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Navigating Gender Bias:  
Empowering Women to Overcome Barriers  
Above and Below the Glass Ceiling on the  
Road to Success

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Presented by the Women's Section of the  
Contra Costa County Bar Association

17<sup>th</sup> Annual MCLE Spectacular ♦ November 2011

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Today's Panel

- Kristin Ashurst, Esq
- Renee Livingston, Esq
- Karen Luey, EVP, CFO, CAO
- Wenli Wang, CPA
- Julie Welsh, Esq

Moderator:

- Karyne Ghanous, Esq

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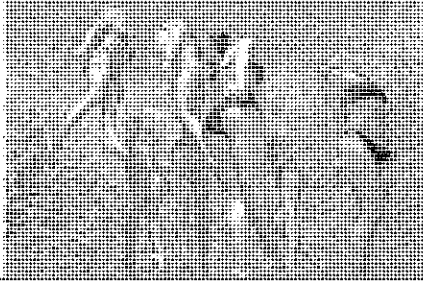
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What is the "Glass Ceiling"?



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### How Far Have We Come?

- Gay Bryant, the former editor of *Family Circle* magazine, is credited with the first use of the term "Glass Ceiling" in her 1984 book *The Working Woman Report*
- Current examples of women in business and the continued question of the phenomenon's impact on women's careers and advancement professionally and economically
  - What does the data tell us?
  - What does experience tell us?

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### The data: "Women Owners Hit \$1 Million Glass Ceiling"

- THE WALL STREET JOURNAL March 31, 2011
  - Women-owned businesses are growing in number, but their revenues aren't
  - Between 1997 and 2011, the number of women-owned firms in the U.S. increased by 50% — that's a rate of 1.5 times the national average
  - However, such growth is not reflected in the size of their businesses. In 1997, 1.8% of women-owned firms had \$1 million or more in revenues and that figure remains unchanged today
  - So, what's holding back women entrepreneurs?
  - The question remains open to debate. As the report puts it: "Something is putting women-owned firms off their stride as they grow larger"

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### The data: Pay Disparity

- 2005 study found that women with children are less likely to be hired and if hired would be paid a lower salary than male applicants
- The pay disparity increases for women managers with children: they are paid 79% vs 83% for women without children
- Lower pay may stem from "well-meaning" managers who try to "save" female employees from time-consuming projects and overnight business travel so they can spend more time at home
- Overseas expatriate assignments are rarely experienced by women, yet proven to be key in advancement in many major companies

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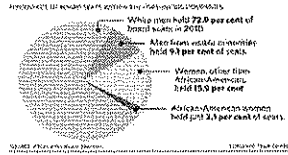
The data:

That Old Glass Ceiling, Still There?

- 2010 Alliance for Board Diversity Census

Most U.S. directors white and male

Men and women remain largely underrepresented in America's corporate boardrooms, according to a survey of Fortune 100 companies from The BoardSource for 2010.



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The data:

Women in Law in the U.S.

- Catalyst report 2010
  - In 2008, women were 45.3% of associates
  - In 2009, women made up 32.4% of all lawyers
  - At this rate, it is estimated it will take more than the lifetime of a female born in 2010 to achieve equality
- Survey data shows women make up nearly 1 out of every 2 associates but only 1 out of every 6 equity partners
- In 2009 women comprised 19.2% of all partners and 6% of managing partners
- In 2008 women lawyers made 75% of men lawyers' salaries
- A male equity partner earns an average of \$65,850 more than a female equity partner

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Experience: Hypothetical #1

"I Can't Get A Word in Edge Wise"

- You are sitting in board meeting with senior executives and you are the only female among 10 individuals in attendance. The discussion is embroiled and every time you try to talk, you are cut off or ignored.



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**Experience: Hypothetical #2:**  
"Do I Complain Too Much?"



- You work for Bill and Ted who are partners in the same firm
- Rumors are flying that you are going to leave the firm with Ted but these rumors are not true.
- Bill is starting to treat you differently and recommending to the partners that you don't get a raise, bonus or promotion.
- You and Bill attend a mediation together on a case you have been handling for months, without Bill.
- At mediation, he cuts you off and does not let you provide your opinions on the case to the client.
- Later you try to talk to Bill but the managing partner calls you into a meeting to tell you that you are complaining too much and being confrontational.

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**Experience: Hypothetical #3:**  
"Is Being a Mom Hurting My Career?"

