

---

# ESSAY

## MORE THAN EQUITY IS REQUIRED: THE ENHANCED IMPACT OF RACISM ON WOMEN OF COLOR IN THE LEGAL PROFESSION

PAULETTE BROWN\*

### ABSTRACT

*This Essay examines the experiences of women of color in the legal profession and the manner in which they are treated differently, adversely affecting their career trajectories. Women of color in the legal profession have a long and tortured history of facing unique barriers to the kinds of opportunities that lead to successful careers. One of these barriers is exclusion from leadership roles in law firms, bar associations, academia (until recently), government, and corporations.*

*At a time in our history when Diversity, Equity & Inclusion (“DEI”) initiatives are not only scrutinized but also weaponized in unprecedented ways, when opponents are actively deploying concerted efforts to completely dismantle DEI, we should be concerned about the heightened adverse impact anti-DEI efforts will have on women of color.*

*Incorporating evidence from studies published by the American Bar Association Commission of Women in the Profession, such as “Visible Invisibility: Women of Color in Law Firms” and “Left Out and Left Behind: The Hurdles, Hassles, and Heartaches of Achieving Long-Term Legal Careers for Women of Color,”<sup>1</sup> and from my own personal experiences as well as those of*

---

\* Founder and Principal, MindSetPower LLC, and former President, National Bar Association and American Bar Association. My experiences and opportunities in these roles as well as the many roles I have had throughout my legal career—as in-house counsel, judge, law firm partner, small law firm owner, and Chief Diversity and Inclusion Officer—compelled me to write this Essay. My sincerest gratitude to Dean Angela Onwuachi-Willig for inspiring me to write this Essay to continue to shine a light on the injustice endured by women of color in the legal profession and to Ghillaine A. Reid, Esq. for reintroducing me to Dean Onwuachi-Willig. This Essay would not have come to fruition without the Editors of the *Boston University Law Review*, including Leo Houts, for providing invaluable assistance in improving my Essay and for being gentle with me. I also owe a debt of gratitude to my many mentors and mentees, many of whom are now both. They have been vulnerable enough to share their experiences and have consistently been supportive of my inclusive endeavors. Finally, I am always grateful for my family.

<sup>1</sup> JANET E. GANS EPNER, AM. BAR ASS’N COMM’N ON WOMEN IN THE PRO., VISIBLE INVISIBILITY: WOMEN OF COLOR IN LAW FIRMS (2006); DESTINY PEERY, PAULETTE BROWN &

*other women of color in the legal profession, this Essay argues in support of the premise that equity, rather than equality alone, is necessary to finally provide women of color in the legal profession with the opportunities they have earned and deserve.*

CONTENTS

INTRODUCTION .....	1324
I. HISTORICAL CONTEXT.....	1325
II. WOMEN OF COLOR IN THE LEGAL PROFESSION: FIRSTS.....	1330
III. OBSTACLES & CHALLENGES .....	1331
IV. LAW FIRM DEMOGRAPHICS .....	1335
V. RACIALIZED EXPERIENCES .....	1337
VI. WHY SUCCESS OF WOMEN OF COLOR IS IMPORTANT TO SUSTAIN THE LEGAL PROFESSION .....	1339
VII. THE PROGNOSIS.....	1340
CONCLUSION.....	1341

## INTRODUCTION

As a woman of color and more specifically, a woman of African descent, I have experienced and witnessed firsthand the disparate treatment and lack of opportunities available to lawyers who are women of color. The disparities are palpable and persistent.

In 2016, when I was president of the American Bar Association (“ABA”), I had the opportunity to visit an immigration court in San Diego, California. One of the immigration attorneys (a white woman) informed the judge that she was so fortunate as to have with her in court the president of the ABA and that she would like to make an introduction. I was standing next to the immigration attorney, smiling in my navy-blue business suit as the immigration attorney spoke. The judge started canvassing the courtroom, looking around and past me, ostensibly in search of the president of the ABA. After I finally stated, “I am the president,” there was no apology, no acknowledgement of my presence, and definitely no acknowledgement of my position. Moreover, following the realization that I was the president, he continued to direct his attention to the white female attorney.

In 1978, I recall going to court in New Jersey to respond to the weekly trial call, adorned in a navy skirt suit and white blouse. As I tried to enter the courtroom, the sheriff’s officer denied my entrance, inquiring as to whether I was the defendant, related to the defendant, a juror, the court reporter, etc. After he completed his list of possibilities and I had not responded yes to any of them, the sheriff’s officer said to me, “Well, who are you then?”

The sheriff’s officer’s comments in 1978 are no different than the immigration judge’s disregard in 2016. Based upon persistent racist beliefs, it was apparently impossible for either man to fathom that I, a Black woman, could meet the requirements necessary to be a lawyer or hold the position of president of the ABA—a disbelief underlain by the fact that the ABA was founded for the benefit of white men.<sup>2</sup>

The examples of racism, disparate treatment, discrimination, and bias—however we choose to define them—that I have personally experienced are uncountable. Looking through myriad books and articles published, studies conducted, and stories told has confirmed that I am not alone.<sup>3</sup> Other women of

---

<sup>2</sup> For decades after its founding in 1878, the ABA restricted its membership to white men. See *ABA Timeline*, ABA, [https://www.americanbar.org/about\\_the\\_aba/timeline](https://www.americanbar.org/about_the_aba/timeline) (last visited May 23, 2025). This restriction came to light in 1912 when the membership of William H. Lewis, the first black assistant U.S. attorney general, was rescinded because the ABA’s “settled practice” was to only elect white men for membership. *1912 - ABA Restricts Membership to White Lawyers*, ABA, [https://www.americanbar.org/about\\_the\\_aba/timeline/1912](https://www.americanbar.org/about_the_aba/timeline/1912) (last visited May 23, 2025).

<sup>3</sup> For examples of such works, see GANS EPNER, *supra* note 1; PEERY ET AL., *supra* note 1; ARIN REEVES, AM. BAR ASS’N COMM’N ON WOMEN IN THE PRO. & NAT’L NATIVE AM. BAR ASS’N, EXCLUDED & ALONE: EXAMINING THE EXPERIENCES OF NATIVE AMERICAN WOMEN IN THE LAW AND A PATH TOWARDS EQUITY (Linda Benally & Jin Hwang eds., 2023),

color in the legal profession have and continue to be minimized and deemed less than.

Despite study after study examining the experiences of women of color in the legal profession, not much progress has been made.<sup>4</sup> According to data recently published by the National Association of Law Placement (“NALP”), less than 5% of equity partners in law firms are women of color.<sup>5</sup> This data demonstrates that the legal profession has failed to address the visible structural and systemic racism against women of color that is embedded within it.

### I. HISTORICAL CONTEXT

The disparate treatment of women of color has persisted for centuries. From the time when white men began the transatlantic slave trade and brought enslaved Black women to what is now known as the United States of America, Black women have been subjected to both race- and gender-based violence. Enslaved Black women were both commoditized and dehumanized; it is well documented that their value was only measured by physical strength and the ability to reproduce.<sup>6</sup> This vision of what a Black woman (or any other woman of color) should or could be did not include vast intellectual capacity. The treatment of Black women in the 1600s and beyond has persisted through systemic racism that continues today.

