

The Painful Truth

Implicit Bias Utilized to Penalize Working Moms



Presented By

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“We may encounter many defeats but we must not be defeated.”

Maya Angelou

The Painful Truth: Implicit Bias – An Effective Tool Utilized to Penalize Working Mothers

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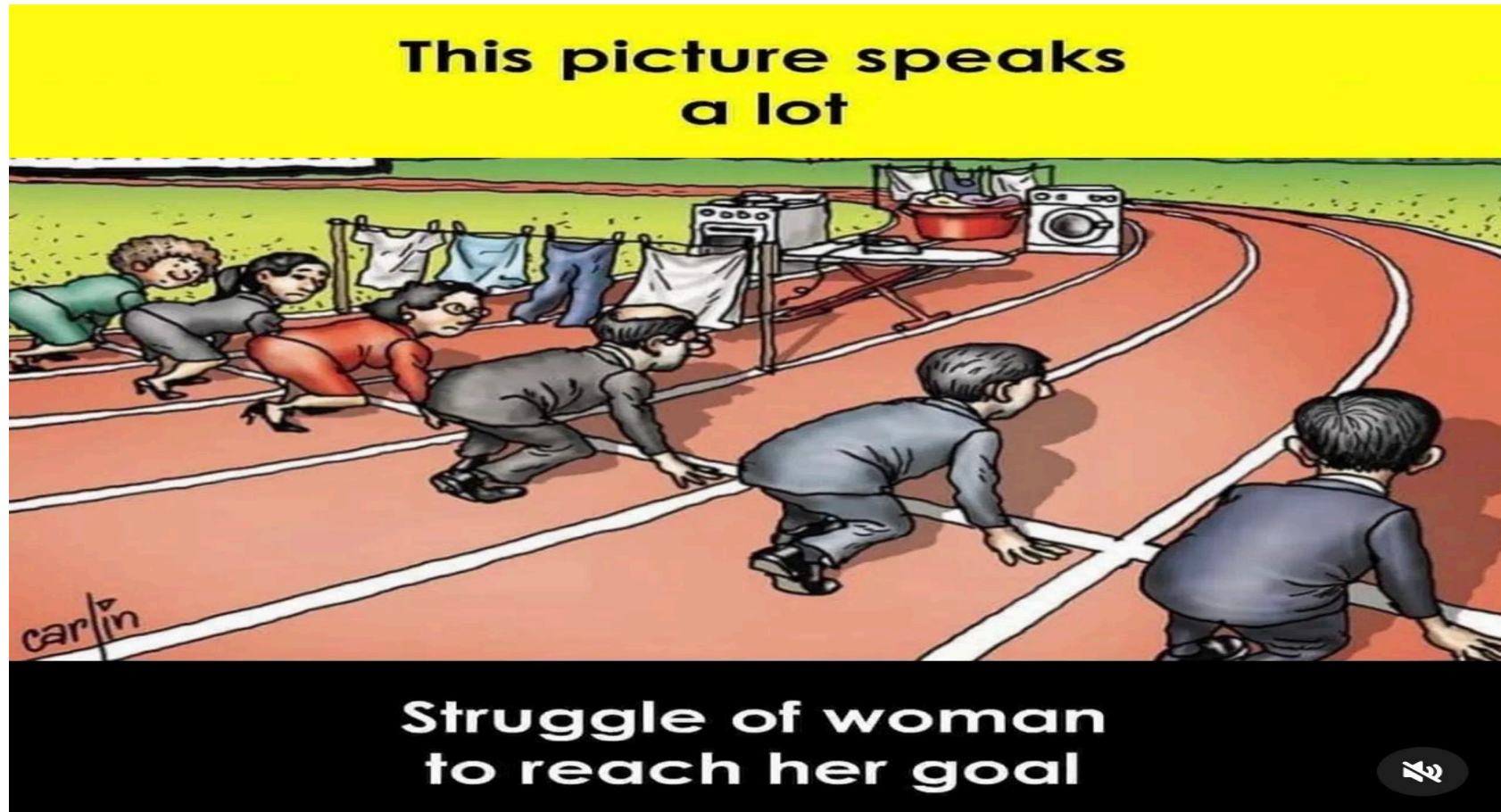
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We going to keep in 100% real today!



