

## 27 No. 3 PIABA B.J. 391

PIABA Bar Journal

2020

Sara Hanley, Esq. <sup>1</sup>

Copyright © 2020 by PIABA; Sara Hanley, Esq.

# WOMEN IN THE PROFESSION- TELL ME I CAN'T

## I. Introduction

*The times they are a-changin'*,<sup>2</sup> and long gone are the days when all attorneys were white, middle-aged men. These days, law schools often have more female than male students and are populated by people of various ethnicities, religions, and cultures. So why is it that when you begin to practice, the legal workplace is predominately male? Even now, well over a decade into my career, I am more often than not the only female attorney in the room. Why is that?

Current research strongly suggests that diverse workgroups achieve more and are more dedicated, innovative and trustworthy.<sup>3</sup> Cohorts consisting of both men and women have higher collective intelligence, which advances the performance of both the group and the individual.<sup>4</sup> Diverse workgroups also produce enhanced financial performance results due to their improved ability to consider a broader range of alternatives, make wiser decisions, and solve problems.<sup>5</sup> So why is the experience of practicing law so different for women compared to men? And, where are all the women?

## \*392 II. We Know the Problems All Too Well

### A. Implicit Bias

Female attorneys deal with the double standard of being perceived negatively as “aggressive or abrasive,” while the same behavior is described as “confident” in men.<sup>6</sup> Women's self-reflection and internalization of the appearance of their everyday behavior presents a common conundrum because women's behavior, good or bad, is often a topic of conversation while a male peer's similar behavior typically is not.

In a recent survey by the American Bar Association (ABA), women reported experiencing that they have to go “above and beyond” to achieve the same recognition and respect as their male colleagues.<sup>7</sup> Women reported experiencing greater levels of bias than white men regarding equal opportunity in getting hired, receiving fair performance evaluations, mentoring opportunities, receiving high-quality assignments, accessing networking opportunities, fair pay, and promotions.<sup>8</sup> In fact, gender bias was found in all seven of these attorney workplace areas.<sup>9</sup>

Implicit bias is common, but the good news is that it can be interrupted. Stereotypes are the cornerstones for implicit bias.<sup>10</sup> Stereotypical thoughts are automatic and people cannot stop their brains from making reflexive assumptions.<sup>11</sup> However, the application of the stereotype and whether or not individuals act on the stereotype or implicit bias can be controlled.<sup>12</sup>

### \*393 B. Why so Few Women?

Statistics evidence that women in large law firms have far less access than men to the building blocks that lead to success.<sup>13</sup> When surveyed, many experienced female lawyers reported that, due to their gender, they were significantly more likely than

their male peers to be overlooked for advancement, denied a raise or bonus, experience implicit biases, subjected to double standards, victimized by sexual harassment, and wrongfully perceived as less committed to their careers.<sup>14</sup> Not surprisingly, senior female lawyers perceive their firm's commitment to women's issues in the workplace underwhelming in areas such as advocating for gender equality, advancing women into equity partnerships, actively promoting women into leadership roles, and remaining committed to retaining experienced female lawyers.<sup>15</sup>

The lack of female partners and equity partners may stem from a lack of women in the workforce pipeline because historically there were fewer female attorneys or maybe it is due to a continuing failure to recognize and promote women candidates.<sup>16</sup> Alternatively, it could be that fewer women are willing to take on greater responsibilities because male partners are paid on average 27% more than female partners.<sup>17</sup> The good news is that these statistics are bound to change. Overall, the number of qualified women is growing in comparison to men.<sup>18</sup> In 2016, for the first time ever in the U.S., women made up the majority of law students.<sup>19</sup> Today, in the U.S., women make up 51.3 \*394 percent of all law students.<sup>20</sup> Achieving gender neutrality in the practice of law is more than just a moral obligation. Any law firm that wishes to remain competitive in the marketplace cannot afford to leave 50% of its talent at the door.<sup>21</sup>

