

Cultivating Innovation

COURAGEOUS COUNSEL LEADERSHIP
NEW YORK | JANUARY 24, 2018



Program Agenda

7:45 a.m.	Registration and networking breakfast
9 a.m.	Opening remarks Kara Baysinger , Global Vice Chair, Dentons
9:05 a.m.	Remarks from Dentons Leadership Joe Andrew , Global Chairman, Dentons Elliott Portnoy , Global Chief Executive Officer, Dentons
9:25 a.m.	Introductory keynote Lucy Fato , Executive Vice President and General Counsel, AIG
9:45 a.m.	General session: Driving innovation <i>Innovation is a mantra in today's business environment. Hear from a panel of general counsel and chief legal officers about how they are focusing their teams and efforts around innovating—within their areas and within their organizations more broadly.</i> Panel: Haley Altman , CEO, Doxly Nancy Axilrod , General Counsel, Tapestry, Inc. (formerly Coach, Inc.) Dan Jansen , CEO, NextLaw Ventures Susie Lees , Executive VP, General Counsel and Secretary, the Allstate Corporation
10:45 a.m.	Networking break
11 a.m.	General session: Innovation on a global stage <i>Innovation in global enterprises has its own unique set of opportunities and challenges- hear from a panel of general counsel about how they have driven innovation, globally.</i> Panel: Lori Bellows , Director of Legal and Intellectual Property, HERE North America LLC Marie Bernard , CEO, NextLaw Labs Bindu Cudjoe , Deputy General Counsel for Technology and Operations Legal & Chief Knowledge Officer, BMO Financial Group Mary Dontzin , Head of Ethics and Compliance Mobile Networks, Nokia

12 p.m.	<p>Lunch</p> <p>Introduction: Natalie Spears, Partner, Dentons Keynote: April Rinne, global authority on the new economy, disruptive innovation and the future of work</p>
Interactive breakout sessions	
2 p.m.	<p>Breakout 1: Your global supply chain: asset, risk or both? <i>Learn how panelists have brought innovation and transparency to their companies' global supply chain.</i></p> <p>Panel: Mary Ann Hynes, Senior Counsel, Dentons Gloria Santona, Board of Directors, AON Plc Janet Saura, Senior Vice President, Deputy General Counsel and Assistant Secretary, Lowe</p> <hr/> <p>Breakout 2: Innovating with your IP <i>Successfully managing innovation should be the main objectives of any business that wishes to survive and thrive in today's economy. This panel will discuss how their companies have successfully used their IP to drive innovation in the marketplace.</i></p> <p>Panel: Carol Anne Been, Partner, Dentons Carolyn Blankenship, Chief IP Counsel, Thomson Reuters Corporation Lexi Peskin, Senior Counsel and Director of Safety, the Meet Group Lydia Wahlke, General Counsel, United States Soccer Federation</p> <hr/> <p>Breakout 3: The realities of bias and how to navigate them <i>This panel will discuss steps senior in-house counsel and compliance officers can take to reduce instances of gender inequality, sexual harassment and discrimination.</i></p> <p>Panel: Cynthia Jackson, Partner, Dentons Linda Lu, Senior Vice President, P&C Personal Lines Legal, Nationwide</p> <p></p>
Interactive breakout sessions	
3:15 p.m.	<p>Breakout 1: Getting appointed to a board</p> <p>Panel: Janice Ellig, Chief Executive Officer, the Ellig Group Kathleen Franklin, Global Ethics and Compliance Strategy Leader, Sony Group Gail Lione, Senior Counsel, Dentons Gloria Santona, Board of Directors, AON Plc</p> <hr/> <p>Breakout 2: Getting to general counsel <i>Practical advice on how to leverage your experience, build your brand, and position yourself to advance to a general counsel role.</i></p> <p>Panel: Colleen Batcheler, Executive Vice President, General Counsel and Corporate Secretary, Conagra Brands Lucy Fato, Executive Vice President and General Counsel, AIG Michele Coleman Mayes, VP and General Counsel, the New York Public Library</p>
4:15 p.m.	Networking break

4:30 p.m.	<p>General session: The importance of a personal brand and how to build it</p> <p><i>This panel will discuss the importance of implementing a personal brand and how to take charge of your career development pathway.</i></p> <p>Panel:</p> <p>Kara Baysinger, Partner, Dentons Michele Coleman Mayes, VP and General Counsel, the New York Public Library Shari Klevens, Partner, Dentons Catherine Nathan, Partner, SpencerStuart</p>
5:15 p.m.	<p>Wrap-up</p> <p>Kara Baysinger, Global Vice Chair, Dentons</p>

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Speakers



Haley Altman is the founder and CEO of Doxly, Inc. She has more than a decade of experience working on complicated transactions in the corporate, private equity and venture capital verticals. Her practice has extended from the Midwest at Ice Miller to the West Coast at Wilson Sonsini Goodrich & Rosati. Over the years she has completed thousands of transactions, from small debt transactions to US\$800 million public-private mergers opposite attorneys from around the world. Haley translated her knowledge and intimate understanding of the processes and workflows required to successfully complete transactions into a secure platform that helps attorneys get deals done with less stress and risk while maximizing client satisfaction.