Systemic racism as we know and understand it runs deep. It is not connected to any single individual—it is much more pernicious. It is discrimination and otherwise unfair treatment that is embedded in society, organizations, and institutions, from which the legal profession is not exempt.

Systemic racism has harmed women of color in the legal profession. Within the legal field, and many others, it has played a powerful role in creating barriers to achievement. Although one might look at me and see a woman of color who has achieved a lot, it was nonetheless necessary for me to navigate barriers borne of systemic racism that were not placed before others. The ABA report *Left Out and Left Behind* includes the following testimony from a Black woman lawyer in her late forties:

Some of the barriers you can’t do [anything] about—like the (mis)perceptions people have in their own minds about your race or your

---

<https://www.americanbar.org/content/dam/aba/administrative/women/2023/native-women-report-2023.pdf> [https://perma.cc/J7FZ-RWBK].

<sup>4</sup> See NAT’L ASS’N FOR L. PLACEMENT, 2024 REPORT ON DIVERSITY IN U.S. LAW FIRMS 1 (2025) [hereinafter NALP 2024], [https://www.nalp.org/uploads/Research/2024-25\\_NALPReportonDiversity.pdf](https://www.nalp.org/uploads/Research/2024-25_NALPReportonDiversity.pdf) [https://perma.cc/S9YQ-7XSU].

<sup>5</sup> RICHARD D. HARVEY ET AL., 2023 ABA MODEL DIVERSITY SURVEY REPORT 25 fig.4 (2024), [https://www.americanbar.org/content/dam/aba/administrative/racial\\_ethnic\\_diversity/2023-model-diversity-survey-report.pdf](https://www.americanbar.org/content/dam/aba/administrative/racial_ethnic_diversity/2023-model-diversity-survey-report.pdf) [https://perma.cc/B9AC-PKVE].

<sup>6</sup> See, e.g., Mary Elliot & Jazmine Hughes, *A Brief History of Slavery That You Didn’t Read in School*, N.Y. TIMES, <https://www.nytimes.com/interactive/2019/08/19/magazine/history-slavery-smithsonian.html> (last updated Sept. 5, 2019).

sex or your background. So you start by having to overcome those negative assumptions, stereotypes, and presumptions. And then there's the "black tax" of having to demonstrate outsized achievements just to get the same opportunities as everyone else. It's not by accident that at the firms at which I worked, every single black associate had at least two Ivy League degrees. Majority associates? Not so much.<sup>7</sup>

While in law school, I faced the same expectations that I would not be successful. After the completion of my first year, others asked me, "why are you not on academic probation?" This biased thinking continued throughout my academic career and into my third year. When I began searching for employment opportunities, the career counselor refused to submit my resume to firms, judges, or even to prosecutors' offices. I was encouraged to apply to Legal Services only. Moreover, I know I could have achieved more and faster but for systemic racism. In my many conversations with other lawyers who are women of color, their experiences have been the same. Low expectations of women of color driven by systemic racism are a significant barrier to success for those women. Even as a partner in a large law firm, it was difficult to receive internal referrals, and when they finally did come, I would receive comments such as, "the client really likes you." Often, when advocating for associates who were women of color, I would be asked whether she had the requisite "gray matter." These types of questions were not asked when advocating for white associates, male or female.

Until systemic racism and its impacts are acknowledged, little to no progress can be made to benefit women of color in the legal profession.

Notwithstanding their tortured history and continuous subjection to systemic racism, women of color have always been on the front lines, struggling for equality. However, women of color have been systematically excluded from many notable feminist movements. For example, the U.S. women's suffrage movement, in which Black women were significant participants, showcased the racist attitudes early feminists held towards Black women. No Black women were invited to the Seneca Falls Convention in 1848,<sup>8</sup> even though the organizers, purported abolitionists Lucretia Mott and Elizabeth Cady Stanton, decided to hold the Convention after being refused admittance to the World's Anti-Slavery Convention in London.<sup>9</sup>

In 1869, Elizabeth Cady Stanton used racist tropes to support her position that uneducated black men (referring to them as "sambos") should not gain the right

---

<sup>7</sup> PEERY ET AL., *supra* note 1, at 4 (alteration in original).

<sup>8</sup> Olivia B. Waxman, *How History Classes on the Women's Suffrage Movement Leave Out the Work of Black Voting Rights Activists*, TIME (Dec. 8, 2020, 10:50 AM), <https://time.com/5917131/seneca-falls-myth>.

<sup>9</sup> See Douglas H. Maynard, *The World's Anti-Slavery Convention of 1840*, 47 MISS. VALLEY HIST. REV., 452, 452 (1960).

to vote before “white women.”<sup>10</sup> Recognizing the racism, Fredrick Douglass responded at a meeting for the American Equal Rights Association:

When women, because they are women, are hunted down through the cities of New York and New Orleans; when they are dragged from their houses and hung upon lamp-posts; when their children are torn from their arms, and their brains dashed out upon the pavement; when they are objects of insult and outrage at every turn; when they are in danger of having their homes burnt down over their heads; when their children are not allowed to enter schools; then they will have an urgency to obtain the ballot equal to our own.<sup>11</sup>

Someone asked Douglass, “Is that not all true about [B]lack women?” Douglass replied, “Yes, yes, yes; it is true of the [B]lack woman, but not because she is a woman, but because she is [B]lack.”<sup>12</sup> While white women gained the right to vote in 1920,<sup>13</sup> it was not until the passage of the Voting Rights Act of 1965 that Black women were able to fully exercise their right to vote.<sup>14</sup>

Black women were not the only women of color minimized in the history of the suffrage movement. Mabel Ping-Hua Lee, a Chinese-American immigrant and activist, was a passionate advocate for women’s suffrage, the first Chinese woman in the United States known to have earned a Ph.D., and a brilliant strategist.<sup>15</sup> Lee led (on horseback) a 1912 suffrage parade in New York,<sup>16</sup> but has remained an unsung hero of the suffrage movement. Despite her contributions to the movement, the Chinese Exclusion Act of 1882 prevented Lee from gaining U.S. citizenship—and the vote. White suffrage advocates must have been aware of the Chinese Exclusion Act, but I could find no evidence that they advocated for the rights of Chinese women in the United States. Prominent suffragists disparaged the “lower orders of Chinese . . . with their low ideas of womanhood,”<sup>17</sup> then used Chinese women as a rhetorical tool to “shame American politicians by arguing that China was going to give women the right

---

<sup>10</sup> HISTORY OF WOMAN SUFFRAGE 353-54, 364 (Elizabeth Cady Stanton, Susan B. Anthony & Matilda Joslyn Gage eds., Rochester 1881) (emphasis added).

<sup>11</sup> *Id.* at 382.

<sup>12</sup> *Id.*

<sup>13</sup> See U.S. CONST. amend. XIX (“The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.”).

<sup>14</sup> See Voting Rights Act of 1965, Pub. L. No. 89-110, §§ 2, 5, 79 Stat. 437, 437, 439.