- You are a working mom with two daughters and they often make you late for work in the morning
- At least once a month one or the other is sick and so you need to work from home for the day
- Chuck, who has a stay at home wife, is always on time and never misses a day of work
- Chuck often works late in the office while you do your work at home after the kids go down at night
- Your boss learns that he can always count on Chuck to be in the office while his wife stays home with the kids.
- You work hard, bring in revenues to the firm and clients love you
- You and Chuck are both up for partner.....
- Chuck makes partner and you don't.....



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**Experience: Hypothetical #4**  
"Am I A Leader, or a Witch?"

- You are a division head at a fortune-500 company.
- The new CEO, your boss, does not like you.
- He regularly invites the male staff and upper management to baseball games and golf tournaments, but not you.
- You suspect he talks down about you when you aren't around.
- While he hasn't said it, he always addresses the men around you and even the female staff beneath you, differently and you feel it.
- After a meeting where you have outlined your goals for the division, you overhear him telling one of your male peers that you are a "demanding witch."



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### Experience: Hypothetical #5

"Is She Trying to Sabotage Me?"

- You are an experienced, confident and assertive attorney who is not known to back down easily. You are in a settlement conference presenting your case to a female judge who is well-respected in the legal community.
- During the conference, and in front of your client, she disregards your comments, cuts you off mid-sentence and generally acts dismissive every time you try to put forward your side of the case.
- However every time opposing counsel, who is male, speaks the judge listens and her body language provides positive feedback that implies approval.
- The judge's behavior continues throughout the conference and becomes more and more obvious. You begin to ask yourself if she is treating you differently because you are a woman and wonder,

"Is She Trying To Sabotage Me?!"

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### Recap: The data and the experiences

#### ■ The data

- In 1997, 1.8% of women-owned businesses had \$1 million or more in revenues and that figure remains unchanged today
- In 2010, women held 18% of Fortune 100 board seats
- Women make up nearly 1 out of every 2 associates but only 1 out of every 6 equity partners

#### ■ The experiences

- "real life" experiences of the Glass Ceiling? or
- Gender neutral personality issues? Or
- Gender neutral work behaviors?

*The data and experiences lead to unresolved questions....*

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### Unresolved Questions

- Given the data and experiences, is work behavior gender neutral?
- Are leadership attributes and skills gender neutral?
- How do we empower women to overcome the "Glass Ceiling"?

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Question: Is Leadership Gender Neutral?

■ Leadership qualities include:

- Physical vitality and stamina
- Sagacity to accept responsibility
- Understanding of followers and their needs
- Skill in dealing with people
- Capacity to motivate people
- Courage and resolution
- Honesty
- Self-confidence
- Adequacy
- Action-oriented judgment
- Intelligence
- Task competence
- Credibility
- Need for achievement
- Vision & inspiration
- Trustworthiness
- Decisiveness
- Assertiveness
- Flexibility

■ Leadership styles include:

- Concern for task
- Directive leadership
- Concern for people
- Participatory leadership

Taken from: John Gardner (1922) On Leadership, New York: Free Press.

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Question: How Do We Empower Women to Overcome the Glass Ceiling?

**Some Barriers to Breaking the Glass Ceiling**

- Outreach and recruitment practices that do not reach or recruit women and minorities
- Corporate climates that alienate and isolate
- Lack of mentoring and/or few role models
- Insufficient or limited developmental assignment opportunities and other career enhancing activities
- Restricted career growth because of poor training
  - -- Limited rotational job assignments that lead to the executive suite
- Biased performance rating and testing systems
- Institutional rigidity that works against the fragile balance between family and work
  - Children
  - Career break
  - Limited mobility
  - Self imposed limitation

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Question: How Do We Empower Women to Overcome the Glass Ceiling?

**Some Tools for Breaking the Glass Ceiling**

- Awareness
- Discussion
- Mentoring
- Networking
- Training
- Performance metrics
- Workplace values
- Workplace culture
- Equal pay for equal work
- Critical mass

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So, in conclusion...we're agreed  
then...there's always room for change!

