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## The Courage to Pay Heed: Knowing and Responding to Implicit Bias

By Sarah Redfield – August 28, 2012

In 1988, *Punch* magazine published a cartoon by Rianna Duncan, showing a meeting around a big boardroom table. All of the participants, save one, were men. The chairman of the board (and it is *chairman*) is shown as saying, “That’s an excellent suggestion, Miss Triggs. Perhaps one of the men here would like to make it.” Many of us laughed when we first read this, and we recognized our own experiences in the humor. On reflection, the cartoon is not really funny, and in many ways, it rings as true in 2012 as it no doubt did in 1988.

The ABA’s Commission on Women reports that women are just 31 percent of the legal profession. Women hold 26 percent of federal and state judgeships. In private practice, women represent 19.4 percent of partners, 15 percent of equity partners, and 6 percent of the 200 largest law firm’s managing partners. In Fortune 500 companies, women hold 18.8 percent of the general counsel positions; in the Fortune 501–1000, 16 percent. On average, women’s weekly salaries are 20 percent to 30 percent lower than their male counterparts’, and there is extensive research documenting the so-called motherhood or pregnancy penalty. As Dr. Stephen Benard recently testified before the Equal Employment Opportunity Commission, women with children are perceived as the least competent of applicants, are least likely to be allowed to be late for work without penalty, and are least likely to be recommended for hire or promotion. Even in the ABA, women hold well fewer than half the leadership appointments and positions. Although significant progress has been made in the diversity count as these numbers and other related data show, women and diverse lawyers remain far from parity with our representation in the population. Progress is slow in the diversity count and even slower in terms of meaningful and equal inclusion.

Borrowing the title from Virginia Valian’s book on the progress of women in the academy, we need to ask *Why So Slow?* Many of us who pioneered the way as early partners, faculty, and judges thought that as our numbers and visibility increased, our positions and security in the workplace would increase as well in terms of power, pay, and equity. But for many, this has not been the case. Is there a place for us to achieve equal numbers and meaningful and fair inclusion with more speed? Prior work on in- and out-group dynamics and micro-inequities, coupled with emerging neuroscientific research on implicit bias, offers an answer.

Starting in the mid-1970s, Dr. Mary Rowe, then special assistant to the president and chancellor for women and work (and now MIT ombudsperson and adjunct professor of negotiation and conflict management at the MIT Sloan School of Management), began writing about her observations at MIT concerning the negative impact of “micromessages” and the lack of equitable progress of women and minorities. Micromessages are small messages, typically sent without conscious thought or intent. These messages often would be unidentified at first, even by

the recipient, or—once identified—seen as *trivial* or *petty*. We are all familiar with this kind of message—being the only one called by her first name, the one left off a list to receive announcements of new positions, the one not introduced or invited, the one whose time is taken up by “service” and “caring assignments.” Dr. Rowe further described how women may well be doubly misused in these situations because many women are socialized to “respond disproportionately swiftly to disapproval.” All of this is apt to result in self-doubt at the least, and all apt to reflect a downward spiral or Pygmalion effect—where lower expectations lead to lower results, while micro-affirmations and higher expectations signaled to others lead to higher results for those being affirmed.

Research also shows that these “small” messages have power for insiders and outsiders. For example, when a person with higher status acknowledges someone at a meeting, that acknowledgment influences others to think better of that acknowledged person. All in all, such messages are cumulative, so much so that some researchers have called this pattern of accumulation of positive messages the “Matthew effect” from the biblical quotation “For whomsoever hath, to him shall be given, and he shall have more abundance; but whomsoever hath not, from him shall be taken away even that he hath.”

Some 25 years after Dr. Rowe’s groundbreaking work and 15 years after the enactment of Title IX, Dr. Virginia Valian wrote *Why So Slow? The Advancement of Women*. Later she was part of the 2007 Barnard conference, *Women, Work & the Academy: Strategies for Responding to “Post Civil Rights Era” Gender Discrimination*, that observed “women continue to face gender discrimination in this ‘post-civil rights era’ but that it does not operate through the kinds of overt barriers to participation that mobilized activists in the 1960s; it is embedded in the fabric of everyday interaction.” Barnard Center for Research on Women, *Women, Work & the Academy: Strategies for Responding to “Post-Civil Rights Era” Gender Discrimination 2* (2007). Drs. Rowe and Valian wrote about the academy generally, though their comments are apt specifically for the legal academy as well. Today, according to the ABA’s statistics on legal education, 31 percent of tenured law school faculty are women; by comparison, 26 percent of law school deans are women, and 72 percent of full-time skills and writing faculty are women.

I can only wish that I’d been reading Mary Rowe and Virginia Valian instead of some of my law school’s assignments. It might have saved me from years of not noticing, of thinking my concerns only petty, of not understanding that the Matthew effect was alive and well. Many of us have been in meetings like the one Ms. Duncan illustrated in her 1988 cartoon and have comforted ourselves with the adage that it is a form of flattery if someone copies or takes our idea as his own and runs with it: It’s the idea that counted. Others of us have been the leaders of meetings, but when we have taken our places, even the place at the obvious head of the table, we have not been so acknowledged. In fact, there is a research experiment that shows exactly this phenomenon.

Ms. Duncan and Drs. Rowe and Valian were not lawyers, but they captured the experiences of many women working in the legal academy and the legal profession. Reading the work of these

foresighted women in 2012, one could easily think it was hot off the press. Putting the work on micromessaging together with the emerging research on implicit bias offers an answer to the question why so slow. Progress is slow because of the now-measurable implicit biases we all hold. Such biases predispose us to those in our in-group and against those in our out-group, and they trigger the kind of micro-inequities Dr. Rowe first described.

Implicit bias is, as the term suggests, a bias that we hold without our conscious knowledge. Although none of us would now voice the explicitly biased statement “We can’t hire/promote Karen because she is a woman,” many still hold the implicitly biased view that women are more suited to homerooms than boardrooms. The actions and decisions of those so biased may well be, albeit unwittingly, influenced by that perception. Indeed, the research data show that when encountering someone new, we *first* identify gender, then identify whether the person is visibly generally like us (e.g., is the person in a wheelchair), then race, culture, or nationality. Think about the new client or contact who speaks to your male associate as if he is in charge.

The research on implicit bias is relatively recent, focused in large part on the work of psychologists with a test called the Implicit Association Test, which can measure our response time to visual cues. The theory of this work is that we respond more quickly to categorizations and combinations with which we are familiar and inherently more comfortable. These responses are likely to differ from our self-reported attitudes and biases. When asked to categorize male and female with career and family, most Americans respond more quickly to women paired with family: Seventy-six percent of people taking the Implicit Association Test on Gender—Career show an implicit bias toward women and families. For 20 percent, the automatic preference for male with career, female with family is slight; 32 percent show a moderate automatic preference this way; and 24 percent show a strong automatic preference this way. Although it is true that, as psychologist Brian Nosek observes, “[p]eople may possess associations with which they actively and honestly disagree,” there is increasing research suggesting that our implicit biases correlate with our actions. (Readers can take the test in a variety of categories at the [Harvard website](#).)