### C. The Higher Up You Go, the Less Women There Are

Over the past 20 years, women and men have entered law firms as first-year associates in approximately equal numbers.<sup>22</sup> However, by the time women arrive at the most senior leadership levels - non-equity and equity partners - they represent only 29% and 17% of their peers, respectively.<sup>23</sup> It is clear that female lawyers, on average, do not advance along the same career trajectory as men.<sup>24</sup> Unfortunately, while there is an assumption that the gender gap predominates during a female attorney's early years in practice, the fact is that the gender gap continues and even widens at the partnership level.<sup>25</sup> This is a major contributing factor in the disproportionately high rate of attrition of senior female attorneys.<sup>26</sup> A recent National Association for Law Placement report concluded: "The percentage of partners who are women or minorities has increased at least some every year, but the partnership ranks remain overwhelmingly white and male."<sup>27</sup> Other studies have found that this gender gap in the highest levels of practice adversely impacts law firm \*395 finances, client relationships, the ability to recruit new business, and a firm's ability to retain the best lawyers in the profession.<sup>28</sup>

Experienced female lawyers are much more likely to report harmful work experiences that resulted simply because of their gender than men.<sup>29</sup> A lack of communication and clarity exists when it comes to female attorneys' opportunities for advancement, recognition in the firm and various leadership positions.<sup>30</sup> Female attorneys are considerably more likely than their male peers to report, due to their gender, that they have been mistaken for a lower level employee; disparaged by demeaning comments, stories, or jokes; divested of business development opportunities; perceived as less committed to her career; overlooked for an advancement; denied pay increase or bonus; felt treated as a token representative for diversity; lacked mentor opportunities; and/or missed a desirable assignment.<sup>31</sup> Such serious gender related issues are striking and alarming.<sup>32</sup> The fatal combination of the gender disparity on these vital building blocks to success explains much about why women are not advancing in the legal profession at the same rate as men.<sup>33</sup> Demeaning communication, unwanted sexual advances, gender bias and double standards burden women practicing at all levels, which takes a significant toll on women's satisfaction in their professional life and can ultimately serve as the reasons why they leave the practice of law.

### D. Sexual Harassment Remains Problematic

Without question the one area in which women's experience in the profession is drastically different from their male counterparts' experience is the much greater extent to which women experience sexual harassment.<sup>34</sup> It is important to understand the common workplace abuses, including non-sexual \*396 abusive behavior, and to introduce appropriate protections. According to the ABA, thirty percent or more female lawyers have suffered some form of sexual harassment and bullying in the workplace, and at law firms that percentage is likely greater.<sup>35</sup> The persistence of sex-based harassment in the legal profession has profound impacts on the physical and emotional well-being of female lawyers resulting in the decreased job satisfaction and disillusionment with the legal profession.<sup>36</sup>

The Equal Employment Opportunity Commission (EEOC) states that “harassment not involving sexual activity or language may also give rise to Title VII liability ... if it is ‘sufficiently patterned or pervasive’ and directed at employees because of their sex,” and that the employer may be vicariously liable for such harassment.<sup>37</sup> The laws against misconduct apply to supervisors, co-workers, peers, clients, judges, professors, students and vendors.<sup>38</sup> Abusive behaviors are defined to include demeaning, condescending or sexualized comments or jokes.<sup>39</sup> Increasingly, sex-based harassment in the workplace has become more nuanced and subtle and is demonstrated in ways such as interruptions or dismissive remarks, comments on appearance, or indirect intimidation.<sup>40</sup> The actions that constitute legally actionable harassment are often situational and fact determinative.<sup>41</sup> To reach the goal of preventing and eliminating sex-based harassment from the legal profession, firms must enact and enforce uniform policies that develop a zero tolerance for harassment.<sup>42</sup> The ABA recently amended Model Rule of **\*397 Professional Conduct 8.4(g)** to state that “professional misconduct” includes any “[c]onduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of ... sex, ... sexual orientation, gender identity, [or] marital status ... in conduct related to the practice of law.”<sup>43</sup>