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# **17<sup>TH</sup> ANNUAL MCLE SPECTACULAR!**

## **NAVIGATING GENDER BIAS: EMPOWERING WOMEN TO OVERCOME BARRIERS ABOVE AND BELOW THE GLASS CEILING ON THE ROAD TO SUCCESS**

Presented by the Women's Section  
of the Contra Costa County Bar Association

Speakers:

**Kristin Ashurst, Esq.**  
**Karen Luey, EVP, CFO, CAO**  
**Wenli Wang, CPA**  
**Julie Welsh, Esq.**  
**Renee Welze Livingston, Esq.**

Moderator:  
**Karyne Ghanous, Esq.**

# About Your Panel



**Kristin Ashurst, Esq.** is the Director of HR and Employment Counsel for the Emeryville based company, Peet's Coffee & Tea. Peet's has approximately 4,000 employees with 400 retail and licensed partner locations and a consumer channel providing coffee beans to over 8,000 grocery locations throughout the U.S. Prior to joining Peet's, Ms. Ashurst held the position of senior counsel for Longs Drug Stores Inc. While at Longs, she served as counsel to all sectors of the Human Resources division. Ms. Ashurst began her legal career as a litigation associate with the Oakland based firm Harden Cook and is a graduate of the University of California at Berkeley and American University's Washington College of Law, in Washington D.C.



**Karen L. Luey** is Jamba Juice's Executive Vice President and Chief Financial and Administrative Officer since August 2008 and is responsible for the leadership of Jamba's Finance, Accounting, Strategy, Investor Relations, Information Technology, Human Resources, and Legal teams. Ms. Luey joined Jamba Juice in April 2007 in the role of Vice President, Controller, and Principal Accounting Officer. After spending some time in public accounting, Ms. Luey entered private

industry and became Sharper Image Corporation's Vice President, Finance and Controller from July 2000 to December 2005. Prior to joining Jamba, Karen was Vice President, Global Corporate Controller, and Principal Accounting Officer for LeapFrog Enterprises, a leader in education innovation, from December 2005 to April 2007 and was responsible for all global and international accounting, finance and budgeting teams. Ms. Luey lives in the Bay Area with her supportive husband and twin children. She is a graduate of Cal State Hayward where she received an undergraduate degree in Business, specializing in Accounting. Karen is also on the Board of the Bay Area Leadership Foundation, whose mission is to provide college and career paths for underserved teens.



Wenli Wang, CPA, is a tax partner at Moss Adams, a large regional CPA firm with 25 locations in 6 states. Ms. Wang started her public accounting career with Moss Adams in 1995. As a tax professional, she is committed to providing effective tax planning and consulting services to closely held businesses and their owners and high net worth individuals. Ms. Wang helps clients with a wide range of tax needs, such as entity selection, business ownership succession planning, tax accounting planning, state and local tax planning including California enterprise zone credits, and individual income tax planning. She believes in providing proactive services to her clients. Through frequent and regular interactions with her clients, she has been able to build and maintain many solid long-term professional relationships. Ms. Wang is the current Moss Adams Bay Area Tax Practice Leader. She is on the board of SFMade, whose mission is to build and support a vibrant manufacturing sector in San Francisco.



**Julie Welsh, Esq.** of Julie A. Welsh Mediation Services started her mediation practice in 2007 after a 19 year career as an AV rated litigator with Archer Norris. Ms. Welsh was a partner in the firm's Walnut Creek office for 10 years before focusing her practice exclusively on mediation, which is her passion. After attending Mediation Training at Pepperdine University and with Steven Rosenberg, she now mediates throughout the Bay Area, leveraging her trial experience in matters such as General Liability, Med-Malpractice and Employment cases to facilitate resolutions at a settlement rate of 95%. In addition to having her own private mediation practice, Julie serves as a mediator on the Contra Costa County ADR Panel, and also as a Pro Tem Judge for the State of CA, Office of Administrative Hearings (OAH). Ms. Welsh is a "double bronco," having graduated from Santa Clara University for both undergraduate and law school. After arbitrating and trying cases as a litigator, Ms. Welsh believes mediation is in fact the most beneficial and cost effective way to resolve disputes.



**Renee Welze Livingston, Esq.** is the founding member of Livingston Law Firm in Walnut Creek, California, a firm she started 11 years ago. She handles catastrophic injury, wrongful death and other high-exposure cases primarily in the areas of

product liability, trucking and transportation, premises liability and aggravated sexual assault. Ms. Livingston has served on the Board of Directors for the National Association of Minority and Women Owned Law Firms since 2003. A 1986 graduate of the University of San Francisco School of Law with honors, Ms. Livingston was recently selected as a 2011 Northern California SuperLawyer. In addition to her work with NAMWOLF, Ms. Livingston is an active member of DRI's Product Liability, Trucking Law, Diversity and Women in the Law committees. She is a member of the American Bar Association (Tort Trial and Insurance Practice and Litigation sections), Queen's Bench, Association of Defense Counsel of Northern California and Nevada, and the San Francisco, Los Angeles and Contra Costa County Bar Associations. A 1982 graduate of the University of California, Santa Barbara, with high honors, she is also active with the UCSB Northern California Campaign Committee and WBENC.