Nancy Axilrod is general counsel of Tapestry, Inc. (formerly Coach, Inc.) and has ultimate responsibility for all legal issues worldwide. Nancy also oversees global factory social compliance, health and safety, and is chair of the Investment Committee of the Coach, Inc. Foundation. She is admitted to the bars of New York, New Jersey and Pennsylvania.



Colleen Batcheler is executive vice president, general counsel and corporate secretary for Conagra Brands, one of North America's leading branded food companies. In this role, Colleen advises senior management and the board of directors in support of the company's strategic initiatives, and oversees all legal and government affairs activity for the company. Colleen joined Conagra Brands in June 2006 as vice president and chief securities counsel. She was promoted to serve as the company's general counsel in 2008. Colleen serves as a member of the board of directors of Hubbard Street Dance Chicago. She is an emeritus director of Case Western Reserve University and serves on the Case Western Reserve University School of Law Visiting Committee.



Kara Baysinger, is currently a member of Dentons' leadership team, serving on both its Global Board as Global Vice Chair and its US Policy and Planning Board. She is also actively involved in leading the Firm's Women's Network. Kara is co-leader of Dentons' global Insurance Sector and has extensive experience in market conduct and sales practices (including multistate examinations and investigations), licensing, regulatory approvals, electronic commerce, transactional matters (including company formation, acquisitions, mergers and divestitures of insurance and non-insurance entities), reinsurance, cybersecurity, and product and market development issues. She represents national and international insurance and reinsurance companies, insurance-related service companies, other financial services entities, e-business enterprises and state governments.



Carol Anne Been serves on the leadership team for and is past chair of Dentons' Intellectual Property and Technology practice. She heads the legacy Intellectual Property Strategy; Trademark, Copyright and Advertising; and Intellectual Property Transactional practices. She uses her years of broad experience to provide strategic, effective and efficient representation to a diverse array of clients.



Lori Bellows is the Deputy General Counsel for HERE Technologies, the Open Location Platform company that enables people, enterprises and cities to harness the power of location. By making sense of the world through the lens of location, customers are empowered to achieve better outcomes – from helping a city manage its infrastructure or an enterprise optimize its assets to delivering drivers to their destination safely. Lori and her team of international lawyers and para-professionals support the development of HERE's core business products in 240 jurisdictions and their global distribution, providing guidance on intellectual property, personal data and other regulatory compliance. Lori is also responsible for legal operations and tool development ensuring efficient, cost-effective legal support services.



Marie Bernard is the CEO of Nextlaw Labs and previously served as the Europe director of innovation at Dentons. Bernard is a passionate evangelist of legal innovation, convinced that innovation can only be achieved when employees feel empowered to speak and exchange. She has been working with professional service firms for more than 16 years, including 10 years in the legal industry. Her drive and ability to connect the dots has allowed her to develop and progress upwards within the support staff teams of law firms. Bernard also serves as a board member within the European Legal Tech Association (ELTA). In 2017 she was recognized in the "Fastcase 50" as one of the world's leading innovators in law.



Carolyn Blankenship is SVP, associate general counsel, intellectual property, for Thomson Reuters. She joined Reuters in 2001 and before that held a variety of IP-related positions as both in-house and outside counsel, including stints at Skadden, Arps and Priceline.com. Carolyn leads the Corporate Legal IP Practice Group, with a focus on protecting and leveraging innovations throughout the company. In addition, Carolyn oversees all patent litigation and supports the IP aspects of the company's M&A activity.



Bindu Cudjoe is vice president, deputy general counsel - T&O Legal and chief knowledge officer of the legal, compliance and security groups at BMO Financial Group (BMO). She is accountable for managing legal and regulatory risk relating to technology, procurement, outsourcing, intellectual property and enterprise brand, marketing and social media. Additionally, she is responsible for knowledge management; including board and senior management reporting, project management, records and information management, centralized litigation support (e-discovery and legal holds), internal knowledge-sharing systems, and internal professional development programs. Bindu is active in the legal community as a director of the South Asian Bar Association of Toronto and an executive member of Women General Counsel Canada.



