

# [ BIAS INTERRUPTERS ] *small steps big change*

## Identifying Bias in Partner Compensation Worksheet

A 2010 study found that almost three-fourths of men (71%,) but less than half of women equity partners (47%) and about a third of women income partners and minority partners, were satisfied with their compensation<sup>1</sup>. Another study found that women equity partners often earned less even when they billed the same number of hours, generated the same levels of origination, had the same level of law firm tenure, and worked in the same size of law firms.<sup>2</sup>

One commonly hears that women earn less because they do less rainmaking, but studies show that women and people of color often offer different explanations. Nearly one-third of women income partners, over one quarter of women equity partners, and 84% of partners of color reported that someone had tried to intimidate, threaten, or bully them out of origination credit.<sup>3</sup>

The four patterns below describe *tendencies, not absolutes*. Here's what to watch out for:

**Prove-It-Again! Bias ("PIA Bias")** Groups stereotyped as less competent often have to prove themselves over and over to be seen as equally accomplished. "PIA groups commonly include women, people of color, individuals with disabilities, older employees, members of the LGBTQ+ community, and class migrants (professionals from blue-collar backgrounds).

1. **Potential vs performance.** PIA groups may not be given credit for clients until paying work comes in while majority men get the benefit of the doubt. Said a woman rainmaker, "I was told, 'You have the network but not the work.' Whereas a man could just go out golfing; he was given credit for that."
2. **Mishaps.** PIA groups' mishaps are often costlier<sup>4</sup>, as when some groups' compensation falls abruptly if they lose a client, while majority men get a longer runway.
3. **Successes.** PIA groups' successes are attributed to luck or circumstance rather than skill.<sup>5</sup> This can lead majority men to be jumped compensation levels faster than PIA groups.
4. **Halo vs. horns.** PIA group members get horns—one weakness is generalized into an overall negative rating.<sup>6</sup> Others get a halo—one strength is generalized into a global positive rating. Again, the effect is that majority men, but not PIA groups, get the benefit of the doubt.
5. **Leniency bias.** Objective requirements are applied rigorously to PIA groups but leniently to others.<sup>7</sup> Again a "benefit of the doubt" effect.

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<sup>1</sup> Williams & Richardson, 2010

<sup>2</sup> Keshet & Meyer, 2013

<sup>3</sup> Ibid; Williams & Richardson, 2010

<sup>4</sup> Bauer & Baltes, 2002; Bowles & Gelfand, 2010; Fyock & Stangor, 1994; Rothbart, Evans, & Fulero, 1979

<sup>5</sup> Deaux & Emswiller, 1974; Fiske, 1998; Garcia-Retamero & Lopez-Zafra, 2006; see bibliography for more cites

<sup>6</sup> Thorndike, 1920; see bibliography for more cites

<sup>7</sup> Brewer, 1999; Brewer & Gardner, 1996; Hewstone, 1990

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**Tightrope Bias.** A narrower range of workplace behavior often is accepted from women and people of color (“TR groups”). Class migrants (professionals from blue-collar background) and modest or introverted men can face Tightrope problems, too.

1. **Modest, helpful, and nice.** Women often face pressures to be good team players—not ambitious or someone who seeks the spotlight.<sup>8</sup> This fuels pressures on women to remain as “service partners” long after men would have offered their male partners more lucrative and influential roles.
2. **Dutiful daughter, peacemaker, office mom.** Sometimes women are pressured into narrow, traditionally feminine roles such as the dutiful daughter (who aligns with a powerful man but never threatens his dominance). Again this fuels pressures on women to remain as “service partners” who do not demand origination or other valuable forms of credit.
3. **Worker bee.** The Workplace Experiences Survey found that about 60% of women lawyers, but only 41% of white men, agreed “I am expected to be a “worker bee”, which means I should work hard, avoid confrontation, and not complain.” This may translate into pressures to remain a service partner.
4. **Who gets the glamour roles?** Most law firm compensation systems reward those who bring in the work more than those who do the work. Bias arises if men are seen as naturally concerned to prove they are “men to be reckoned with,” while women are stereotyped as not ambitious or as less concerned about money because they “have husbands who support them” (which is increasingly untrue; today women partners often are their family’s primary breadwinner).
5. **Backlash.** Women who behave in masculine ways often are seen as unlikable—as “not team players,” “prima donnas,” “ambitious” (as a criticism). In a 2010 study, women partners reported that men tended to assume that they needed to split origination credit with other men but not with women; and that if women tried to insist, they were threatened to the effect of “If you insist, I will never work with you again.”<sup>9</sup>
6. **Anger.** Open displays of anger that are tolerated in men may be seen as out of line in women. Additionally, being seen as an “angry black person” or more “threatening” may limit African-Americans’ ability to negotiate effectively for origination and other valuable forms of credit.
7. **Self-promotion.** The kind of self-promotion that works for men may be seen as off-putting in women—and insisting on origination or other valuable forms of credit may be seen as inconsistent with the kind of modest behavior expected (or extracted) from women. Racial stereotypes again play a role here. Latino lawyers who voice opinions vigorously risk triggering “emotional” stereotypes. In contrast, Asian-Americans are often labeled “passive,” which may lead people to assume they will not—or should not—advocate for higher compensation.

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<sup>8</sup> Allen, 2006; Heilman & Chen, 2005; Kanter, 1977; Williams & Dempsey, 2014; Deaux & Major, 1987

<sup>9</sup> Williams & Richardson, 2010

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The **Parental Wall** can affect both fathers and mothers—as well as employees without children.

1. **“Her priorities lie elsewhere.”** Assumptions that mothers aren’t ambitious can lead to women’s compensation to fall after they have children.
2. **“He has a family to support.”** Assumptions that men who take a full parental leave lack career commitment also may affect compensation—and also give rise to legal liability for your organization. Or, they may be seen as deserving more pay because of their presumed family role.
3. **“I worry about her children.”** Mothers who work long hours tend to be disliked and held to higher performance standards.<sup>10</sup> Remember: happy families are not all alike, and many women partners’ spouses stay home full time or work only part time.
4. **Flexibility stigma—for men as well as women.** Law firm compensation systems often create artificial penalties for any partner who works part time—which can open the firm to litigation.
5. **“No life.”** Women without children work the longest hours of any group—often because they’re seen as having “no life.” Remember, everyone has a family, and everyone has a life outside of work.

**Tug of War.** Sometimes bias creates conflict within underrepresented groups.

1. **Tokenism.** If people feel there’s only one “women’s” or “minority” slot for a prized position, members of these groups may be pitted against each other to get it.
2. **Loyalty tax.** In workplaces where women or people of color have a fragile hold, these groups may feel they need to align with the majority against members of their own groups.
3. **Prove-it-again pass-through.** Women or people of color may hold members of their own groups to higher standards because: “That’s what it takes to succeed here as a woman/person of color.”
4. **Tightrope pass-through.** Women may fault each other for being too masculine—or too feminine.
5. **Racial comfort strategies.** People of color may fault each other for being “too white”—or not “white” enough.
6. **Maternal wall pass-through.** Women may fault each other for handling motherhood the wrong way—taking off too much time or too little.

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<sup>10</sup> Bernard & Correll, 2010