still quite small—well below 1 percent—are trending upward.
- According to the latest survey results, individuals with disabilities represent 0.44% of law firm attorneys, not much more than the 0.42% reported last year, but notably higher than the 0.15% reported 11 years ago when Vault and MCCA first began collecting this data.
- Of the 453 attorneys with disabilities recorded in this year's survey, 171—nearly 38 percent—are partners, 43 percent are associates and 19 percent are of counsel.

PART-TIME ATTORNEYS

- According to this year's survey, almost 7 percent (6.8%) of law firm attorneys work a part-time schedule. That figure is a little higher than last year (6.5%). Roughly two-thirds (66.0%) of those lawyers are women. Forty-seven percent of attorneys with part-time schedules are of counsel, 30 percent are associates and the rest are divided among equity and non-equity partners.
- Nearly one in four attorneys in the position of counsel works part time. Part-time schedules are less common among associates and least reported among partners. This year's results show that less than 3 percent of equity partners work part time.



Appendices

Methodology

- Findings are based on law firm responses to the annual Vault/Law Firm Diversity Survey. Survey results for the years 2007 through 2017 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, 2017, was distributed in the spring of 2018 and published in August 2018.
- 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 232 law firms.
- The Vault/MCCA Survey is administered by Vault.com. The results are compiled 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 2012); 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: 2017 vs 2016 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	2017	67.46%	74.54%	86.69%	87.33%	90.90%	89.94%	82.64%
	2016	68.38%	75.60%	86.94%	89.37%	91.29%	90.79%	83.58%
	2007	73.43%	78.96%	89.43%	91.17%	93.65%	93.06%	85.72%
Asian American	2017	13.57%	11.85%	5.25%	3.82%	3.56%	3.63%	7.51%
	2016	14.79%	11.51%	5.21%	3.65%	3.20%	3.32%	7.18%
	2007	12.88%	9.96%	3.43%	3.00%	1.90%	2.16%	6.15%
Hispanic / Latinx	2017	6.78%	5.15%	3.22%	3.48%	2.54%	2.80%	3.90%
	2016	5.92%	4.85%	3.25%	3.24%	2.42%	2.64%	3.69%
	2007	4.08%	4.33%	2.35%	2.21%	1.75%	1.86%	3.13%
African-American / Black	2017	7.86%	4.53%	2.85%	2.65%	1.87%	2.08%	3.27%
	2016	6.57%	4.41%	2.72%	2.44%	1.80%	1.97%	3.14%
	2007	7.27%	5.11%	3.32%	2.78%	1.60%	1.88%	3.62%
Multiracial	2017	3.64%	3.14%	1.41%	1.03%	0.67%	0.77%	1.91%
	2016	3.48%	2.90%	1.27%	0.85%	0.50%	0.59%	1.70%
	2007	1.23%	1.05%	0.36%	0.21%	0.20%	0.20%	0.64%
Alaska Native / American Indian	2017	0.29%	0.19%	0.20%	0.18%	0.12%	0.13%	0.17%
	2016	0.21%	0.20%	0.19%	0.20%	0.13%	0.14%	0.18%
	2007	0.37%	0.22%	0.11%	0.16%	0.15%	0.15%	0.18%
Native Hawaiian / Pacific Islander	2017	0.03%	0.09%	0.03%	0.13%	0.07%	0.08%	0.08%
	2016	0.08%	0.08%	0.05%	0.08%	0.03%	0.04%	0.06%
	2007	0.12%	0.12%	0.08%	0.09%	0.03%	0.04%	0.08%
Openly LGBTQ	2017	5.16%	3.73%	2.20%	2.01%	1.92%	1.95%	2.77%
	2016	4.64%	3.28%	2.28%	1.67%	1.81%	1.77%	2.50%
	2007	2.01%	1.98%	1.25%	1.17%	1.16%	1.16%	1.58%
Individuals with Disabilities	2017	0.26%	0.43%	0.64%	0.39%	0.39%	0.39%	0.44%
	2016	0.20%	0.39%	0.60%	0.42%	0.40%	0.40%	0.42%
	2007	0.05%	0.13%	0.24%	0.16%	0.17%	0.16%	0.15%
All Racial Minorities	2017	32.18%	24.95%	12.97%	11.29%	8.82%	9.48%	16.84%
	2016	31.06%	23.95%	12.67%	10.46%	8.07%	8.70%	15.95%
	2007	25.95%	20.78%	9.66%	8.45%	5.62%	6.30%	13.81%
All Women	2017	49.88%	46.22%	40.23%	30.36%	20.64%	23.26%	35.70%
	2016	48.99%	45.80%	39.83%	30.15%	19.81%	22.52%	35.03%
	2007	46.53%	44.66%	35.63%	26.17%	16.05%	18.46%	33.10%
Women of Color	2017	18.48%	13.96%	7.03%	4.88%	2.81%	3.37%	8.57%
	2016	17.30%	13.36%	6.78%	4.59%	2.48%	3.03%	8.08%
	2007	14.63%	11.65%	4.78%	3.11%	1.52%	1.90%	7.01%

Table A2. Minority Lawyers among Surveyed Firms

MINORITY LAWYERS			
As of 12/31/2017	**All**	**Men**	**Women**
Overall Law Firm Demographics			
All Attorneys (associates, partners, of counsel)	16.84%	8.27%	8.57%
Associates	24.95%	10.99%	13.96%
All Partners (both equity and non-equity)	9.48%	6.12%	3.37%
Equity Partners	8.82%	6.01%	2.81%
Non-equity Partners	11.29%	6.41%	4.88%
Of Counsel	12.97%	5.94%	7.03%
Recruitment & Promotion			
2L Summer Associates	32.18%	13.70%	18.48%
All Attorneys Hired (laterals and starting associates)	26.24%	11.92%	14.32%
Lateral Associates	27.65%	12.08%	15.57%
Lateral Partners	15.87%	9.86%	6.01%
Lateral Of Counsel	18.96%	8.79%	10.17%
Partners Promoted	14.41%	7.72%	6.69%
All New Equity Partners (both promoted and lateral)	14.72%	9.12%	5.60%
Attrition (attorneys who left their firms)			
All Attorneys (associates, partners, of counsel)	22.10%	10.41%	11.69%
Associates (all levels)	28.32%	12.66%	15.66%
Junior Associates (1st- and 2nd-years)	32.29%	15.46%	16.83%
Midlevel Associates (3rd-, 4th- and 5th-years)	29.30%	12.38%	16.92%
Senior Associates (6rd-, 7th-, 8th-years and above)	25.73%	11.82%	13.90%
Equity Partners	9.88%	6.67%	3.21%
Non-equity Partners	12.95%	7.98%	4.97%
Of Counsel	14.96%	6.78%	8.19%
Membership on Management-Level Committees			
Executive/Management Committee	9.54%	6.52%	3.02%
Partner Review Committee	9.20%	6.30%	2.91%
Associate Review Committee	11.23%	6.64%	4.59%
Hiring Committee	17.48%	8.96%	8.53%
Diversity Committee	40.40%	21.06%	19.33%
Other Leadership Roles*			
U.S. Office Heads	9.30%		
Practice Leaders	8.67%		

**Gender-specific data is unavailable*

Table A3. Women among Surveyed Firms

ALL FEMALE LAWYERS			
As of 12/31/2017	**All Women**	**White Women**	**Women of Color**
Overall Law Firm Demographics			
All Attorneys (associates, partners, of counsel)	35.70%	27.13%	8.57%
Associates	46.22%	32.25%	13.96%
All Partners (both equity and non-equity)	23.26%	19.89%	3.37%
Equity Partners	20.64%	17.84%	2.81%
Non-equity Partners	30.36%	25.48%	4.88%
Of Counsel	40.23%	33.20%	7.03%
Recruitment & Promotion			
2L Summer Associates	49.88%	31.40%	18.48%
All Attorneys Hired (laterals and starting associates)	44.43%	30.11%	14.32%
Lateral Associates	46.13%	30.56%	15.57%
Lateral Partners	27.84%	21.83%	6.01%
Lateral Of Counsel	44.42%	34.25%	10.17%
Partners Promoted	38.03%	31.34%	6.69%
All New Equity Partners (both promoted and lateral)	29.10%	23.50%	5.60%
Attrition (attorneys who left their firms)			
All Attorneys (associates, partners, of counsel)	40.23%	28.53%	11.69%
Associates (all levels)	46.59%	30.94%	15.66%
Junior Associates (1st- and 2nd-years)	44.72%	27.89%	16.83%
Midlevel Associates (3rd-, 4th- and 5th-years)	47.07%	30.15%	16.92%
Senior Associates (6rd-, 7th-, 8th-years and above)	46.86%	32.95%	13.90%
Equity Partners	21.56%	18.35%	3.21%
Non-equity Partners	30.10%	25.13%	4.97%
Of Counsel	37.61%	29.42%	8.19%
Membership on Management-Level Committees			
Executive/Management Committee	23.63%	20.61%	3.02%
Partner Review Committee	26.73%	23.83%	2.91%
Associate Review Committee	30.66%	26.08%	4.59%
Hiring Committee	38.08%	29.55%	8.53%
Diversity Committee	48.04%	28.71%	19.33%
Other Leadership Roles*			
U.S. Office Heads	21.49%		
Practice Leaders	23.67%		

**Race-specific data is unavailable*

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

	African-American/Black			Asian American			Hispanic/Latinx		
As of 12/31/2017	**All**	**Men**	**Women**	**All**	**Men**	**Women**	**All**	**Men**	**Women**
Law Firm Demographics									
All Attorneys	3.27%	1.54%	1.73%	7.51%	3.54%	3.97%	3.90%	2.15%	1.76%
Associates	4.53%	1.90%	2.63%	11.85%	5.11%	6.74%	5.15%	2.48%	2.67%
All Partners	2.08%	1.29%	0.79%	3.63%	2.26%	1.37%	2.80%	1.94%	0.85%
Equity Partners	1.87%	1.20%	0.67%	3.56%	2.29%	1.27%	2.54%	1.90%	0.64%
Non-equity Partners	2.65%	1.53%	1.12%	3.82%	2.18%	1.64%	3.48%	2.06%	1.42%
Of Counsel	2.85%	1.15%	1.69%	5.25%	2.32%	2.93%	3.22%	1.65%	1.57%
Recruitment & Promotion									
2L Summer Associates	7.86%	2.85%	5.01%	13.57%	5.68%	7.89%	6.78%	3.37%	3.42%
All Attorneys Hired	5.39%	2.27%	3.12%	11.59%	5.27%	6.32%	5.66%	2.75%	2.91%
Lateral Associates	5.59%	2.18%	3.41%	12.34%	5.32%	7.03%	6.36%	3.07%	3.29%
Lateral Partners	3.46%	1.95%	1.50%	5.91%	3.71%	2.20%	4.41%	2.90%	1.50%
Lateral Of Counsel	5.84%	2.23%	3.61%	7.02%	3.35%	3.67%	3.41%	1.97%	1.44%
Partners Promoted	2.26%	1.03%	1.24%	6.74%	3.55%	3.19%	3.50%	2.16%	1.34%
All New Equity Partners	2.70%	1.50%	1.21%	6.23%	3.62%	2.61%	3.76%	2.70%	1.06%
Attrition (attorneys who left their firms)									
All Attorneys	4.63%	2.08%	2.55%	9.61%	4.29%	5.32%	4.96%	2.63%	2.33%
All Associates	5.73%	2.47%	3.25%	12.86%	5.50%	7.36%	5.99%	2.90%	3.09%
Junior Associates	6.95%	3.33%	3.62%	15.17%	7.14%	8.02%	6.75%	3.33%	3.42%
Midlevel Associates	5.63%	2.52%	3.10%	13.81%	5.67%	8.15%	5.86%	2.56%	3.30%
Senior Associates	5.34%	2.08%	3.26%	10.96%	4.67%	6.28%	5.81%	3.06%	2.75%
Equity Partners	2.14%	1.32%	0.82%	3.62%	2.22%	1.40%	3.37%	2.55%	0.82%
Non-equity Partners	3.26%	2.06%	1.20%	4.29%	2.74%	1.54%	3.95%	2.40%	1.54%
Of Counsel	3.44%	1.24%	2.20%	5.99%	2.54%	3.44%	3.16%	1.92%	1.24%
Membership on Management-Level Committees									
Executive/Management Committee	3.06%	2.13%	0.93%	2.70%	1.69%	1.01%	3.14%	2.25%	0.89%
Partner Review Committee	2.66%	2.13%	0.53%	2.71%	1.50%	1.21%	3.15%	2.23%	0.92%
Associate Review Committee	2.68%	1.51%	1.17%	4.76%	2.59%	2.17%	2.85%	1.80%	1.05%
Hiring Committee	5.03%	2.50%	2.53%	6.25%	3.27%	2.98%	4.33%	2.48%	1.85%
Diversity Committee	14.25%	7.72%	6.53%	13.80%	6.61%	7.19%	9.63%	5.59%	4.04%

