

**“It is literally impossible to be a woman [lawyer].”**

Inspired by Oscar-nominated America Ferrera's monologue as Gloria in *Barbie*, and supported by studies, statistics, anecdotes, law review articles, a decade of studying implicit bias, and 37 years of practicing law and being a judge, Judge van Meerveld will kick off the first half of the presentation with an original monologue about the continuing plight of women in the profession.

The second half of the presentation will be group discussion using topical, "gamified" prompts (sexism bingo, to be precise) designed to increase attendees' professional competence and skill sets to battle implicit bias in the legal profession by helping attendees to:

- (1) more easily recognize what implicit bias looks like on a day-to-day basis and in regular law office interactions (to counteract, for example, people believe certain situations are “just the way it is” when you’re a lawyer or other legal professional);
- (2) understand, based on real-life examples and shared experiences, how implicit bias harms—professionally, personally, emotionally, and financially—women and people of color in the legal profession and the public’s perception of the legal profession as a whole, including by stunting effective client representation and advocacy; and
- (3) brainstorm practical solutions to real-life problems and instances of implicit bias by crowdsourcing these issues to CLE attendees and drawing on the diversity of their practices, backgrounds, credentials, skill sets, experiences, and perspectives.

Rather than talking *at* presentation attendees, this program aims to talk *with* attendees and allow attendees to speak up, engage, and participate to facilitate deeper discussion and learning for all. Past participants have reported this CLE offered attendees a safe space to share personal experiences, which led to an overall more profound and important learning experience to take back to their law practices.

The monologue and discussion prompts will address the following:

- **Guilt by Association**
  - Getting tarred with the same brush as other women with whom management may have had a bad experience. “We had a woman before; she left to follow her husband out of town.”
- **Affinity bias**
  - Study after study shows we like and gravitate to people who look like ourselves. In a system that is dominated by white males, we find they seek out, mentor, reward, and promote white males.
- **Confirmation bias**
  - We remember the situations and experiences that reinforce our stereotypes, and forget the ones that challenge it. We remember the woman who left at 4 p.m. to pick up the carpool, but not the man who left at 4 p.m. to coach the soccer team.

- **The ambition trap**
  - Women need to strive to achieve, but not be seen as striving to achieve. We like ambitious men; we do not like ambitious women. Success and likeability are positively correlated for men, but negatively correlated for women. As in, successful women are seen as unlikeable by both men and women. And being likeable is key to success, creating a “no win” situation for ambitious women.
- **Aggressiveness v. assertiveness**
  - The same conduct is seen as assertive in men, but aggressive in women.
- **Punishment v. reward for “valuing diversity”**
  - Studies show that women and people of color are punished for promoting diversity, while men are rewarded for “valuing” it.
- **Gender bias inherent in firm compensation, partnership structures**
  - Compensation committees with little to no female representation; rewarding only origination while assigning women to work on teams; handing books of business down to younger men (see “affinity bias”); requiring onerous hours worked; valuing client development, trial and firm management experience— law firms’ compensation systems and partnership structures are “a petri dish” of bias and discrimination.
- **Disparate application of objective and subjective criteria**
  - Studies show women are unfairly held to objective criteria when men are not (e.g. billable hours or collections goals), while subjective criteria are also used to favor men (e.g. “shows leadership potential”).
- **Prove-it-again syndrome**
  - Men are assumed to be competent and to have skills and potential, so they are given the benefit of the doubt in advance. Women’s achievements are often attributed to luck, good mentors, or family connections. They have to prove their success is not an anomaly. They have to prove it again and again.
- **The maternal wall**
  - Motherhood is held against employees. Mothers are assumed to be less dedicated to their work. They are less likely to be offered jobs and paid less than women without children. Men who are fathers suffer no reduction in job offers and are actually paid more than men without children.
- **Non-promotable tasks**
  - Taking meeting notes, preparing the slides but not giving the presentation, organizing marketing materials but not going to meet the client, planning and executing the office holiday party. This non-revenue producing and unrewarded “office housework” falls disproportionately on women. Women are asked more to perform it, say yes more when asked, and when volunteers are sought, volunteer more.

- **Interruptions**

- There is a reason “manterrupt” has become a word. Studies show women are interrupted far more than men, especially by men. This is chronic in the law, as elsewhere, including at the highest levels. A scientific study of years of U. S. Supreme Court arguments found that male lawyers interrupted female justices far more often than they did the male justices. Even the male justices interrupted the female justices more often than they interrupted each other.