Lawyers and law firms should be aware of the inconspicuous ways sex-based harassment often manifests and becomes normalized.<sup>44</sup> Gender bullying and inappropriate professional behavior is so pervasive in the workplace that is often overlooked, but it is a precursor to actionable forms of sex-based harassment that should not be ignored.<sup>45</sup> A significant number of female attorneys report that opposing counsel, judges, and other court officials mistake them to be secretaries or paralegals.<sup>46</sup> Similarly, there are many unconscious behaviors that perpetuate stereotypes and sex-based treatment that individuals fail to recognize with their own behaviors and the culture of their professional organizations.<sup>47</sup> It is imperative that law firm and legal organization leaders implement a common sense approach and enforceable policies that allow women to report sexual harassment, protect them from retaliation, and punish the perpetrator of the misconduct. Inappropriate sex-based workplace conduct is harmful to employees, and it tarnishes the legal professional as a whole; yet, unfortunately, it has long been generally socially acceptable. The positive news is that cultural norms of sexism and sex-based harassment are slowly dying, and it is no longer as much of an acceptable societal convention to harass women in the workplace. It is time for the legal profession to send a strong message, as we have seen in other industries, that sexual harassment will not be tolerated.

### **E. Assignment Allocations and Family Responsibilities**

Law firms, just like any other workplace, have both high profile assignments, or “glamour work,” that is career enhancing and “office housework,” or low-profile assignments, that are beneficial to the organization but not to the individual's career.<sup>48</sup> Research shows that women do more **\*398** “office housework” than men, such as administrative tasks and providing emotional support.<sup>49</sup> The overallocation of office work and under allocation of glamour work to women across the legal profession is a key reason why leadership in the legal field is still male dominated.<sup>50</sup> Women often report less access to desirable assignments than white men.<sup>51</sup> In law firms that are often driven by billable hours, when a female lawyer becomes overburdened with office housework, it decreases the amount of time she can dedicate to billable hours, which in turn hurts her compensation and her career.<sup>52</sup>

Top tier diversity can only be achieved when diversity exists at all levels of the firm and men and women have equal access to glamour assignments that allow them take risks and develop meaningful skills.<sup>53</sup> When female attorneys continue to be tasked with an uneven distribution of low-profile assignments, they often become dissatisfied with their position and begin to search for new opportunities outside of the practice of law.<sup>54</sup> Law firms must address the inequality in assignments if they want to tap the full potential of their available workforce.<sup>55</sup> A level playing field requires that law firms allocate both career-enhancing assignments and the less high profile and back-office work equitably.<sup>56</sup> Women must interrupt any bias in the allocation of work assignments. To interrupt this gender bias, women must affirmatively announce their desire to be assigned the glamour work and consciously advocate for those tasks. Likewise, women who are being assigned an inordinate amount of low-profile assignments should suggest that the office housework assignments be distributed more evenly amongst all of the firms' attorneys at their level.

As securities attorney Jenice Malecki wrote, “in the legal profession where billable hours and client interaction are vastly important to promotions and success, equal work at home is a necessary component for women to achieve <sup>\*399</sup> top leadership positions and equal pay opportunities.”<sup>57</sup> She further concludes that arguments have been made that women leave the workforce to rear children, but we need to ask ourselves whether they leave because they earn less than their spouse.<sup>58</sup> When it comes to law firm compensation, many female lawyers believe that the compensation policies are “rigged” against them.<sup>59</sup> Families are often forced to make financial decisions that are not always best for the individual professional involved, but if equal work resulted in equal pay for men and women, at least some financial decision making would be based on more even grounds.

### III. Let's Focus on the Solutions

#### A. Grit and Growth Mindset

As a profession, what can we do to really move the needle on equalizing the workplace experiences of men and women in the legal profession? Historically, there have been relatively few studies to identify the obstacles that contribute to the gender gap in the leadership levels of the legal profession.<sup>60</sup> Until recently, there has been little known about what common characteristics the women who make it to equity and non-equity positions in the top ranks of law firms have in common.<sup>61</sup> In 2012, a crucial study undertook this vital research.<sup>62</sup> The results of the research identified two main significant traits among highly successful female attorneys: grit and growth mindset.<sup>63</sup> The best news, is that these are factors which female lawyers control.<sup>64</sup> Grit is defined as “perseverance and passion for long-term goals.”<sup>65</sup> “Growth mindset” is defined as “the belief that one's most basic abilities can <sup>\*400</sup> be developed through dedication and hard work- brains and talent are just the starting point.”<sup>66</sup> The growth mindset gives rise to a dedication to learning and deep resilience that is necessary for unlimited accomplishment.<sup>67</sup> Grit paired with a growth mindset were found by researchers to be the keys to female attorneys' success.<sup>68</sup> These tools aid highly-successful female attorneys in handling and ultimately overcoming difficult situations.<sup>69</sup>