Mary Dontzin is the Head of Ethics & Compliance for Mobile Networks and Global Services at Nokia. Mobile Networks and Global Services are two of the company's largest global business groups. Mary has been with the company since 2015. Prior to joining Nokia, Mary was in private practice in New York City, where she represented large corporate clients in complex commercial litigation, as well as in connection with a variety of compliance matters. Mary graduated from Cornell University and obtained a law degree from Fordham University School of Law.



Janice Ellig As the head of the Ellig Group, Janice is dedicated to increasing the placement of women and diverse candidates on corporate boards and in C-suites by 2025. Janice joined the legacy firm in 2000 and became co-chief executive officer in its transition to Chadick Ellig in 2007; she assumed sole ownership of the company as the Ellig Group in 2017 with a new focus on Reimagining Search. Prior to her career in executive search, Janice spent 20 years in corporate America at Pfizer, Citigroup and Ambac Financial Group, an IPO from Citibank, where she was responsible for marketing, human resources and administration.



Lucy Fato is executive vice president and general counsel of AIG, overseeing the global legal, compliance and regulatory functions. Prior to AIG, Lucy was managing director, head of the Americas and general counsel of Nardello & Co., a global private investigative firm headquartered in New York City. Lucy began her legal career at the law firm Davis Polk & Wardwell, where she spent 14 years, including five as a partner in the capital markets group.



Kathleen Franklin is global ethics and compliance strategy leader for the Sony Group companies, where she is responsible for promoting a culture of ethics and devising enterprise-wide solutions for critical risk areas. She also acts as the chief compliance officer for Sony Corporation of America and its operating subsidiaries. Prior to joining Sony, Kathleen was a partner and co-chair of the Corporate Governance Group for Boies, Schiller and Flexner, LLP. Kathleen serves as an independent director of the Bank of the Ozarks, Inc., where she serves on the Nominating Committee and the Governance and Risk Committee.



Mary Ann Hynes is a senior counsel at Dentons. Mary Ann is an innovator and trailblazer for the advancement of women in high ranking corporate legal positions and has served as general counsel of four companies. An accomplished and highly regarded lawyer, she has deep experience in the areas of governance, compliance and mergers and acquisitions, with a special focus on international growth, innovation, strategy and risk management. Mary Ann has been a board member of several corporations and non-profit organizations, such as the Dr. Scholl Foundation and the John Marshall Law School, as well as a frequent industry speaker and an advocate of opportunities for women in law and of championing the cause of diversity in the legal profession.



Cynthia Jackson is a member of Dentons' Employment and Labor practice and Litigation and Dispute Resolution practice and serves on the Global Employment Steering Committee. She has more than 35 years' experience working in the areas of California, US and international employment counseling and litigation. She defends domestic and international companies and C-suite individuals in class actions and other high-stakes employment, wage and hour, discrimination, harassment and whistleblower litigation. Cynthia advises multinationals on all aspects of managing their global workforce.



Dan Jansen is the CEO and managing director of Nextlaw Ventures. He has a rare combination of entrepreneurial and professional services experience. As a serial entrepreneur Dan has helped to conceive, fund, grow and/or sell disruptive businesses in many diverse sectors, including legal, social media, financial services and online recruiting. His most recent venture, as CEO of Nextlaw Labs, is a global innovation platform transforming the legal profession that was sponsored and funded by Dentons. He also has almost 20 years of professional services experience including roles leading the Global Media Practice for the Boston Consulting Group and with Arthur Young & Company advising startups.



Shari Klevens is partner and co-chair of the global Insurance sector team at Dentons. She is also a member of the Firm's leadership team, serving on its US board of directors. Shari is a frequent writer and lecturer on issues related to legal malpractice and ethics and is regularly interviewed and quoted by the media on these issues. Shari is active in Dentons' women's initiative and served as chair of the legacy McKenna Long & Aldridge Women's Steering Committee and is highly committed to pro bono and public service.



Susan (Susie) Lees is executive vice president, general counsel and secretary of the Allstate Corporation. She leads Allstate's 1,400-person legal team to guide the company's business strategy, ensure sound compliance and foster a healthy legal, legislative and regulatory environment. Lees joined Allstate in 1988 and has moved up through the ranks, holding a variety of leadership positions with increasing responsibility, most notably in her previous role as senior vice president and deputy general counsel for Allstate Financial. Lees has been a champion of solutions to key societal issues and serves on the Allstate Foundation Board of Trustees. She also serves on the boards of the National Network to End Domestic Violence, the National Association of Women Lawyers, the Rand Institute for Civil Justice and the Institute for Legal Reform.



