



# ACC SOUTHERN CALIFORNIA IN HOUSE COUNSEL CONFERENCE

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January 25, 2023  
Anaheim, California

sponsored by: Ogletree Deakins

**BIAS**





## What we will discuss...



1. The definition of Bias
2. How bias impacts us in the legal profession
3. How to overcome/address bias in our practices

**BLACK LIVES  
MATTER**




**HERITAGE NOT HATE**



**BLUE  
LIVES  
MATTER**



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- **Impact on Interactions with People**
  - **Impact on Recruiting**
  - **Impact on How We Handle Situations and Litigation**
  - **Impact on How We Select Leaders**
  - **Other Themes?**

**Understanding these Issues  
is the Key to Ridding Bias from Our Profession**

# What is bias?

## Explicit Bias

- Deliberate
- Conscious
- Easy to self-recognize
- Social and personal values
- Systematic prejudice and/or discrimination

## Implicit Bias

- Typically Unconscious
- Involuntarily formed
- Habit
- Cryptic response
- “Micro-aggressions”

# In other words . . .

- **We All See the World through our own **unique lenses****
- **Bias is about understanding our **individual lenses** (including blind spots) and addressing our inability to **appreciate the lenses of others****
- **Unconscious bias awareness is about bringing focus to **our own lenses** and exposing us to the **lenses of others****
- **Bias has impacted our profession more profoundly than some other professions. **Let's Discuss Why.****



# Some Common Biases in Our Profession

- Prestige of School Attended
- Rank within Law School Class
- Size of/Nature of Organization or Client
- Who people know/are related to
- Who is qualified to lead
- Who is a “good fit” for our organization





# A Personal Example



- Originally not assigned to this non-competition case because it involved country music
- Assigned to the case once one of my mentors intervened (*he knew that I am a country music fan and Garth Brooks is one my favorite artists*)



# A Personal Example



- The jury ruled in our favor, but one juror held out until all agreed to lower the judgment by \$500,000
- Client suggested that the partners listen to me more, requested that I work on all of its matters and introduced me to other business contacts
- **This case and this client changed the trajectory of my career**

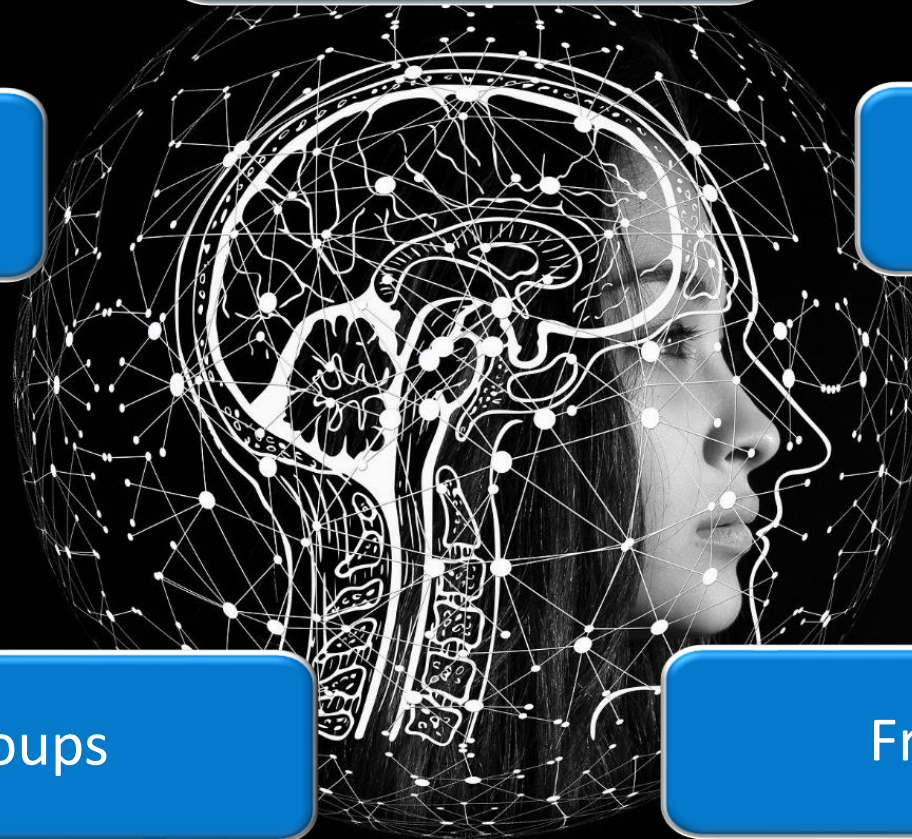
Up bringing

Socialization

Media

Groups

Friends





**Religion**

**Culture**

**Education**

**Physical Ability**

**Upbringing**

**Gender**

**Marital Status**



**Ethnicity**

**Income**

**Seniority**

**Sexual Orientation**

**Age**

**Mental Ability**

# Unconscious Bias: Impact on Decision Making

Perception

How we see people and perceive reality

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Attitude

How we react toward certain people

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Behaviors

How receptive/friendly we are toward certain people

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Attention

Which aspects of a person we pay most attention to

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Listening Skills

How much we actively listen to what certain people say

- Amir
- Chloe
- John
- Leah
- Jalen
- Connor





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- A close-up photograph of a person's hands writing on a white notepad with a yellow and black marker. The person is wearing a light blue button-down shirt and a black wristband. The notepad is on a dark grey desk. To the right, a silver laptop is partially visible. The background is softly blurred, showing a wooden chair and another person's arm in a blue shirt.
- Amir Washington
  - Chloe Owosso
  - John Ramos
  - Leah Sun
  - Jalen Rose
  - Connor O'Brien