**Karyne Ghantous, Esq.** is the owner of Ghantous Law Corporation, a litigation and insurance defense firm specializing in the representation of businesses involved in civil, commercial, and employment litigation. Ms. Ghantous has been practicing for 15 years primarily in the insurance defense industry. She is a 1994 graduate of UCLA and a 1997 graduate of UC Hastings College of the Law. Ms. Ghantous is a resident of Contra Costa County and a member of the Women's section of the Contra Costa County Bar Association.

## What Is A Glass Ceiling?



While the phrase *glass ceiling* is metaphorical, many women who find themselves bumping their heads on it find it very real indeed. It is most often used to describe the sexist attitude many women run into at the workplace. In a discussion of ascending the corporate ladder, the word “ceiling” implies that there is a limit to how far someone can climb it. Along with this implied barrier is the idea that it is glass, meaning that, while it is very real, it is transparent and not obvious to the observer. The term *glass ceiling* is most often applied in business situations in which women feel, either accurately or not, that men are deeply entrenched in the upper echelons of power, and women, try as they might, find it nearly impossible to break through.

# HOW FAR HAVE WE COME?

- THE WALL STREET JOURNAL March 31, 2011, 3:28 PM ET

## Women Owners Hit \$1 Million Glass Ceiling

By Emily Maltby

Women-owned businesses are growing in number, but their revenues aren't, new data show.

Between 1997 and 2011, the number of women-owned firms in the U.S. increased by 50% — that's a rate of 1.5 times the national average. However, such growth is not reflected in the size of their businesses. In 1997, 1.8% of women-owned firms had \$1 million or more in revenues and that figure remains unchanged today.



The findings were extrapolated from U.S. Census Bureau data and released in a [report](#) on Thursday by American Express OPEN, the financial-services company's small-business division.

In addition to looking at growth among women-owned businesses, the report also explored industries that are most attractive to women entrepreneurs. It found that 52% of health-care and social-assistance firms are owned by women as are 46% of educational-services companies.

The industries with the lowest concentration of women-owned firms are construction (8%) and finance and insurance (20%).

Sales and employment at women-owned firms have long lagged the national average. WSJ explored this topic last year in "[What's Holding Back Women Entrepreneurs?](#)"

The question remains open to debate. As the report puts it: "Something is putting women-owned firms off their stride as they grow larger; they fall behind toward the end of the entrepreneurial marathon."

## If It Ain't Broke Why Fix It?



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# • That Old Glass Ceiling, Still There? (Alas)

By Sheila Shayon on June 30, 2011



The proverbial glass ceiling is still intact, according to one corporate watchdog — which is a shame for brands. Women and minorities are still underrepresented on US corporate boards according to the recent report, “Missing Pieces: Women and Minorities on Fortune 500 Boards — 2010 Alliance for Board Diversity Census,” by the Alliance for Board Diversity.

“*Missing Pieces* shows that, six years after the first Alliance for Board Diversity (ABD) Census, not much has changed. While research points decisively to the benefits of a diverse boardroom— including enhanced financial performance— white men continue to dominate corporate boards and have, in fact, increased their presence since 2004. Women and minorities are still vastly underrepresented.”

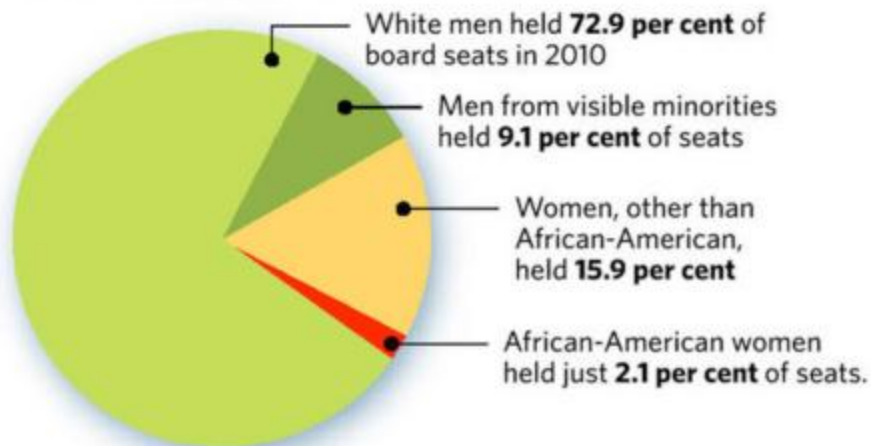
Here’s the breakdown, one decade into the 21st century:

