



THE IOWA LAWYER

February 2020 V 80 N 1



THE 2020 LEGISLATIVE SESSION

PG. 6



IN THIS ISSUE

MEET THE LAWYERS SERVING THE STATE
PG. 13



COURT PRIORITIES IN 2020
PG. 14

NEW ETHICS OPINIONS
PG. 16

GENDER MATTERS
ELIMINATING BIAS, HARASSMENT AND DISCRIMINATION IN THE PROFESSION
PG. 18



GENDER MATTERS

HOW PRACTITIONERS AND JUDGES CAN ADDRESS AND ELIMINATE BIAS,

HARASSMENT AND DISCRIMINATION IN THE IOWA LEGAL PROFESSION

By Leslie Behaunek

This publication has produced multiple articles related to gender bias, discrimination and harassment in the Iowa legal community. Hopefully you've had an opportunity to read one or more of them. Those articles, including one I co-authored, have focused on the problems present in our profession in the hopes that we will identify solutions.

In this article, I seek to provide some tangible actions that you can take—in your job, at legal-social events or just generally in life—to address and hopefully eradicate bias, harassment and discrimination on the basis of gender and sex in the Iowa legal community. Think about this as a New Year's

Resolution for 2020, the year we are celebrating the 100th anniversary of the passage of the 19th Amendment. Some of my suggestions are intended for all attorneys and judges to consider, others are geared more for the men in our profession. This is certainly not a one-size-fits-all approach, but I am hopeful that this will provide a starting point for us to continue addressing these issues well into the new decade.

BE PROACTIVE

It is easy to wait until an issue arises (like an attorney becoming a parent) and then put a policy in place. Instead of waiting for an attorney or staff member to request parental leave, put a policy in place for all individuals at your firm or company in advance. That way there's no ambiguity about the available options for new parents. It also means that pending new parents don't experience the unnecessary anxiety and stress of requesting a parental leave policy be created. This includes policies related to both parents giving birth to a child, parents whose partner is giving birth to a child and adoptive parents.

If you're not sure where to start, the December 2019 edition of *The Iowa Lawyer* included articles about different parental leave policies as well as information about breastfeeding and pumping rights at work. The YLD Parental Leave Task Force has done an excellent job of collecting resources for attorneys and employers alike to stay informed about the best practices in this area.

Similarly, decide how you're going to address complaints of sexual or other workplace harassment internally before you receive any such complaint. Being proactive sets the tone in your workplace about what everyone's rights and responsibilities are.

If your workplace already has these types of policies, learn about them. By knowing your rights and the rights of your co-workers, you can be an ally if needed.

INSTITUTE MORE INCLUSIVE LEGAL-SOCIAL ACTIVITIES

Consider how golf outings and similar social functions promote bonding and mentorship among primarily male attorneys and judges. Such outings often leave out women who don't enjoy golfing and people with physical disabilities who are unable to participate. Instead of expecting women to conform to a social structure that was, for many years, created by and for men, consider how you can change the social structure to be more inclusive of women in the legal profession. Some law firms and legal conferences have added social events in addition to, or instead of, a golf outing, including: bike outing, spa day, volunteer/service day, yoga session, bowling, slow-pitch softball tournament, adult arcade night, wine and painting, and trivia night.

My firm added a bike outing on the same day as our annual golf outing several years ago, and last year we added a spa day as well. Attorneys had those three options to choose from if they wanted to participate in a social event on the day of our annual summer party. I know the ISBA Bench-Bar Conference has incorporated a similar schedule of social events from which people can choose. I hope that law firms, CLE conference hosts and bar associations continue to evaluate how inclusive their social events are to women attorneys but also to attorneys with different interests and abilities.

IF YOU SEE SOMETHING, SAY SOMETHING

In surveys conducted by the ISBA Federal Practice Committee over the last few years, it was clear that there are women of all ages across the state, in all types of legal jobs, who have experienced or witnessed bias, discrimination and/or harassment on the basis of their sex or gender. The obvious instances of this type of conduct (e.g. physical contact) may have diminished over the years, but the daily indignities – also referred to

MANAGE EXCHANGE AND PROFESSIONAL RISK WITH THE MIDWEST'S PREMIER EXCHANGE RESOURCE

IP&E
1031

QUALIFIED
INTERMEDIARY
SERVICES

IPE 1031

6150 VILLAGE VIEW DRIVE • SUITE 113

WEST DES MOINES, IA 50266

515.279.1111 • 888.226.0400

FAX 515.279.8788

WWW.IPE1031.COM

INFO@IPE1031.COM



1031 EXCHANGE

as microaggressions – are pervasive. Here are some things you can do about them:

- If you see a male attorney refer to a female attorney as “honey,” “kiddo,” “lady” or “girl,” consider how you can point out the inappropriateness of such a comment.
- If you learn that a woman attorney in your firm is consistently being assigned to lower-rate cases while her male contemporary is getting top-rate work on more prestigious cases, consider whether bias or discrimination is playing a part in the assignment of work and do something about it.
- If you see women attorneys interrupted repeatedly by a specific attorney or judge, consider saying something.
- If a woman suggests an idea in a meeting, and a man in the room repeats that idea and tries to take credit for the idea, say something to ensure the woman’s voice is heard.