Grit has been proven to predict achievement and can exceed other metrics to which law firm recruiting departments commonly look, such as GPA and class rank in law school.<sup>70</sup> The research on grit has shown that individuals who inherently have more grit tend to work harder and longer hours than their peers and are more likely to engage in intentional efforts to improve their abilities.<sup>71</sup> Grittier individuals are more likely to stay committed to goals and not get distracted by short term concerns or desires.<sup>72</sup> Having grit is especially imperative in difficult contexts.<sup>73</sup>

When it comes to mindset, individuals with a fixed mindset believe that their strengths are predetermined, whereas people with a growth mindset see their abilities as adaptable and capable of growth through determination and dedication.<sup>74</sup> A recent study of female attorneys in AmLaw 200 firms evidenced a strong, statistically important relationship between grit and success for women in BigLaw.<sup>75</sup> The research implies that grit is a precursor to success rather than an outcome of it.<sup>76</sup> Researchers have also determined that many affluent female attorneys exhibit growth mindset characteristics and <sup>\*401</sup> depend greatly on these skills to navigate adversity and the often times overwhelming demands in the practice of law.<sup>77</sup> The most advantageous benefit of this new research is that the grit and growth mindset is in the control of the individual.<sup>78</sup> These traits, which can at least partially be learned, lead to the continued success of more female attorneys.

The grit and growth mindset is a crucial trait for both seasoned professionals and recent law school graduates.<sup>79</sup> The traits attributed to grit are: diligence; flexibility and adaptability regarding unforeseen, ambiguous or changing circumstances; resilience after a set-back; passion for the work; ability to regulate emotions and demonstrate self-control; set goals and make a plan to meet them; and taking ownership.<sup>80</sup> Growth mindset traits include enjoying overcoming challenges; having an internalized commitment to developing towards excellence; having a strong work ethic and putting forth best effort; positivity; and showing initiative.<sup>81</sup> These traits are critical to success for female lawyers, whether they are in their first year of practice or have been practicing law for decades.<sup>82</sup> The research developed as part of the grit and growth project applies commonly to a broad range of legal settings, including success in law firms of all sizes, solo practitioners, government, not-for-profits and in-house positions.<sup>83</sup> Ultimately, the findings from the research of the ABA Commission on Women in the Profession determined that demonstrations of grit and growth mindset have a strong impact on success of female lawyers across all practice settings.<sup>84</sup>

It has been argued that it's not smarts, talent, looks, luck or chance that separates the risers from the fallers -it's grit.<sup>85</sup> The modern term "grit" was coined in 2013 by Angela Duckworth, a psychology professor at the University \*402 of Pennsylvania.<sup>86</sup> Duckworth described grit as the "quality of being able to sustain your passions, and also work really hard at them, over really disappointingly long periods of time."<sup>87</sup> She taught that individuals with grit are people who can overcome stress and use failure as a means to achieve their ultimate goals.<sup>88</sup> Grit has also been described as an "indomitable spirit."<sup>89</sup> Grit is resilience and going after what you want with everything you've got.<sup>90</sup> Grit means striving for progress and never yielding in pursuit of your passions, whether or not the legal arena is fair and welcoming to female attorneys, which most conclude it is not. Sometimes to make progress you have to get comfortable in the uncomfortable and successful female lawyers know this all too well.

## **B. Check Yourself**

Cultural expectations are set by leaders. It has been said that "privilege is invisible to those who have it."<sup>91</sup> It is no secret that men hold the majority of the leadership positions in the law. So, as men, what can you do to ensure that you help reverse the course to safeguard your spouses, daughters and granddaughters from facing the same challenges that your current colleagues and the women paving the way before them face? It is imperative that individuals within certain demographic groups become cognizant of their own privileges. Recognizing one's "privilege" is not easy, but it is important for the betterment of our profession and for the goal of achieving fair, efficient, and effective legal forums.<sup>92</sup>

\*403 For the advancement of the profession, men must be more open to discussing female experiences in the workplace.<sup>93</sup> Societal "black boxes" only hinder the necessary progress in resolving the underlying issues that contribute to the bigger problems of sexism.<sup>94</sup> Above all, destructive implicit biases, sexual harassment, workplace inequality, and other inequity issues should no longer be silenced.<sup>95</sup> All people, men and women, need to have the resolve to address issues when they occur.<sup>96</sup> Professionals must do the right thing and not hide behind the societal norm that it is acceptable to treat certain people badly or disparately because of their gender or race.