<sup>15</sup> See Jennifer Davis, *Dr. Mabel Ping Hua Lee’s Push for Suffrage*, LIBR. OF CONG. BLOGS (May 25, 2023), <https://blogs.loc.gov/law/2023/05/dr-mabel-ping-hua-lees-push-for-suffrage> [<https://perma.cc/NQ5A-7V7R>].

<sup>16</sup> CATHLEEN D. CAHILL, RECASTING THE VOTE: HOW WOMEN OF COLOR TRANSFORMED THE SUFFRAGE MOVEMENT 25, 34 (2020).

<sup>17</sup> Elizabeth Cady Stanton, Parker Pillsbury & Susan B. Anthony, *The Sixteenth Amendment*, 3 REVOLUTION 266 (1869), <https://archive.org/details/revolution-1869-04-29/page/n9/mode/2up>.

to vote before the U.S.”<sup>18</sup> The Chinese Exclusion Act was repealed in 1943, but “there is there is no evidence that Dr. Lee ever voted in a U.S. election.”<sup>19</sup> Even though women of color like Lee participated in and helped lead the suffrage movement, the most influential white women suffragists repeatedly overlooked and used rhetoric that excluded those women of color, advocating for only their own suffrage.

Although Native American women were the first women in the United States, they were not considered citizens at the time of the women’s suffrage movement. In 1884, the U.S. Supreme Court ruled that the Fourteenth Amendment did not apply to Native Americans and declared that although they were born in the United States, they were not citizens.<sup>20</sup> Like Chinese-American women, Native American women did not truly gain the right to vote through the suffrage movement and the Nineteenth Amendment. They were no doubt invisible.

Despite the remarkable accomplishments of women such as Charlotte E. Ray, the first Black female lawyer in the United States, there has been little discussion about women of color as lawyers who were active during the suffrage movement, “leaving them obscure in American law.”<sup>21</sup> Throughout the many history classes discussing the suffrage movement that I attended, I was never taught about anyone other than Susan B. Anthony, Elizabeth Cady Stanton (sans her racist views), and a few other white women who were part of that movement. While the focus of this Essay is lawyers who are women of color, other women of color were for years all but obliterated from the history books.<sup>22</sup> Those women of color, whose active participation in the suffrage movement has been virtually erased, are symbolic of the experiences of women of color in the legal profession.

Even in discussions about racial justice movements, women of color and their contributions are often ignored or overshadowed. When learning civil rights history, I was always taught about Dr. Martin Luther King, Jr., Justice Thurgood Marshall, Congressman John Lewis, and the Reverend Jesse Jackson. In my regular course of studies, I did not learn about Diane Nash, who played a

---

<sup>18</sup> Olivia B. Waxman, *5 Myths About the 19th Amendment and Woman's Suffrage Debunked*, TIME (Aug. 18, 2020, 11:10 AM), <https://time.com/5879346/19th-amendment-facts-myths/> [<https://perma.cc/UCT7-3EJ3>].

<sup>19</sup> Davis, *supra* note 15.

<sup>20</sup> *Elk v. Wilkins*, 112 U.S. 94, 99, 109 (1884). Native Americans born in the United States and not otherwise naturalized became U.S. citizens under the Indian Citizenship Act of 1924, to mixed reactions from Native Americans. Torey Dolan, *Congress' Power to Affirm Indian Citizenship Through Legislation Protecting Native American Voting Rights*, 59 IDAHO L. REV. 47, 66-67 (2023). As with Black Americans, state-level disenfranchisement continued for Native Americans through the twentieth century. *See id.* at 70.

<sup>21</sup> *See* J. Clay Smith, Jr., *Black Women Lawyers: 125 Years at the Bar; 100 Years in the Legal Academy*, 40 HOW. L.J. 365, 366-73 (1997).

<sup>22</sup> *See, e.g.*, Brent Staples, *How the Suffrage Movement Betrayed Black Women*, N.Y. TIMES (July 28, 2018), <https://www.nytimes.com/2018/07/28/opinion/sunday/suffrage-movement-racism-black-women.html>.



prominent role in the Civil Rights Movement,<sup>23</sup> or Judge Constance Baker Motley, who argued landmark cases before the United States Supreme Court and served as a federal district court judge.<sup>24</sup> While Justice Marshall is much and deservedly revered, he has referred to the body of work and scholarship of Pauli Murray, who gets little or no recognition, as “the ‘Bible’ of civil rights litigation.”<sup>25</sup> Although she was a great influencer in the Civil Rights Movement, Pauli complained that women were sidelined.<sup>26</sup> These little-known contributions made by women of color are representative of the ways women of color are perceived and of their “less than” status.

One might guess that Professor Kimberlé Crenshaw, had she been alive at the time of the U.S. women’s suffrage movement, would have seen much evidence to advance her theories on intersectionality.<sup>27</sup> The multidimensional experiences of women of color during the suffrage movement—transcending the sum of racism and sexism—provide much historical support for the modern concept of intersectionality.<sup>28</sup>

Historically, women of color in the United States have faced more adverse biases than any other demographic. Systemic racial biases and discriminatory practices against women of color are palpably disproportionate to other demographics, resulting in long-term adverse impacts for women of color, particularly in the legal profession.<sup>29</sup> Charlotte E. Ray is a classic example. In 1872, she became the first female lawyer admitted to the bar of the District of Columbia.<sup>30</sup> Although renowned for her legal abilities, she gave up on the practice of law because as a woman of color, she could not attract a sufficient number of clients to stay in business.<sup>31</sup>

<sup>23</sup> Nash, *Diane Judith*, STAN. UNIV.: THE MARTIN LUTHER KING, JR. RSCH. & EDUC. INST., <https://kinginstitute.stanford.edu/nash-diane-judith> [<https://perma.cc/E2FZ-NZA2>] (last updated Dec. 6, 2022).

<sup>24</sup> *Life Story: Constance Baker Motley*, SUP. CT. HIST. SOC’Y (Oct. 2024), <https://civics.supremecourthistory.org/wp-content/uploads/2024/10/Life-Story-Constance-Baker-Motley.pdf> [<https://perma.cc/83PF-FBAY>].

<sup>25</sup> Lila Thulin, *The Trailblazing, Multifaceted Activism of Lawyer-Turned-Priest Pauli Murray*, SMITHSONIAN MAG. (Oct. 19, 2021), <https://www.smithsonianmag.com/history/the-trailblazing-multifaceted-activism-of-lawyer-turned-priest-pauli-murray-180978890>.

<sup>26</sup> *Id.*

<sup>27</sup> See generally Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. L.F. 139.

<sup>28</sup> See Merrill Perlman, *The Origin of the Term ‘Intersectionality,’* COLUM. JOURNALISM REV. (Oct. 23, 2018), [https://www.cjr.org/language\\_corner/intersectionality.php](https://www.cjr.org/language_corner/intersectionality.php) [<https://perma.cc/YS7G-YP9B>].

<sup>29</sup> See generally PEERY ET AL., *supra* note 1.

<sup>30</sup> Smith, *supra* note 21, at 366.