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

	Multiracial			Alaska Native/American Indian			Native Hawaiian/ Pacific Islander		
As of 12/31/2017	**All**	**Men**	**Women**	**All**	**Men**	**Women**	**All**	**Men**	**Women**
Law Firm Demographics									
All Attorneys	1.91%	0.92%	0.99%	0.17%	0.08%	0.09%	0.08%	0.04%	0.04%
Associates	3.14%	1.39%	1.75%	0.19%	0.08%	0.11%	0.09%	0.04%	0.05%
All Partners	0.77%	0.49%	0.27%	0.13%	0.08%	0.05%	0.08%	0.05%	0.03%
Equity Partners	0.67%	0.49%	0.18%	0.12%	0.07%	0.05%	0.07%	0.06%	0.01%
Non-equity Partners	1.03%	0.50%	0.53%	0.18%	0.10%	0.08%	0.13%	0.03%	0.09%
Of Counsel	1.41%	0.71%	0.70%	0.20%	0.09%	0.11%	0.03%	0.01%	0.02%
Recruitment & Promotion									
2L Summer Associates	3.64%	1.66%	1.98%	0.29%	0.15%	0.15%	0.03%	0.00%	0.03%
All Attorneys Hired	3.21%	1.47%	1.74%	0.33%	0.15%	0.18%	0.07%	0.02%	0.05%
Lateral Associates	3.10%	1.39%	1.71%	0.20%	0.10%	0.10%	0.07%	0.03%	0.03%
Lateral Partners	1.60%	1.05%	0.55%	0.40%	0.25%	0.15%	0.10%	0.00%	0.10%
Lateral Of Counsel	2.36%	1.12%	1.25%	0.33%	0.13%	0.20%	0.00%	0.00%	0.00%
Partners Promoted	1.54%	0.82%	0.72%	0.21%	0.05%	0.15%	0.15%	0.10%	0.05%
All New Equity Partners	1.64%	1.06%	0.58%	0.29%	0.14%	0.14%	0.10%	0.10%	0.00%
Attrition (attorneys who left their firms)									
All Attorneys	2.42%	1.14%	1.28%	0.39%	0.23%	0.16%	0.09%	0.04%	0.05%
All Associates	3.25%	1.43%	1.82%	0.41%	0.31%	0.10%	0.08%	0.05%	0.03%
Junior Associates	3.03%	1.37%	1.66%	0.39%	0.29%	0.10%	0.00%	0.00%	0.00%
Midlevel Associates	3.61%	1.40%	2.21%	0.31%	0.16%	0.16%	0.08%	0.08%	0.00%
Senior Associates	2.99%	1.49%	1.49%	0.51%	0.47%	0.04%	0.12%	0.04%	0.08%
Equity Partners	0.49%	0.49%	0.00%	0.25%	0.08%	0.16%	0.00%	0.00%	0.00%
Non-equity Partners	0.94%	0.60%	0.34%	0.34%	0.17%	0.17%	0.17%	0.00%	0.17%
Of Counsel	1.81%	0.90%	0.90%	0.45%	0.11%	0.34%	0.11%	0.06%	0.06%
Membership on Management-Level Committees									
Executive/Management Committee	0.48%	0.32%	0.16%	0.12%	0.08%	0.04%	0.04%	0.04%	0.00%
Partner Review Committee	0.53%	0.29%	0.24%	0.10%	0.10%	0.00%	0.05%	0.05%	0.00%
Associate Review Committee	0.80%	0.63%	0.17%	0.11%	0.09%	0.03%	0.03%	0.03%	0.00%
Hiring Committee	1.60%	0.54%	1.06%	0.20%	0.11%	0.09%	0.07%	0.05%	0.02%
Diversity Committee	2.34%	0.97%	1.37%	0.30%	0.10%	0.20%	0.08%	0.08%	0.00%

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

	Openly LGBTQ			Individuals with Disabilities		
As of 12/31/2017	**All**	**Men**	**Women**	**All**	**Men**	**Women**
Overall Law Firm Demographics						
All Attorneys	2.77%	1.92%	0.86%	0.44%	0.29%	0.15%
Associates	3.73%	2.56%	1.17%	0.43%	0.26%	0.17%
All Partners	1.95%	1.37%	0.57%	0.39%	0.29%	0.10%
Equity Partners	1.92%	1.38%	0.55%	0.39%	0.31%	0.07%
Non-equity Partners	2.01%	1.36%	0.65%	0.39%	0.21%	0.18%
Of Counsel	2.20%	1.51%	0.70%	0.64%	0.40%	0.23%
Recruitment & Promotion						
2L Summer Associates	5.16%	3.24%	1.92%	0.26%	0.15%	0.11%
All Attorneys Hired	3.50%	2.39%	1.11%	0.28%	0.17%	0.11%
Lateral Associates	3.44%	2.25%	1.19%	0.31%	0.18%	0.13%
Lateral Partners	1.60%	1.20%	0.40%	0.00%	0.00%	0.00%
Lateral Of Counsel	1.71%	1.44%	0.26%	0.39%	0.33%	0.07%
Partners Promoted	2.73%	1.75%	0.98%	0.36%	0.31%	0.05%
All New Equity Partners	2.22%	1.50%	0.72%	0.14%	0.14%	0.00%
Attrition (attorneys who left their firms)						
All Attorneys	2.37%	1.57%	0.80%	0.34%	0.25%	0.09%
All Associates	2.99%	2.05%	0.94%	0.28%	0.18%	0.10%
Junior Associates	4.50%	2.84%	1.66%	0.68%	0.49%	0.20%
Midlevel Associates	3.14%	2.33%	0.81%	0.23%	0.08%	0.16%
Senior Associates	2.24%	1.45%	0.79%	0.16%	0.16%	0.00%
Equity Partners	0.91%	0.41%	0.49%	0.16%	0.16%	0.00%
Non-equity Partners	1.46%	0.86%	0.60%	0.43%	0.34%	0.09%
Of Counsel	1.81%	1.19%	0.62%	0.62%	0.51%	0.11%
Membership on Management-Level Committees						
Executive/Management Committee	1.81%	1.05%	0.76%	0.20%	0.12%	0.08%
Partner Review Committee	1.50%	0.58%	0.92%	0.34%	0.24%	0.10%
Associate Review Committee	2.02%	1.11%	0.91%	0.37%	0.28%	0.09%
Hiring Committee	3.38%	2.23%	1.15%	0.38%	0.16%	0.23%
Diversity Committee	8.87%	5.64%	3.23%	0.61%	0.25%	0.36%
Other Leadership Roles*						
U.S. Office Heads	2.00%			0.50%		
Practice Leaders	1.92%			0.36%		

**Gender-specific data is unavailable.*

Participating Law Firms
2018 Vault/MCCA Law Firm Diversity Survey

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
Archer Norris, PLC
Arent Fox LLP
Armstrong Teasdale LLP
Arnold & Porter Kaye Scholer LLP
Axinn Veltrop & Harkrider LLP
Baird Holm LLP
Baker & McKenzie, LLP
Baker Botts LLP
Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
BakerHostetler
Ballard Spahr LLP
Barack Ferrazzano Kirschbaum & Nagelberg LLP
Barnes & Thornburg 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
Brinks Gilson & Lione
Bryan Cave Leighton Paisner LLP
Buchalter
Buchanan Ingersoll & Rooney PC
Burns & Levinson LLP
Burns White LLC
Cadwalader, Wickersham & Taft LLP
Cahill Gordon & Reindel LLP
Calfee, Halter & Griswold LLP
Cantrell, Strenski & Mehringer, LLP
Carlton Fields
Carothers DiSante & Freudenberger 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
Debevoise & Plimpton LLP
DeCaro Doran Siciliano Gallagher & DeBlasis 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
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
Fried, Frank, Harris, Shriver & Jacobson LLP
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.
Groom Law Group, Chartered
Gust Rosenfeld PLC
Hall & Evans, LLC
Hanson Bridgett LLP
Harrity & Harrity, LLP
Haynes and Boone LLP
Hinshaw & Culbertson LLP
Hogan Lovells US LLP
Holland & Hart LLP
Holland & Knight LLP
Hughes Hubbard & Reed LLP
Hunton Andrews Kurth LLP
(formerly Andrews Kurth Kenyon)
Hunton Andrews Kurth LLP
(formerly Hunton & Williams LLP)
Husch Blackwell LLP
Ice Miller LLP
Jaburg Wilk
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
Keating Muething & Klekamp PLL
Kelley Drye & Warren LLP
Kilpatrick Townsend & Stockton LLP
King & Spalding
Kirkland & Ellis LLP
Knobbe, Martens, Olson & Bear LLP
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
McCarter & English LLP
McDermott Will & Emery LLP
McGinnis, Lochridge, & Kilgore L.L.P.
McGlinchey Stafford
McGuireWoods LLP
Michael Best & Friedrich LLP
Milbank, Tweed, Hadley & McCloy LLP
Miles & Stockbridge P.C.
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
Nelson Mullins Riley & Scarborough 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.
Patterson Thuente IP
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
Pomerantz LLP
Potter Anderson & Corroon LLP
Proskauer Rose LLP
Quarles & Brady LLP
Quintairos, Prieto, Wood & Boyer, P.A.

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.
Rodey, Dickason, Sloan Akin, & Robb, PA
Ropes & Gray LLP
Rumberger Kirk & Caldwell
Russell & Oliver, 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
Smith Moore Leatherwood LLP
Snyder, Clark, Lesch & Chung, LLP
Squire Patton Boggs LLP
Steptoe & Johnson LLP
Sterne, Kessler, Goldstein & Fox, P.L.L.C.
Stinson Leonard Street LLP
Stoel Rives LLP
Stroock & Stroock & Lavan LLP
Sullivan & Cromwell LLP
Sulloway & Hollis, PLLC
Taylor, Keller & Oswald, PLLC
The Cavanagh Law Firm
Thompson & Knight LLP
Thompson Coburn LLP
Thompson Hine LLP
Thompson, Coe, Cousins & Irons, LLP
Troutman Sanders LLP
Vedder Price
Venable LLP
Vinson & Elkins LLP
Vorys, Sater, Seymour and Pease LLP
Wachtell, Lipton, Rosen & Katz
Walters Balido & Crain LLP
Weil, Gotshal & Manges LLP
White & Case LLP
Wiley Rein 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

LAW FIRMS

Firm uses minorities as 'diversity props' to impress clients, suit alleges

BY DEBRA CASSENS WEISS (HTTP://WWW.ABAJOURNAL.COM/AUTHORS/4/)

MARCH 6, 2019, 11:35 AM CST

A black associate has filed a lawsuit claiming that her North Carolina law firm uses minorities as “diversity props” to impress clients and also misrepresents its inclusiveness to potential employees.

Sharika Robinson claims in her March 4 lawsuit (http://www.abajournal.com/files/RobinsonSuit.pdf) that Robinson, Bradshaw & Hinson in North Carolina maintained in its advertising and in her job interviews that it was committed to the ideals of diversity and inclusion. Robinson says she was particularly impressed that Robinson Bradshaw was one of the original law firms to sign Mecklenburg County Bar

Sharika Robinson. Photo from Robinson, Bradshaw & Hinson (https://www.robinsonbradshaw.com/professionals-Sharika-Robinson.html).

Association's 2002 call to action on diversity and inclusion in the legal profession.

In reality, Robinson says, she is one of only two black associates at the 165-lawyer firm's three offices, and the firm has had no more than 10 black lawyers since 1960. Robinson began working at Robinson Bradshaw in 2015 after two federal judicial clerkships, including a clerkship with Judge Damon Keith of the 6th U.S. Circuit Court of Appeals at Cincinnati.

The law firm's "claimed commitment to diversity and inclusion were blatant lies," the suit alleges. "Robinson Bradshaw has only been faking the existence of a meaningful program to achieve diversity and inclusion in order to attract clients requiring such programs. In truth, Robinson Bradshaw secretly remains [a] 'good ol' boys club' dominated by white male partners."

The suit claims that the firm's misrepresentations amounted to fraud, and its discrimination against her violated Section 1981 of the Civil Rights Act. She did not include any claims for violation of Title VII of the Civil Rights Act, but her suit says there may be added claims if granted the right to sue by the Equal Employment Opportunity Commission.

Bloomberg Big Law Business covered the lawsuit (https://biglawbusiness.com/black-lawyer-calls-firms-diversity-stance-lies-1).

Robinson is still employed with the law firm. According to the suit and her law firm bio (https://www.robinsonbradshaw.com/professionals-Sharika-Robinson.html), she was a teen mother who worked as a chemist before graduating as class valedictorian at North Carolina Central University.

Robinson sued the law firm and four male partners, one of whom is black. Her suit claims that white men predominate as partners at the firm, controlling opportunities for advancement even as they overlook minorities and women.

Robinson says she was assigned work unevenly, excluded from case discussions, assigned grunt work, and excluded from social and marketing functions, including golf and sporting events. When she complained about work assignments, the suit says, "she was told to go to the partners and 'smile' and ask for work."

The suit alleges that the workplace problems became worse during and after her pregnancy. At one point, the suit alleges, Robinson was told that work-life balance did not exist at the law firm, and she should not work from home unless she accepted

a pay cut. At another point, the managing partner questioned whether it was feasible for Robinson to work full time.

Robinson was placed on a performance improvement plan in May 2018 and was told she was placed on the plan because of unsatisfactory performance her first three weeks back from maternity leave. She countered that her placement on the plan was due to discrimination and retaliation for complaints she had raised.

Robinson was placed back on the plan after telling a partner who criticized a draft article that she had written that his negative review amounted to racial discrimination. The partner had said the article didn't conform to widely accepted principles of legal writing, according to the suit. The North Carolina Bar Association published Robinson's article as she had written it, the suit says.

Since Robinson filed a charge of discrimination with the EEOC, the firm has treated Robinson "as though she has been quarantined," the suit says. "She is isolated and alone. She has endured cold stares and angry outbursts."

Bloomberg Big Law Business published a statement by the firm's general counsel, Kate Maynard. It reads: "Robinson Bradshaw denies Sharika Robinson's claims and specifically denies that the firm discriminated against her in any way. We are committed to diversity and inclusion, as evidenced by our attorneys' contributions to the firm, profession and community as a whole."

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Is Being Black a Problem at Law Firms?

Black lawyers must constantly prove that they are educated enough, that they earned their bar licenses, and that they belong.

By **Henry E. Ibe** | March 14, 2019 at 10:48 AM

The legal community is bogged down with the constant problem of how to resolve the issue of diversity—or the lack thereof—in law firms. But is diversity and inclusion truly a goal, or is it a topic that allows law firms to pay lip service to the notion while still maintaining the status quo?

Touting a commitment to diversity has become an increasingly popular practice for law firms. However, what we see in reality is tokenism, wherein firms symbolically recruit a small number of people from underrepresented

groups to give the appearance of a diverse workforce. It is a shame that firms still try to sell the image of diversity by consciously selecting a few minority associates and partners to be placed on firm brochures. These firms often fail to genuinely foster an environment that encourages, supports and cherishes the exchange of diverse ideas, and the equal treatment of attorneys.