Male attorneys have a responsibility to actively promote gender equality by providing support, encouragement and mentorship to female attorneys.<sup>97</sup> Men in the legal profession should also actively seek the recommendations and opinions of their female colleagues to encourage diverse viewpoints.<sup>98</sup> Law firms and society as a whole can only benefit from having female attorneys active within the legal community.<sup>99</sup>

## **IV. What Legal Organizations Can do to Help**

As professionals and members of professional organizations, we must encourage underrepresented attorneys to be promoted and to have the opportunities to contribute towards an upstanding, diverse, fair, and efficient legal system.<sup>100</sup> Every organization has a culture defined by its policies, practices, expectations, unwritten rules, implicit and explicit biases, and professional goals. This culture can have either a positive or negative consequence for gender parity. If we want our legal organizations to thrive and improve, then we need some baseline protections in place to support members who may experience harassment or sexual harassment. There must be a zero-tolerance policy. Decorum and respect towards the other members \*404 of the organization should be non-negotiable. Gender neutrality in the practice of law and in professional organizations should be the norm and not the exception.

We need a culture shift if we are going to attract gender neutral talent to our profession and legal organizations. If we want the "best of the best," we cannot exclude half of the population from our search. A subtle shift in the tone of conversations and a general real world recognition that not all of our professional colleagues will have the same gender, race or religion is the simple baseline approach that would move our profession into a dramatically new era. Our profession is conducted in court rooms and hearing rooms, not in locker rooms. Our professional abilities as lawyers are not gender specific.

Our clients are often women and our practices would benefit from more female attorneys to meet the needs of our diverse clientele. At the end of the day, all professionals want to be recognized and appreciated for their work and contributions to the

legal system. Female attorneys are not asking for anything more than a fair opportunity to sink or swim. It is important for each of us to do what we can to better our legal organizations and the practice of law. Acting with decorum and professionalism to all of our colleagues would be a big step in the right direction. Be professional in all that you do.

Rules of Conduct and Professionalism must be enforced in the legal profession and in our professional organizations. Those unfortunate enough to be the victim of the harassment or bad conduct of another member should have a place to report the bad conduct without fear of ridicule and professional embarrassment. Organizations need to make certain that their harassment policies are clear, well known, and applied equally. The willingness of legal organizations to modify their behaviors to achieve gender parity ultimately depends on how much talent the organization wants to attract and retain.

## V. Conclusion

The increasing number of diversity and women's initiatives are encouraging, but we still have a ways to go to change legal culture. Double standards regarding behavioral expectations, lack of advancement opportunities and lack of recognition remain pervasive. Making meaningful advancements towards gender parity in the legal profession is no small feat. The impediments that female attorneys face have nothing to do with their qualifications, talent, or ambition, but are created by implicit bias, stereotypes and sexual harassment, all of which are unacceptably pervasive in the legal \*405 profession.<sup>101</sup> Simply due to their gender, women endure demeaning comments, are deprived opportunities, are overlooked for advancement, and are often excluded. Until laws and societal norms change, the only control we have as women and men who care about this issue is to change our own behavior. As women, we can change our outlooks, expectations, approaches, and work hard every day to level the playing field. Most importantly, we must speak up for ourselves and others when we are presented with unacceptable behaviors. Silence is consent and there will be no positive change if issues are not confronted. Gender parity is advancing in the legal profession, but traditions, cultures and behaviors only change when there is a strong commitment to making the change and competent actions create a culture of respect and accountability.