<sup>31</sup> *Id.* at 371; see also TONYA MICHELLE OSBORNE, CHARLOTTE E. RAY: A BLACK WOMAN LAWYER (2001), <https://wlh-static.law.stanford.edu/papers/RayC-Osborne01.pdf> [<https://perma.cc/8KU8-63FU>].

## II. WOMEN OF COLOR IN THE LEGAL PROFESSION: FIRSTS

Although a few women of color—including Charlotte E. Ray (Black) in 1872 and Laura Lykins (Native American) in 1898—became lawyers in the 1800s,<sup>32</sup> it was not until deep into the twentieth century that other women of color including Rosalind Goodrich Bates (Latina) in 1929, Elizabeth K. Ohi Owen (Japanese) in 1937, and Emma Ping Lum (Chinese) in 1947 became attorneys.<sup>33</sup> These are the firsts. As we move into the twenty-first century, too many firsts remain throughout the legal profession. Sharon Bowen, the first woman of color to serve on the U.S. Commodity Futures Trading Commission<sup>34</sup> and as Chair of the Board of Directors of the New York Stock Exchange,<sup>35</sup> is an example of a woman of color achieving very recent firsts. Several law schools in recent history have seen their first deans who are women of color,<sup>36</sup> and bar associations have similarly experienced recent firsts.<sup>37</sup> Of course, at the height

<sup>32</sup> See Smith, *supra* note 21, at 366; Bari R. Burke, *Early Native American Women Lawyers (or Students of Law)*, MONT.'S EARLY WOMEN LAWS. (Feb. 4, 2016), <https://mtwomenlawyers.org/2016/02/04/early-native-american-women-lawyers-or-almost> [https://perma.cc/A5ZV-DQJ4].

<sup>33</sup> See Dolores S. Atencio, *Luminarias: An Empirical Portrait of the First Generation of Latina Lawyers 1880–1980*, 39 CHICANX-LATINX L. REV. 1, 23–24 (2023); Yahairah Aristy, *Meet Elizabeth Kuma Ohi*, LAWS. CLUB OF SAN DIEGO (May 6, 2021), <https://lawyersclubsandiego.com/?pg=Lawyers-Club-Blog&blAction=showEntry&blogEntry=61932> [https://perma.cc/SZ8A-28EB]; *10 Things You Didn't Know About Kamala Harris' Law School*, U.C. L. SCH. F. (Sept. 25, 2024), <https://www.uclawsf.edu/2024/09/25/10-things-you-didnt-know-about-kamala-harris-law-school> [https://perma.cc/6KNX-Q22Z].

<sup>34</sup> *Commissioner Sharon Y. Bowen*, COMMODITY FUTURES TRADING COMM'N, <https://www.cftc.gov/About/Commissioners/SharonY.Bowen/index.htm> [https://perma.cc/89KN-3ATQ] (last visited May 23, 2025).

<sup>35</sup> *Hon. Sharon Bowen*, INTERCONTINENTAL EXCH., <https://ir.theice.com/governance/board-of-directors-and-committee-composition/person-details/default.aspx?ItemId=addfa9db-77a0-495c-b3bf-06ba804a4613> (last visited May 23, 2025).

<sup>36</sup> For example, Stacy Leeds (Native American), University of Arkansas (2011); Angela Onwuachi-Willig (Black), Boston University (2018); Jennifer Rosato Perea (Latina), DePaul College of Law (2006); and LaVonda N. Reed (Black), University of Baltimore (2024). *Stacy Leeds*, ARIZ. ST. UNIV., <https://search.asu.edu/profile/3529882> [https://perma.cc/5AG6-364Q] (last visited May 23, 2025); *Office Artifacts: Angela Onwuachi-Willig*, B.U.: BU TODAY (Jan. 22, 2024), <https://www.bu.edu/articles/2024/office-artifacts-angela-onwuachi-willig> [https://perma.cc/8C9G-7449]; Kelly Thames, *Getting to Know Dean Jennifer Rosato Perea, Dean of DePaul University College of Law*, CATALYST (Ill. State Bar Ass'n), Nov. 2015, at 12, 12; Christine Stutz, *LaVonda Reed Joins UBalt Law as Dean*, U. OF BALT. SCH. OF L. MAG. (Fall 2024), <https://blogs.ubalt.edu/lawmag/lavonda-reed-joins-ubalt-law-as-dean> [https://perma.cc/DVH8-GSY9]. See generally JEFF ALLUM, KATIE KEMPNER & JUDITH AREEN, ASS'N OF AM. L. SCHS., AMERICAN LAW SCHOOL DEAN STUDY (2022).

<sup>37</sup> For example, Paulette Brown (Black), President of the ABA (2015); Mary Smith (Native American), President of the ABA (2023); Shaheena Bennett (Black), President of the South Carolina Bar (2024); and Diana Gomez (Latina), President of the Houston Bar Association (2023). See Diane Rynerson, *Paulette Brown to Be First African-American Female President*

of the legal profession, there are two woman-of-color firsts on the United States Supreme Court.<sup>38</sup>

### III. OBSTACLES & CHALLENGES

More frequently than not, women of color receive little focus when data is presented on social progress within the legal profession. Women of color are often either grouped with all women, with all members of their race, or with all people termed “minority,” including both men and women from several racial backgrounds.<sup>39</sup> In some respects, this further marginalizes women of color. And to be clear, women of color are not a monolith. For example, “Latina attorneys may encounter additional challenges related to the significant cultural divide that exists between their heritage and legal profession worlds, whose values, norms, and behaviors are often in opposition.”<sup>40</sup> No doubt, the same could be said for Native American, Asian American, and Black/African Descendant women.

Women of color consistently encounter difficulties when navigating careers in the law. I am frequently called upon to validate women of color who have had their credentials and bona fides called into question in ways that leave them feeling inadequate. I have personally seen women of color facing significant discrimination in their legal careers. This experience is echoed by women who participated in the focus groups in *Left Out and Left Behind*:

“The bias that I face as a woman of color has become the elephant in the room. It means that I have to keep proving myself to clients, peers,

---

of the American Bar Association, NAT’L CONF. OF WOMEN’S BAR ASS’NS (Aug. 13, 2014), <https://ncwba.org/paulette-brown-first-african-american-female-aba-presiden> [https://perma.cc/8TG6-TF76]; Mary Smith, ABA, [https://www.americanbar.org/groups/leadership/aba\\_officers/smith-mary](https://www.americanbar.org/groups/leadership/aba_officers/smith-mary) (last visited May 23, 2025); S.C. Bar, FACEBOOK (Mar. 5, 2024, 2:01 PM), <https://www.facebook.com/SouthCarolinaBar/posts/945863720876829>; Diana Gomez Sworn in as First Latina President of Houston Bar Association, 86 TEX. BAR J. 529, 529 (2023).