We are acting at least in part on our implicit biases when we exercise the human preference for our own in-group, a preference that translates to loyalty to our own group and lesser value for those in the out-group. Some scientific research has shown we have this loyalty even when the group is based on something as small as whether we are wearing tied shoes. The combination of implicit bias, group preferences, *and* the kind of micromessaging described by Mary Rowe and others is triply damning.

These implicit attitudes and responses occupy a significant space in the workplace. For example, in their aptly titled article *Exploring the Color of Glass: Letters of Recommendation for Female and Male Medical Faculty*, Frances Trix and Carolyn Psenka describe the weaker recommendation letters written for women—shorter, subtly raising doubts, and understating status. The telling research by Marianne Bertrand and Sendhil Mullainathan on résumés circulated with black names (Jamal and Lakisha) as compared with white names (Greg and Emily) now echoes earlier research by Michael Hitt and William Zikmund on male/female

names and further evinces the power of quick, albeit thinly based, perceptions. Once an employee is hired, implicit bias and in-group preference continue to play a role: The hiring partner has a stake in the person he or she interviewed and will make allowances for behavior that would not be made for those who are not part of this in-group. The real-life experiences of many women practicing law and the numbers on position and pay all support this understanding of the role of implicit bias. The [\*Prove It. Prove it Again!, Gender Bias Learning Project\*](#) offers further interactive illustration. And for anyone who doubts the power of implicit assumptions, consider the story of Dr. Ben Barres, Ph.D., professor of neurobiology and chair of the Department of Neurobiology at Stanford University School of Medicine. Dr. Barres was born female and changed sex at age 40. He offers this striking story: “Shortly after I changed sex, a faculty member was heard to say ‘Ben Barres gave a great seminar today, but then his work is much better than his sister’s work.’” Surely, Dr. Barres's brain and academic acumen were the same, but his work (and he) were perceived differently (and more positively) based on his gender.

*Why So Slow?* Implicitly held views—and the accompanying biased assumptions, group dynamics, and micromessaging, which reinforce and augment them—are formidable reasons. Think about how many places are laden with pictures of former (and current) leaders. Think about the rows of former deans, former bar presidents, former commissioners of one agency or another. All, or almost all, are men. What message flows from walking by those men every day? Think about the message that flows from the dean or senior partner who doesn’t acknowledge our Ms. Triggs at a meeting, brushing off her ideas with a quick thank-you and elaborating on others. Think about that same leader who walks down the hall, chatting with David and Michael, but engrossed in other conversation when he walks by Leanne. Think about the message being sent when the leadership sends out a firm-wide email congratulating Harry for a job well done, case well won, article well written, but remains silent when Tess does likewise.

Consider, too, the halo effect. Once you’ve done something well, you are expected to continue to do well. Went to an Ivy. . . . Won a prestigious award. . . . If the buzz about a certain professor is great, and if that professor is late for class, doesn’t get his grades in on time, and misses office hours, it takes a long time for the buzz to change. But if the first impression bandied about is that a professor isn’t that good, then any slip is a big slip. These differences aren’t the kinds of things that merit complaint. If we were to complain, we would be seen as petty. Oh, Sarah, I was just engrossed in conversation. Oh, Sarah, of course I know you wrote an article too. Oh, Sarah, it’s just not a big deal. Or, even worse: Oh, Sarah, you’re acting just as we expected, making an emotional mountain out of nothing.

What to do? There is no simple answer, of course. In her writing and in conversation, Dr. Rowe suggests that there is not much that the recipient of micro-inequities can do to spin them around to her advantage. But with mindfulness and some courage, there are some possibilities. I regret not having shown more courage in the past, but I plan to be ever more mindful going forward and invite you to join me. Let us

- have the courage to urge our organizations to bring debiasing training into the workplace;
- take advantage of the research on the value of familiarity and meaningful social contact as means to lessen implicit bias, by doing what we can to encourage more common working opportunities and meaningful social contact among differing groups;
- have the courage to heed the micromessages for what they are. Perhaps it is petty to note that our work isn't counted, that we weren't the ones sent to make the presentation to the European clients, but understand it in context, rather than beginning the self-questioning;
- be mindful, too, of the messages we can observe being sent to others, including those that have become so routine as to be normal—for example, the lovable white male professor who consistently describes his women students by hair color and looks;
- heed implicit bias and micro-inequities around us and, especially if we are in a secure position, provide bystander support for the recipient of a micro-inequity. For example: Mr. Chairman, I think that was Ms. Triggs's idea. Dean, let's include Professor Carolyn Finch in the list of candidates for associate dean;
- be willing to offer microaffirmations when we can.

In his book *Micromessaging: Why Great Leadership Is Beyond Words*, author and consultant Steven Young describes an exercise he does with his clients, “Catch Me If You Can.” After his clients receive debiasing training, they readily engage in a “game” to catch out and name micro-inequities. Let's all have the courage to learn and to play the next round.

\* Author's note: This piece is a cumulation of and reflection on my work on these topics over the past two years. I am grateful to the organizers of this issue for offering the courage theme and allowing me the opportunity to find some of that courage and recommit myself to achieving a more equitable workplace. Those interested in further reading might want to consider two recent popular press books, Malcolm Gladwell, *Blink: The Power of Thinking Without Thinking* (2007); Nobel laureate Daniel Kahneman, *Thinking Fast and Slow* (2011), as well as Claude Steele's recent work, *Claude M. Steele, Whistling Vivaldi and Other Clues to How Stereotypes Affect Us* (2010). Consistent with the formatting requirements, footnotes and citations are not included. A full list of citations is available on request to the author.

**Keywords:** woman advocate, litigation, bias, women, courage

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## Cultivating the Courage to Ask for Business

By Debra L. Bruce – August 28, 2012

Many lawyers, both men and women, blanch at the thought of having to ask for business, and I don't blame them. In my opinion, it's often a mistake, and it *should* be scary to do something clumsy or annoying. Common advice about "asking for the business" may drive sales in low-risk transactions but drive *away* potential clients with complex and risky issues.

Nevertheless, lawyers do need to develop business, and expressing your interest in working with someone can make a difference. How do you drum up the courage to do that? In short, it's a lot less scary if you have laid the right groundwork beforehand. To help illustrate what potential clients want to hear from lawyers, I did an informal survey of a number of in-house counsel about how they like to be approached for business. My thoughts and their responses are intermingled in this article.

### Identifying a Need First

A number of in-house respondents indicated that men were bolder and more direct about seeking business than women were. They said men are more likely to make cold calls. Some of them have been *too* bold, however. "A strong sales pitch makes me squirm," said one counsel. In their boldness, some men persistently pursued work when they didn't really understand the company's business. "I am probably not going to respond very positively to repeated inquiry from an attorney who is trying to convince me what a great lawyer he is, but whose experience and expertise simply aren't on point," another warned.