## Footnotes

- 1 Sara Hanley represents investors nationwide who have lost their savings and retirement funds as a result of their brokerage accounts being mishandled. Attorney Hanley is the founder of Hanley Law. The firm represents investors in FINRA arbitrations and securities related class actions. [www.finralawyer.org](http://www.finralawyer.org). The author thanks Melanie Cherdack for her editorial comments and support of this article.
- 2 Bob Dylan, *The Times They Are A-Changin'*, on "THE TIMES THEY ARE A-CHANGIN'" (Columbia Records 1964).
- 3 Joan C. Williams, Marina Multhaup, Su Li, and Rachel Korn, *You Can't Change What You Can't See, Interrupting Racial and Gender Bias in the Legal Profession (Executive Summary)*, A.B.A. & MINORITY CORPORATE COUNSEL ASSOCIATION, at 12 (June 28, 2018), <https://www.americanbar.org/content/dam/aba/administrative/women/you-cant-change-what-you-cant-see-print.pdf>.
- 4 *Id.*
- 5 *Id.*
- 6 Kim Dougherty & Sofia Bruera, *The Power of Gender Equity*, TRIAL 34, 36 (March 2014), <http://ntlsummit.com/wp-content/uploads/2015/01/1-18-15-305-pm-kimberly-dougherty.pdf>.
- 7 Williams, et al., *supra* note 3, at 8. In April 2016, the ABA'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. *Id.* at 7.
- 8 *Id.*
- 9 *Id.* at 8.

- 10 *Id.* at 10.
- 11 *Id.*
- 12 *Id.*
- 13 Roberta D. Liebenberg and Stephanie A. Scharf, *Walking Out the Door, The Facts, Figures, and Future of Experienced Women Lawyers in Private Practice*, A.B.A., at ii(2019), [https://www.americanbar.org/content/dam/aba/administrative/women/walkoutdoor\\_online\\_042320.pdf](https://www.americanbar.org/content/dam/aba/administrative/women/walkoutdoor_online_042320.pdf).
- 14 *Id.*
- 15 *Id.*
- 16 *Id.*
- 17 A.B.A. COMMISSION ON WOMEN IN THE PROFESSION, *A Current Glance at Women in the Law*, at 6 (April 2019), [https://www.americanbar.org/content/dam/aba/administrative/women/current\\_glance\\_2019.pdf](https://www.americanbar.org/content/dam/aba/administrative/women/current_glance_2019.pdf).
- 18 *Id.* In 2016, for the first time ever in the US, women made up the majority of US law students. In 2019, in the US, women make up 51.3 percent of US law students. *Id.* at 4.
- 19 *Id.*
- 20 *Id.*
- 21 Liebenberg & Scharf, *supra* note 13, at iii.
- 22 A.B.A. COMMISSION ON WOMEN IN THE PROFESSION, *The Grit Project Program Toolkit: Using Grit and Growth Mindset to Advance Women in the Law* (2014), [https://www.americanbar.org/content/dam/aba/administrative/women/grit\\_toolkit\\_brochure.pdf](https://www.americanbar.org/content/dam/aba/administrative/women/grit_toolkit_brochure.pdf).
- 23 *Id.*
- 24 Liebenberg & Scharf, *supra* note 13, at 2.
- 25 *Id.*
- 26 *Id.*
- 27 *Id.* (citing NATIONAL ASSOCIATION FOR LAW PLACEMENT, *Women and Minorities at Law Firms: What Has Changed and What Has Not in the Past 25 Years?* (February 2018), <https://www.nalp.org/0218research>).
- 28 *Id.* (citing MCKINSEY & CO., *Why Diversity Matters* (2015); Marcus Noland, Tyler Moran, and Barbara Kotschwar, *Is Gender Diversity Profitable? Evidence From a Global Survey*, THE PETERSON INST. FOR INT'L ECON. (Feb. 2016)).
- 29 *Id.* at 7.
- 30 *Id.*
- 31 *Id.* at 7-8.
- 32 *Id.* at 8.
- 33 *Id.*
- 34 *Id.*