Gail Liono is a senior counsel at Dentons. For more than 23 years, Gail served as general counsel of three companies in three different industries: global marketing/manufacturing; publishing, printing and digital imaging; and insurance, banking and financial services. Gail serves on three corporate boards and is currently an adjunct professor at Georgetown University, where she teaches intellectual property law, drawing on her experience in the strategic management and protection of intellectual property portfolios.



Linda Lu is the senior vice president of the Property & Casualty Personal Lines Legal Team at Nationwide Insurance. She acts as the functional general counsel of the Personal Lines Insurance Business Unit and is a direct report to the Chief Legal Officer. She is on the President's Cabinet and on Nationwide's Executive Leadership Team. Linda leads 140 professionals who provide solutions oriented partnership in the areas of home, auto, pet, travel, excess and surplus, cyber, professional liability, group life, and health and disability insurance.



Michele Coleman Mayes is vice president, general counsel and secretary for the New York Public Library (NYPL). Mayes joined NYPL in August 2012 after serving as executive vice president and general counsel for Allstate Insurance Company since 2007. In 1982, Ms. Mayes entered the corporate sector as managing attorney of Burroughs Corporation. After Burroughs and Sperry Corporation merged, creating Unisys Corporation, she was appointed staff vice president and associate general counsel for Worldwide Litigation.



Catherine Nathan, based in Washington, D.C., is a lawyer and member of SpencerStuart's Legal, Compliance & Regulatory Practice. Since entering search, Catherine has developed a successful retained legal search business, recruiting general counsel, senior in-house lawyers and partners for major corporations, non-profit organizations and law firms. She also is the former leader of the firm's North American Legal, Compliance & Regulatory Practice and co-leader of the practice globally. Catherine has built a national reputation for leading general counsel searches in diverse industries. Her clients include many of the most prominent U.S. and global corporations across the retail and consumer products, communications, media, hospitality, technology and industrial sectors.



Lexi Peskin is senior counsel and director of safety at the Meet Group, Inc, where she handles various legal matters for the company ranging from privacy compliance to corporate governance matters to strategic mergers and acquisitions. She works with business leaders to minimize legal risk and grow the company. Prior to joining the Meet Group, Lexi was lead counsel for a US\$150 million line of business at a Fortune 500 company. She began her career in private practice at Dechert, LLP and Blank Rome, LLP.



Gloria Santona recently retired as the chief legal officer of McDonald's Corporation, the world's leading global foodservice retailer with more than 36,000 restaurants in 120 countries. She held that position from 2001 until 2017. In that role, she led McDonald's worldwide legal, compliance, regulatory and corporate governance functions. As part of McDonald's senior leadership team, Gloria was also actively involved in the company's strategic direction and growth. She joined McDonald's as an attorney shortly after her graduation from law school and subsequently held a number of management positions in the legal department.



Janet Saura is a visionary and inspirational leader effectively blending executive level human resources and legal experience. Currently, she serves as an executive consultant to Lowe's Companies; she previously served as the organization's senior vice president, deputy general counsel and assistant secretary, leading a team of 70 professionals. Janet is often recognized for her ability to drive business growth, protect brand reputation and reduce third-party interruptions with her professionalism, business savvy and authenticity. As a Servant leader, she develops high performing teams, has a passion for innovation and is a true business partner. Janet is a strategist and hands-on executive incorporating field insights into successful compliance, vendor and employee programs building a sustainable competitive advantage for the organization.



Lydia Wahlke is the general counsel of the United States Soccer Federation, where she directs the legal affairs of the National Governing Body for the sport of soccer in the United States. Prior to joining US Soccer, Lydia supported the Chicago Cubs for seven years, first as assistant general counsel and later as vice president and general counsel, serving during the third worst season in Cubs history, the most successful season in Cubs history and the formative years of the more than US\$500 million restoration of Wrigley Field. She began her legal career as a litigation and intellectual property associate at Kirkland & Ellis LLP in Chicago.

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Luncheon Keynote Speaker



April Rinne is a thought leader and advisor in the sharing economy. She builds strategy, guides conversations and tackles the key questions with a wide range of stakeholders, from companies to governments, policy makers, investors, associations, educational institutions and non-profits. Her goal is to help others discover how the sharing economy can create a more efficient, sustainable and happy future—and figure out what to do when faced with uncertainty, or when everyone's goals can't be met.

April's work in the sharing economy has both breadth and depth. She has advised Fortune 500 companies on business model innovation, local and national governments on policy reform, and investors on portfolio strategy and execution. She also tackles broader issues related to technological innovation, such as effects on the workplace, quality of life, travel and emerging markets.