Lawyers commonly trip up by making a pitch for business before unearthing a current need for their services, much like my acquaintance at church who turned to me and said, "Debra, I'd like to put you in a new Camry." If he had done a little research by accompanying me to the parking lot, or if he had asked me some foundational questions, he would have learned that my car wasn't very old, that I liked it, and that a Camry wasn't my style. He broadcast the message that *he* needed to sell a car and unwittingly implied that my needs were irrelevant. Similarly, asking for legal business when there's not a need can expose a lawyer's preoccupation with her own welfare over the client's.

All that being said, an expression of interest in working with the client, without actually pressing for work, can have a positive impact. Some counsel indicated they appreciate a parting statement like "Please think of us if you have a future need" or "Don't hesitate to call if we can be of help."

### Knowing the Industry

To understand clients' needs, you must become familiar with their environment. Do your homework to get a good grounding in the industry. Every one of the in-house counsel respondents stressed the importance of industry knowledge. The absence of it is fatal, and the demonstration of it smoothes the way.

If you have a passion for some element of their business, that's even better. If your sincere interest extends to the industry's history, how it makes the world a better place, or some other facet of the business, bring it into the conversation. All of the respondents indicated that they seek legal expertise and a reputation for good work, but that's really just the ante for getting into the game. They value lawyers who care about the client's industry and know it well enough to combine legal knowledge with practical business solutions for their company's challenges.

You can simultaneously demonstrate your familiarity with the industry and uncover needs by asking questions such as "A lot of our clients in your circumstance experience challenges with X, Y, and Z. Have any of those come up for you?" As you explore the nuances of their particular problems, it may become appropriate to say something such as, "I have some experience in helping clients with that." If they don't take the bait, ease off a little. Don't succumb to the temptation to press for the business just because you have uncovered a need. As one survey respondent said, the most effective business developers "recognize that forming a new professional relationship typically takes time and cannot be done overnight."

### **First Downs Versus Touchdowns**

If your prospect hasn't jumped at the chance to retain your services, he or she may not have the necessary confidence that you can bring real value to him or her. Or perhaps the prospective client doesn't have the authority to move forward. Instead of going for a touchdown by asking for the business, just try to keep scoring first downs. Consistent first downs will eventually turn into a touchdown if you don't fumble.

So how do you keep the ball moving? Perhaps you can ask, "Would you like to hear how some of my clients have solved that problem?" That's a low-risk question that doesn't require much courage to ask. It offers to donate something of value to your prospective client, building trust. It also naturally opens a door to tell a success story.

Your success story is more persuasive than a direct ask and often leads to more pointed inquiries about your services—initiated *by the client*. Maybe you won't ever have to ask for the business, as the client takes the lead. If the client expresses interest in progressing to the next level with you, your follow-up question might be "What's the next step?"

If signals seem positive, but still noncommittal, ask for a commitment short of a touchdown that keeps advancing the ball. Here are some possibilities:

- "Would you like to set a time for further conversation to explore whether we can help you?"
- "How about if I pull some data together on this to go over with you next week?"
- "Would you like me to take a look at your agreement and give you some preliminary thoughts?"
- "Are there some other folks with valuable input on this subject that you and I might like to talk to together?"

If you get a commitment for intermediate action by the client, you will know that you're still in the game.

Even if this process doesn't evolve into new business, you can avoid fumbling the ball, and scaring the client away, by proceeding incrementally based on previously developed information. You will have gained useful data and built a little trust toward a future opportunity. The client won't avoid your next call, especially if you shared valuable insights in this process.

### **Getting into a Conversation**

Of course, you have to get a conversation going in order to ask questions that uncover needs. The in-house counsel I surveyed don't mind being contacted by prospective outside counsel, although one admonished that "cold calls . . . are almost never successful." It's better to have some kind of preexisting connection, or at least an introduction, to "warm up" the call.

Don't hoard your expertise. In-house lawyers appreciate outside lawyers who help keep them informed and up-to-date. As one said, "We depend on connections outside the office to gain the knowledge we need to be effective. So I don't mind being contacted by legal specialists who really know my industry and who may have some valuable knowledge that I do not have." Another said that lawyers typically get on his radar screen by raising issues of importance to his company or by providing insights or examples of their work product that are relevant to the company's business.

### **The Importance of Networking**

So how do you get into conversations with potential clients, or create the connections that can improve your likelihood of success, without making cold calls or being pushy? Networking is key. One in-house counsel said, "I enjoy talking to new people who introduce themselves at a conference or an event, particularly if they are confident, poised, and friendly—without being overly aggressive." Another said:

In order for a law firm attorney to have some chance of getting my business, I almost always would need to have met that person and ideally have had an opportunity to interact with them in a legal setting, such as serving on a bar committee or participating on the same seminar panel or co-authoring an article with them.

So don't give up on speaking, writing, bar service, and trade-association activity just because your phone doesn't ring the next day. You are demonstrating your expertise and putting in place relationship building blocks. If you don't meet a potential client, you might get to know someone who can later make an important introduction or referral. Corporate counsel frequently seek referrals from lawyers they trust, particularly other corporate counsel.

### **Understanding How Companies Value Interpersonal Skills**

Networking also gives you an opportunity to demonstrate your talent for communication and connection. If you get overly nervous or tend to keep quiet in group conversations, seek help in developing a confident presence. Decision makers use every interaction to evaluate your ability to work well with others. As one counsel said, “If the person I’m thinking about hiring is rude to the waiter at a restaurant, won’t make eye contact, or otherwise presents poorly in person, then I worry about how they will interact with business folks at my company, appear to a judge, etc.”

### **Asking for Business from Friends**

Who needs networking when your friend has the power to choose legal counsel? If you have the necessary expertise, it might seem as if you’re on easy street. However, as a lawyer-coach, I have often encountered women attorneys who worry that if they ask for business from a friend, particularly a female one, it might damage the friendship. Could the friend think the attorney is trying to take advantage of the relationship? Perhaps the client would feel uncomfortable providing candid direction or feedback to a friend. Maybe the client wouldn’t want to risk exposing her own mistakes, shortcomings, and fears to a social acquaintance.

It is interesting that my survey elicited responses from some female corporate counsel who felt quite comfortable doing business with friends and from some male counsel who didn’t. One of the women said, “My company has provided management training so that I am comfortable creating commitments and holding people accountable to their commitments, regardless of whether they are a business colleague, friend, or family.” Counsel who didn’t mind being asked for work by friends stressed that “the lawyer has to do a great job no matter who she is” and that lawyers should understand that companies have policies and procedures to follow.

Given the variety of preferences among corporate counsel on the subject of doing business with friends, a wise attorney will watch for indicators of a friend’s attitude. Does she often socialize with outside lawyers? Does he share his concerns about business problems with you or seek informal advice? Does she seem to have an interest in seeing you succeed? Has he ever mentioned that he might call on your expertise one day? Does your friend generally have an informal and approachable demeanor? Those are all good signs.