- 35 A.B.A., *The Shameful Truth: Sexual Harassment in the Legal Profession* (May 23, 2018), [https://www.americanbar.org/groups/crsj/events\\_cle/program-archive/the-shameful-truth/](https://www.americanbar.org/groups/crsj/events_cle/program-archive/the-shameful-truth/) (last visited Sept. 9, 2020).
- 36 Aditi Kumar, *Professional Ethics in the #MeToo Era: A Growing Awareness of Sexual Harassment*, A.B.A. EMP. BENEFITS COMMITTEE NEWSL. (March 4, 2019), [https://www.americanbar.org/groups/labor\\_law/publications/ebc\\_news\\_archive/spring-2019-issue/professional-ethics-in-metoo-era/](https://www.americanbar.org/groups/labor_law/publications/ebc_news_archive/spring-2019-issue/professional-ethics-in-metoo-era/) (last visited Sept. 9, 2020).
- 37 A.B.A. COMMISSION ON WOMEN IN THE PROFESSION, *The Legal Framework for Sex-Based Harassment and Bullying*, at 16 (2018), <https://www.americanbar.org/content/dam/aba/events/women/HandoutMaterials.authcheckdam.pdf>.
- 38 *Id.*
- 39 *Id.*
- 40 *Id.*
- 41 *Id.* at 17.
- 42 *Id.*
- 43 *Id.*; see MODEL RULES OF PROF'L CONDUCT r. 8.4(g) (AM. BAR ASS'N 2016).
- 44 *Id.* at 17-18.
- 45 *Id.* at 17.
- 46 *Id.* at 16.
- 47 *Id.* at 17-18.
- 48 Williams, et al., *supra* note 3, at 18.
- 49 *Id.*
- 50 *Id.*
- 51 *Id.*
- 52 *Id.*
- 53 *Id.*
- 54 *Id.*
- 55 *Id.*
- 56 *Id.*
- 57 Jenice Malecki, *Diversity in Arbitration: Where is Everyone?*, PIABA Bar Association Annual Meeting (Oct. 2019).
- 58 *Id.*
- 59 Liebenberg & Scharf, *supra* note 13.
- 60 The Grit Project, *supra* note 22.
- 61 *Id.*
- 62 *Id.*



- 63 *Id.*
- 64 *Id.*
- 65 *Id.*
- 66 Alli Gerkman and Milana L. Hogan, *Accelerating Talent, Grit and Growth Mindset Fuels Lawyers' Success Throughout Their Careers*, 90 NY ST. B. ASS'N J. 49 (Dec. 2018), [https://www.americanbar.org/content/dam/aba/administrative/women/nysba\\_combination.pdf](https://www.americanbar.org/content/dam/aba/administrative/women/nysba_combination.pdf).
- 67 *Id.*
- 68 The Grit Project, *supra* note 22.
- 69 *Id.*
- 70 *Id.*
- 71 *Id.*
- 72 *Id.*
- 73 *Id.*
- 74 *Id.*
- 75 *Id.*
- 76 *Id.*
- 77 *Id.*
- 78 *Id.*
- 79 Gerkman & Hogan, *supra* note 66, at 49.
- 80 *Id.* at 52.
- 81 *Id.*
- 82 *Id.* at 49.
- 83 *Id.* at 50.
- 84 *Id.*
- 85 Kristen Hamilton, *Why Grit Matters in the Workplace*, WORLD ECONOMIC FORUM (2014), <https://www.weforum.org/agenda/2014/10/grit-iq-workplace-persistence-failure/> (last visited Aug. 28, 2020).
- 86 *Id.*; see Duckworth, A.L., Peterson, C., Matthews, M.D. & Kelly, D.R., *Grit: Perseverance and Passion For Long-Term Goals*, 92(6) J PERS SOC PSYCHOL. 1087-1101, 1087 (2007).
- 87 Hamilton, *supra* note 85.
- 88 *Id.*
- 89 *Id.*
- 90 *Id.*

- 91 Fiona Smith, *Privilege is Invisible To Those Who Have It: Engaging Men in Workplace Equality*, THE GUARDIAN (June 7, 2016), <https://www.theguardian.com/sustainable-business/2016/jun/08/workplace-gender-equality-invisible-privilege> (last visited Aug. 28. 2020).
- 92 Malecki, *supra* note 57.
- 93 *Id.*
- 94 *Id.*
- 95 *Id.*
- 96 *Id.*
- 97 Dougherty & Bruera, *supra* note 7, at 38.
- 98 Malecki, *supra* note 57.
- 99 *Id.*
- 100 *Id.*
- 101 Liebenberg & Scharf, *supra* note 13, at ii.

27 No. 3 PIABABJ 391

---

End of Document

© 2020 Thomson Reuters. No claim to original U.S. Government Works.