Setting the Stage

- What is bias?
 - Bias: A prejudice in favor or against one thing, person or group compared with another, usually in a way considered to be unfair
 - Two Types:
 - Unconscious - Stereotypes about certain groups of people that individuals form ***outside their own conscious awareness***
 - Conscious - Overt negative ideas about a demographic one is aware they hold, but refuses to change ***The unconscious stereotypes we learned and now have adopted and accept***

Bias Against Mothers? What Does That Look Like?

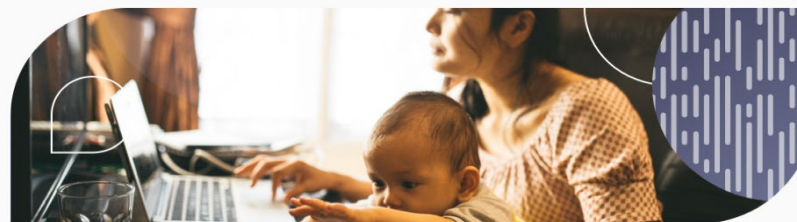
Motherhood Penalty on women's careers



“A lot of these effects really are very much due to a cultural bias against mothers... The best hope we have for getting rid of these effects is policy that conveys that people have the right to coordinate work & family.”

Prof. Shelley Correll, Sociologist

What is Maternal Wall Bias?



Motherhood triggers the strongest form of gender discrimination: mothers are stereotyped as less competent and less committed.

Around 80% of men report that their colleagues don't see them as less competent and committed after they have children. Only about half of women agree. This is maternal wall bias.

EXAMPLE 1



EXAMPLE 2



EXAMPLE 3



AMERICAN BAR ASSOCIATION STUDY

Commission on Women in the Profession

- 2023 ABA study pertaining to prevalence and impact of motherhood penalty on the advancement and retention of female lawyers
- 3 Key Goals
 - Gather and analyze data about bias faced by mothers and caregivers of children practicing law
 - Develop policy and practice recommendations for law firms, in-house legal departments and bar associations
 - Develop educational toolkits (work in process)

Project Co-Chairs

Michelle Browning Coughlin

Juanita Harris



Two Types of Research

Survey of 8000 Respondents

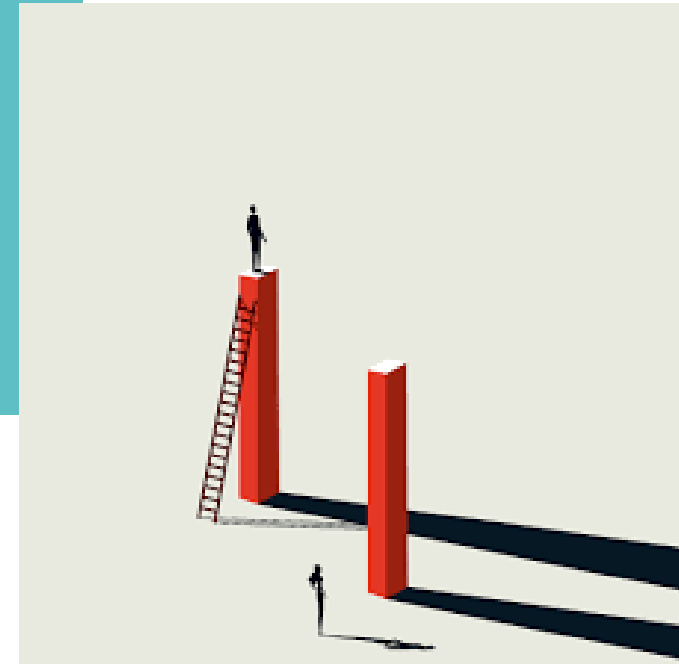
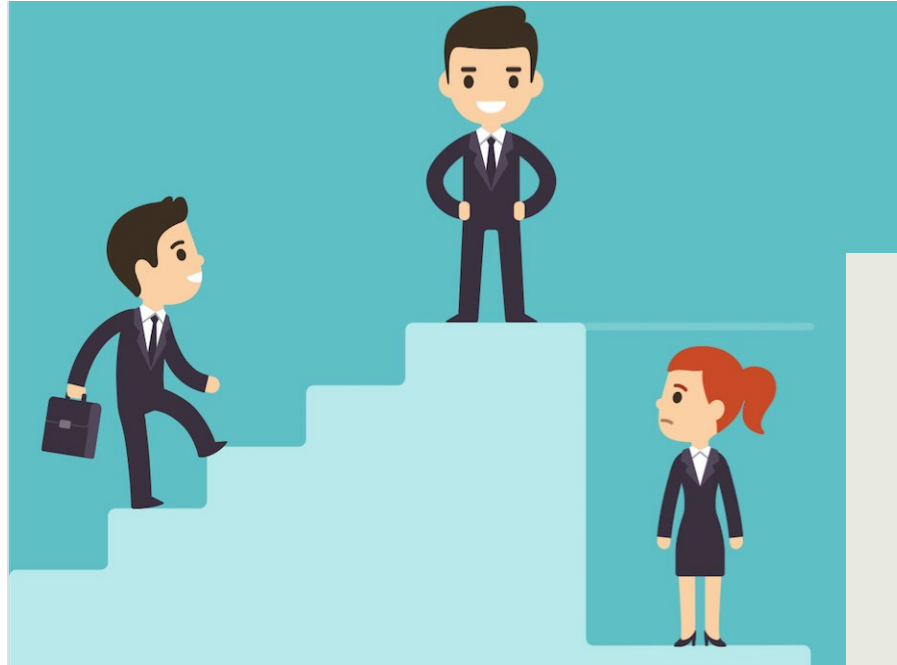
- Collection of data on wide range of issues pertaining to how legal careers develop for lawyers with children, especially mothers and what employers can do to assure opportunities to working mothers