<sup>38</sup> Justice Sonia Sotomayor, appointed by President Obama (2009), and Justice Ketanji Brown Jackson, appointed by President Biden (2022). Katherine Brandon, *Justice Sonia Sotomayor*, WHITE HOUSE (Aug. 6, 2009, 4:19 PM), <https://obamawhitehouse.archives.gov/blog/2009/08/06/justice-sonia-sotomayor> [https://perma.cc/3JPA-BNSA]; Annie Karni, *Ketanji Brown Jackson Becomes First Black Female Supreme Court Justice*, N.Y. TIMES (June 30, 2022), <https://www.nytimes.com/2022/06/30/us/politics/ketanji-brown-jackson-sworn-in-supreme-court.html>.

<sup>39</sup> See, e.g., *Profile of the Legal Profession 2024: Demographics*, ABA (Nov. 18, 2024), <https://www.americanbar.org/news/profile-legal-profession/demographics> (including categories for “gender” and “race and ethnicity” but not considering intersectionality); 2016 NAT’L ASS’N FOR L. PLACEMENT, 2016 REPORT ON DIVERSITY IN U.S. LAW FIRMS 4 (2017) (analyzing statistics on “women, minorities, and minority women” as one category). But see, e.g., NALP 2024, *supra* note 4, at 17 (noting National Association for Law Placement (“NALP”) has collected statistics on women of color since 2006).

<sup>40</sup> Jill Lynch Cruz, *Latinas in the Legal Profession: Navigating the Cultural Divide*, NOTICIAS, 2020 HNBA/VIA Corp. Couns. Conf. & Ann. Convention, at 24, 25.

superiors, subordinates, even after each success. Sometimes others assume that I am not a threat because they don't see me as real contender for business or leadership roles. I am not seen as a viable team member until I prove that I am. Then, even once I get buy-in from others, there are those who doubt my abilities or wait for me to fail. I feel like I have to try harder than white [men]. I feel like people don't give me the same tools to succeed or excel. I have to make my own way without these tools for success. I face adversity even when I try to be normal. Being content is not an option for me."

—early 40s Black woman<sup>41</sup>

"I can be waiting in front of the prosecutor when another male attorney comes in and pushes his way past me. Even though the prosecutor knows I am next in line, he takes on the male attorney and the male attorney refuses to acknowledge me and does not care. But when I speak up, I get the 'she's a bitch' look. Same happens with judges. Male attorney cases get called up before mine even if I was there first. Worse yet, despite having practiced for many years, I still get the 'Are you the interpreter?' question because they see me speaking Spanish with my clients."

—54-year-old Latinx woman<sup>42</sup>

In *Visible Invisibility: Women of Color in Law Firms*, "[l]ess than 5% of white men reported ever having career-damaging experiences, and less than 1% of white women and white men who reported career-damaging experiences attributed them to race."<sup>43</sup> On the other hand, the report states:

- 29% of women of color and 25% of men of color reported missing out on desirable assignments because of race.
- 49% of women of color and 31% of men of color reported that they were denied informal or formal networking opportunities because of race.
- 35% of women of color and 24% of men of color reported having missed client development and client relationship opportunities because of race.
- 16% of women of color and 19% of men of color reported that they were denied advancement and promotion opportunities because of race.<sup>44</sup>

<sup>41</sup> PEERY ET AL., *supra* note 1, at 4.

<sup>42</sup> *Id.* at 8.

<sup>43</sup> GANS EPNER, *supra* note 1, at 9 (emphasis omitted).

<sup>44</sup> *Id.*

Other key findings included:

- 62% of women of color surveyed said that they had been excluded from networking opportunities, as compared to 4% of white men who said the same.<sup>45</sup>
- Of the women of color surveyed, “[n]early half (49%) reported having been subjected to demeaning comments or other types of harassment while working at a private law firm, as did 47% of white women, 34% of men of color and only 2% of white men.”<sup>46</sup>
- “44% of women of color reported being passed over for desirable assignments compared to 39% of white women, 25% of men of color and 2% of white men.”<sup>47</sup>
- “The retention rate for women of color in law firms in this study was 53%; the retention rate for white men was 72%.”<sup>48</sup>

Women of color as a broad group had a staggeringly large number of negative career experiences, but the type of disparate treatment they experienced varied among racial groups. For example, one Asian woman shared:

I had a managing partner call me into his office when I was a fourth year [associate]. He introduced me to the client, who was Korean, and he tells him that I’m Korean too. He says, “She eats kim chee just like you.” He said to me, “Talk to him.” I looked at the client and said, “It’s a pleasure to meet you. I’m sure you speak English better than I speak Korean.”<sup>49</sup>

A Native American woman reported having been asked where her tomahawk was and whether she could be referred to as Pocahontas.<sup>50</sup> Similarly, a Black woman reported hearing herself “described as ‘an angry Black woman.’”<sup>51</sup>

The study also demonstrated the effectiveness of mentoring and sponsorship in impacting career success. One woman of color surveyed recounted:

Although I worked primarily in an all-white-male firm, the attorneys, partners and associates were very supportive of advancing my career. I had the opportunity early on to be assigned to accounts that let me develop client relationships, which have helped me establish my own practice. The

---

<sup>45</sup> *Id.* at 35.

<sup>46</sup> *Id.* at 10.

<sup>47</sup> *Id.* at 21.

<sup>48</sup> *Id.* at 36. However, the study reported that differences in retention rates could be attributed to generational differences in respondents, because most white people surveyed were in later stages of their careers, as opposed to women of color surveyed, who were younger and “prime candidates for lateral moves to maximize advancement.” *Id.* at 30. At the same time, other data has suggested even lower retention rates for women of color. *See id.* at 30 n.3.

<sup>49</sup> *Id.* at 10 (alteration in original).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

key was finding a senior associate who was on the cusp of partnership and then becoming part of his team. I was young and therefore not a threat and had incredible opportunities to grow along with him. I was offered partnership, ultimately.<sup>52</sup>

It is inherently not possible for women of color try to “fit into” the culture without support. The legal culture was not designed for women of color.

Underscoring this point, a 2005 study conducted by the National Association for Law Placement (“NALP”) found “81% of minority female associates had left private law firms within five years of being hired and nearly 100% had left after eight years.”<sup>53</sup>

In the nearly twenty years after *Visible Invisibility* was published in 2006, women of color have not made significant gains in the legal field.<sup>54</sup> In 2024, women of color represented only 5.28% of partners in law firms.<sup>55</sup> Inasmuch as women of color are not a monolith, parsing out the percentages among women of color is important: 2.28% of partners at law firms in 2024 were Asian women, 1.11% were Black women, and 1.12% were Latina women.<sup>56</sup>

Likewise, *Left Out and Left Behind* found that women of color continue to share similar experiences unique to the intersection of their sex and race. For example:

“I was always considered ‘aggressive’ or ‘not a team player’ when I performed just like my male colleagues.”

—39-year-old Black woman<sup>57</sup>

“White women . . . are saying show up and be your true authentic self. [But women of color] have to morph to what society wants from us, whether it’s to make yourself bigger or to make yourself smaller. You’ve got to fit the square peg into the round whole [sic]. White women now have more of an opportunity to be vulnerable and be themselves and to do all of that and to be respected for it. So [women of color] are still behind the curve.”

—43-year-old Asian woman<sup>58</sup>

The collection of data on women of color in the legal profession began in earnest when the NALP began issuing intersectional diversity statistics on law

---

<sup>52</sup> *Id.* at 14.