Some in the legal community have opined that to remedy the problem with diversity, the decision must be made at the top. This is true in part, as a firm's management would have to be receptive to the idea of diversity, but being receptive and actually buying into the idea are two different things. There are those who simply want diverse candidates because, like icing on a cake, the optics are appealing to an outside audience, even if devoid of any substance.

On the other hand, some attorneys understand that their community comprises people from different backgrounds, races, cultures and geographies. They appreciate that to adequately serve their clients and provide a wealth of different perspectives, the firm must be able to create a workforce that thinks like and is representative of the clientele it serves. Accomplishing such a diverse workforce is truly difficult, because true diversity would require acceptance of people who are different from the status quo. I dare say it would force management to confront the biases and underlying prejudices that exist within firms.

The National Association for Law Placement released its 2018 report on diversity in law firms, showing that despite small increases in the past three years, representation of black associates remains just below the pre-recession level of 4.66 percent (now at 4.48 percent). Minority women continue to be the most dramatically underrepresented group at the partnership level, and representation of black partners has barely increased since the recession, with the number currently at 1.83 percent.

These figures lead to some relevant questions: How are black associates being perceived and treated at firms? Have firms' management and employees alike been trained to check their implicit biases toward minority attorneys? Are minority attorneys paired with mentors who are willing to invest in their growth as attorneys? Is there a clear path toward partnership or management? Are they treated as valued members of the firm? Are they afforded the same treatment as the majority attorneys within the firm? Are their actions judged in the same way? Is the firm taking proactive measures to hold itself accountable to these ideals?

The aforementioned questions are building blocks that firms should first consider in trying to implement a diverse and inclusive culture. Unfortunately, firms are not immune to the social ills and prejudices that exist in society. Consciously or unconsciously, these prejudices play out within their walls. Some in management would rather believe that these issues are nonexistent and would give the majority within their firms the benefit of the doubt. However, the same benefit is not afforded to black attorneys. They constantly must prove that they are educated enough, that they earned their bar licenses, and that they belong. I contend that no other group within the legal profession is prejudged more based on race, despite their effort, hard work, character, accomplishments and accolades. Justifiably, I am led to ask whether a huge part of the problem with diversity in the legal community is being black. Furthermore, do most law firms truly want black attorneys as part of their firms at all, and do they genuinely encourage their success?

Indeed, diversity is good for business. Nonetheless, it cannot be achieved if the people who are supposed to champion the cause—those directly affected—are put down by prevailing stereotypes and actions that run counterintuitive to that end. We need to stay aware and try to create a

conducive environment for diversity and inclusion to thrive. If the minority attorneys or, specifically, the black attorneys within a firm are happy, valued and satisfied with their positions, they will speak positively about diversity and be roused to serve as mentors and champions in recruitment activities.

There has been a sentiment expressed that the lack of diversity can also be attributed to fewer diverse candidates applying for associate job openings. This is somewhat true, as the number of racially diverse candidates, specifically black candidates, in law schools has dwindled. But it is no coincidence that the firms that use this as their main excuse are the least-diverse firms. Instead of shifting blame to the candidate pool, firms should re-examine their hiring practices; culture/structure; retention and promotion of their diverse associates/partners; and credit distributions/bonuses. The legal community is a small one. Over time we get to know people in each other's circles. Black attorneys make up an even smaller subset of the legal community. Not surprisingly, they share their plights and frustrations, especially if firms are not treating them well or fostering their growth and development. When it comes to diversity in the law, appearances matter, but the mistake made by firms is thinking that representation equals satisfaction.

Change does not come easy. The struggle toward achieving the goal of diversity and inclusion in the legal community is a process, but one that we all must be invested in. Certainly, this is not a plea for special treatment but for fair and equal treatment of minority attorneys in law firms and the legal community in general. This piece is not intended to ascribe blame; rather, the purpose is to express the frustration that is shared by many minority attorneys. It is intended to force us to not only talk, but act, regarding the elephant in the room. How are black attorneys being treated at our firms? How are minority attorneys being treated at our firms? We can entertain this

unpopular viewpoint or ignore it as the angry rambling of a disgruntled black attorney. The choice is ours.

COVER STORY

Minority women are disappearing from BigLaw--and here's why

BY LIANE JACKSON

MARCH 1, 2016, 12:15 AM CST (/MAGAZINE/ISSUE/2016/03/)

Occasionally when Jenny Jones walks down the hall of her white-shoe law firm, a chairman emeritus will stop and ask how she's doing and about her work. These moments are a highlight because outside of this intermittent interaction, Jones feels largely ignored by the powers that be.

Idling in her career, unable to hit the billable-hour requirements, Jones (her real name is not used due to the sensitivity of the issue) is a fifth-year associate busy planning an exit strategy. But hers is not an isolated tale of personal failure; it is the all-too-common story of women of color struggling to thrive at large law firms—and leaving in droves.

Statistically, Jones faces a grim career outlook. Eighty-five percent of minority female attorneys in the U.S. will quit large firms within seven years of starting their practice. According to the research and personal stories these women

Photo Illustrations by Stephen Webster

share, it's not because they want to leave, or because they "can't cut it." It's because they feel they have no choice.

"When you find ways to exclude and make people feel invisible in their environment, it's hostile," Jones says. "Women face these silent hostilities in ways that men will never have to. It's very silent, very subtle and you, as a woman of color—people will say you're too sensitive. So you learn not to say anything because you know that could be a complete career killer. You make it as well as you can until you decide to leave."

Disturbing sentiments like these led the ABA Commission on Women in the Profession to undertake the Women of Color Research Initiative in 2003. Findings concluded that, in both law firms and corporate legal departments, women of color receive less compensation than men and white women; are denied equal access to significant assignments, mentoring and sponsorship opportunities; receive fewer promotions; and have the highest rate of attrition.

"If you look at the women-of-color research, the numbers are abysmal," says the New York Public Library's general counsel, Michele Mayes, who chairs the ABA commission. "When you lose any ground, you lose a lot because you never had that much in the first place."

Studies and surveys by groups such as the ABA and the National Association of Women Lawyers show that law firms have made limited progress in promoting female lawyers over the course of decades, and women of color are at the bottom.

"We're still a profession less diverse than doctors or engineers and that is 88 percent white," notes Danielle Holley-Walker, dean of Howard University School of Law. "We've been at this for 40-plus years—firms have been recruiting lawyers of color since the late '60s.

"There should be no mystery about how you create a diverse workforce. It's just a commitment," Holley-Walker says. "There's a refusal to acknowledge that meritocracy goes hand in hand with diversity. But we have to have a group of lawyers that are both excellent and diverse."

DECADES OF PIPELINE

The trajectory of women of color entering BigLaw dovetails with the progress of women entering the profession over time.

In the 1980s, as chair of the ABA's newly formed women's commission, Hillary Clinton signed off on the first-ever ABA report on the status of women in the profession. The prescient, but dire, conclusion? That the passage of time and the increase of women in the field would not erase the barriers to practice or solve problems that female lawyers face.

Michele Mayes. Photograph by Len Irish.

"That was the mid-'80s," observes Laurel Bellows, co-chair of the ABA Task Force on Gender Equity and principal at the Bellows Law Group in Chicago. "When I chaired the commission six to eight years later, we came up with another report, and the conclusion was the same."

According to the National Association of Women Lawyers, since the mid-1980s, more than 40 percent of law school graduates have been women. But despite a decades-old pipeline of female grads, there remains a disproportionately low number of women who stay in BigLaw, and even fewer who advance to the highest ranks. The ninth annual NAWL survey, released in 2015, shows that women account for only 18 percent of equity partners in the Am Law 200 and earn 80 percent of what their male counterparts do for comparable work, hours and revenue generation.

"We have a pay gap in our own profession," Bellows says. "And let's remember, 80 percent is very significant when you're talking about equity partners because that could mean millions of dollars in terms of retirement."

Data released last year by the National Association for Law Placement show the overall percentage of female associates decreased over most of the previous five years, although women and minorities continue to make marginal gains in representation among law firm partners.

Buoyed by increases in Asian-American and Hispanic women on staff, the percentage of minority female associates rose from about 11 percent between 2009 and 2012 to 11.78 percent in 2015. And those in the trenches say snapshot statistics

don't tell the full story. For example, NALP also reports that representation of African-American associates in the profession has been declining every year since 2009—from 4.66 percent to 3.95 percent.

And according to a November NALP press release, at just 2.55 percent of partners in 2015, minority women "continue to be the most dramatically underrepresented group at the partnership level, a pattern that holds across all firm sizes and most jurisdictions."

Tiffany Harper recently transitioned from law firm life to a post as associate counsel for Grant Thornton in Chicago; she also co-founded Uncolorblind, a diversity blog and consulting company. Previously, she worked in corporate bankruptcy and restructuring at Schiff Hardin and, most recently, Polsinelli. Harper saw an in-house position as a chance to broaden her skill set, but she says she also saw the writing on the wall.

"I didn't see a path for me to partnership at a large law firm. For women of color, there has to be a synergy for you to make partner," says Harper, who has also served as president of the Black Women Lawyers' Association of Greater Chicago. "You have to have everything working in your favor at the time you go up for a vote: a practice group that is thriving, the billable hours, people singing your praises, a client base. That has to all come together for you in a way it doesn't have to for other people."

Greenspoon Marder shareholder Evett Simmons knows all too well how tough it can get. Based on the statistics, she's already an outlier. She joined a Florida law firm as a lateral equity partner in 2000 that was later partially absorbed by Greenspoon Marder, where she is currently the only female shareholder of color.

Simmons grew up in the Jim Crow South, where as part of the demoralizing impact of segregation, she "didn't believe black folks were as good as white folks." That is, until she got to college and was the student frequently tapped to help white students complete their term papers. From there, Simmons continued to expand her horizons, attending law school and eventually rising to partner and chief diversity officer at Greenspoon Marder.

"I started at a time when it was difficult for women to get positions, let alone African-American women," Simmons notes. "I started with legal services, went to a small firm, opened up my own firm, merged with another firm."

With 33 years of practice under her belt, Simmons has seen the effort it takes for minority lawyers to succeed. In many ways, it's a numbers game.

Evett Simmons. Photograph by Doug Scaletta.

"My focus has been the pipeline," she says, with the goal of expanding the existing pool of minority female law grads. To that end, Simmons started a law camp with the National Bar Association, based at Howard University. Some camp graduates are now practicing lawyers. But that's just the first step.

"We need to make sure they have business and are fairly treated," Simmons says. "This is the next phase in my work with the ABA."

Like many working on recruitment and retention issues, Simmons recognizes that getting minority female candidates in the door isn't the same as keeping them there. And each ethnic group faces its own challenges.

In the first study of its kind, the National Native American Bar Association found that Native Americans often feel invisible and are "systematically excluded from the legal profession." The NNABA study, *The Pursuit of Inclusion*, found that "diversity and inclusion initiatives have largely ignored the issues and concerns of Native American attorneys." Not surprisingly, women were more likely than men to report demeaning comments, harassment and discrimination based on gender.

"We can't talk about diversity generically; we have to talk about women of color specifically in order to make a difference," says Arin Reeves, president of the Chicago-based consulting firm Nextions, who studies unconscious bias and has pioneered research on women of color at large law firms and in corporate America. "Most gender strategies affect the majority of people in that gender category, which are white women," Reeves says. "Racial and ethnic strategies are created around biases involving minority men. But women of color have the highest attrition rate. This is a group impacted by both gender and racial bias, so they will be impacted at twice the rates."

NOT JUST A U.S. PROBLEM

As the only black female attorney in a 200-lawyer office of a multi-national firm based in Toronto, fifth-year associate Indi Smith (her real name is not used due to the sensitivity of the issue) faces a stark reality. The lack of diversity coupled with a macho firm culture has left her feeling isolated and demoralized.

At her firm, common interests like hockey—a sport she doesn't follow—are crucial for relationship building. Instead of continuing to fight an uphill career battle, Smith is exploring her options. She calls her experience at the firm "unhealthy" and says it has drastically affected her self-confidence.

"In order to advance you need to get work, show your progress in terms of complexity of the work—but it's an environment where you only get work based on the relationships with partners," Smith says. "There's no one here who I can commiserate with or who is a source of work for me. Just being able to see someone who looks like you would help."

Smith says her request to join her firm's diversity committee was rejected, and the lip service given to more inclusion hasn't translated into action. But she notes that even if there were more attorneys of color on board, hiring diverse attorneys isn't enough without creating a culture of inclusiveness.

"A lot of law firms have jumped on the diversity and inclusion bandwagon, but none of them are really diverse in a way that truly matters," Smith says.

The Law Society of Upper Canada is trying to bring more attention to issues of diversity and equity in the profession through a working group and reports such as *Challenges Faced by Racialized Licensees*. A number of survey respondents told LSUC researchers they were forced to enter solo practice because of barriers faced in obtaining employment or because they were unable to advance in other practice environments. According to one anonymous respondent:

"Most of us are sole practitioners because we could not get into large firms because of racial barriers; the ones I know who got into firms ended up leaving because of feelings of discrimination, and ostracizing and alienation [such as] not being invited to firm dinners and outings. Some black lawyers feel suicidal because of repeatedly running into racial barriers—not academic performance—trying to enter large firms."

Jones, who is also a Toronto-based attorney—can commiserate, although she was one of a lucky few to receive an offer from an elite firm out of law school. Still, as one of the only women of color at her office, her experience over the years has not been positive.

"We've had so many great female associates leave, and I don't see anyone on the path to become a partner—black, white, you name it," Jones says. "I don't see women being placed into positions where they can become rainmakers," she says. "Unless you have a really good champion, a white male who will protect you in a certain way, it's a tough fight. It's a losing battle. If you want to make it to partnership, it's at what cost? And then when you make it to partner, what are you going to do then?"