As shown on the sample bingo card attached, other topics for group discussion include:

1. Mansplaining
2. Manterrupting
3. Hepeating
4. Manspreading
5. Overtalking
6. Stolen ideas/credit
7. Prove-it-again
8. One-mistake fatality
9. Guilt by association
10. “Unsupportive of other women”
11. Too assertive/ambitious
12. Not assertive/ambitious enough
13. Too emotional
14. “Smile!”
15. Undercompensated
16. Unfairly applying “objective” criteria
17. Appeal to meritocracy
18. Maternal wall
19. Vague criticisms/”intangibles”
20. Afraid to complain
21. Fear of being disliked
22. Office-wife/”soft” hours
23. Mistaken for subordinates
24. Appearance pressures
25. “Professional” attire
26. Glass escalator
27. Belittling complaints
28. Negating complaints
29. Imposter syndrome
30. Boy’s club activities
31. Tokenism
32. Inflexible hours/facetime
33. Sexual harassment

#### **Resources:**

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3. Bryce Covert, *Women and People of Color Get Punished for Hiring to Increase Diversity, White Men Get Rewarded*, ThinkProgress (July 23, 2014, 4:13 PM), <https://archive.thinkprogress.org/women-and-people-of-color-get-punished-for-hiring-to-increase-diversity-white-men-get-rewarded-a4a73b4a33d3/>.
4. Jancee Dunn, *Dreading That Event You Said Yes to Ages Ago? Be Kinder to Your ‘Future Self’*, N.Y. TIMES (Aug. 11, 2023).
5. Robin Ely, Pamela Stone & Colleen Ammerman, *Rethink What You ‘Know’ About High-Achieving Women*, HARV. BUS. REV. (Dec. 2014).
6. Diana Gerdeman, *How Gender Stereotypes Kill a Woman’s Self-Confidence*, HARVARD BUSINESS SCHOOL WORKING KNOWLEDGE (Feb. 25, 2019), <https://item/how-gender-stereotypes-less-than-br-greater-than-kill-a-woman-s-less-than-br-greater-than-self-confidence>.
7. Hon. Ruth Bader Ginsburg, *Ruth Bader Ginsburg’s Advice for Living*, N.Y. TIMES, Oct. 2, 2016.

8. Claudia Golden, *Why Women Won* (Nat'l Bureau of Econ. Rsch., Working Paper No. 31762, 2023).
9. Jessica Hamzelou, *Be a Player, Hate the Game: Beating Sex Discrimination*, NEW SCIENTIST (May 13, 2014).
10. Christine Hauser, *How Professionals of Color Say They Counter Bias at Work*, N.Y. TIMES, Dec. 12, 2018.
11. Anna Holmes, *How About Never?*, THE ATLANTIC (Nov. 5, 2021).
12. Leslie Jamison, *The Mind Boggling Simplicity of Learning to Say 'No'*, N.Y. TIMES (Feb. 28, 2024).
13. Tonja Jacobi, *Roberts Steers Supreme Court's Arguments if Not Its Decisions*, BLOOMBERG LAW (Aug. 30, 2023).
14. Tonja Jacobi & Dylan Schweers, *Justice, Interrupted: The Effect of Gender, Ideology and Seniority at Supreme Court Oral Arguments*, 103 VA. L. REV. (2017).
15. Lizzy McLellan, *Law Firms a 'Petri Dish' for Implicit Bias, Gender Inequity*, N.Y. LAW J., Oct. 26, 2016.
16. Felicity Menzies, *Gender Bias at Work: The Assertiveness Double-Bind*, LINKEDIN (Apr. 17, 2018), <https://www.linkedin.com/pulse/gender-bias-work-assertiveness-double-bind-felicity-menzies-fca>.
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18. Verna Myers, *Why Effective Retention Requires Attention to Our Implicit Biases*, ABA Section of Litigation, reprinted from *Law Practice Management* (2012).
19. NALP, *Representation of Women and Minorities Among Equity Partners Slowly Increasing*, NALP BULLETIN, Apr. 2018.
20. NALP, 2017 REPORT ON DIVERSITY IN U.S. LAW FIRMS (2017).
21. DESTINY PEERY, REPORT OF THE 2018 NAWL SURVEY ON RETENTION AND PROMOTION OF WOMEN IN LAW FIRMS (2018).
22. Deborah L. Rhode, *Foreword: Diversity in the Legal Profession: A Comparative Perspective*, 83 FORDHAM L. REV. 2241 (2015).
23. Stephanie Russell-Kraft, *Law Firms Show Slow Progress as Women Land 38% of Partnerships*, BLOOMBERG LAW (Dec. 31, 2018, 3:30 AM CST), <https://news.bloomberglaw.com/business-and-practice/law-firms-show-slow-progress-as-women-land-38-of-partnerships>.

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25. Shira A. Scheindlin, *Female Lawyers Can Talk, Too*, N.Y. TIMES, Aug. 8, 2017.\
26. Heidi Stevens, *Sorry, but could I just get a word in about that Uber board member?*, CHI. TRIBUNE, June 15, 2017.
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