An inveterate globetrotter, April has visited 90 countries and counting (most recent: all three Baltics). Her work has taken her to almost every corner of the world. After college and a Fulbright fellowship, she spent four years traveling independently—with a backpack, shoestring budget and the goal of seeing how the rest of the world lived. These experiences continue to influence and inspire her today. It also means she is equally comfortable with CEOs of major corporations and entrepreneurial youth in urban slums.

Prior to the sharing economy, April had a successful career in global development, social enterprise and innovation. She was an early voice in microfinance, where she led a range of investments as well as policy reform worldwide, and advised a range of organizations from Kiva to Grameen and the Bill and Melinda Gates Foundation. She has a very successful track record in building markets that work better and for more people.

In 2011 the World Economic Forum elected April as a Young Global Leader, where she leads the Sharing Economy Working Group and serves on the Urbanization Advisory Board. She also serves on the Advisory Boards for Seoul Sharing City in South Korea, Amsterdam Sharing City, the National League of Cities (US) and the Urban Sustainability Directors Network. She is also a director of the World Wide Web Foundation and a member of the Relationship Economy eXpedition (REX). Her writing has appeared in *Wired*, *The Guardian*, *The Washington Post*, *Stanford Social Innovation Review*, the World Economic Forum, *The Huffington Post* and numerous other publications.

April holds a J.D. from Harvard Law School, an M.A. in International Finance and Business Relations from The Fletcher School at Tufts University, and a B.A. summa cum laude in International Studies from Emory University. She was a Fulbright Scholar at the European University Institute and a Visiting Scholar at University College, Oxford University. She speaks Italian *molto bene*, Spanish *bastante bien*, French *un petit peu*, and enough Dutch and Kiswahili to survive.

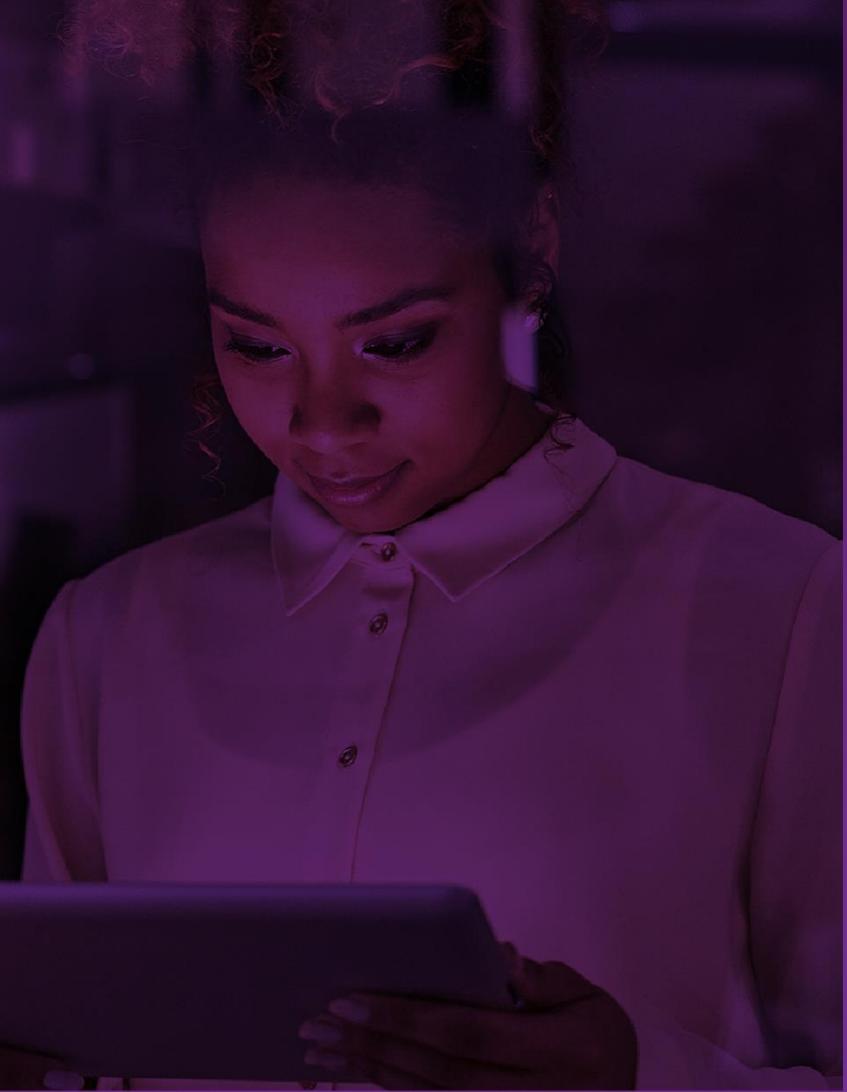
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**COURAGEOUS
COUNSEL**



The realities of bias and how to navigate them

This panel will discuss steps senior in-house counsel and compliance officers can take to reduce instances of gender inequality, sexual harassment and discrimination.