On the other hand, if your friend tends toward a formal, reserved, or cautious personality, tread carefully. If she never discusses work with you, she may prefer to compartmentalize things, keeping her home and social lives separate from her business life.

If you still aren’t sure whether your friends would be receptive, test the waters by showing interest in their career success and welfare at work. From time to time, venture casual questions about what they like about their work, what kind of stresses they deal with, or what they think about recent developments in their industries. Share information about legal news that may be relevant to their companies or their kind of work.

If your friends are responsive to such conversations, they will gradually begin to think of you as someone to discuss business issues with. They may begin asking for your casual advice. If they don't, to safeguard the relationship, you can approach the subject obliquely. Mention that your firm helps with those kinds of issues, and you'd be happy to email a relevant white paper or invite them to the next seminar the firm conducts. If they brush off the offer instead of expressing appreciation and interest, back off.

**Conclusion**

One way to bolster your courage is to eliminate the need for the activities that cause you fear and discomfort. Ask questions that ferret out a client's needs. Generously share solutions and useful insights. Take incremental action. These behaviors help you avoid pointedly asking for business, while actually increasing your likelihood of success.

**Keywords:** woman advocate, litigation, networking, business, clients

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## Gutsy Career Moves: Anecdotes from Women Lawyers

By Lisa Frye Garrison – August 28, 2012

There are moments in every lawyer's career when she has the choice to take the smooth and easy path or the tougher, uphill trail. Sometimes the choice seems "small" in the grand scheme of things—like overlooking a sexist comment instead of confronting the speaker directly. Sometimes the choice is obviously much "bigger"—like choosing where to practice law or whether to sue an employer for wrongdoing.

This article offers a variety of stories from women lawyers across the country about their own courageous career choices, both large and small. I asked them to tell these stories in *The Woman Advocate*, because, when I shared those stories with other women lawyers, they were as inspired and encouraged as I was. May these anecdotes embolden you when you are faced with "a choice between what is right and what is easy" (as J.K. Rowling puts it in *Harry Potter and the Goblet of Fire*).

**Nancy O'Mara Ezold**, founder and partner, Ezold Law Firm, Bala Cynwyd, Pennsylvania:

In 1989, I was the first woman to bring to trial a claim against a law firm for sex discrimination in the denial of partnership (*Ezold v. Wolf, Block, Schorr & Solis-Cohen*). When I was denied partnership, I believed it was because of discrimination. I tried to resolve the dispute with the firm, but when that didn't work, bringing suit was not only the logical option, it was the only option.

I was (and still am) a litigator, so I knew what I was getting into. I knew that there was strong evidence for my claim but had no idea what was in the evaluation files. One of the things my case stands for is the proposition that you can prove your case using other associates' personnel files.

I had a young son when the case went to trial, so going through the trial was tough on many levels. But I had the best, dedicated counsel in the country—the late Judith Vladeck. It was an honor to have her as my counsel.

The verdict was very satisfying. Although we lost on appeal, we had tremendous support from groups all over the country, as amici. When I gave talks about the case across the country, women told me that they felt they were finally getting a chance.

**Andrea S. Kramer**, partner, McDermott Will & Emery, Chicago, Illinois:

I got out of law school in the late 1970s. Few women were at law firms at that time. I was the only woman associate at my firm. (There was one woman partner.)

One day, there was a meeting in our large conference room to address a huge project for a big-firm client, and the table was full of lawyers, with me the only woman. The meeting was winding down, and a few assignments had been given out. The senior partner stood up and walked out of the room. Everyone stood up and followed him out of the room. He was still giving out assignments—and I did not have one yet—when he walked into the men’s room. He was followed into the men’s room by every male lawyer who had not already gotten an assignment. The door slammed in my face.

I stood there for a second trying to figure out what to do and then walked right in as fast as I could (before they started to adjust their clothes). I said, “If you’re going to give assignments out in the men’s room, you’ll all need to get used to me standing here.” No more assignments—where I was involved—were ever given out in the men’s room. But whenever there was a prank in the men’s room, I was always jokingly blamed for the prank!

**The Honorable Caryl P. Privett**, Tenth Judicial Circuit Judge, Jefferson County, Birmingham, Alabama:

I was born in Birmingham, Alabama, and graduated from law school at NYU in 1973. When I came home to Birmingham to practice law in 1974, I was the only white lawyer, and the only female lawyer, in an all-black law firm where I had clerked in 1972. I came home to be a civil rights lawyer. I was tired of hearing the term “outside agitators” being applied to civil rights supporters; I decided to be an “inside agitator.”

At the time, I recognized that this decision could possibly limit future career choices. But it turned out, over nearly 40 years, not to have been a detriment to my career. I encourage young lawyers to follow your passion, because what may appear to limit you in the future may instead be an asset in the future. Following your passion may be the best decision you ever make. It was for me.

**Amy M. Stewart**, associate, Bickel & Brewer, Dallas, Texas:

At a prior firm, everyone was assured that there was a “no a--hole policy”—that jerks were not tolerated and would be shown the door when necessary to maintain office morale. One partner made it a point to counsel me about the importance of treating all legal assistants and secretaries with the utmost respect.

Yet this partner ended up being the worst offender of them all! There were times when he screamed at his secretary at the top of his lungs, red-faced, all the while spewing venomous words. While the other partners, associates (including me), and legal assistants cringed, in the end we all looked the other way. After the

tirades ended, I reached out to the secretary and offered useless advice, such as to “shrug it off” or to “keep her head up.”

Then I realized that I, as well as every other person who stood around and did nothing while the partner derided her, was complicit in her embarrassment. After much deliberation, I felt the best way to deal with the situation, without simultaneously destroying my short-lived career at the firm by taking the partner head-on, was to mention the issue in my year-end evaluation. So, when the routine question about the atmosphere around the office was asked, I informed the head of litigation of the situation.

To the firm’s credit, the partner was counseled about his behavior, and the mistreatment ended abruptly. As a result, the morale in the litigation department as a whole was lifted. In the end, I was proud that I had the guts to stand up for what I believe in—that everyone, from the managing firm partner to the night cleaning crewmember, should be treated with common decency and respect. And I was proud of the firm for standing up and enforcing its “no a--hole” policy.

**Anna D. Torres**, partner, Powers McNalis Torres Teebagy & Luongo, West Palm Beach, Florida:

I started my legal career in San Diego, but being a young lawyer and single mom was a challenge. My family was mostly in Florida, and I knew that having their support at that point in my life would make me a more successful mom and lawyer. By the time I joined my current firm, in 1999, I had already chosen to make two career moves since arriving in Florida. Although I had enjoyed my experiences at two other firms and made good friends, I had not found my professional “home.” In truth, I was starting to think that career satisfaction was as elusive as a pink unicorn. I had never had the traditional goal of becoming a “partner” at a firm and never defined success as necessarily achieving that position. I needed a place where I could be professionally comfortable and make a good living until my daughter was older and I could find the elusive pink unicorn of career satisfaction that didn’t seem to be possible in the law-firm environment.