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## Most U.S. directors white and male

Minorities and women remain seriously under-represented in America's corporate boardrooms, according to a survey of Fortune 100 companies. Here's the breakdown for 2010.

PERCENTAGE OF BOARD SEATS WITHIN THE FORTUNE 100 COMPANIES



SOURCE: Alliance For Board Directors

TORONTO STAR GRAPHIC

“Six years after the first ABD Census, not much has changed. White men continue to dominate corporate boards and have, in fact, increased their presence since 2004, said Ilene Lang, CEO, of research firm Catalyst and chairman of the alliance.”

Not only does this reflect poorly on efforts to more accurately reflect shareholders, employees and markets – it’s bad for business.

“More diverse boards, on average, are linked with better financial performance,” adds Lang.

In terms of global presence and performance, this trend will hinder U.S leadership in reaching its potential.

The data was culled from all companies in the 2010 Fortune 100 and 491 companies in the Fortune 500 that had complete statistics on race, ethnicity and gender.

Procter & Gamble, IBM, and CitiGroup were exceptions in Fortune 500 companies, including all of the U.S. Census Bureau’s major groups in the boardroom.

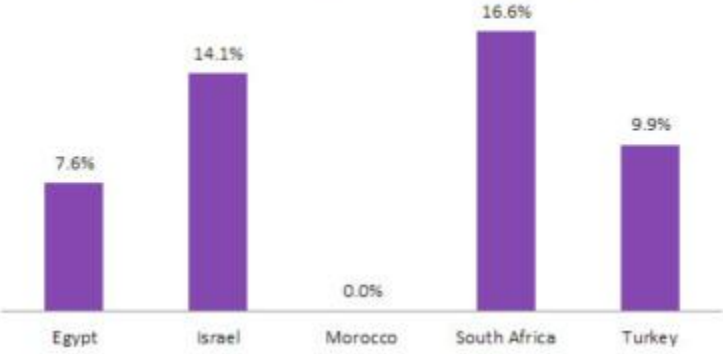
Members of the Alliance for Board Diversity include Catalyst, the Executive Leadership Council, the Hispanic Association on Corporate Responsibility, and Leadership Education for Asian Pacifics Inc.

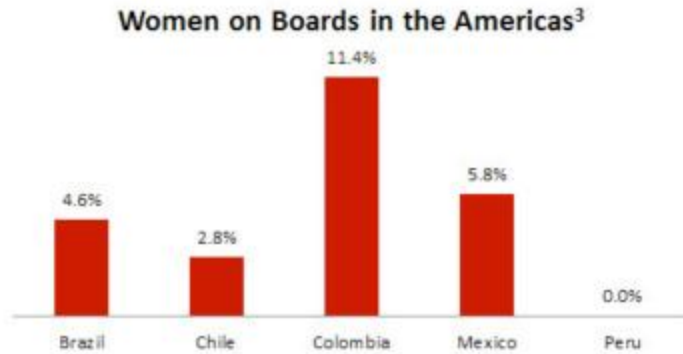
As for the height of that glass ceiling worldwide, the following charts from from Catalyst’s *Quick Takes: Percent of Women Board Directors in Select Countries*, published December 2010, paint the picture in fuller color:

**Women on Boards in Europe<sup>7,8</sup>**



**Women on Boards in Africa & Middle-East<sup>1,2</sup>**





## Possible Reasons for Disparity in Pay

- **Family Obligations**

- The pay disparity increases for women managers with children: paid 79% vs 83% for women without children.

- 2005 study found that women with children are less likely to be hired and if hired would be paid a lower salary than male applicants.

- Lower pay may stem from well-meaning managers who try to "save" female employees from time-consuming projects and overnight business travel so they can spend more time at home.