DEFEATING DEFEATISM

Helping law firms understand how they can support the careers of women of color is Reeves' focus. She says partners need to ask themselves very specific questions about their actions in the diversity realm and determine whether their efforts are truly proactive. Instead of succumbing to a defeatist perspective, the question should be "How can we fix this?" not "Can it be fixed?"

"People think because they're committed to diversity and inclusion that they are creating diversity and inclusion. But partners need to ask themselves: How am I mentoring women of color and how can I do so?" says Reeves, a former lawyer who has a doctorate in sociology.

Latina attorney Gray Mateo-Harris says that after eight years practicing labor and employment defense, she's finally found a firm focused on growing diversity and the unique needs of attorneys who are women of color. Mateo-Harris says Ogletree, Deakins, Nash, Smoak & Stewart in Chicago has provided an environment where she can thrive and find balance.

"You don't realize early in your career how critical it is to have the support that will develop you as an attorney and help your career blossom," Mateo-Harris says. "The reality is, as a woman of color I can't necessarily count on inheriting a partner's book of business. That's not usually an option for people of color—and especially women."

Mateo-Harris has worked at a smaller firm and in BigLaw and notes that too often, minority women are lost in the shuffle of incoming classes, left to sink or swim.

"You really need to be at a firm where the culture sees attorneys as an asset to be invested in, not as fungible," she says. "It doesn't bode well for women of color to be thrown in and see if someone takes an interest in them and mentors them. Those chances don't usually end up favorably for women of color."

To help women of color navigate the law firm dynamic, the ABA Commission on Women in the Profession published a brochure in 2008, *From Visible Invisibility to Visibly Successful*, which offers success strategies based on advice gathered from dozens of female minority partners.

"It takes a village to raise a lawyer" was one insight provided by a study participant, explaining how she learned to find a support system outside of the firm in addition to one within.

Another partner described how she hired a coach to give her business development training in order to grow her book of business.

"Success in law firms is one part intellect and four parts stamina," said another respondent, warning that the challenges of isolation and racial and gender bias could take a physical and mental toll.

"There's a lot to be said for going in knowing you're going to be treated differently, so I need to work twice as hard," Reeves advises. "Understand that it's not in your head. It is real, it is happening and it's not easy."

Arin Reeves. Photograph by Wayne Slezak.

She adds: "Most women of color at law firms have phenomenal survival strategies, but we think it's going to be fair and we kind of get sideswiped. But if you're well-prepared for it, then I think you're steady on your feet and no one can shake you with craziness."

The 2008 report, which was prepared by Reeves, also urges young attorneys to "show up" and "speak up" at social events and meetings, and notes that even if you're shy or don't like to schmooze, you should actively seek out mentors inside and outside your law firm by joining organizations and networking.

And law firm mentors need to be "situated in the sphere of influence within the firm." Several contributors stressed that mentoring is crucial to developing a client base and more critical to a lawyer's success and mobility than the number of billable hours one generates.

Many successful female attorneys, including Simmons of Greenspoon Marder, talk about the male partners and mentors who were advocates and allies and helped their careers advance. Bringing men to the table and capturing the attention and stories of men who "get it" is often cited as essential to continued progress.

Holley-Walker, the Howard law dean who enjoyed a successful career in commercial litigation at a large law firm before going into academia, says young lawyers must get good work and continue to get better work as they progress in their practice. And that means having influential partners at the firm take an interest in their career, which isn't often the case for women of color.

"That move from mentorship to sponsorship" is key, says Holley-Walker. "People who will know your work intricately and give you honest feedback—and when it comes time, will basically go to bat for you."

To encourage partners to become mentors and sponsors, the brochure concludes that practice group leaders need to be held accountable for ensuring that work is distributed in an equitable and unbiased way. Associates are judged on their ability to get assignments from partners, but partners aren't held accountable or required to work with a variety of associates. That puts the most vulnerable attorneys at risk for failure.

CHANGING THE PARADIGM

Simmons believes a climate of inclusiveness for women and minorities, where differences are acknowledged and valued, can only occur once firms change the entrenched paradigm on delivery and individual contributions.

"We need to be able to recognize that a woman has some value other than getting a book of business. Maybe she can assist you with managing a book of business," Simmons says. "We need to measure success on more than whether a person brought a client into the room. There are other intrinsic values that can grow the firm besides bringing in money." These tangible benefits to the firm's business can include client services and committee work, Simmons says.

As law firms reassess their business models under the "new normal" of law practice, many hope external change will open up paths for minority female attorneys to succeed.

"The billable hour was the altar at which [law firms] prayed," says Mayes, the women's commission chair. "That altar is being seriously challenged. As a young person looking at the profession, many would say, 'My investment ain't that great here.' Too many lawyers in the job market, not enough return on investment."

Mayes points to other industries that have changed their profit-sharing and partnership models to be more inclusive and to reflect the times. "If you look at Deloitte or KPMG, they've gotten better at cultivating talent and not just having one way to do it. It's more of a team model than an individual model."

Reeves says part of the problem is that firms measure, recognize and reward business development primarily based on how men develop business. According to a 2014 survey by the National Association of Women Lawyers, lack of business development and high attrition rates are the two main reasons the number of female equity partners has not significantly increased.

“They need to see you as profitable,” says Harper. “Either you have to have brought in smaller matters, RFPs, you’re in the community—how do you bring in dollars? It’s been too long that firms have not been able to make this work [for women of color]. I think it will take a structural change, and I don’t know that firms are ready and willing to make a difference in how they do things.”

While little has changed in BigLaw as to how the pie is divvied up or how assignments are passed out, Reeves points out that the law doesn’t pivot fast. “The law generally has lagged be-hind its corporate counterparts, and it’s the most risk-averse profession,” she says. “Even with technology—law firms were the last to adopt email. When we keep all this in mind, we depersonalize the issue a little bit and we can actually pursue change with a little more stamina.

“I don’t think it’s that law firms see the problem and don’t want to do anything about it,” Reeves says. “It will change. It’s just going to take longer here than it does in other places.”

This article originally appeared in the March 2016 issue of the ABA Journal with this headline: “Invisible then Gone: Minority women are disappearing from BigLaw—and here’s why.”

Sidebar

Learning—& Winning

Law firms tend to be opaque operations, with limited details available on pay, policies and perks. But if you’re a female attorney looking to lateral or a female law student on interview rounds, there is a resource that offers a window into what you can expect from BigLaw.

The annual list of the 50 best law firms for women from Working Mother Media and Flex-Time Lawyers showcases what some of the top firms are doing to attract and retain female talent. Law firms that make the cut are recognized for their family-friendly policies along with career and business development

initiatives. Making the list is a competitive process the founders view as an instrument of change. The firms “learn lessons about themselves,” says Jennifer Owens, editorial director of *Working Mother* magazine and director of the Working Mother Research Institute. “The initiative was founded for the competition, but also for the learning. The act of filling out [the application] is learning. We hope the carrot is: You’re trying to get on this list where we’ll laud you as a best law firm for women.”

Participation in the survey is free and voluntary. Firms complete an extensive, confidential questionnaire and receive a scorecard that shows how they rank alongside other participants. Additional reports with in-depth analysis of the results are available for purchase. And the winners’ list is disseminated to general counsel and law schools across the country.

Drinker Biddle & Reath has made the 50-best list four times. Partner Lynne Anderson is proud of the firm’s recognition and focus on women’s initiatives, which she says requires intention and support from the top. “I think any firm has to have more than just the trappings,” Anderson says. “They have to have a roll-up-your-sleeves commitment to the advancement of women in the firm. That takes financial commitment, time commitment—including from the senior levels of the firm.”

Anderson says some of the policies and programs that helped propel Drinker Biddle onto the list include compensation transparency, a 12-week paid parental leave policy, flex-time and reduced-hours work options, and a strong women’s leadership committee that includes the firm chairman.

“What does it take to have a firm that’s supportive of women? It’s not just helicoptering in and out of the issue. It’s sustained and ongoing programs—a committee, a budget and policies that make this work,” Anderson says. “And to be willing to take a hard look at the metrics on a regular basis.”

Top firms on the 2015 list employ more female equity partners than the national average—20 percent vs. 17 percent. And 96 percent allow reduced-hour lawyers to be eligible for equity partnership promotion. Other elements taken into account include compensation, pro bono work, benefits, flex-time options, paid leave and workplace culture. The list also looks at the rates of women of color in leadership roles.

The 50-best list was founded in 2007 by Flex-Time Lawyers’ Deborah Epstein Henry in partnership with Working Mother Media. According to Henry, the best law firms are those that focus both on retention and promotion, by cultivating

and investing in female talent. “I think a lot of women’s initiatives make the mistake of not understanding the link between work-life issues and power and leadership. They think they have to advocate for one or the other,” Henry says. “We have the philosophy that if you don’t support women in their early years, we’re never going to have the critical mass of women we need in order to fill leadership roles like equity partner.”

Liane Jackson is a lawyer and freelance writer based in Chicago.

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Interrupting Racial & Gender Bias in the Legal Profession

EXECUTIVE SUMMARY

Commission on Women in the Profession
American Bar Association

MCCA™

YOU CAN'T CHANGE WHAT YOU CAN'T SEE

Interrupting Racial & Gender Bias in the Legal Profession

EXECUTIVE SUMMARY

This report was prepared and written for the American Bar Association's Commission on Women in the Profession and the Minority Corporate Counsel Association by Joan C. Williams, Marina Multhaup, Su Li, and Rachel Korn of the Center for Worklife Law at the University of California, Hastings College of the Law.

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Foreword

For decades, the American Bar Association Commission on Women in the Profession ("the Commission") and the Minority Corporate Counsel Association ("MCCA") have worked tirelessly to combat gender and racial bias in the legal profession. Nonetheless, statistics on women's advancement have not changed appreciably over the years. In 2016, the Commission and MCCA partnered with the Center for WorkLife Law at the University of California, Hastings College of the Law to conduct research to understand further law firm and in-house lawyers' experiences of bias in the workplace. This new research confirms that many of the traditional diversity tools we have relied upon over the years have been ineffective, and the findings have served as the foundation in developing the next generation of diversity tools that you will find in *You Can't Change What You Can't See: Interrupting Racial & Gender Bias in the Legal Profession*.

The first part of this research report details four main patterns of gender bias, which validate theories that women lawyers long have believed and feelings they long have held. Prove-It-Again describes the need for women and people of color to work harder to prove themselves. Tightrope illustrates the narrower range of behavior expected of and deemed appropriate for women and people of color, with both groups more likely than white men being treated with disrespect. Maternal Wall describes the well-documented bias against mothers, and finally, Tug of War represents the conflict between members of disadvantaged groups that may result from bias in the environment.

The second part of the research report offers two cutting-edge toolkits, one for law firms and one for in-house departments, containing information for how to interrupt bias in hiring, assignments, performance evaluations, compensation, and sponsorship. Based upon the evidence derived from our research, these bias interrupters are small, simple, and incremental steps that tweak basic business systems and yet produce measurable change. They change the systems, not people.

Considerable time, energy, and money were invested to develop persuasive proof of why we need to take a different approach to diversity issues and to develop the toolkits that can be used to make those changes. Taken together, the survey results serve as a reminder of the importance of the connections we make between individuals. Through sharing, we are reminded that we are not alone in our experiences in the workplace, and that is an important first step in making the work environment more inclusive and welcoming.

Jean Lee, President and CEO
Minority Corporate Counsel Association

Michele Coleman Mayes, Chair, 2014–2017
ABA Commission on Women in the Profession

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Executive Summary

This report is the first of its kind to provide a comprehensive picture of how implicit gender and racial bias—documented in social science for decades—plays out in everyday interactions in legal workplaces and affects basic workplace processes such as hiring and compensation.

In April 2016, the American Bar Association's Commission on Women in the Profession, the Minority Corporate Counsel Association, and the Center for WorkLife Law at the University of California, Hastings College of the Law launched a survey seeking to understand in-house and law firm lawyers' experiences of bias in the workplace: 2,827 respondents completed the survey, and 525 respondents included comments.

The survey asked respondents whether they had experienced the patterns of gender and racial bias that have been documented in decades of experimental social psychology studies. In addition, the survey asked whether attorneys had experienced implicit bias in basic workplace processes (hiring, assignments, business development, performance evaluations, promotions, compensation, and support). Also included was a series of questions about sexual harassment.

To examine how bias affects workplace experiences in the legal profession, we compared the reported experiences of women of color, men of color, white women, and white men. This report shares the survey findings and paints a picture of how bias affects law firm and in-house attorneys. All differences discussed in the following text are statistically significant unless otherwise noted.

Women and people of color reported Prove-It-Again (PIA) and Tightrope bias

Prove-It-Again. Women of color, white women, and men of color reported that they have to go "above and beyond" to get the same recognition and respect as their colleagues.

- Women of color reported PIA bias at a higher level than any other group, 35 percentage points higher than white men.
- White women and men of color also reported high levels of PIA bias, 25 percentage points higher than white men.
- Women of color reported that they are held to higher standards than their colleagues at a level 32 percentage points higher than white men.

Mistaken for janitors? Men of color and women of all races receive clear messages that they do not fit with people's image of a lawyer.

- Women of color reported that they had been mistaken for administrative staff, court personnel, or janitorial staff at a level 50 percentage points higher than white men. This was the largest reported difference in the report.

- White women reported this bias at a level 44 percentage points higher than white men, and men of color reported this bias at a level 23 percentage points higher than white men.

Tightrope. Women of all races reported pressure to behave in feminine ways, including backlash for masculine behaviors and higher loads of non-career-enhancing "office housework."

- White women reported doing more administrative tasks (such as taking notes) than their colleagues at a level 21 percentage points higher than white men, and women of color reported doing more of this type of office housework at a level 18 percentage points higher than white men.