As it turns out, I was in for a surprise. Our senior partner became an unlikely but terrific mentor, allowing me a level of freedom and autonomy in my practice that I had not experienced at any of my prior positions. He asked me to lead the firm’s recruiting efforts in order to increase diversity in the ranks of our lawyers. He recognized and encouraged my budding interest in business development and began to teach me the needed skills.

Over time, I enjoyed the work I was doing, but it was not necessarily work that I found stimulating day to day. Frankly, I was a little bored with it. It occurred to

me that I could continue to do that work and be OK with that, or I could find a way to develop work that I found more interesting. And so, with not much more than that idea, I approached my firm's two senior partners and asked whether they would support me if I started a new department within the firm.

"My" department would focus on handling liability defense and coverage matters, rather than the first-party property coverage matters that formed the firm's practice at the time. I was asked to come up with a business plan, set some goals, and let them know what resources I needed and how I would become profitable: no small task for an English major who had never taken a business class or been involved in the management of any kind of business. My first step was to search "business plan" on the Internet. After I submitted my plan, the two senior partners generously agreed to provide me with the resources I needed, allowed me the opportunity to make decisions, and provided guidance where I lacked skills. But the success or failure of my plan fell strictly on my shoulders.

At first, my "department" was me, one paralegal, and one legal assistant. My department now makes up roughly 30 percent of the firm's business, with plans to continue growing. In 2002, I became a partner at the firm. As it turns out, it was probably the decision to create and build my department that has kept me from leaving the practice of law. There have been, and continue to be, many headaches along the way. But I don't regret the moment when I walked into that office with more confidence than sense. Taking that step affected me professionally and personally in ways that I did not imagine at the time and allowed me to finally find my professional "home."

**Heather C. White**, partner, Smith Moore Leatherwood LLP, Charlotte, North Carolina:

My twin boys were born when I was a mid-level associate at my firm. When I returned to work after a total of five months out (between bed rest and maternity leave), my next annual review came around just a few short months later. During the review, a partner suggested that while he encouraged cross-office work and travel, he would not expect me to do that with the new babies. I promptly responded that my children would not prevent me from traveling or from working on engaging, challenging work. The partner took me at my word—and promptly staffed me on a case requiring plenty of cross-office and other travel. The boys are now four, their older sister is now seven, and I am now a partner with plenty of work (and travel!).

**Keywords:** woman advocate, litigation, women, career, firm, courage

[Lisa Frye Garrison](#) is a partner at Smith Moore Leatherwood LLP in Greensboro, North Carolina.

## The Courage to Confront the Work-Life Imbalance

By Regina Pepe Martorana – August 28, 2012

Several years ago a dear friend of mine, Donna, told me: “We have done a real disservice to your generation by telling our daughters that you can have it all, that you can be a great mother and a successful career woman. We have set for you impossibly high standards.” Before I had my son, I did not truly understand what she meant. Generations of women before me seemed to have proven Donna wrong. In fact, Donna herself seemed to have proven this statement wrong. An environmental scientist and a professor who went to law school as a second career, Donna is a courageous working mother and a glass ceiling shatter-er. She has done amazing things in her personal life and career, all while raising a beautiful, well-rounded daughter. In response, I nodded, smiled, and politely agreed—but did not understand why I could not be a great mother and a successful attorney. Through the years, the question stayed with me: Why can’t I have it all? Can we stay in such a demanding profession and still be there for our children?

As I worked my way up the associate ranks in my law firm, I looked to more senior female associates and partners for guidance. I asked my mentors, and my mentors’ mentors, the age-old question “How did you do it?” I searched high and low for guidance, attended seminars geared toward female attorneys, and spoke to as many women as I could for advice. I thought to myself: These women must have the answer. They have made it to the upper echelon of their chosen practice areas, some even while staying in private practice, and all while raising children. They must know the secret. How did *they* do it?

“Hire a lot of help” is what one of my mentors, a thriving insurance partner who raised five children, told me time and again. Several clients and friends decided to go in-house when they had children so that they did not have to worry about billable hours or demanding clients and ultimately had more flexibility in creating their schedules. A successful trusts and estates partner and mentor, whose husband was a stay-at-home dad, advised that perhaps I was asking the wrong question. “Isn’t the question ‘how *do* you do it, rather than how *did* you do it?’” she asked. But I am a lawyer, and lawyers are trained to find not just any answer but *the* answer. And so I searched and researched and searched some more to find the answer to the question that I thought mattered most to me: How can I be a great mother and still be successful in private practice?

As a seventh-year associate, I found out that I was pregnant. Even though my husband and I were ecstatic about the news, panic ensued in the months that followed. My firm has a 10-year partnership track, and I was entering the “zone.” I had worked so hard to get there, and now I was going to be a mother. How am *I* going to do this? I sought advice from the most amazing woman I know, my own mother, who effortlessly raised four children, worked full-time as a teacher in East New York (an hour-long commute each way) and still managed to cook dinner every night. She did all of this after she had taken us to our soccer games, hockey practices, and ballet classes, and only after helping us finish our homework, study for exams, and complete our

science fair projects. I am exhausted just writing about it. “Don’t worry. You will figure it out. You know, honey, you will find what works for you. You just do it,” my mother said.

And then I had Lucas. While I was on maternity leave, it became abundantly clear to me that I had never known the depths of love or happiness that I did when I was holding my son. It is truly the most amazing feeling I have ever known in my life. It was during that time that it also became abundantly clear to me that I would never feel truly fulfilled unless I returned to my firm. I had worked so hard to become a successful attorney, and I still had so much to accomplish.

We set out to find a nanny for Lucas. After a grueling search (the details of which could serve as the basis for a separate article), we found our nanny. I went back to work full-time. The only word I can think of to describe the months that followed, especially before Lucas began sleeping through the night, is “torture.” After working 10, 12, or 14 hours in a day filled with conference calls, mediations, discovery battles, and client dinners, I was coming home to dirty diapers, all-night crying, feedings, fevers, and teething. The thing about babies is that they are always going through a phase. And for some reason, the side effects of every phase are inconsolable crying and interrupted sleep—their sleep and, of course, yours. I spent my nights awake rocking Lucas and days hard at work trying to succeed in private practice where time, commitment, client relationships, and business development are all essential. Not to mention all of the family obligations, paying bills, cleaning the house, grocery shopping, and the general responsibility that goes along with one’s existence as a functioning member of society. In retrospect, “torture” might be an understatement.

I cannot count the number of times over the past year that I considered quitting work altogether, or at the very least cutting my hours to part-time. I felt this way despite the fact that I work at a family-friendly law firm with a collegial atmosphere and partners who are wonderful and understanding people and parents. I also have a fantastic nanny and, most importantly, an amazing and supportive husband who is a very busy “big firm” lawyer, yet still pitches in with Lucas and the housework far more than the ever-complained-about Neanderthal husband. At times, it still seemed impossible to advance in private practice and raise Lucas.