Panelists



Linda Lu

Senior Vice President, P&C
Personal Lines Legal
Nationwide
lul1@nationwide.com



Cynthia Jackson

Partner, Silicon Valley
Dentons
cynthia.jackson@dentons.com

Federal Pay Protection for Over a Half a Century!!

- **Title VII**

- *EEOC provides that "[a]ll forms of pay are covered [...], including salary, overtime pay, bonuses, stock options, profit sharing and bonus plans, life insurance, vacation and holiday pay, cleaning or gasoline allowances, hotel accommodations, reimbursement for travel expenses, and benefits."*

- **Equal Pay Act of 1963**

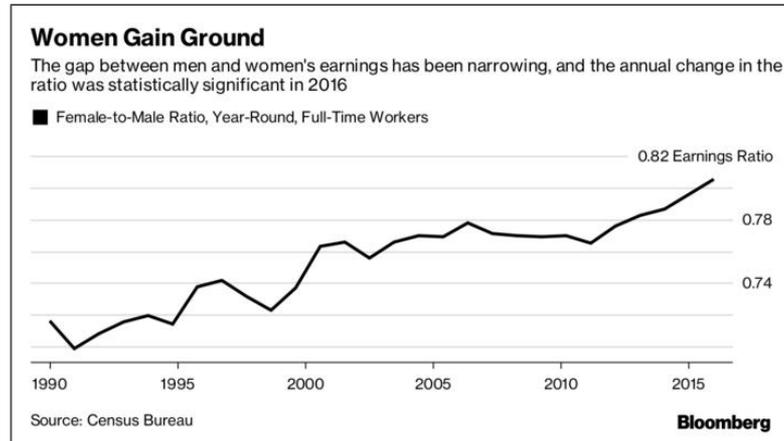
- Prohibits:
 - Sex-based differentials in wages;
 - Within the same “establishment”;
 - For “Equal work” (i.e., jobs that require substantially equal skill, effort and responsibility under similar working conditions); and
 - No proof of intent is required.

- **Affirmative Defenses:** seniority, merit, quantity or quality of production, or any factor other than sex.



Average Women's Income vs. Average Men's

- According to the Census Bureau, women now make 80.5¢ for every \$1 earned by their male counterparts.
- Up from 79.6¢ in 2016.
- Part of the gain has come as men lose grounds (men saw a 1.1% decline over the same period)



Pay Gap by Gender and Race

All Professions

	White	Black	Asian	Hispanics
Male	100%	71.4%	112.9%	64.4%
Female	79.0%	62.5%	86.8%	54.4%

Source: The Institute for Women's Policy Research, September 2017

At current pace of gap closures:

- Black women will reach parity in 2124 (only 106 years from now)
- Hispanic women will reach parity in 2248 (only 230 years from now)

Source: IWPR's status of Women in the States, 2018

Pay Gap in the Legal Profession

As a % of the median pay of men in the same category

	Full-Time Lawyers	All Law-Related Jobs	Paralegal	Judges, magistrates & other judicial workers	Legal support
Female	77.4%	51.6%	94.0%	71.8%	73.7%