Significant bias against mothers reported—and against fathers who take parental leave

Maternal Wall. Women of all races reported that they were treated worse after they had children; that is, they were passed over for promotions, given "mommy track" low-quality assignments, demoted or paid less, and/or unfairly disadvantaged for working part-time or with a flexible schedule. Women also observed a double standard between male and female parents.

- White women reported that their commitment or competence was questioned after they had kids at a level 36 percentage points higher than white men. Women of color reported this at a level 29 percentage points higher than white men.

About half of people of color (47% of men of color and 50% of women of color) and 57% of white women agreed that taking family leave would have a negative impact on their career. 42% of white men also agreed, indicating that the flexibility stigma surrounding leave affects all groups, including majority men.

Bias is pervasive throughout lawyers' work lives

Most of the biggest findings of the survey had to do with bias existing in the basic business systems of attorneys' workplaces. Women and people of color reported higher levels of bias than white men regarding equal opportunities to:

- Get hired
- Receive fair performance evaluations
- Get mentoring
- Receive high-quality assignments
- Access networking opportunities
- Get paid fairly
- Get promoted

In other words, gender and racial bias was reported in all seven basic workplace processes.

Women of color often reported the highest levels of bias of any group

In almost every workplace process, women of color reported the highest levels of bias. For example:

- Women of color reported that they had equal access to high-quality assignments at a level 28 percentage points lower than white men.
- Women of color reported that they had fair opportunities for promotion at a level 23 percentage points lower than white men.

As a trend throughout the report, we often found that women of color reported the highest levels of bias overall.

Bias in compensation

The gender pay gap in law has received significant media attention, but much less attention has been paid to bias in compensation systems. Large amounts of bias were reported by both white women and women of color, and these were some of the widest gaps in experience described in the report:

- Women of color agreed that their pay is comparable to their colleagues of similar experience and seniority at a level 31 percentage points lower than white men; white women agreed at a level 24 percentage points lower than white men.
- Similarly, when respondents were asked if they get paid LESS than their colleagues of similar experience and skill level, women of color agreed at a level 31 percentage points higher than white men, while white women agreed at a level 24 percentage points higher than white men.

The racial element of the gender pay gap is rarely discussed and demands closer attention.

In another surprising finding, in-house white women reported roughly the same level of compensation bias as their law firm counterparts. With so much attention placed on the partner pay gap, in house is thought to be a more equitable environment for women in terms of pay. These data suggest that may not be the case.

Differences between law firm and in-house lawyers' experiences reported

Women of all races and men of color reported lower levels of bias in house than in law firms, whereas white men reported lower levels of bias in law firms than in house.

Sexual harassment

About 25% of women but only 7% of white men and 11% of men of color, reported that they had encountered unwelcome sexual harassment at work, including unwanted sexual comments, physical contact, and/or romantic advances. Sexist comments, stories, and jokes appear to be widespread in the legal profession: more than 70% of all groups reported encountering these. Finally, about one in eight white

women, and one in ten women of color, reported having lost career opportunities because they rejected sexual advances at work.

Although implicit bias is commonplace, it can be interrupted

Implicit bias stems from common stereotypes. Stereotype *activation* is automatic: we can't stop our brains from making assumptions. But stereotype *application* can be controlled: we can control whether we act on those assumptions. We've distilled that research in our Bias Interrupter Toolkits, available at the end of this report. These Toolkits provide easily implementable, measurable tweaks to existing workplace systems to interrupt racial and gender bias in law firms and in-house departments. Many bias interrupters will help individuals with disabilities, professionals from nonprofessional families ("class migrants"), and introverted men, in addition to leveling the playing field for women and attorneys of color.

Small Steps, Big Change

Bias Interrupters
Tools for Success

Incremental steps can improve law firm and in-house diversity in ways that yield well-documented business benefits. Research shows that diverse workgroups perform better and are more committed, innovative, and loyal.[1] Gender-diverse workgroups have higher collective intelligence, which improves the performance of both the group and of the individuals in the group, and leads to better financial performance results.[2] Racially diverse workgroups consider a broader range of alternatives, make better decisions, and are better at solving problems.[3] Bias, if unchecked, affects many different groups: modest or introverted men, LGBTQ people, individuals with disabilities, professionals from nonprofessional backgrounds (class migrants), women, and people of color. We've distilled the huge literature on bias into simple steps that help you and your firm perform better.

We know now that workplaces that view themselves as being highly meritocratic often are *more* biased than other organizations.[4] Research also shows that the usual responses—one-shot diversity trainings, mentoring, and networking programs—typically don't work.[5]

What holds more promise is a paradigm-changing approach to diversity: bias interrupters are tweaks to basic business systems that are data-driven and can produce measurable change. Bias interrupters change systems, not people.

Printed here are two toolkits, one for law firms and one for in-house departments, with information for how to interrupt bias in the following business systems:

1. Hiring
2. Assignments
3. Performance Evaluations
4. Compensation
5. Sponsorship Best Practice Recommendation

For additional worksheets and information visit BiasInterrupters.org.

Our toolkits take a three-step approach:

1. **Use Metrics:** Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)
2. **Implement Bias Interrupters:** Bias interrupters are small adjustments to your existing business systems. They should not require you to abandon your current systems.
3. **Repeat as Needed:** After implementing bias interrupters, return to your metrics. If they have not improved, you will need to ratchet up to stronger bias interrupters.

Small Steps, Big Change

Bias Interrupters
Tools for Law Firms

Interrupting Bias in Hiring

Tools for Law Firms

The Challenge

When comparing identical resumes, "Jamal" needed eight additional years of experience to be considered as qualified as "Greg," mothers were 79% less likely to be hired than an otherwise-identical candidate without children, and "Jennifer" was offered $4,000 less in starting salary than "John."[6] Unstructured job interviews do not predict job success,[7] and judging candidates on "culture fit" can screen out qualified diverse candidates.[8]

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)

For each metric, examine:

- Do patterned differences exist between majority men, majority women, men of color, and women of color? (Include any other underrepresented group that your firm tracks, such as military veterans or LGBTQ people.)

Important metrics to analyze:

- Track the candidate pool through the entire hiring process: from initial contact, to resume review, to interviews, to hiring. Analyze where underrepresented groups are falling out of the hiring process.
- Track whether hiring qualifications are waived more often for some groups.
- Track interviewers' reviews and/or recommendations to ensure they are not consistently rating majority candidates higher than others.

Keep metrics by (1) individual supervising attorney; (2) department; (3) country, if relevant; and (4) the firm as a whole.

2. Implement Bias Interrupters

All bias interrupters should apply both to written materials and in meetings, where relevant. Because every firm is different, not all interrupters will be relevant. Consider this a menu.

To understand the research and rationale behind the suggested bias interrupters, read the "Identifying Bias in Hiring Worksheet," available online at biasinterrupters.org, which summarizes hundreds of studies.

A. Empower and Appoint

- **Empower people involved in the hiring process to spot and interrupt bias.** Use the "Identifying Bias in Hiring Worksheet" (available at BiasInterrupters.org). Read and distribute it to anyone involved in hiring.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the hiring process. Training is available at BiasInterrupters.org.

B. Assemble a Diverse Pool

- **Limit referral hiring ("friends of friends").** If your existing firm is not diverse, hiring from your current employees' social networks will replicate the lack of diversity. If you use referrals, keep track of the flow of candidates from referrals. If referrals consistently provide majority candidates, consider limiting referrals or balance referral hiring with more targeted outreach to ensure a diverse candidate pool.
- **Tap diverse networks.** Reach out to diverse candidates where they are. Identify law job fairs, affinity networks, conferences, and training programs aimed at women and people of color and send recruiters.
- **Consider candidates from multitier schools.** Don't limit your search to candidates from Ivy League and top-tier schools. This favors majority candidates from elite backgrounds and hurts people of color and professionals from non-professional backgrounds (class migrants)[9]. Studies show that top students from lower-ranked schools are often similarly successful.[10]
- **Get the word out.** If diverse candidates are not applying for your jobs, get the word out that your firm is a great place to work for women and people of color. One company offers public talks by women at their company and writes blog posts, white papers, and social media articles highlighting the women who work there.
- **Change the wording of your job postings.** Using masculine-coded words such as "leader" and "competitive" tends to reduce the number of women who apply.[11] Tech alternatives (see Textio[12] and Unitive[13]) can help you craft job postings that ensure you attract top talent without discouraging women.
- **Insist on a diverse pool.** If you use a search firm, tell them you expect a diverse pool, not just one or two diverse candidates. One study found the odds of hiring a woman were 79 times greater if there were at least two women in the finalist pool; the odds of hiring a person of color were 194 times greater.[14]

C. Resume Review

- **Distribute the "Identifying Bias in Hiring Worksheet" (available at Bias Interrupters.org).** Before resumes are reviewed, have reviewers read the worksheet so they are aware of the common forms of bias that can affect the hiring process.
- **Commit to what's important—and require accountability.** Commit in writing to what qualifications are important, both in entry-level and lateral hiring. When qualifications are waived for a specific candidate, require an explanation of why they are no longer important—and keep track to see for whom requirements are waived.[15]

- **Ensure resumes are graded on the same scale.** Establish clear grading rubrics and ensure that everyone grades on the same scale. Consider having each resume reviewed by two different people and average the score.
- **Remove extracurricular activities from resumes.** Including extracurricular activities on resumes can artificially disadvantage class migrants. A recent study showed that law firms were less likely to hire a candidate whose interests included "country music" and "pick-up soccer" rather than "classical music" and "sailing"—even though the work and educational experience was exactly the same. Because most people aren't as aware of class-based bias, communicate why you are removing extracurricular activities from resumes.
- **Avoid inferring family obligations.** Mothers are 79% less likely to be hired than identical candidates without children.[16] Train people not to make inferences about whether someone is committed to the job due to parental status and don't count "gaps in a resume" as an automatic negative.
- **Try using "blind auditions."** If women and candidates of color are dropping out of the pool at the resume review stage, consider removing demographic information from resumes before review. This allows candidates to be evaluated based solely on their qualifications.

D. Interviews

- **Use structured interviews.** Ask the same list of questions to every person who is interviewed. Ask questions that are directly relevant to the job for which the candidate is applying.[17]
- **Ask performance-based questions.** Performance-based questions, or behavioral interview questions ("Tell me about a time you had too many things to do and had to prioritize."), are a strong predictor of how successful a candidate will be at the job.[18]
- **Try behavioral interviewing.**[19] Ask questions that reveal how candidates have dealt with prior work experiences. Research shows that structured behavioral interviews more accurately predict the future performance of a candidate than unstructured interviews.[20] Instead of asking "How do you deal with problems with your manager?" say "Describe for me a conflict you had at work with your manager." When evaluating answers, a good model to follow is STAR[21]: the candidate should describe the Situation faced, the Task handled, the Action taken to deal with the situation, and the Result.
- **Do work-sample screening.** If applicable, ask candidates to provide a sample of the types of tasks they will perform on the job (e.g., ask candidates to write a legal memo for a fictitious client).
- **Develop a consistent rating scale and discount outliers.** Candidates' answers (or work samples) should be rated on a consistent scale, with ratings for each factor backed up by evidence. Average the scores granted on each relevant criterion and discount outliers.[22]
- **If "culture fit" is a criterion for hiring, provide a specific work-relevant definition.** Culture fit can be important, but when it's misused, it can disadvantage people of color, class migrants, and women.[23] Heuristics such as the "airport test" (Who would I like to get stuck with in an airport?) can be highly exclusionary and not work-relevant. Questions about sports and hobbies may feel

exclusionary to women and to class migrants who did not grow up, for example, playing golf or listening to classical music. Google's work-relevant definition of "culture fit" is a helpful starting point.[24]

- **"Gaps in a resume" should not mean automatic disqualification.** Give candidates an opportunity to explain gaps by asking about them directly during the interview stage. Women fare better in interviews when they are able to provide information up front rather than having to avoid the issue.[25]
- **Provide candidates and interviewers with a handout detailing expectations.** Develop an "Interview Protocol Sheet" that explains to everyone what's expected from candidates in an interview or use ours, available at Bias Interrupters.org. Distribute it to candidates and interviewers for review.
- **When hiring, don't ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.[26] (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.[27])

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change, you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the hiring process.**
- **Use an iterative process until your metrics improve.**

Interrupting Bias in Assignments

Tools for Law Firms

The Challenge

Every workplace has high-profile assignments that are career enhancing ("glamour work") and low-profile assignments that are beneficial to the organization but not the individual's career. Research shows that women do more "office housework"[28] than men.[29] This includes literal housework (ordering lunch), administrative work (scheduling a time to meet), and emotion work ("she's upset; comfort her"). Misallocation of the glamour work and the office housework is a key reason leadership across the legal profession is still male dominated. Professionals of color (both men and women) also report less access to desirable assignments than do white men.[30]

- **Glamour work.** More than 80% of white male lawyers but only 53% of women lawyers of color, 59% of white women lawyers, and 63% of male lawyers of color reported the same access to desirable assignments as their colleagues.[31]
- **Office housework.** Almost 50% of white women lawyers and 43% of women lawyers of color reported that at work they more often play administrative roles such as taking notes for a meeting compared to their colleagues. Only 26% of white male lawyers and 20% of male lawyers of color reported this.[32]

In law firms, when lawyers become "overburdened" with office housework, it reduces the amount of billable time that they can report, which can hurt their compensation and their career.[33]

Diversity at the top can only occur when diverse employees at all levels of the organization have access to assignments that let them take risks and develop new skills. If the glamour work and the office housework aren't distributed evenly, you won't be tapping into the full potential of your workforce. Most law firms that use an informal "hey, you!" assignment system end up distributing assignments based on factors other than experience and talent.

If women and people of color keep getting stuck with the same low-profile assignments, they will be more likely to be dissatisfied and to search for opportunities elsewhere.[34] The attrition rates for women and especially women of color in law firms are already extremely high, and research suggests that the cost to the firm of attrition per associate is up to $400,000.[35] Law firms cannot afford to fail to address the inequality in assignments.