But several months ago, in my sleep-deprived haze, a moment of clarity made Donna’s words come back to me—we *have set for you impossibly high standards*. It was then that I experienced a true revelation. I had found the answer, my answer to *the* question. It is not that you cannot be a great mother and successful attorney—and wife and daughter and friend (and the list goes on and on). The answer is that we simply cannot have it all. Not because we are working mothers in a high-pressure, demanding profession, but because *no one* has it all. It is because we are human beings. Like all human beings, we have to make sacrifices, and we have to make choices. Once I accepted that I could not have it all, I stopped trying to do it all. With this revelation came liberation.

Over the past year, I have been learning about what is often referred to as the work-life balance. Or what I refer to as the work-life *imbalance*. Although it is unbalanced, I am finding my middle ground. As I look back at all of the advice I received from my mentors and friends, each one of them was absolutely right. You need a lot of help, and you learn what works for you. *The question is not how did you do it. The question is how do you do it.* At home, my nanny is my right arm. I simply could not function if I did not know for certain that Lucas was in safe, loving hands. I learn a lot from her about what Lucas is doing. There are days when I leave the house before he gets up and get home after he is already asleep. My nanny emails me pictures of Lucas throughout the day and keeps a calendar of his day. These two relatively simple things are probably the most important to me, because I feel as if I am there with him and involved in his day-to-day activities. I have a wonderful husband who is there with Lucas when he can be (or when I need him to be) and is very supportive in my life and my career.

At work, I have managed to stay on track at my firm, with my caseload, and with my clients. It is certainly not perfect, and I am constantly making choices and sacrifices. I do what I can, and I make every moment at work and at home count. My husband and I spend as much time with Lucas as we can on the weekends and try to do little else. During the week, I am holed up in my office and miss out on some networking events due to the there-are-only-24-hours-in-a-day time restraints. However, I am more focused, efficient, and productive when I am at work, or at a networking event, because my time is so valuable. I am involved in fewer bar associations and committees, but I am dedicated to the few I can give my time to. When I am at home, I am more focused on Lucas, because I cherish each moment I spend with him. Most recently, all four of his molars decided to come in at the same time, and so he screamed, and we did not sleep for two solid weeks. When Lucas was feeling better, I treated myself to a few hours at the spa. It is amazing what two hours of down time can do for a working mommy. I even relax more efficiently now.

In all my searching and researching, I figured out what I should have known all along. My mother was right. *You figure it out. You find what works for you. You just do it.*

**Keywords:** woman advocate, litigation, work-life balance, law firm, courage

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## The Courage to Speak Out Against Discrimination

By Elizabeth Kristen – August 28, 2012

In the early 1970s in Lincoln, Nebraska, my mother was outspoken about the rights of women and girls. Her views were often unpopular, and one opponent derided her by saying “What do you know about the law? You’re not a lawyer!” She took up the challenge and entered law school. At that time, there were few women in her class. As a student and single parent, she often brought me to campus—so the first time I went to law school, I was six years old.

One summer during law school, my mother took a job in Washington, D.C., with Women’s Lobby, and I went along with her. That summer, Women’s Lobby was focused on Title IX of the Education Amendments of 1972. Their lobbying strategy was to line the halls of the Capitol with women and girls to make our existence impossible to ignore. When I returned to Nebraska, I received a flier at school about a basketball team for boys only. I spoke up about my right to play and about Title IX. With my mom’s help, I became the only girl to play on the team.

As a young girl, I benefited from Title IX. When I began my law career at Boalt Hall in 1998, my class was more than 50 percent women. I saw that Title IX had opened doors at professional schools for an entire generation of women. Now I am the director of the Gender Equity & LGBT Rights Program at the Legal Aid Society-Employment Law Center in San Francisco. Legal Aid was founded in 1916 and is the oldest nonprofit legal aid organization in the western United States. The Gender Equity & LGBT Rights Program is dedicated to promoting gender equity and advancing the rights of low-wage women and families; lesbian, gay, bisexual, and transgender (LGBT) individuals; survivors of domestic and sexual violence; pregnant women; caregivers; military families and veterans; and other underrepresented workers and students.

As a lawyer, I was privileged to represent a class of young women fighting for equality under Title IX in *Ollier v. Sweetwater*, Case No. 07 CV 0714 L(WMC) (S.D. Cal. 2007). These young women showed tremendous courage in pursuing and ultimately vindicating their rights. They have paved the way for equality for female students at their high schools.

Veronica Ollier, Naudia and Maritza Rangel, and Amanda and Arianna Hernandez were students and athletes in Chula Vista, California, just south of San Diego. In 2006, Naudia and Maritza’s father, Steve, contacted me because he believed that his daughters were being treated unfairly in the athletic programs at Castle Park High School in the Sweetwater Union High School District.

Steve told me that he wanted all his children to be treated fairly regardless of their gender. He tried to advocate on his own with the high school’s athletic director. In response, the director threatened to fire the girls’ beloved softball coach. Unfortunately, the school did fire the coach. When the district refused to negotiate any improvements in conditions for the girls after that, Legal Aid and cocounsel filed a class action lawsuit in federal court in San Diego. On the day we filed the complaint, my clients bravely spoke at a press conference about the importance of fighting for equality for girls. Veronica Ollier said, “The school treats us like we are inferior to

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the boys. All we want is to play on fields of the same quality and have the same equipment the boys get automatically.”

Arianna Hernandez was 12 years old at the time. Her sister Amanda Hernandez, a sophomore at Castle Park High School, endured public and humiliating questions about the lawsuit from a teacher. A new coach was hostile toward the plaintiffs. Veronica Ollier and Naudia Rangel, seniors at Castle Park, were denied their athletic varsity letters and team banquet.

We sought class certification. When the court certified our case as a class, *Ollier v. Sweetwater Union High School District*, 251 F.R.D. 564 (S.D. Cal. 2008), these five young women became representatives for all present and future Castle Park female students and potential students who participate, seek to participate, or were deterred from participating in athletics at Castle Park.

After hundreds of hours of discovery, we filed and won a motion for summary judgment on one important Title IX cause of action. We demonstrated that the defendants failed to provide equal participation opportunities for girls at Castle Park. The court found that “defendants are not in compliance with Title IX based on unequal participation opportunities in athletic program[s].” 604 F. Supp. 2d 1264, 1275 (S.D. Cal. 2009).

On another key part of Title IX, requiring equal treatment and benefits for girls who participate in athletics, Judge James M. Lorenz presided over a 10-day bench trial in the fall of 2010. The five brave young women, our class representatives, all testified in court and endured lengthy and contentious cross-examination. Arianna Hernandez, a high school junior at the time of the trial, was on the stand for more than three hours of cross-examination after just five minutes of direct testimony. She stood her ground and answered questions like a champ.