- **Overseas expatriate assignments are rarely experienced by women, yet proven to be key in advancement in many major companies.**

# Some Barriers to Breaking the Glass Ceiling

- Outreach and recruitment practices that do not reach or recruit women and minorities
- Corporate climates that alienate and isolate
- Lack of mentoring and/or few role models
- Insufficient or limited developmental assignment opportunities and other career enhancing activities
- Restricted career growth because of poor training
  - Limited rotational job assignments that lead to the executive suite
- Biased performance rating and testing systems
- Institutional rigidity that works against the fragile balance between family and work
  - Children
  - Career break
  - Limited mobility
  - Self imposed limitation

# Preliminary Exercises

## I Can't Get A Word In Edge Wise

You are sitting in board meeting with senior executives and you are the only female among 10 individuals in attendance. The discussion is embroiled and every time you try to talk, you are cut off or ignored.



What is your strategy to be heard with regard to (a) the males who are considered your equal; (b) the males who are deemed your superiors and (c) the males who work below you?

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# My Kids Are Hurting My Career

You are a working mom with two daughters. Your kids routinely take their time getting dressed in the morning, don't appreciate your work schedule and often make you late for work. At least once a month, one or the other of your kids comes down with a stomach ache, fever or both. You can't send them to school so you tell your boss you need to work from home. Chuck, who has a stay at home wife, is always on time and never misses a day of work. Chuck often works late in the office while you are forced to do your work after the kids go down at night. Your boss learns that he can always count on Chuck to be in the office while his wife stays home with the kids. You work hard, bring in revenues to the firm and clients love you, but you have the problem of loving your kids too and want to be a good mom and a partner someday in your firm. You and Chuck are up for partner at the same time. Chuck makes partner and you don't.



What happened? What are the potential solutions you can identify with this scenario?

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# Do I Complain Too Much?

You work for Bill and Ted who are partners in the same firm but don't like each other very much. Bill is a named partner and has more seniority than Ted but you do more work for Ted and Bill is almost retired. You have a close relationship with both of them and both have mentored you over the years. You try to accommodate both Bill and Ted's expectations but you can't seem to work enough hours to satisfy both and they seem to disagree with each other on almost every project you are working on recently. You sense a political tension between the two and you are getting caught in the middle. Rumors are flying that you are going to leave the firm with Ted but these rumors are not true. Bill is starting to treat you differently and recommending to the partners that you don't get a raise, bonus or promotion. You try to talk to Bill and the managing partner calls you into a meeting to tell you that you are complaining too much and being confrontational. You and Bill attend a mediation together and Bill disrespects you in front of the client by cutting you off and not letting you provide your opinions on a case you have been handling for months without Bill. You feel like you are being treated like a little girl and you don't know what to do to make things better. You get the feeling if you were a man, you would not find yourself in this position.



Is this a glass ceiling? Would this scenario apply equally if you were a man? Did the associate in this scenario get too close to her mentors? What are some solutions to this dilemma?

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# Am I A Leader or a Witch?

You are the President of a fortune-500 company and the new Chief Executive officer of the parent company, and your boss, does not like you. He regularly invites the male executives and upper management to baseball games and golf tournaments and you suspect he talks down about you when you aren't around. While he hasn't said it, he always addresses the men around you and even the female subordinates differently and you feel it. After a meeting where you have outlined your goals for the company, you overhear him telling one of your subordinate male executives that you are a "demanding witch."



How do you handle the situation? Is it a personality issue or is there a glass ceiling, how can you tell? Does it make a difference on how you try to resolve the conflict?

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# Is She Trying To Sabotage Me?

You are an experienced, confident and assertive female attorney who is not known to back down easily. You are in a settlement conference presenting your case to a female judge who is well-respected in the legal community. During the conference, and in front of your client, she disregards your comments, cuts you off mid-sentence, and generally acts dismissive every time you try to give your side of the case. However, every time your opposing counsel, who happens to be male, speaks the judge listens and her body language provides positive feedback that implies approval. The judge's behavior continues throughout the conference and becomes more and more obvious. You begin to ask yourself if she is treating you differently because you are a woman and wonder is she trying to sabotage me?

What do you do? How do you handle the situation? Is it a personality issue or is there a glass ceiling, how can you tell? Does it make a difference on how you try to resolve the conflict?



Is this gender bias - Women v Women? Are these women asserting their power and acting territorial, trying to protect their status by putting your suggestions down? Do they simply not want to share their high level status with other women? Or, do you just have a personality conflict with this judge?