The Solution: A Three-Step Approach

Fair allocation of the glamour work and the office housework are two separate problems. Some law firms will want to solve the office housework problem before tackling the glamour work; others will want to address both problems simultaneously. (A "Road Map for Implementation" is available at BiasInterrupters .org.)

1. Use Metrics

A. Identify and Track

The first step is to find out if and where you have a problem.

- What is the office housework and glamour work in your organization?
- Who is doing what and for how long?
- Are there demographic patterns that indicate gender and/or racial bias is at play?

To do this:

1. Distribute the "Office Housework Survey" (available at BiasInterrupters.org) to your employees to find out who is doing the office housework and how much of their time it takes up.
2. Convene relevant managers (and anyone else who distributes assignments) to identify the glamour work and the lower-profile work in the law firm. Use the "Assignment Typology Worksheet" to create a typology for assignments and the "Protocol" for more details (both available at BiasInterrupters.org).
3. Input the information from the typology meeting into the "Manager Assignment Worksheet" and distribute this to managers (available online at Bias Interrupters.org). Have managers fill out the worksheets and submit them, identifying to whom they assign the glamour work and the lower-profile work.

B. Analyze Metrics

Analyze survey results and worksheets for demographic patterns, dividing employees into (1) majority men, majority women, men of color, and women of color, (2) parents who have just returned from parental leave, (3) professionals working part-time or flexible schedules, and (4) any other underrepresented group that your organization tracks (veterans, LGBTQ people, individuals with disabilities, etc.).

- Who is doing the office housework?
- Who is doing the glamour work?
- Who is doing the low-profile work?
- Create and analyze metrics by individual supervising attorney.

2. Implement Bias Interrupters

A. Office Housework Interrupters

- **Don't ask for volunteers.** Women are more likely to volunteer because they are under subtle but powerful pressures to do so.[36]

- **Hold everyone equally accountable.** "I give it to women because they do it well and the men don't" is a common sentiment. This dynamic reflects an environment in which men suffer few consequences for doing a poor job on office housework, but women who do a poor job are seen as "prima donnas" or "not team players." Hold men and women equally accountable for carrying out all assignments properly.
- **Use admins.** If possible, assign office housework tasks to admins (e.g., planning birthday parties, scheduling meetings, ordering lunch).
- **Establish a rotation.** A rotation is helpful for many administrative tasks (e.g., taking notes, scheduling meetings). Rotating housework tasks such as ordering lunch and planning parties is an option if admins are unavailable.
- **Shadowing.** Another option for administrative tasks is to assign a more junior person to shadow someone more senior—and take notes.

B. Glamour Work Interrupters

- **Avoid mixed messages.** If your law firm values mentoring and committee work (such as serving on the Diversity Initiative), make sure these things are valued when the time comes for promotions and raises. Sometimes law firms say they highly value this kind of work—but they don't. Mixed messages of this kind will negatively affect women and people of color.
- **Conduct a roll-out meeting.** Gather relevant managing and supervising attorneys to introduce the bias interrupters initiative and set expectations. "Key Talking Points for the Roll-Out Meeting" are available at BiasInterrupters.org.
- **Provide a bounceback.** Identify individual supervising attorneys whose glamour work allocation is lopsided. Hold a meeting with that supervisor and bring the problem to his or her attention. Help the supervisor think through why he or she only assigns glamour work to certain people or certain types of people. Work with the supervisor to figure out (1) if the available pool for glamour work assignments is diverse but is not being tapped fully or (2) if only a few people have the requisite skills for glamour work assignments. Read the "Responses to Common Pushback" and "Identifying Bias in Assignments" worksheets (available at BiasInterrupters.org) before the bounceback meetings to prepare. You may have to address low-profile work explicitly at the same time as you address high-profile assignments; this will vary by law firm.

If a diverse pool has the requisite skills . . .

- **Implement a rotation.** Have the supervisor set up a rotation to ensure fair access to plum assignments.
- **Formalize the pool.** Write down the list of people with the requisite skills and make it visible to the supervisor. Sometimes just being reminded of the pool can help.
- **Institute accountability.** Have the supervisor track his or her allocation of glamour work going forward to measure progress. Research shows that accountability matters.[37]

If the pool is not diverse . . .

- **Revisit the assumption that only one (or very few) employees can handle this assignment.** Is that true, or is the supervisor just more comfortable working with those few people?
- **Analyze how the pool was assembled.** Does the supervisor allocate the glamour work by relying on self-promotion or volunteers? If so, that will often disadvantage women and people of color. Shift to more objective measures to create the pool based on skills and qualifications.

If the above suggestions aren't relevant or don't solve your problem, then it's time to **expand the pool**:

- **Development plan.** Identify what skills or competencies an employee needs to be eligible for the high-profile assignments work and develop a plan to help the employee develop the requisite skills.
- **Succession planning.** Remember that having "bench strength" is important so your department won't be left scrambling if someone unexpectedly leaves the company.
- **Leverage existing HR policies.** If your organization uses a competency-based system or has a Talent Development Committee or equivalent, use that resource to help develop competencies so career-enhancing assignments can be allocated more fairly.
- **Shadowing.** Have a more junior person shadow a more experienced person during the high-profile assignment.
- **Mentoring.** Establish a mentoring program to help a broader range of junior people gain access to valued skills.

If you can't expand your pool, reframe the assignment so that more people could participate in it. Could you break up the assignment into discrete pieces so more people get the experiences they need?

If nothing else works, consider a formal assignment system. Appoint an assignments czar to oversee the distribution of assignments in your organization. See examples of what other law firms have done at BiasInterrupters.org.

3. Repeat as Needed

- **Return to your metrics.** Did the bias interrupters produce change?
- **If you still don't have a fair allocation of high- and low-profile work, you may need to implement stronger bias interrupters or consider moving to a formal assignment system.**
- **Use an iterative process until your metrics improve.**

Interrupting Bias in Performance Evaluations

Tools for Law Firms

The Challenge

In one study, law firm partners were asked to evaluate a memo by a third-year associate. Half the partners were told the associate was black; the other half were told the identical memo was written by a white associate. The partners found 41% more errors in the memo they believed was written by a black associate as compared with a white associate.[38] Overall rankings also differed by race. Partners graded the white author as having "potential" and being "generally good," whereas they graded the black author as "average at best."

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)

For each metric, examine:

- Do patterned differences exist between majority men, majority women, men of color, and women of color? Include any other underrepresented group that your firm tracks, such as military veterans, LGBTQ people, or individuals with disabilities.
- Do patterned differences exist for parents after they return from leave or for lawyers who reduce their hours?
- Do patterned differences exist between full-time and part-time employees?

Important metrics to analyze:

- Do your performance evaluations show consistent disparities by demographic group?
- Do women's ratings fall after they have children? Do employees' ratings fall after they take parental leave or adopt flexible work arrangements?
- Do the same performance ratings result in different promotion or compensation rates for different groups?

Keep metrics by (1) supervising attorney; (2) department; (3) country, if relevant; and (4) the law firm as a whole.

2. Implement Bias Interrupters

All bias interrupters should apply both to written evaluations and in meetings, where relevant. Because every firm is different, not all interrupters will be relevant. Consider this a menu.

To understand the research and rationale behind the suggested bias interrupters, read the "Identifying Bias in Performance Evaluations Worksheet," available online at BiasInterrupters.org.

A. Empower and Appoint

- **Empower people involved in the evaluation process to spot and interrupt bias.** Use the "Identifying Bias in Performance Evaluations Worksheet," available online at BiasInterrupters.org. Read and distribute.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the performance evaluation process. Training is available at BiasInterrupters.org.

B. Tweak the Evaluation Form

- **Begin with clear and specific performance criteria directly related to job requirements.** Try "He is able to write an effective summary judgment motion under strict deadlines" instead of "He writes well."
- **Require evidence from the evaluation period that justifies the rating.** Try "In March, she argued X motion in front of Y judge on Z case, answered his questions effectively, and was successful in getting the optimal judgment" instead of "She's quick on her feet."
- **Consider performance and potential separately for each candidate.** Performance and potential should be appraised separately. Majority men tend to be judged on potential; others are judged on performance.

Separate personality issues from skill sets for each candidate. Personal style should be appraised separately from skills because a narrower range of behavior often is accepted from women and people of color. For example, women may be labeled "difficult" for doing things that are accepted in majority men.

C. Tweak the Evaluation Process

- **Level the playing field.** Ensure that all candidates know how to promote themselves effectively and send the message that they are expected to do so. Distribute the "Writing an Effective Self-Evaluation Worksheet," available online at BiasInterrupters.org.
- **Offer alternatives to self-promotion.** Encourage or require supervisors to set up more formal systems for sharing successes, such as a monthly e-mail that lists employees' accomplishments.
- **Provide a bounceback.** Supervisors whose performance evaluations show persistent bias should receive a bounceback (i.e., someone should talk through the evidence with them).
- **Have bias interrupters play an active role in calibration meetings.** In many law firms and legal departments, the Executive Committee or another body meets

What's a bounceback?

An example: in one organization, when a supervisor's ratings of an underrepresented group deviate dramatically from the mean, the evaluations are returned to the supervisor with the message: either you have an undiagnosed performance problem that requires a Performance Improvement Plan (PIP), or you need to take another look at your evaluations as a group. The organization found that a few people were put on PIPs, but over time, supervisors' ratings of underrepresented groups converged with those of majority men. A subsequent survey found that employees of all demographic groups rated their performance evaluations as equally fair (whereas bias was reported in hiring—and every other business system).

to produce a target distribution of ratings or to cross-calibrate rankings. Have participants read the "Identifying Bias in Performance Evaluations Worksheet" on bias before they meet (available at BiasInterrupters.org). Have a trained bias interrupter in the room.

- **Don't eliminate your performance appraisal system.** Eliminating formal performance evaluation systems and replacing them with feedback on the fly creates conditions for bias to flourish.

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change,** you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the performance evaluation process.
- **Use an iterative process** until your metrics improve.

Interrupting Bias in Partner Compensation

Tools for Law Firms

The Challenge

The gender pay gap in law firms has been extensively documented for decades. A 2016 report by Major, Lindsey, and Africa found a 44% pay gap between male and female law firm partners.[39] The report also found a 50% difference in origination credit, which many use to explain the pay gap: men earn more money because they bring in more business. Studies show the picture is much more complicated.

- One study found that even when women partners originated similar levels of business as men, they still earned less.[40]
- Another study found that 32% of white women income partners and 36% of women partners of color reported that they had been intimidated, threatened, or bullied out of origination credit.[41]
- The same study found that more than 80% of women partners reported being denied their fair share of origination credit in the previous three years.[42]
- Doesn't everyone think their compensation is unfair? Not to the same degree: a recent survey of lawyers found that male lawyers were about 20% more likely than white women lawyers and 30% more likely than women lawyers of color to say that their pay was comparable to their colleagues of similar experience.[43]

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken. (Whether metrics are made public will vary from firm to firm and from metric to metric.)

For each metric, examine:

- Do patterned differences exist between majority men, majority women, men of color, and women partners of color? (Include any other underrepresented group that your firm tracks, such as military veterans or LGBTQ people.)
- Are partners disadvantaged for taking parental leave? Are parents or others with caregiving responsibilities excluded from future opportunities?
- Do part-time lawyers receive less than proportionate pay for proportionate work? Are they excluded from future opportunities?

Important metrics to analyze:

- **Compare compensation with a variety of lenses and look for patterns.** Lenses include relationship enhancement, hours and working time revenues, and so forth. Do separate analyses for equity and income partners.
- **Succession.** Analyze who inherits compensation credit and client relationships and how and when the credit moves.
- **Origination and other important forms of credit.** Analyze who gets origination and other important forms of credit, how often it is split, and who does (and does not) split it. If your firm does not provide credit for relationship enhancement, analyze how that rule affects different demographic groups—and consider changing it.
- **Comp adjustments.** Analyze how quickly compensation falls, and by what percentage during a lean period and how quickly compensation rises during times of growth. (When partners lose key clients, majority men often are given more of a runway to recover than other groups.)
- **De-equitization.** Analyze who gets de-equitized.
- **Pitch credit.** Analyze who has opportunities to go on pitches, who plays a speaking role, and who receives origination and other forms of credit from pitches.
- **Lateral partners.** Analyze whether laterals are paid more in relation to their metrics. This is a major factor in defeating diversity efforts at some firms.

Keep metrics by (1) individual supervising lawyer; (2) department; (3) country, if relevant; and (4) the firm as a whole.

2. Implement Bias Interrupters

To understand the research and rationale behind the suggested bias interrupters, read the "Identifying Bias in Partner Compensation Worksheet," available online at BiasInterrupters.org.

A. Find Out What Drives Compensation—and Be Transparent about What You Find

- **Commission an analysis.** Although firms may say they value a broad range of factors, many experts agree that origination and billable hours account for almost all variance in compensation.[44] Hire a law firm compensation consultant or statistician to find out what factors determine compensation at your firm.
- **Be transparent about what drives compensation.** This is a vital first step to empowering women and people of color to refuse work that does not enhance their compensation and focus on work that positions them to receive higher compensation. Studies show that reducing ambiguity reduces gender bias in negotiations—and law firm compensation often involves negotiation among partners.[45] If only those "in the know" understand what's really valued, that will benefit a small in group that typically reflects the demography of your existing equity partnership.
- **Value everything that's valuable.** Give credit for nonbillable work that is vital to sustaining the long-term health of the firm—including relationship enhancement credit, credit for lawyers who actually do the client's work, and talent manage-

ment. If the firm says it values mentoring and greater diversity but does not in fact do so, this will disadvantage women and lawyers of color.