In February 2012, Judge Lorenz ruled entirely in our favor, finding that the defendants violated Title IX by failing to provide equal treatment and benefits. He also found that the defendants retaliated against the class. 2012 WL 424413, at \*21 (S.D. Cal., Feb. 9, 2012). During the course of the litigation, Arianna Hernandez stated:

Girls have the same rights as boys, and they should be treated equally. Girls also have pride and respect for themselves, and they don't want to be treated like they're not as good as the boys. I, like other girls, want to play on a nice field and have the same quality equipment and facilities like the boys. I hope that this lawsuit will change things at CPHS and ensure that girls are finally treated fairly.

After we won our case, Veronica Ollier said, “I'm very happy with the outcome of this lawsuit. I hope this will mean more athletic opportunities for all students at Castle Park High School, but especially for girls.”

Naudia Rangel remarked:

With this victory, future generations of girls at Castle Park High School will get the same opportunities and treatment as boys at the school. That's all I wanted from this lawsuit. I just wanted things to be fair. I'm proud that we changed the future for female athletes at Castle Park High School.

This year marks the 40th anniversary of Title IX, and yet this law remains dramatically under-enforced. Although we have made progress, we are a long way from equality. As Judge Lorenz stated in our *Sweetwater* case, "Equal athletic treatment is not a luxury. It is not a luxury to grant equivalent benefits and opportunities to women. It is not a luxury to comply with the law. Equality and justice are not luxuries." 2012 WL 424413, at \*21 (citation omitted).

Courage also is not a luxury. I am fortunate that my clients have the courage to speak up when they experience discrimination. Their bravery makes the world better for all of us.

**Keywords:** woman advocate, litigation, Title IX, discrimination, women, courage

[Elizabeth Kristen](#) is the director of the Gender Equity & LGBT Rights Program at the Legal Aid Society-Employment Law Center in San Francisco, California.

## **Book Review: *Courageous Counsel: Conversations with Women General Counsel in the Fortune 500***

By Gilda R. Turitz – August 28, 2012

*Courageous Counsel: Conversations with Women General Counsel in the Fortune 500* is the result of an ambitious, well-documented, and well-researched project that chronicles how women have successfully attained and fulfilled the general counsel role in Fortune 500 companies since the first woman was appointed to that position in 1979. The authors—Michele Coleman Mayes, general counsel of Allstate Insurance Co. (in 2011, No. 89 in the Fortune 500) and Kara Sophia Baysinger, a partner at SNR Denton US LLP—undertook to investigate how the more than 100 women who have held the position of general counsel in the Fortune 500 got there and the key elements that allowed them to ascend to such positions throughout the past three decades of changing business, social, cultural, and other factors. What resulted is a fascinating amalgam of career paths and personal stories that explores in detail the factors and keys to these women’s successes and that relies on solid authorities for such critical components as leadership, risk taking, and mentoring. In short, this work explores and illuminates the many aspects of that elusive quality—courage—that these women exhibited to secure the chief legal officer position at the country’s largest public companies. While the research amply demonstrates that there is no one formula for success, a balance of three major factors illustrates each of these women’s achievements as their narratives unfold: (1) mentoring; (2) risk taking; and (3) personal and professional skills, attributes, and characteristics.

The authors interviewed representative groups of women general counsel, whom they divided across time and by industry and geography. Thirty-three personal stories form the core of the book, illustrating the challenges and successes of these women, whom the authors divided into three “waves.” The pioneering “first wave” comprised the eight women who became general counsel in the Fortune 500 from 1979 to 1996. The “second wave” was the “pre-critical mass” from 1997 to 2001, when another 12 women became general counsel. The third and current wave is made up of women from 2002 to the present, with an all-time high of 101 general counsel as of the publication date of 2011. This number is more than double the number of women general counsel in the Fortune 500 since 1999, when the Minority Corporate Counsel Association’s survey counted them at 44. Despite this growth, the authors note that, with 20.2 percent women in the general counsel position in the Fortune 500, full equality as corporate legal leaders is far from a reality.

Before chronicling the rise of each individual general counsel in her career path, the authors begin with the historical and social context of resistance to accepting women lawyers in the United States, starting with Margaret Brent in Maryland in the 1600s. That history highlights women’s courage and persistence in the face of hostile and blatant discrimination. Women lawyers through the centuries had to assert rights that are now taken for granted: to vote, to attend law school, to be admitted to the bar, to become partners in major law firms, and to join law school faculties. While women were entering law school and the profession in ever greater numbers by and after 1979, the role of the general counsel was evolving and substantially

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changing during the same period—starting in 1979 with the appointment of the first Fortune 500 woman general counsel. Historically, and during the first wave, general counsel played the role of “gatekeeper” as to whether business ideas would be accepted into the marketplace. Their leadership was largely confined to the legal department, and their responsibilities generally limited to advising on standard legal issues and farming out work to outside law firms. As time progressed, senior corporate leaders began recognizing that general counsel could play a more strategic role to help make better business decisions and find creative solutions. After the corporate turmoil and scandals of the late 1990s and early 2000s resulted in the passage of the Sarbanes-Oxley Act, general counsel were charged with much more responsibility. The general counsel has become integral to decision making in a corporation, as its moral compass or “conscience.” General counsel now frequently fulfills the trusted advisor role to the chief executive officer and board, and is involved in the most important decisions to protect the company’s interests.

With this historical and social backdrop, it is no surprise that courage is a quality any successful woman attorney would need to reach the Fortune 500. It is, as the book’s title highlights, the theme of these women’s career paths, which often were neither linear nor carefully planned out. Courage has no one definition in this book—or in these women’s careers. Courage, however, is a “key success denominator,” shared by many women, because they were willing to go outside their comfort zones and be risk takers. Many of the general counsel interviewed acknowledged that the greatest risk to advancement can be in failing to take risks. Although each individual’s path to becoming a Fortune 500 general counsel was unique to her, each benefited from mentoring, guidance, and sponsorship from disparate sources within and outside her professional and personal milieus. Each took risks in making moves, some dramatically so—for example, by moving to a subsidiary with which she had no familiarity, or even into “a line” business operations position in which she had no experience. Each of these women had to step up to lead, sometimes in very stressful situations and balancing personal and family issues.

Indeed, several general counsel interviewed expressly linked mothering and family skills to success in the corporate and legal suites. They placed emphasis on the critical importance of having a mentor—in particular, a sponsor or champion who undertakes to help an attorney navigate the organization and her career, as well as publicize her successes and praise her talents and accomplishments to the right people. Through interviews with general counsel and expert consultants, the authors identify many roles, functions, and aspects of mentoring that provide excellent guidance to lawyers as to where to find mentors and what to expect from them, at all points in a career.

*Courageous Counsel* offers much food for thought about the value of courage and risk taking for lawyers. Whether an attorney is in-house, in private practice, or in another setting, the book provides sound career advice by example. The candor of the personal stories enhances the credibility of this work, as do the solid credentials and consultation of these women’s colleagues, academics, legal recruiters, and specialists in related fields such as leadership and gender differences. This thorough effort to look at the world of women lawyers breaking down barriers

in the corporate world will give insight to all those who want to learn how to navigate their own career challenges ahead.