<sup>53</sup> *Id.* at 30 n.3; *see also id.* at 1. *See generally* NALP FOUND., TOWARD EFFECTIVE MANAGEMENT OF ASSOCIATE MOBILITY: A STATUS REPORT ON ATTRITION (2005).

<sup>54</sup> *See* PEERY ET AL., *supra* note 1, at vii (“[S]ince 2006, relatively little has changed in terms of either the representation or the lived experiences of women and diverse attorneys in the profession.”).

<sup>55</sup> NALP 2024, *supra* note 4, at 16 tbl.1.

<sup>56</sup> *Id.* at 21 tbl.2. Multiracial women accounted for 0.69% of partners, and Native American and Pacific Islander women totaled to less than 0.1%. *See id.*

<sup>57</sup> PEERY ET AL., *supra* note 1, at 7.

<sup>58</sup> *Id.* at 6 (alterations in original).

firms in 2006.<sup>59</sup> From the outset, the data revealed that women of color were not faring as well as either men of color or white women.<sup>60</sup>

Given this preliminary backdrop on the disparate and discriminatory treatment of women of color in the legal profession, it becomes clear that such treatment neatly fits into the cycle of systemic, structural, and institutional racism. Structural racism is a part of the past and present of the United States.

The impacts of reinforced structural racism under the Trump Administration due to recent executive orders<sup>61</sup> and demands upon law firms by the Equal Employment Opportunity Commission (“EEOC”)<sup>62</sup> are already manifesting in the legal profession. Diverse women lawyers employed by law firms in fellowship and internship programs which may be deemed “DEI,” are fearful for their job security and prospects. As of March 2025, recently minted female associates of color have reported to me that they are removing from their LinkedIn accounts all references to awards received that may be perceived as related to diversity. Likewise, women of color have asked me whether they should request that their firms remove their names and any references to them being women of color from firm websites. This is no doubt in response to the federal government’s erasure of accomplishments by people of color, members of LGBTQ+ groups, and women generally from official websites.<sup>63</sup> The racism is pervasive and unapologetic.

#### IV. LAW FIRM DEMOGRAPHICS

Anecdotal information concerning women of color in the law profession is incredibly important; demographic data from law firms supports and confirms many of the conclusions drawn from experience-based evidence. In 2006, women of color were dramatically underrepresented in the partnership ranks in

---

<sup>59</sup> See NALP Bulletin, *Women and Minorities at Law Firms — What Has Changed and What Has Not in the Past 25 Years*, NAT’L ASS’N FOR L. PLACEMENT (Feb. 2018), <https://www.nalp.org/0218research>.

<sup>60</sup> See generally GANS EPNER, *supra* note 1.

<sup>61</sup> See, e.g., Ending Radical and Wasteful Government DEI Programs and Preferencing, Exec. Order No. 14,151, 90 Fed. Reg. 8339, 8339 (Jan. 20, 2025); Ending Illegal Discrimination and Restoring Merit-Based Opportunity, Exec. Order No. 14,173, 90 Fed. Reg. 8633, 8633 (Jan. 21, 2025); Addressing Risks from Perkins Coie LLP, Exec. Order No. 14,230, 90 Fed. Reg. 11781, 11781-82 (Mar. 6, 2025).

<sup>62</sup> See Press Release, U.S. Equal Emp. Opportunity Comm’n, EEOC Acting Chair Andrea Lucas Sends Letters to 20 Law Firms Requesting Information About DEI-Related Employment Practices (Mar. 17, 2025), <https://www.eeoc.gov/newsroom/eeoc-acting-chair-andrea-lucas-sends-letters-20-law-firms-requesting-information-about-dei> [<https://perma.cc/RRK6-2CYA>].

<sup>63</sup> See, e.g., Alia Wong & Annie Ma, *Federal Agencies Begin Removing DEI Guidance from Websites in Trump Crackdown*, ASSOCIATED PRESS, <https://apnews.com/article/trump-dei-education-diversity-equity-inclusion-20cf8a2941f4f35e0b5b0e07c6347ebb> (last updated Jan. 24, 2025, 5:48 PM).

law firms at 1.48%.<sup>64</sup> Over a seventeen-year period, the percentage of women of color who were partners in law firms increased by 3.8% to 5.28%.<sup>65</sup> This percentage may have risen, but it leaves much to be desired, especially when compared to the proportion of women of color in the general population—which was approximately 18% of the United States population as of 2012.<sup>66</sup> As of 2024, white men continue to be grossly overrepresented in the partnership ranks.<sup>67</sup>

Again, recognizing that women of color are not a monolith, in 2024, Black female partners represented 1.11% of all partners in law firms, Latina female partners represented 1.12%, Asian female partners represented 2.28%, Native American female partners represented 0.06%, Pacific Islander female partners represented 0.03%, and multiracial female partners represented 0.69%.<sup>68</sup> While these numbers are abysmal, that they exist at all offers a small shred of positivity. Prior to 2006, the NALP collected no data on women of color in the ranks of partners in law firms.<sup>69</sup> It is easy to speculate as to why—I imagine the percentages were so statistically insignificant that reporting on these demographics was not feasible.

The incremental increases have been very small for women of color in law firms. These small increases are often viewed as small victories, particularly alongside the statistic that when they are promoted, Black woman lawyers are the second-most likely to be promoted to equity partner among all demographic groups.<sup>70</sup> However, although this can be viewed as progress, Black women still represent only 1% of partners. These embarrassing statistics require sweeping changes to ensure that women of color achieve equity in the legal profession.

Not only are white men overrepresented in the partnership ranks, they are also overrepresented in the ranks of the most highly compensated. “Whereas White male attorneys constituted around 54% of all attorneys, they represented 77% of the top 10% highest paid attorneys and 71% of the next 20% highest paid attorneys.”<sup>71</sup> From my experience, the most highly compensated attorneys are often the formal and informal decision-makers; such attorneys can usually choose to be exempt from firm policies. This data undermines the proposition

---

<sup>64</sup> See NALP 2024, *supra* note 4, at 16 tbl.1.

<sup>65</sup> *Id.*

<sup>66</sup> SOPHIA KERBY, CTR. FOR AM. PROGRESS, THE STATE OF WOMEN OF COLOR IN THE UNITED STATES 1 (2012), [https://cdn.americanprogress.org/wp-content/uploads/issues/2012/07/pdf/women\\_of\\_color\\_brief.pdf](https://cdn.americanprogress.org/wp-content/uploads/issues/2012/07/pdf/women_of_color_brief.pdf) [<https://perma.cc/8CVR-AHLC>].

<sup>67</sup> See NALP 2024, *supra* note 4, at 5.

<sup>68</sup> *Id.* at 21 tbl.2.

<sup>69</sup> See NALP Bulletin, *supra* note 59.