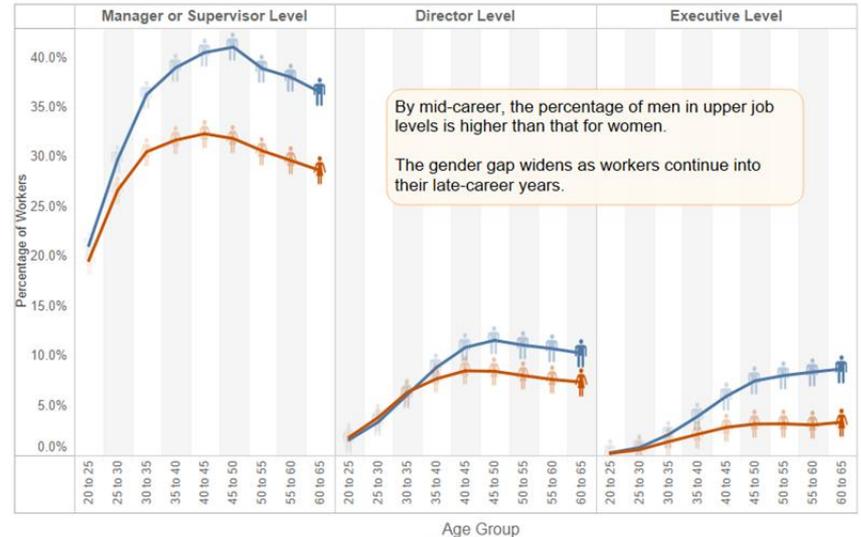
Source: ABA Journal, March 2016

• CA Rules of Professional Conduct

- Rule 2-400 - Prohibited Discriminatory Conduct in a Law Practice
 - (B) In the management or operation of a law practice, a member shall not unlawfully discriminate or knowingly permit unlawful discrimination on the basis of race , national origin, sex, sexual orientation, religion, age or disability in:
 - (1) hiring, promoting, discharging, or otherwise determining the conditions of employment of any person; or
 - (2) accepting or terminating representation of any client.

The Opportunity Gap

- At the start of their careers, men and women tend to work at similar job level
- Over the course of their career, both genders move into manager or supervisor-level roles
- Men are 85% more likely than women to be VPs or C-Suite Execs by mid-career
- Men are 171% more likely to hold those positions late in their career



Source: www.payscale.com

Key Differences

- Beyond gender?
- Beyond base pay?
- Prior salary inquiry permitted or just dangerous?
- Salary inquiry permitted after offer?
- Affirmative defense or mitigation based on self-assessment?



Key Questions

- How do you treat years of seniority?
 - With current employees
 - In same field
 - Other years of service
 - Prior employment
 - Often difficult to compare
- Total compensation
 - Base pay
 - Performance bonuses
 - Overtime opportunities
 - Equity
 - Sign on bonus
 - Relocation bonus
- Performance evaluations (tainted by unconscious bias?)



Fixing the Problem

- Internal attorney-client privileged audits (may need to be waived for affirmative defense or mitigation)
- Base pay increases: prohibited decreased adjustments under some laws
- Other "wage" adjustments
- Identifying mislabeled individuals to align with actual functions
- Review of initial and subsequent comp (e.g., base, bonus & equity grants) and performance evaluation
- Unconscious bias training
- Does asking for "salary expectations" perpetuate discrimination?
- Separating compensation from hiring decisions?



Recent Headlines - Celebrities & Hollywood

Harvey Weinstein Paid Off Sexual Harassment Accusers for Decades

The New York Times - Oct. 5, 2017

**Ben Affleck apologizes for groping
Hilarie Burton on camera**

CNN - Oct. 11, 2017

**Netflix severing ties with Kevin Spacey amid
sexual assault allegations**

Fox News - Nov. 3, 2017

**5 Women Accuse Louis C.K. Of Sexual
Misconduct**

Huffington Post - Nov. 10, 2017

Recent Headlines - The Media

NPR's top editor placed on leave after accusations of sexual harassment

The Washington Post - Oct. 31, 2017

Eight women say Charlie Rose sexually harassed them – with nudity, groping and lewd calls

The Washington Post - Nov. 20, 2017

NBC News fires Matt Lauer after sexual misconduct review

NBC News - Nov. 30, 2017

PBS Host Tavis Smiley Suspended After Sexual Misconduct Investigation

NPR - Dec. 13, 2017

Recent Headlines - Politics

Woman says Roy Moore initiated sexual encounter when she was 14, he was 32

The Washington Post - Nov. 9, 2017

Eight Women Have Accused George H.W. Bush of Groping Them

The Texas Monthly - Nov. 16, 2017

Al Franken to Resign From Senate Amid Harassment Allegations

The New York Times - Dec. 7, 2017

Trump Sexual Misconduct Accusations Repeated by Several Women

The New York Times - Dec. 11, 2017

Recent Headlines - Corporate World

3 Female Former Employees Sue Google
Over Alleged Gender Pay Discrimination

NPR - Sept. 15, 2017

Uber Embraces Major Reforms as Travis Kalanick, the C.E.O., Steps Away

The New York Times - Jun. 13, 2017

*Fear and panic in the H.R.
department as sexual harassment
allegations multiply*

The Washington Post - Nov. 30, 2017

Ford Apologizes for Sexual Harassment at Chicago Factories

The New York Times - Dec. 21, 2017

Other Industries

- **Restauration and hospitality:**

- Restaurant workers file more sexual harassment claims than employees of any other industry
- Over 10,000 claims were filed with the EEOC between 1995-2016 for full-services restaurants
- 90 percent of women and 70 percent of men have been affected (2014 report from Restaurant Opportunities Center United)
- Over 3,000 claims were filed with the EEOC between 1995-2016 for hotels, motels, travelers accommodations, casinos

- **Healthcare and education:**

- Over 6,500 claims were filed with the EEOC between 1995-2016 for general medical and surgical hospitals, nursing homes, ambulatory health care services, etc.