**Keywords:** woman advocate, litigation, general counsel, women, courage

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## NEWS & DEVELOPMENTS

### The Truth as to "Why Women Still Can't Have It All"

Anne-Marie Slaughter's recent article "Why Women Still Can't Have It All," published in the June edition of the *Atlantic*, has reignited the ongoing debate about work-life balance. The article explores the falsehood that women can "have it all." But as Ms. Slaughter has succinctly declared: "It's time to stop fooling ourselves."

Ms. Slaughter aptly points out that if more women could strike a work-life balance, more women would reach leadership positions; in turn, they would make it easier for more women to stay in the workforce. According to Ms. Slaughter, one of the biggest impediments to achieving a work-life balance is the "time macho" culture that still pervades the professional world. The pressure to put in "face time" at the office—arriving early, staying late, and working weekends—is commonly expected, but not necessarily effective. Ms. Slaughter suggests that one way to change this is to change the "baseline expectations about when, where, and how work will be done."

One of Ms. Slaughter's more startling examples of women at the top not being able to "have it all" is in her comparison of the Supreme Court justices. While every male Supreme Court justice has a family, two of the three female justices are single with no children. The third female justice, Ruth Bader Ginsburg, began her career as a judge only after her youngest child was nearly grown. Similarly, Condoleezza Rice, the first and only woman national-security adviser, is the only national-security adviser since the 1950s who does not have a family.

Ms. Slaughter also identifies the following "half-truths" that women are told—and should stop telling—when discussing how women manage to "have it all":

- *It's possible if you are just committed enough.* This is the argument that women today are not committed enough to make the same sacrifices that women ahead of them have made. In other words, "if we can do it, they can do it." According to Ms. Slaughter, the issue is not a woman's ambition, but rather America's social and business policies that make it difficult for a woman to balance work and life.
- *It's possible if you marry the right person.* This is the proposition that women can have it all if their husbands or partners are willing to share the parenting load. But Ms. Slaughter notes that society must change and come to collectively value choices that put family ahead of career.
- *It's possible if you sequence it right.* This is the idea that if you order family and career in the right sequence, you can have it all. The problem with this "half-truth" is that neither sequence—kids first, then career; or career first, then kids—is optimal.

Ms. Slaughter notes that to honestly and productively discuss solutions to the issues faced by professional women, these half-truths need to be dispelled. If we can change our assumptions, we can begin to change our perceptions and responses. According to Ms. Slaughter, if women are to achieve real equality as leaders, "we have to stop accepting male behavior and male choices as the default and the ideal."

**Keywords:** litigation, woman advocate, income, children, career

—[\*Suzanne L. Jones\*](#), *Hinshaw & Culbertson LLP, Minneapolis, MN*

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## Actionable Advice for Young Women Lawyers

Do not get on the diversity committee at your firm. "Please don't do it!" Victoria Pynchon, attorney-mediator and author of *The Negotiation Law Blog*, says in a recent video on Forbes.com, titled "How Young Women Lawyers Can Succeed at Big Law." Why? The short answer, according to Pynchon, is that diversity committees lack power, as do hiring committees. Rather, young women should get on the finance or other committees where the true power within the organization lies.

Pynchon, who graduated law school in 1980, recounts that the contributions of her generation of women lawyers were in simply "occupying" law firms. Making their presence known, staying onboard when gender inequalities were apparent, and succeeding within the firm as much as possible. The new generation is different, Pynchon says. While today women make up a modest 15–16 percent of equity partners at AmLaw 200 firms, Pynchon urges this is a "critical mass," sufficient to propel women to reach equal representation in equity partnership and close the leadership and income gaps in a few short years. Pynchon advises an active approach to young women lawyers, enabling growth of their careers to make new contributions and increase representation in leadership and equity partnership positions.

Here is an overview of Pynchon's advice:

1. **Pick your sponsors and mentors wisely and early.** What exactly is a sponsor and how is this person different from a mentor? "A sponsor" Pynchon explains, "is someone that puts *their* skin in *your* game." A sponsor will advocate on your behalf and voice the importance of your climbing the ranks to her fellow equity partners, but the trick lies in aptly selecting your sponsor.
2. **Set sights on your eventual practice area and join relevant bar associations.** Become a "worker among workers" by obtaining committee assignments and getting to know others through this capacity, Pynchon advises, because you or partners in your firm are bound to change firms during the tenure of your career.

3. **Start cultivating clients.** Direct, in-person meetings with the general counsel of a company are not expected from a young attorney. Nevertheless, young women lawyers can establish relationships with the junior in-house attorneys by being service-oriented and becoming the go-to person over time. Pynchon emphasizes that young women must think and act along the lines of having “your own business.”
4. **Become involved with the power committees in your firm.** Pynchon explains that young women lawyers can make sharper, more powerful decisions early in their career, such that by the time they have children, women are reaping the benefits of those earlier decisions. As mentioned, Pynchon argues that young women lawyers should not waste time with firm committees that lack power, but should set their sights on those committees that are within the power structure of the firm.

[View](#) an interview with Victoria Pynchon in which she provides advice to women lawyers.

**Keywords:** woman advocate, litigation, law firm, sponsors

—[Claudia D. Hartleben](#), *Curtis, Mallet-Prevost, Colt & Mosle LLP, Washington, D.C.*

**WORDS OF WISDOM**

## **What Was a Time in Your Career When Courage Made the Difference?**

August 28, 2012

“A hero is no braver than an ordinary man, but he is braver five minutes longer.”  
—Ralph Waldo Emerson (1803–1882)

This is a good thing to keep in mind whenever we face bullies, whether on or off the bench.

Years ago, as a young lawyer in the middle of a jury trial litigating against a well-respected, more experienced local lawyer, I had to make a quick decision as to how best to protect the record when, after a number of incorrect rulings, the judge literally stormed off the bench, with the jury in the box, in furious response to what I believed was my well-founded objection.

In the stunning silence that followed, I calmly asked that the record reflect the judge’s response. When court resumed, and for the remainder of the trial, the judge was more temperate and civil in his rulings, and the case proceeded without further incident. But the best consequence of my proceeding in the face of uncertainty that day is that my then-adversary to this day tells me how impressed he was with my handling of that tense situation.

Emerson got this right: Don’t quit because you feel fear. The essence of courage is not the absence of fear, but proceeding in the face of fear. Even heroes experience fear, but they do not let it stop them. Neither should you.

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For attorneys, the safest and easiest response to any argument, motion, or witness is to respond with equal or superior force. Sacrificing the visceral satisfaction and the client-pleasing impact of hitting back blow for blow takes a cool head and a brave heart. About a decade ago, I was handling a permanent injunction trial. The plaintiff put on day after day of testimony. My client was chomping at the bit for “his turn.” Instead, after careful analysis, I put on one brief witness. The plaintiff was caught unawares and had no rebuttal case to present. Some months after the judge denied the injunction, I met the judge on the street, and he complimented me on my “guts.”

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