<sup>70</sup> HARVEY ET AL., *supra* note 5, at 51. “When promoted, both White male attorneys (46%) and Black/African American female attorneys (44%) were most likely to be promoted into Equity Partner roles . . . Multiracial male (22%), Native American female (25%), and Asian female (31%) attorneys were among the least likely to be promoted to Equity Partner.” *Id.*

<sup>71</sup> *Id.* at 60.



from recent executive orders that women of color are somehow receiving an unfair advantage over white men.<sup>72</sup>

Abysmal numbers for women of color are not limited to law firms. “Only 70 of the 3,843 people who have ever served as federal judges in the United States—fewer than 2%—have been Black women . . . .”<sup>73</sup> I restate to emphasize this paucity: Opportunities to serve are available at the Supreme Court, thirteen Courts of Appeals, and ninety-four District Courts, and the federal court system has existed since 1789, yet only seventy Black women have ever served as federal judges.<sup>74</sup>

In recent years, the number of women of color serving as law school deans has increased dramatically. In 2024 alone, three Black female deans were appointed at major law schools.<sup>75</sup> “[I]n fall 2020, there were 28 women deans who identified as other than white non-Hispanic, including 20 Black/African American women deans,”<sup>76</sup> representing an increase from 2005. This begs the questions: What lessons can be learned from the legal academy? Is this growth happenstance or intentional? Is this phenomenon sustainable in the current climate, in which the federal government is openly opposed to equitable inclusion for all?

## V. RACIALIZED EXPERIENCES

In 2006, following the ABA’s release of *Visible Invisibility*, I wondered about the experiences of women of color in New Jersey law firms, where I have practiced and am currently practicing. At the time, there were only three Black female partners in New Jersey law firms, one Latina partner, and (to my knowledge) no self-identified Asian or Native American female partners. It was incumbent upon me to gather these women together to understand their experiences and work environments. One of the other New Jersey partners as well as one of my New York partners joined forces with me to organize what was intended to be a one-time gathering of women of color to understand women of color’s experiences in New Jersey law firms. One meeting morphed into

<sup>72</sup> See *supra* note 61 and accompanying text.

<sup>73</sup> John Gramlich, *Black Women Account for a Small Fraction of the Federal Judges Who Have Served to Date*, PEW RSCH. CTR. (Feb. 2, 2022), <https://www.pewresearch.org/short-reads/2022/02/02/black-women-account-for-a-small-fraction-of-the-federal-judges-who-have-served-to-date> [https://perma.cc/XV7M-WGFW].

<sup>74</sup> See *id.*; *Anniversary of the Federal Court System*, U.S. CTS., <https://www.uscourts.gov/anniversary-federal-court-system> [https://perma.cc/7U8Y-XH3R] (last visited May 23, 2025).

<sup>75</sup> *Three Black Women Appointed Deans of University Law Schools*, J. OF BLACKS IN HIGHER ED. (Apr. 8, 2024), <https://jbhe.com/2024/04/three-black-women-appointed-deans-of-university-law-schools> [https://perma.cc/RRP2-4SP9].

<sup>76</sup> Jeff Allum & Katie Kempner, *Looking at Leadership: Perspectives from American Law School Deans*, NALP (Sept. 2022), <https://www.nalp.org/american-law-school-dean-study>.

twelve years of monthly meetings. We were soon known as the “Women of Color Mentoring Circle.”

The initial meeting, comprised only of associates and the partners who organized the meeting, unfortunately confirmed the experiences of those who participated in the focus groups for the *Visible Invisibility* report. The sense of isolation experienced was uniform, and the participants felt such a thirst to be able to share experiences. As we listened to each other, it became clear that it was important for the associates to know they were not alone, and they quickly realized that they were being subjected to discriminatory and sometimes racist behavior in their workplaces.

We all engaged in this quest to find not only community, but also validation that what we were feeling could not be brushed aside as “oversensitivity.” Women of color traveled from as far south as Delaware and as far north as Hartford, Connecticut, to share their experiences, perhaps because there was such a paucity of women of color in the ranks of law firms, and this was a rare outlet to discuss shared experiences.

One of the most common themes expressed was surprise and sometimes shock at the lack of support from white women. Many had expected that all women, including white women, would be natural allies. Several women of color shared not only that white women were unsupportive, but also that they felt as though white women were actively sabotaging women of color in their firms.

In *This Talk Isn't Cheap*, a 2020 study by the ABA's Commission on Women in the Profession, many women of color shared similar thoughts.<sup>77</sup> Among them was one “want” that was consistent with the comments of the women in the Women of Color Mentoring Circle: “We accept that everyone has biases, but some of your biases are difficult for us to discuss with you. . . . One of the biases that most frequently affects our ability to communicate with you is your defensiveness about white people's racial/ethnic biases.”<sup>78</sup>

Many of the women who participated in the Women of Color Mentoring Circle were the only woman of color in their firms. Yet, those in authority did not ensure that the women of color received quality work so that they could advance in their careers and instead placed them on committees that did not generate billable hours. Although they were young, unseasoned attorneys, they were put on hiring committees and diversity committees. Too frequently, their hours were amassed solely by document review that did little to advance their lawyering skills and thereby stifled their development and value within the law firms.

*Visible Invisibility* highlighted the high attrition rate of women of color, noting a 2005 study finding that 81% of women of color left their law firms

---

<sup>77</sup> See generally AM. BAR ASS'N COMM'N ON WOMEN IN THE PROFESSION, *THIS TALK ISN'T CHEAP* (2020).

<sup>78</sup> *Id.* at 8.

within five years.<sup>79</sup> Sadly, this high attrition rate was realized among the women of color in New Jersey who were members of the Mentoring Circle. During the financial crisis in 2008 and 2009, these women were the first to be released from their firms, despite their excellent credentials. Unfortunately, some in the group felt an unjustified sense of shame—an unwarranted sense of failure that they had somehow caused their own separation from employment. More than fifteen years later, Black/African American male *and* female associates have the highest rates of attrition among all levels and categories of attorneys in law firms.<sup>80</sup>

This phenomenon was not limited to the women in the Mentoring Circle or to the East Coast of the United States. In my travels around the country—and most intensely during my tenure as president-elect and president of the ABA—women of color across all legal disciplines would seek me out to anxiously share stories of how, notwithstanding their impeccable credentials, they were denied opportunities, second guessed, forced to prove their worth over and over again, and subjected to demeaning comments, sometimes laced with racial overtones. These experiences, and those that continue to be shared, are consistent with experiences shared by women of color in the 2020 study *Left Out and Left Behind*.<sup>81</sup>

#### VI. WHY SUCCESS OF WOMEN OF COLOR IS IMPORTANT TO SUSTAIN THE LEGAL PROFESSION

It's not possible for a law firm to be profitable, effective, or efficient if attrition rates are excessively high. Each time a lawyer walks out the door, the organization incurs costs. Additionally, from experiences shared with me, high retention nets higher morale and greater productivity. Frequently, I have been told by law firm leaders that women of color leave law firms because “clients are stealing them from us.” I would submit that it is not possible to be “steal” a woman of color. If a woman of color is getting the support that she needs from her current employer, there is little to no incentive or enticement to leave.