National Focus Groups (10)

- Conducted in person and virtually, collecting experiences of mothers pursuing legal careers, where help needed and how employers can better support working mothers

WHAT WAS LEARNED

- For past 25 years men and women entering legal profession in equal numbers
- Women continue to be much less likely to attain top levels of leadership
- Not due to lack of inherent gender differences or talent
- Women face obstacles men do not
- Women with children face even more obstacles and unique biases in the workplace
- Because of Bias
- The “Motherhood Penalty” has been shown to be more pervasive in highly-skilled professions and jobs dominated by men that requires long hours and constant availability.



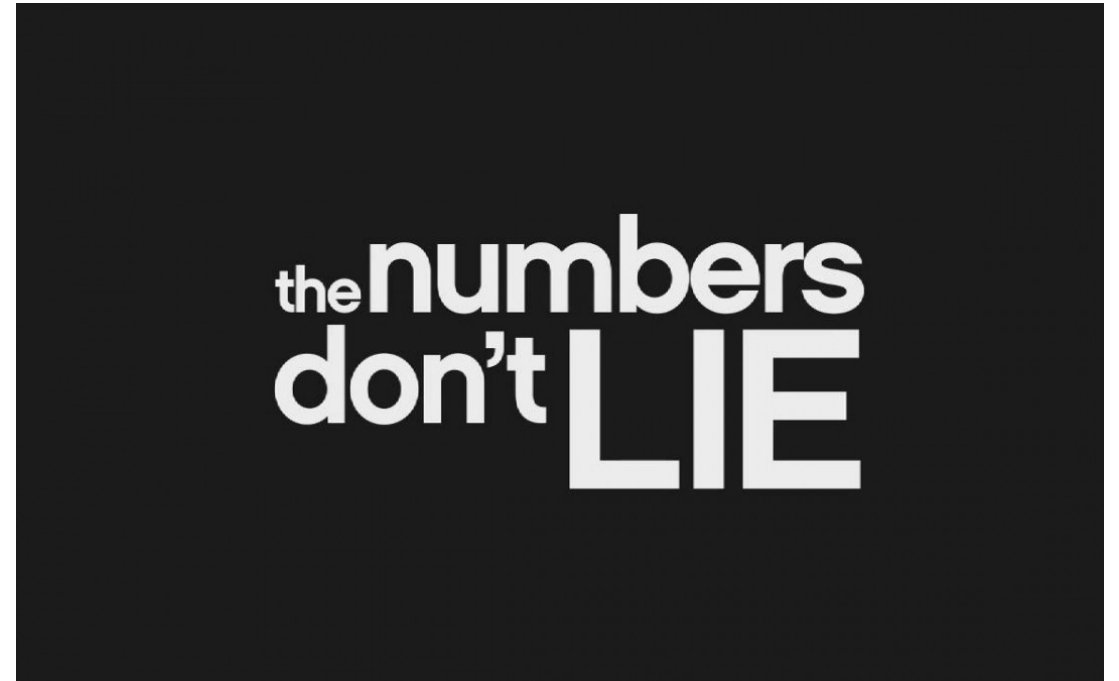
WHAT ULTIMATELY HAPPENS?