B. Establish Clear, Public Rules

- **Establish clear rules governing granting and splitting origination and other valuable forms of credit.** Research suggests that men are more likely to split origination credit with men than with women and that women may get less origination credit than men even when they do a similar amount of work to bring in the client.[46] Set clear, public rules addressing how origination credit should be split by publishing and publicizing a memo that details how partners should split credit under common scenarios.
- **Establish a formal system of succession planning.** If your firm allows origination credit to be inherited, institute a formal succession planning process. Otherwise, in-group favoritism means that your current pattern of origination credit will be replicated over and over again, with negative consequences for diversity.
- **Pitch credit.** Women attorneys and attorneys of color often report being used as "eye candy"—brought to pitches but then not given a fair share of credit or work that results. Establish rules to ensure this does not occur. The best practice is that if someone does the work for the pitch, he or she should be recognized with credit that accurately reflects his or her role in doing and winning the work.
- **Parental leave.** Counting billables and other metrics as "zero" for the months women (or men) are on parental leave is a violation of the Family and Medical Leave Act, where applicable, and is unfair even where it is not illegal. Instead, annualize based on the average of the months the attorney was at work, allowing for a ramp-up and ramp-down period.
- **Part-time partners.** Compensation for part-time partners should be proportional. Specifics on how to enact proportional compensation depends on which compensation system a law firm uses. See the "Best Practices for Part-Time Partner Compensation" paper for details, available at BiasInterrupters.org.

C. Establish Procedures to Ensure the Perception and Reality of Fairness

- **Institute a low-risk way partners can receive help in disputes over credit.** Set up a way to settle disputes over origination and other forms of credit that lawyers can use without raising eyebrows.
- **Provide templates for partner comp memos—and prohibit pushback.** Some firms provide opportunities for partners and associates to make their case to the compensation committee by writing a compensation memo. If your firm does this, distribute the worksheet (online at BiasInterrupters.org) on how to write an effective compensation memo and set rules and norms to ensure that women and minorities are not penalized for self-promotion. If not, give partners the opportunity to provide evidence about their work: research shows that women's successes tend to be discounted and their mistakes remembered longer than men's.
- **Institute quality control over how compensation is communicated to partners.** Design a structured system for communicating with partners to explain what factors went into determining their compensation.

- **When hiring, don't ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.[47] (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.[48])
- **Have a bias interrupter at meetings where compensation is set.** This is a person who has been trained to spot the kinds of bias that commonly arise.
- **Training.** Make sure that your compensation committee, and anyone else involved in setting compensation, knows how implicit bias commonly plays out in law firm partner compensation and how to interrupt that bias. Read and distribute the "Identifying Bias in Partner Compensation Worksheet" (available at BiasInterrupters.org).

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change**, you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the compensation process.
- **Use an iterative process** until your metrics improve.

Small Steps, Big Change

Bias Interrupters Tools for In-House Departments

Interrupting Bias in Hiring

Tools for In-House Departments

The Challenge:

When comparing identical resumes, "Jamal" needed eight additional years of experience to be considered as qualified as "Greg," mothers were 79% less likely to be hired than an otherwise-identical candidate without children, and "Jennifer" was offered $4,000 less in starting salary than "John."[49] Unstructured job interviews do not predict job success,[50] and judging candidates on "culture fit" can screen out qualified diverse candidates.[51]

The Solution: A Three-Step Approach

1. Use Metrics

Businesses use metrics to assess their progress toward any strategic goal. Metrics can help you pinpoint where bias exists and assess the effectiveness of the measures you've taken.

For in-house departments, some metrics may be possible to track; others may require HR or can only be tracked company-wide. Depending on the structure and size of your in-house department, identify what's feasible.

Whether metrics are made public will vary from company to company and from metric to metric.

For each metric, examine:

- Do patterned differences exist between majority men, majority women, men of color, and women of color? (Include any other underrepresented group that your department/company tracks, such as veterans, LGBTQ people, etc.)

Important metrics to analyze:

- The goal is to track the candidate pool through the entire hiring process—from initial contact, to resume review, to interviews, to hiring—and then to analyze where underrepresented groups are falling out of the hiring process. How much you can track will depend on how your company's systems are set up, as will the extent to which you will need help from HR.
- Track whether hiring qualifications are waived more often for some groups. You may be able to do this only for those parts of the hiring process that are done at a departmental level, such as final-round interviews.
- Track interviewers' reviews and recommendations to look for demographic patterns. Again, your department's ability to do this will depend on what is handled at a departmental level, or your HR department may be willing to do this tracking.

Keep in-house metrics by (1) individual supervisor; (2) department, if your in-house department is large enough to have its own departments; and (3) country, if relevant.

2. Implement Bias Interrupters

All bias interrupters should apply both to written materials and in meetings, where relevant.

Because in-house departments are all different and vary in size and structure, not all interrupters will be relevant. Depending on how much of the hiring process is done by the in-house department versus HR, some of the interrupters may be more feasible than others. Consider this a menu.

To understand the research and rationale behind the suggested bias interrupters, read the "Identifying Bias in Hiring Worksheet," available online at BiasInterrupters.org, which summarizes hundreds of studies.

A. Empower and Appoint

- **Empower people involved in the hiring process to spot and interrupt bias.** Use the "Identifying Bias in Hiring Worksheet," available online at BiasInterrupters .org, and distribute this to anyone involved in hiring.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the hiring process. Training is available at BiasInterrupters.org.

B. Tips to Help You Assemble a Diverse Pool

- **If your department hires by referral, keep track of the candidate flow from referrals.** Hiring from current employees' social networks may well replicate lack of diversity if your department is not diverse. If your analysis finds that referrals consistently provide majority candidates, consider limiting referrals or balance referral hiring with more targeted outreach to ensure a diverse candidate pool.
- **Recruit where diverse candidates are.** If your department handles recruiting, make sure to reach out to diverse candidates where they are. Identify law job fairs, affinity networks, conferences, and training programs aimed at women and people of color and send recruiters. If your department does not do recruiting, consider asking the people in charge to do more targeted recruitment.
- **If recruitment happens mostly at law schools, consider candidates from multi-tier schools.** Don't limit your search to candidates from Ivy League and top-tier schools. This practice favors majority candidates from elite backgrounds and hurts people of color and professionals from nonprofessional backgrounds (class migrants).[52] If another department handles recruiting, let them know that your department would like to consider candidates from a broader range of law schools.
- **If your department writes its own job postings, make sure you are not using language that has been shown to decrease the number of women applicants** (words such as *competitive* or *ambitious*). If HR is in charge of the job postings, suggest that they review job posts in the same way. Tech companies such as Textio and Unitive can help.

- **Insist on a diverse pool.** If HR creates a pool for your department, tell them that you expect the pool to be diverse. One study found the odds of hiring a woman were 79 times greater if there were at least two women in the finalist pool; the odds of hiring a person of color were 194 times greater.[53] If HR does not present a diverse pool, try to figure out where the lack of diversity is coming from. Is HR weeding out the diverse candidates, or are the jobs not attracting diverse candidates?

C. Interrupting Bias While Reviewing Resumes

If your in-house department conducts the initial resume screening, use the following bias interrupters. If HR does the initial screening, encourage them to implement the following tips to ensure that your department receives the most qualified candidates.

- **Distribute the "Identifying Bias in Hiring Worksheet" before resumes are reviewed** (available at BiasInterrupters.org) so reviewers are aware of the common forms of bias that can affect the hiring process.
- **If candidates' resumes are reviewed by your department, commit to what qualifications are important—and require accountability.** When qualifications are waived for a specific candidate, require an explanation of why the qualification at issue is no longer important—and keep track to see for whom requirements are waived.[54] If HR reviews the resumes, give HR a clear list of the qualifications your department is seeking.
- **Establish clear grading rubrics and ensure that all resumes are graded on the same scale.** If possible, have each resume reviewed by two different people and average the scores. If HR reviews resumes, encourage them to review resumes based on the rubric that you provide to them.
- **Remove extracurricular activities from resumes.** Including extracurricular activities on resumes can favor elite majority candidates.[55] Remove extracurriculars from resumes before you review them or ask HR to do this.
- **Watch out for Maternal Wall bias.** Mothers are 79% less likely to be hired than an identical candidate without children.[56] Train people who review resumes not to make inferences about whether someone is committed to the job due to parental status. Instruct them not to count "gaps in a resume" as an automatic negative. If HR reviews resumes, ask them to do the same.
- **Try using "blind auditions."** If women and candidates of color are dropping out of the pool at the resume review stage, consider removing demographic information from resumes before review—or ask HR to do it.

D. Controlling Bias in the Interview Process

- **Ask the same questions to every person you interview.** Come up with a set list of questions you will ask each candidate and ask them in the same order to each person. Ask questions that are directly relevant to the job for which the candidate is applying.[57]
- **Ask performance-based, work-relevant questions.** Performance-based questions, or behavioral interview questions ("Tell me about a time you had too many things to do and had to prioritize."), are a strong predictor of how successful a

candidate will be on the job.[58] Ask questions that are directly relevant to situations that arise in your department.

- **Require a work sample.** If applicable, ask candidates to demonstrate the skills they will need on the job (e.g., ask candidates to write an advisory letter to the sales team about a new product.)
- **Standardize the interview evaluation process.** Develop a consistent rating scale for candidates' answers and work samples. Each rating should be backed up with evidence. Average the scores granted on each relevant criterion and discount outliers.[59]
- **Try behavioral interviewing.**[60] Ask questions that reveal how candidates have dealt with prior work experiences. Research shows that structured behavioral interviews can more accurately predict the future performance of a candidate than unstructured interviews.[61] Instead of asking "How do you deal with problems with your manager?" say "Describe for me a conflict you had at work with your manager." When evaluating answers, a good model to follow is STAR[62]: the candidate should describe the Situation faced, the Task handled, the Action taken to deal with the situation, and the Result.
- **If you use culture fit, do so carefully.** Using culture fit as a hiring criterion can thwart diversity efforts.[63] Culture fit ("Would I like to get stuck in an airport with this candidate?") can be a powerful force for reproducing the current makeup of the organization when it's misused.[64] Questions about sports and hobbies may feel exclusionary to women and to class migrants who did not grow up playing golf or listening to classical music. If culture fit is a criterion for hiring, provide a specific work-relevant definition. Google's work-relevant definition of culture fit is a helpful starting point.[65]
- **Ask directly about "gaps in a resume."** Women fare better in interviews when they are able to provide information up front rather than having to avoid the issue.[66] Instruct your interviewing team to give, in a neutral and nonjudgmental fashion, candidates the opportunity to explain gaps in their resumes.
- **Be transparent to applicants about what you're seeking.** Provide candidates and interviewers with a handout that explains to everyone what's expected from candidates in an interview. Distribute it to candidates and interviewers for review so everyone is on the same page about what your in-house department is seeking. An example "Interview Protocol Sheet" is available at BiasInterrupters .org.
- **Don't ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.[67] (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.[68])

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change,** you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the hiring process.
- **Use an iterative process** until your metrics improve.

Interrupting Bias in Assignments

Tools for In-House Departments

The Challenge

Diversity at the top can only occur when diverse employees at all levels of the organization have access to assignments that let them take risks and develop new skills. A level playing field requires that both the glamour work (career-enhancing assignments) and the office housework (the less high-profile and back-office work) are distributed fairly. If your department uses an informal "hey, you!" assignment system to distribute assignments, you may end up inadvertently distributing assignments in an inequitable fashion.

If women and people of color keep getting stuck with the same low-profile assignments, they will be more likely to be dissatisfied and to search for opportunities elsewhere.[69]

The Solution: A Three-Step Approach

Fair allocation of the glamour work and the office housework are two separate problems. Some in-house departments will want to solve the office housework problem before tackling the glamour work; others will want to address both problems simultaneously. This will depend on the size of your in-house department and how work is currently assigned.

1. Use Metrics

A. Identify and Track

For each metric, examine:

- What is the office housework and glamour work in your department?
- Who is doing what and for how long?
- Are there demographic patterns that indicate gender and/or racial bias at play?

Important metrics to analyze:

1. Distribute an office housework survey to members of your department to find out who is doing the office housework and how much of their time it requires. Create your own survey or use ours, available at BiasInterrupters .org.
2. Convene relevant managers (and anyone else who distributes assignments) to identify what is the glamour work and what is the lower-profile work in the department. Worksheets and protocols to help you are available online at BiasInterrupters.org.

3. Once you have identified what the glamour work is in your department, ask managers to report which employees have been doing the glamour work. Worksheets are also available at BiasInterrupters.org.

B. Analyze Metrics

Analyze office housework survey results and glamour worksheets for demographic patterns, dividing employees into (1) majority men, majority women, men of color, and women of color, (2) parents who have just returned from parental leave, (3) professionals working part-time or flexible schedules, and (4) any other underrepresented group that your organization tracks (e.g., veterans, LGBTQ people, individuals with disabilities). (This will also depend on the size of your in-house department. If there are only one or two people in a category, the metric won't be scientifically viable.)

- Who is doing the office housework?
- Who is doing the glamour work?
- Who is doing the low-profile work?
- Create and analyze metrics by individual supervisor.

2. Implement Bias Interrupters

Because every in-house department is different and varies so much in size and structure, not all interrupters will be relevant. Depending on how much of the hiring process is done by the in-house department versus HR, some of the interrupters may be more feasible than others. Consider this a menu.

A. Office Housework Interrupters

- **Don't ask for volunteers.** Women are more likely to volunteer because they are under subtle but powerful pressures to do so.[70]
- **Hold everyone equally accountable.** "I give it to women because they do it well—men don't." This dynamic reflects an environment in which men suffer few consequences for doing a poor job on less glamorous assignments and women who do the same are faulted as "not being team players."
- **Use admins.** Assign office housework tasks (e.g., planning birthday parties, scheduling meetings, ordering lunch) to admins if your department has enough admin support to do so.
- **Establish a rotation.** A rotation is helpful for many administrative tasks (e.g., taking notes, scheduling meetings). Rotating housework tasks (e.g., ordering lunch and planning parties) is also an option if admins are unavailable, making it a good option for in-house departments.
- **Shadowing.** Another option in larger departments is to assign a more junior person to shadow someone more senior—and to do administrative tasks such as taking notes.