One study found that when organizations establish gender-inclusive cultures and policies, 57.4% of them across the world found that those initiatives enhanced business outcomes.<sup>82</sup> In further support of the fact that it is beneficial for organizations to embrace DEI—and women of color more specifically—a McKinsey report found a significant positive correlation between financial performance and executive board diversity in both gender and ethnicity.<sup>83</sup> Heightened attention to engagement and inclusion could also increase retention,

---

<sup>79</sup> GANS EPNER, *supra* note 1, at 30 n.3.

<sup>80</sup> HARVEY ET AL., *supra* note 5, at 37.

<sup>81</sup> See generally PEERY ET AL., *supra* note 1.

<sup>82</sup> INT'L LAB. ORG., WOMEN IN BUSINESS AND MANAGEMENT: THE BUSINESS CASE FOR CHANGE 19 fig.1.3 (2019).

<sup>83</sup> MCKINSEY & CO., DIVERSITY WINS: HOW INCLUSION MATTERS 13 (2020) (“For five years our research has shown a positive, statistically significant correlation between company financial outperformance and diversity, on the dimensions of both gender and ethnicity.”).

potentially saving organizations hundreds of thousands of dollars.<sup>84</sup> The benefits of creating a diverse work environment in the legal profession may not manifest immediately, but if legal entities look beyond the immediate, the obvious benefits become apparent.

If law firms continue to fail to recognize that having women of color and having excellence are not mutually exclusive, there will be a dearth of individuals in the organization's talent pool to perform necessary services, resulting in a loss of profitability.

## VII. THE PROGNOSIS

Women of color are resilient. Even when confronted with overt, covert, and unintentional racism, many will stand by their organizations and stay in the legal profession. As far back as 1872, when Charlotte E. Ray became the first Black woman lawyer in the United States, women of color proved they could and would not be deterred from the legal profession.<sup>85</sup> In 1906, Laura M. Cornelius of the Oneida Tribe, out of a desire to help her people, enrolled in Barnard College in New York to study law.<sup>86</sup> When asked, "What things do you want for your people, and how do you expect to turn your legal knowledge when acquired, to their assistance?" Cornelius replied, "that the cause which makes me willing and happy to undergo anything, if only it can be advanced, is in itself so grand that it pushes personal considerations to one side."<sup>87</sup> That fierce sense of determination is responsible for any modicum of success for women of color, and it will continue to drive equity forward.

Cornelius's position is not isolated, and despite very little progress, the sentiment from 1906 remains today. As one Latina attorney stated:

Nothing can actually stop me. I went home and cried angry and indignant tears often. I love what I do, and I worked very hard to get where I am.

---

<sup>84</sup> Research has shown "diverse and inclusive companies have employee retention rates 5.4 times higher than non-inclusive companies." Tory Clarke, *Three Reasons the Case for Corporate DEI Programs Is Stronger than Ever*, FORBES (Nov. 28, 2023, 7:00 AM), <https://www.forbes.com/councils/forbeshumanresourcescouncil/2023/11/28/three-reasons-the-case-for-corporate-dei-programs-is-stronger-than-ever> [https://perma.cc/8SEW-Q52Q]. Better employee retention "can result in significant cost savings to employers." HEATHER BOUSHEY & SARAH JANE GLYNN, CTR. FOR AM. PROGRESS, THERE ARE SIGNIFICANT BUSINESS COSTS TO REPLACING EMPLOYEES 1 (2012), <https://www.americanprogress.org/wp-content/uploads/sites/2/2015/08/CostofTurnover0815.pdf> [https://perma.cc/P2CB-ESEW].

<sup>85</sup> See generally Erin Blakemore, *Charlotte E. Ray's Brief but Historic Career as the First U.S. Black Woman Attorney*, HISTORY, <https://www.history.com/articles/charlotte-e-ray-first-black-woman-attorney> [https://perma.cc/VVC5-B6N3] (last updated Jan. 27, 2025).

<sup>86</sup> Burke, *supra* note 32.

<sup>87</sup> *Id.*

There is literally nothing they could have done short of killing me that would have resulted in my quitting the law.<sup>88</sup>

This type of resolve is necessary—not only to refuse to literally quit, but to refuse to conform to arbitrary white norms. In my opinion, attempting to “fit in” is still, in a sense, quitting. When women of color do so, they stifle themselves and model unhelpful behavior for those that come behind them.

Yet, the proliferation of women of color who are deans of law schools is encouraging, as are the women of color who are rising through the highest legal ranks in corporations, where women of color have experienced seemingly the greatest progress. As of 2019, there were at least fifty women of color serving as General Counsel of Fortune 1000 companies, including twenty-seven Black women, sixteen Asian women, and seven Latinas.<sup>89</sup>

Women of color will continue to make small but incremental gains despite opposition in the current hostile political climate,<sup>90</sup> a climate that has caused some corporations, contrary to their best interests, to adapt to what they likely consider the new normal. It must be emphasized that there are, by leaps and bounds, far more organizations that understand diversity is integral to excellence now than there were when my career began. Yet, I suspect that, unfortunately, significant gains will not be seen in my lifetime. Particularly in the current climate, there is no clear path forward for accelerated parity and equity.

#### CONCLUSION

Racism, discrimination, and bias against women of color are built into the legal profession’s structure, and based on the 2025 anti-DEI executive orders, among other initiatives, there are challenges abound. Now is not the time to submit to fear. Now is the time to be more courageous than ever. The legal profession must hold itself to a much higher standard to ensure women of color receive equity that is not merely performative but instead inures to their benefit. Further, the legal profession must ensure that the benefits that inure to white men and white women are available to women of color. Achieving genuine equity requires a legal profession where no one receives or is denied an opportunity or disadvantage based on the intersectionality of race and gender. It requires hyper-intentionality from leaders within organizations that employ lawyers.

The false narrative that DEI policies are harmful must be dismissed and challenged. Women of color overall are just as or more qualified than any other demographic, and the hiring practices and retention rates of law firms should

---

<sup>88</sup> PEERY ET AL., *supra* note 1, at 15. “The practice [of] law is educational and rewarding. . . . The best part of practicing law is using the information to educate and empower my community.” *Id.* at 14.

<sup>89</sup> MINORITY CORP. COUNS. ASS’N, 2020 MCCA FORTUNE 1000 GC SURVEY 4 tbl.1 (2020), <https://web.archive.org/web/20240122020750/https://mcca.com/wp-content/uploads/2022/03/2020-MCCA-Fortune-1000-GC-Survey.pdf> [<https://perma.cc/2CUH-RZPJ>].

<sup>90</sup> See *supra* notes 61-62 and accompanying text.

reflect that. That retention rates are so much lower for women of color speaks to how hostile law firms remain for those women.

Throughout history, women of color in the legal profession have been minimized, discriminated against, harassed, and subjected to racist tropes. This has occurred without regard to the number of times women of color have proven their “worth.” It seems no matter how much is done, the work of women of color is never enough in the eyes of an unfair system.

Hard work is required by leaders in the legal profession to achieve equity or even parity in this century for women of color, and that hard work must be accelerated. Repair must begin with leaders recognizing and acknowledging the harms their organizations have historically and structurally imposed upon women of color. These organizations must repair themselves in order to repair the harm they’ve caused. Only then can there be a path forward to achieving equity for women of color in the legal profession.