The Numbers:

- Women account for 49.4% of associates on law firms
- Women account for only 32.7% of non-equity partners
- Women account for only 22.6% of equity partners
- Women account for only 33% of GC's at Fortune 1000

Women of color:

- 16.5% associates
- 4.39% of ALL partners
- 7.6% GC's



There is more.....

MONEY

- Gender pay gap exists that increases with seniority
- Impacts women of color even more because they are often times the primary caregivers and primary breadwinners

MENTAL HEALTH

- Women in legal profession report higher levels of anxiety, depression, and stress compared to male counterparts

Just an interesting observation.....

I LOVE BEING A MOMMY....THIS IS EASY

WHAT THEY WANT YOU TO BELIEVE.....



Let's Bring it All Together – Real Life Examples

MS. FOLEY: I'm not due until October 25th. So, I think early September would be perfect. And that gives us the rest of June, July, all of August to get whatever done that needs to be done.

MR. [REDACTED]: Judge, she's pregnant. I'm getting old. I'm running out of life here, but okay.

MS. FOLEY: Women are like diamonds. When we are under pressure, we do really well. So, I can handle it.

Don't let a funeral stop you.....



KATINA... A VERY SPECIAL CHRISTMAS BONUS

- Young associate
- Strong hours generated significant revenue
- Team player
- The extra mile
- The “diverse” attorney
- Inaugural family leave policy - Four weeks paid leave
- Returned to full time



LET'S BE CLEAR...IT IS NOT ALL ON THE MEN



Women are also culprits



ZANDRA....PREGNANCY IS NO EXCUSE

OPPOSED MOTION FOR CONTINUANCE and AMENDMENT OF DOCKET CONTROL ORDER

COMES NOW Defendants Jo [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

(collectively “Defendants”) with their Opposed Motion for Continuance and Amendment of Docket Control Order, and respectfully shows this Court as follows:

Further, Plaintiff’s counsel has been advised that Defendants’ lead counsel, Zandra Foley, will be on maternity leave beginning October 18, 2019. Ms. Foley will return to the office towards the end of January and will need adequate time to prepare for trial. The Docket Control Order was agreed upon around January 24, 2019, prior to Ms. Foley knowing she was pregnant.

STACY – PICKING UP KIDS IS NO EXCUSE



What is Flexibility?

Pre-Covid Era

Advent of the “flex” Schedule

Colleagues availing themselves of the
new policy

Demonstrated record of Excellence

Dedicated and Committed to Mission
and Servant Leadership

Discouraged from requesting
accommodation

Not a “good look”



STUDIES SHOW MOTHER'S CARRY THE LOAD

- Arranging childcare
- Leaving work for children's needs
- Looking after children during daytime and evening hours
- Homework
- Arranging children's medical care
- Attending children's extra-curricular events
- Cooking meals
- Volunteering at school (room mom guilt is real)

Now what? Strategies to Combat the Penalty

- Law firm and legal department leadership should enact policies that consider experiences and viewpoints of women who will be affected by them. Historically, unilateral policies set without consideration
 - Seek input from your working moms
- Implement flexible work policies
 - Studies show this is critical to career success of women and mothers, who sometimes need to work around their childcare responsibilities.
- Offer comprehensive medical insurance, generous parental leave policies for both mothers and fathers to help shift burden of caring for sick children

And more strategies....

- Understand challenges faced by single mothers
 - Develop childcare resources
- Provide mental health and wellness benefits to address increased stress and burnout faced by working mothers
 - Mediation programs, counseling services, sabbaticals, quiet rooms
- Develop compensation models that do not solely revolve around billable hours, but evaluate performance
 - Billable credit for tasks more women take on, such as committees
 - Alternative billing arrangements provide greatly flexibility and job satisfaction

And yes.....more strategies

- On-Ramp Programs
 - Welcome back women who took hiatus after having children, developing a structured path for reentry.
- Design More Inclusive Job Descriptions
 - How a job description reads relative to expectations can be discouraging to women
- Develop Training Programs Geared to Advancement of Women
 - Mentoring and sponsorship programs
 - Written standards for succession

DISCUSSION, THOUGHTS, COMMENTS?



I think the important thing about my appointment is not that I will decide cases as a woman, but that I am a woman who will get to decide cases.

— Sandra Day O'Connor —

It was a very cool thing to be a smart girl, as opposed to some other, different kind. And I think that made a great deal of difference to me growing up and in my life afterward.

— Elena Kagan —

“Women belong in all places where decisions are being made. ... It shouldn’t be that women are the exception.”

— Ruth Bader Ginsburg



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