B. Glamour Work Interrupters

- **Value what's valuable.** If your department values such things as mentoring and committee work (such as serving on the Diversity Initiative), make sure these things are valued when the time comes for promotions and raises. Sometimes

companies say they highly value this kind of work—but they don't. Mixed messages of this kind will negatively affect women and people of color. If your department doesn't have complete control over promotions and raises, work with relevant departments to ensure that communicated values are being rewarded appropriately. When members of your in-house department take on diversity work, make sure they have suitable staff support.

- **Announce your goals of equitable assignments.** Gather your team (or the members of your team who distribute assignments) to introduce the bias interrupters initiative and set expectations. Key talking points for the roll-out meeting are available online at BiasInterrupters.org.
- **Provide a bounceback.** If your metrics reveal that some members of your department distribute assignments inequitably, hold a bounceback meeting. Help the person in question think through why he or she assigns glamour work to certain people or certain types of people. Work with the person to figure out whether (1) the available pool for glamour work assignments is diverse but is not being tapped fully or whether (2) only a few people have the requisite skills for glamour work assignments. Use the "Responses to Common Pushback" and "Identifying Bias in Assignments" worksheets (available at www.BiasInterrupters.org) to prepare for bounceback meetings.

If a diverse pool has the requisite skills . . .

- **Implement a rotation.** Set up a system where plum assignments are rotated between qualified employees.
- **Formalize the pool.** Write down the list of people with the requisite skills and make it visible to whomever distributes assignments. Suggest or require anyone handing out plum assignments to review the list of qualified legal professionals before making a decision. Sometimes just being reminded of the pool can help.
- **Institute accountability.** Require people handing out assignments to keep track of who gets plum assignments. Research shows that accountability matters.[71]

If the pool is not diverse . . .

- **Revisit your assumptions.** Can only one (or very few) employees handle this type of assignment, or is it just that you feel more comfortable working with those few people?
- **Revisit how the pool was assembled.** When access to career-enhancing assignments depends on "go-getters" who ask for them, women, people of color, and class migrants may be disadvantaged because self-promotion is less acceptable to them or less accepted when they do it.

If these suggestions aren't relevant or don't solve your problem, then it's time to **expand the pool.** Small in-house departments may have to find creative ways to do this.

- **Development plan.** For the attorneys or other legal professionals who aren't yet able to handle the plum assignments, what skills would they need to be eligible? Identify those skills and institute a development plan.

- **Succession planning.** Remember that having "bench strength" is important so that your department won't be left scrambling if someone unexpectedly leaves the company.
- **Leverage existing HR policies.** If your company has a Talent Development Committee or professional development resources, use this resource to help your legal professionals develop the skills they need to handle plum assignments.
- **Shadowing.** Have a more junior person shadow a more experienced person during a high-profile assignment.
- **Mentoring.** Establish a mentoring program to help a broader range of junior people gain access to valued skills.

If you can't expand your pool, reframe the assignment. Can you break up the assignment into discrete pieces so more people can participate and get the experiences they need?

If nothing else works, consider a formal assignment system.

3. Repeat as Needed

- **Return to your metrics.** Did the bias interrupters produce change?
- **If you still don't have a fair allocation of high- and low-profile work**, you may need to implement stronger bias interrupters or consider moving to a formal assignment system.
- **Use an iterative process** until your metrics improve.

Interrupting Bias in Performance Evaluations

Tools for In-House Departments

The Challenge

Bias in performance evaluations has been well documented for decades.[72]

In one study, law firm partners were asked to evaluate a memo by a third-year associate. Half the partners were told the associate was black; the other half were told the identical memo was written by a white associate. The partners found 41% more errors in the memo they believed was written by a black associate as compared with a white associate.[73] Overall rankings also differed by race. Partners graded the white author as having "potential" and being "generally good," whereas they graded the black author as "average at best."

The problem isn't limited to law firms. One informal study in tech revealed that 66% of women's performance reviews but only 1% of men's reviews contained negative personality criticism.[74] Bias in the evaluation process stretches across industries.

The Solution: A Three-Step Approach

1. Use Metrics

For in-house departments, some metrics may be possible to track; others may require HR or can only be tracked company-wide. Depending on the structure and size of your department, identify which metrics you are able to track.

For each metric, examine:

- Do patterned differences exist between majority men, majority women, men of color, and women of color? Include any other underrepresented group that your company tracks, such as veterans, LGBTQ people, or individuals with disabilities.
- Do patterned differences exist for parents after they return from leave or for employees who reduce their hours?
- Do patterned differences exist between full-time and part-time lawyers and other legal professionals?

Important metrics to analyze:

- Do your performance evaluations show consistent disparities by demographic group?
- Do women's ratings fall after they have children? Do ratings fall after professionals take parental leave or adopt flexible work arrangements?

- Do the same performance ratings result in different promotion or compensation rates for different groups?

Keep in-house metrics by (1) individual supervisor; (2) department, if your in-house department is large enough to have its own departments; and (3) country, if relevant.

2. Implement Bias Interrupters

All bias interrupters should apply both to written materials and in meetings, where relevant.

Because in-house departments vary so much in size and structure, not all interrupters will be relevant to every company. Also, some interrupters will not be feasible, depending on how much of the hiring process is done by the in-house department versus HR. Consider this as a menu.

To understand the research and rationale behind the suggested bias interrupters, read the "Identifying Bias in Performance Evaluations Worksheet," available online at BiasInterrupters.org, which summarizes hundreds of studies.

A. Empower and Appoint

- **Empower people involved in the evaluation process to spot and interrupt bias.** Use the "Identifying Bias in Performance Evaluations Worksheet," available at BiasInterrupters.org, and distribute it to those involved in the evaluation process.
- **Appoint bias interrupters.** Provide HR professionals or team members with special training to spot bias and involve them at every step of the performance evaluation process. Training is available at BiasInterrupters.org.

B. Tips for Tweaking the Evaluation Form

Many in-house departments do not have control over their performance evaluation forms, so some of these suggestions will not be feasible.

- **Begin with clear and specific performance criteria directly related to job requirements.** Try "He is able to write clear memos to leadership that accurately portray the legal situations at hand" instead of "He writes well."
- **Instruct reviewers to provide evidence to justify their rating and hold them accountable.** Global ratings, with no specifics to back them up, are a recipe for bias and do not provide constructive advice to the employee being reviewed.
- **Ensure that the evidence is from the evaluation period.** The evaluation form should make it clear that a mistake an employee made two years ago isn't acceptable evidence for a poor rating today.
- **Separate discussions of potential and performance.** There is a tendency for majority men to be judged on potential and others to be judged on performance.
- **Separate personality issues from skill sets.** A narrower range of behavior often is accepted from women and people of color than from majority men.

C. Tips for Tweaking the Evaluation Process

- **Help everyone effectively advocate for themselves.** Distribute the "Writing an Effective Self-Evaluation," available online at BiasInterrupters.org.
- **If the evaluation process requires self-promotion, offer alternatives.** Set up more formal systems for sharing successes within your in-house department, such as a monthly e-mail that lists employees' accomplishments.
- **Provide a bounceback.** If possible, ask HR for an analysis (or do your own) to ensure that individual supervisors' reviews do not show bias toward or against any particular group. If they do, hold a meeting with that supervisor to help the person in question think through why certain types of people are getting lower performance evaluations. Work with the supervisor to figure out whether (1) the individuals in question are having performance problems and should be put on Performance Improvement Plans or whether (2) the supervisor should reexamine how employees are being evaluated.
- **Have bias interrupters play an active role.** If your in-house department holds calibration meetings, make sure there is a bias interrupter in the room to spot and correct any instances of bias. If a bias interrupter can't be in the room, have participants read the "Identifying Bias in Performance Evaluations Worksheet" before they meet, available online at BiasInterrupters.org.
- **Don't eliminate your performance appraisal system.** To the extent that you have a say in the HR operations in your company, encourage your company not to eliminate formal performance appraisal systems. Informal, on the fly performance evaluation systems are becoming more popular, but they have a tendency to reproduce patterns of bias.

3. Repeat as Needed

- **Return to your key metrics.** Did the bias interrupters produce change?
- **If you don't see change**, you may need to implement stronger bias interrupters, or you may be targeting the wrong place in the performance evaluation process.
- **Use an iterative process** until your metrics improve.

Interrupting Bias in Compensation

Tools for In-House Departments

The Challenge

The in-house gender pay gap has not been well studied, but a 2017 report from the Association of Corporate Counsel described a "dramatic" gender pay disparity based on a survey taken by 1,800 in-house counsel. The report found that there is a higher proportion of men in six of seven salary bands above $199,000—yet only 8% of male respondents believed that a pay gap existed. [75]

Interrupting bias in compensation for in-house departments can be tricky because decisions and policies around compensation typically are made at the company level, but there are steps your department can take to begin to address the problem.

The Solution

The following recommendations can be implemented at the departmental level to reduce bias in compensation.

- **Communicate your organization's compensation strategy.** If only those "in the know" understand what's really valued, that will only benefit a small in group.
- **When hiring, don't ask candidates about prior salary.** Asking about prior salary when setting compensation for a new hire can perpetuate the gender pay gap.[76] (A growing legislative movement prohibits employers from asking prospective employees about their prior salaries.[77])
- **Read and distribute the "Identifying Bias in Compensation Worksheet" to anyone involved in compensation decisions in your department (available online at BiasInterrupters.**org).
- **Obtain surveys and benchmarking data at regular intervals.** Assess whether compensation in your in-house department is competitive with the relevant market. SHRM and similar organizations provide guidance to help you choose reputable compensation surveys and benchmarking data. Typically these data are behind a pay wall.
- **Encourage HR to implement pay equity audits under the direction of the legal department or outside lawyers to maximize the chance that the data collected is not discoverable under attorney–client privilege.**
- **When pay disparity is discovered, work with HR or the equivalent department to address the disparity within a reasonable period of time.**
- **Institute a low-risk way people can get help in disputes over compensation.** Set up a way to settle disputes over compensation that lawyers and legal professionals can use without raising eyebrows.

Best Practice: Sponsorship

Based on Ricardo Anzaldua's MetLife Sponsorship Program

These Best Practice recommendations are based on conversations with Ricardo Anzaldua, GC of MetLife, who implemented a similar program in his department.

Identify top talent. Create a system that controls for unconscious bias to identify top talent (including nondiverse talent) to defeat arguments that the program is designed to unfairly advantage or disadvantage particular groups. To identify top talent early, MetLife used existing talent-identifying tools and introduced survey techniques to control for unconscious bias. Make sure that your system:

- Draws input from many different sources (not just managers; also include clients, peers, subordinates, etc.)
- Seeks assessments of both performance and potential from varying perspectives

Pair each top-talent candidate with a trained senior-level sponsor who is held accountable.

- Tie effective sponsorship with manager performance evaluations, compensation, and ability to be promoted.
- To ensure that sponsorship does not come to be regarded as a risk of being considered a poor performer with little reward, either (1) enlist *all* officer-level managers to be sponsors or (2) create upside rewards available only to effective sponsors. (Note: enlisting all managers to be sponsors is simpler and helps get buy-in to the program.)
- Create and inculcate leadership competencies for managers that they can also use to advance.
- All top talent should be paired with sponsors, but pair diverse top-talent candidates with senior management.
- Make sure each protégé has a *mentor* (preferably not the sponsor).

Develop goals and milestones for protégés.

- Each sponsor-protégé pair creates a mutually agreed-upon career goal that can be accomplished in three to five years.
- Each sponsor creates a development plan that includes milestones along the way (opportunities and experiences needed to accomplish the career goal). Milestones may include presentations, managing/leading a team, communication training, leading a significant project (e.g., transaction, litigation, regulatory examination), and executive presence coaching.

Create action learning teams (ALTs).

- Create small teams of protégés and sponsors (pair sponsors with different groups of protégés).
- Give ALTs senior-management-level problems and task them with formulating, in three to six months, written proposals to solve the issues, including how to involve non-legal resources.
- Bring in SMEs to facilitate the more technical aspects of specific problems.
- At various points in the process, ALTs should brief senior management on the status of their work.

Bake sponsorship and ALTs into existing talent development systems, performance evaluations systems, and HR processes.

Endnotes

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About the ABA Commission on Women in the Profession

As a national voice for women lawyers, the ABA Commission on Women in the Profession forges a new and better profession that ensures that women have equal opportunities for professional growth and advancement commensurate with their male counterparts. It was created in 1987 to assess the status of women in the legal profession and to identify barriers to their advancement. Hillary Rodham Clinton, the first chair of the commission, issued a groundbreaking report in 1988 showing that women lawyers were not advancing at a satisfactory rate.

Now entering its fourth decade, the commission not only reports the challenges that women lawyers face, it also brings about positive change in the legal workplace through such efforts as its Grit Project, Women of Color Research Initiative, Bias Interrupters Project, and the Margaret Brent Women Lawyers of Achievement Awards. Drawing upon the expertise and diverse backgrounds of its 12 members, who are appointed by the ABA president, the commission develops programs, policies, and publications to advance and assist women lawyers in public and private practice, the judiciary, and academia.

For more information, visit www.americanbar.org/women.

About the Minority Corporate Counsel Association (MCCA)

The preeminent voice on diversity and inclusion issues in the legal profession, MCCA is committed to advancing the hiring, retention and promotion of diverse lawyers in law departments and law firms by providing research, best practices, professional development and training, and pipeline initiatives.

MCCA's groundbreaking research and innovative training and professional development programs highlight best practices and identify the most significant diversity and inclusion challenges facing the legal community. MCCA takes an inclusive approach to the definition of "diversity" including race and ethnicity, gender, sexual orientation, disability status and generational differences.

Since MCCA's founding 20 years ago, it has been recognized and honored by the Association of Corporate Counsel, the National LGBT Bar Association, the National Minority Business Council, Inc. and the U.S. Equal Employment Opportunity Commission, among others. MCCA's vision, "To make the next generation of legal leaders as diverse as the world we live in," is what drives the organization and our passionate and committed partners.

For more information, visit www.mcca.com.