- **#metoo:**

- Used by 4.7M+ people in 12M posts during the first 24 hours
- 45% of FB users in the U.S. has a friend who posted using #metoo
- Trended in at least 85 countries, including India, Pakistan, Iran, and the U.K.
- Variants of the phrase trended in France, the Philippines, Italy, Spain, Israel, etc.

The Legal Issues

- Harassment = Power Imbalance
- Bills afoot to preclude arbitration and confidentiality in settlement of sexual harassment (and discrimination) claims
- Pay equity legislation at state, city and national levels



Pay Equity Developments

- At least 5 US states (California, Delaware, Massachusetts, Oregon and New York) plus Puerto Rico
- 4 US cities (New York City, San Francisco, Philadelphia and New Orleans)
- 10 Countries - 8 EU countries (UK, France, Austria, Denmark, Norway, Sweden, Italy and Portugal) plus Canada and Australia

Have all enacted Pay Equity (Beyond Pay Equality) laws



US Approach

- Forbidding rules which restrict employees rights to discuss wages and terms and conditions of employment
- Prohibiting or restricting prior salary inquiries
- Litigation and fines

Some Permit:

- Verification after offer made
- An affirmative defense for "self-evaluation" with "reasonable program"
- Some require beyond gender to race and other protected categories
- Distribution of pay scales upon request

Non-US Approach

- "Name and Shame"
- Website disclosures of mean and median gender gaps (hourly, bonus, comprehensive pay quartiles)
- Periodic pay surveys with pay action plans
- Government reporting

Want to learn more?

Read my recent article:

Addressing Pay Equity in the US and Around the World

October 19, 2017

Law360

Even though the U.S. Equal Pay Act is over 50 years old, the U.S. census released in September 2017 still finds that women make 80.5 cents to the dollar that men make. States and cities are increasingly adopting pay equity laws in an effort to close pay gaps not just for women, but also in some cases for racial minorities and other historically marginalized people.

Read the full article at: www.dentons.com/cynthia-jackson

Witch Hunts and Firing Squads



Investigation Process Highlights

Receive Complaint

- Ethics hotline
- Direct employee complaint
- Second-hand employee complaint
- Internal audit
- External source (customer, vendor, government agency)
- Document inside or outside counsel's direction and date to conduct privileged investigation
- Document complaint utilizing **ER Notes Template**

Plan Investigation

- Inform appropriate stakeholders (HR LT)
- Identify investigator(s)
- Gather and review documentation and other evidence (email, Lync, screen shots, timecards, ee file(s), expense reports, badge reports)
- Determine interviewee list, questions, and sequencing
- Check whether background consent and/or notice are required

Execute Interviews

- Provide *Upjohn* admonition
- Conduct interviews, simultaneously where appropriate
- Document interviews utilizing **ER Notes Template**
- Discuss confidentiality and non-retaliation; ensure relevant policies are provided to interviewees
- Utilize different types of questions: behavioral baseline; fact-based; open-ended; clarifying.

Summarize Findings

- Review documentation, evidence, and interview notes for corroboration or inconsistencies
- Complete **Privileged Investigation Report**
 - Incident summary
 - Specific allegations
 - Investigation process steps
 - Summary of evidence and findings for each allegation
 - Conclusion
 - Recommendation

Blueprint for Appropriate Investigation of a Complaint of Sexual Harassment

- Have disinterested person, knowledgeable about the law, conduct investigation
- Promptly investigate complaint
- Notify accused promptly of the charges and give him/her full opportunity to present his/her version of incidents
- Consider asking important witnesses to provide their own written statements regarding the events at issue*
- Ask open-ended, non-leading questions - the only wrong answer is an untrue one
- Elicit facts versus opinions or speculation
- Attempt to increase confidentiality by conducting interviews off premises or by telephone, if appropriate*

* These factors were outlined by the *Silva v. Lucky Stores, Inc.* court, and should be considered, but are not required.

Blueprint for Appropriate Investigation of a Complaint of Sexual Harassment (Cont.)

- Encourage interviewees, including alleged victim and accused, to contact investigator if they want to talk again
- Provide interviewees opportunity to clarify, correct or challenge information provided by other witnesses which cast doubt on their credibility
- Gather and preserve relevant documents and records (including electronically stored information)
- Identify which documents, information, witness statements, etc., will be relied upon for any recommended discipline
- Memorialize findings by preparing investigation report
- Prepare summary of conclusions to alleged victim and accused
- Check in with the alleged victim to ensure no retaliation

Q&A