All of the above-stated examples are real, lived experiences that women attorneys and judges shared in anonymous survey results over the last two years. If you have an opportunity to help as a bystander, consider how you can do so.

SERVE ON A DIVERSITY AND INCLUSION COMMITTEE OR INITIATIVE

Many diversity and inclusion (“D&I”) committees are filled with women, LGBTQ+ attorneys and attorneys of color, likely because the issues those committees address affect those attorneys most acutely. I encourage the white, male attorneys in the state to become more engaged in the work of these types of committees. If your workplace doesn’t have a D&I committee, the ISBA D&I Committee is a great place to start.

TALK TO YOUR COLLEAGUES

Many women attorneys share stories about male attorneys who ask them if they are the court reporter knowing full well they are not, or who call them honey, or who demean them in similar ways. I remember when one of our early surveys was conducted with the ISBA. One of my male colleagues who reviewed the survey results talked with his women colleagues and realized he had been somewhat

oblivious to the bias, discrimination and harassment that was still occurring in the Iowa legal profession. Several other men who I have worked with over the past few years on these initiatives expressed similar surprise. If you think this type of article is based on ancient history, I encourage you to talk with women attorneys and judges and see if they’ll share some of their stories with you.

MENTOR WOMEN

This is a request for the male attorneys and judges out there, because I know women attorneys and judges in Iowa are doing a lot of mentoring of other women attorneys and judges. Cross-gender mentoring, meaning men mentoring women and vice versa, can be incredibly useful to both the mentor and mentee. Additionally, there are significantly more male attorneys in Iowa, particularly in senior roles at law firms, in corporations and in government, than there are senior women attorneys. The numbers coming out of law school are close to 50/50 for women and men, but the numbers at the top of the legal profession are stark. If you have the opportunity to mentor a woman attorney in your office, I encourage you to do so. If you have an opportunity to mentor a pre-law college student or law student, please sign up.

My pre-law mentor in college, Craig Shives, was my first introduction to Nyemaster back when I was still figuring out if law school was the right path for me. He helped me get my first job at the firm as a summer clerical employee after my sophomore year in college. I was the first person in my family to go to law school, and that summer job was very helpful for me to learn what the practice of law looked like. I have been

fortunate to have a number of incredibly supportive mentors in my career, many of them men, and I can honestly say I would not be where I am today without their support, guidance and friendship.

There are many articles and commissions addressing these issues, and it is easy to become overwhelmed with the enormity and systemic nature of the problem. I’m sure it’s also easy to feel targeted and unwilling to engage as a white male in these conversations, but your voice is necessary to help us make progress as a profession. I am hopeful that by identifying a few concrete areas for action, we can collectively work on this issue one thing at a time. If you have additional action ideas, please let me know at lcbehaunek@nyemaster.com. If you want to reread a few of the articles on this topic from the Iowa Lawyer, two can be found in the following issues:

-*I Have Been Warned Not to Write This Letter*, Stephen R. Eckley, *Iowa Lawyer*, April 2018, V.78, N.3.

-*Gender Matters: An ongoing search for practical solutions to address and eliminate bias, harassment, discrimination in the Iowa legal profession*, Leslie Behaunek, Tim Hill, Andrea Mason, Lindsay Vaught, *Iowa Lawyer*, Nov. 2018, V.78, N.10.



Leslie Behaunek is an attorney with Nyemaster Goode in Des Moines and chaired the ISBA Federal Practice Committee’s Diversity Task Force for the past two years. She currently serves as vice chair of the ISBA Federal Practice Committee. Leslie frequently speaks about issues related to gender bias, discrimination and harassment in the Iowa legal profession and the ethical obligations as Iowa legal practitioners to address these problems.

PATTERSON LAW FIRM, L.L.P.

Mediations and Arbitrations

Patrick V. Waldron

Workers’ Compensation and Civil Litigation

*Member of American Academy of ADR Attorneys,
AV Rated with 25 years of civil litigation and
workers’ compensation experience*

pwaldron@pattersonfirm.com

Gregory A. Witke

*Civil Litigation including Personal Injury,
Construction and Professional Negligence*

*Member of International Academy of Dispute Resolution,
AV rated with over 30 years of litigation experience*

gwitke@pattersonfirm.com

www.pattersonfirm.com

505 Fifth Avenue, Suite 729
Des Moines, IA 50309

515-283-2147