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- A close-up photograph of a person's hands writing on a white notepad with a yellow and black marker. The person is wearing a light blue button-down shirt and a black wristband. To the right, a silver laptop is open on a dark grey desk. The background is softly blurred, showing a wooden desk edge and a white mouse.
- Amir Owosso
  - Chloe Ramos
  - John Sun
  - Leah Rose
  - Jalen O'Brien
  - Connor Washington

**HELLO**

My Name Is

*LaKeisha Jamal*

**HELLO**

My Name Is

*Emily Brandon*

5,000 identical resumes sent out for  
1,300 jobs ads in Chicago and Boston  
newspapers...

**50% more callbacks**



Is Charlie  
Married?

A Communication  
Bias Awareness  
Exercise

# Is Charlie Married?

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Your new friend, Charlie, seems like a nice guy. You would like to introduce him to your single cousin, but you don't know if Charlie is also single. You ask your other friend, who knows him well, if Charlie is married. Your friend's response is "Charlie's been married."

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# What does “Charlie’s been married” mean?

1. Charlie was once married but is now single
2. Charlie has been married for a really long time
3. Charlie has been married several times



What does “Charlie’s  
been married” mean?

The reality is, any of  
these could be

**CORRECT**

COMMUNICATION BIAS

# Why Charlie Matters

- If we are miscommunicating about **simple issues** like this, imagine what else we ***might be*** miscommunicating about in our profession:
  - Who gets hired and promoted
  - What clients we represent
  - Who should sit in leadership positions
  - Who will be a good juror or candidate
  - How our profession's priorities are set and how they are communicated
  - How decisions are made and how they impact different populations of people

COMMUNICATION BIAS

Avoid using language with questionable connotations or stereotypical implications

Check our understandings frequently, especially when making decisions about people from different backgrounds and cultures based on communication

Be an active listener

- Pay attention
- Ask probing, open-ended questions
- Critically think about responses that might be different from our own
- Resist the temptation to judge differences



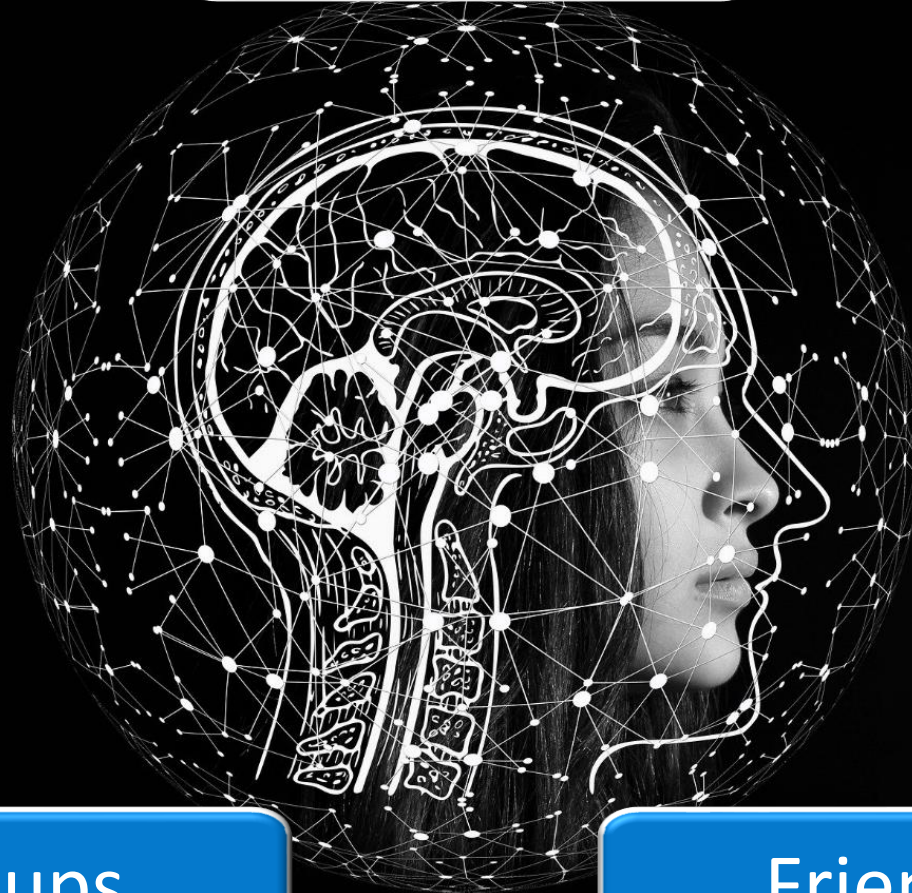
Upbringing

Socialization

Media

Groups

Friends



# The Remedy

*Step 1: Awareness*

Once we become aware we  
have biases and own them,  
we have the power to change  
our mind.



# Examples of Types of Biases

COLOR/  
CULTURE BIAS

GENDER BIAS

AGEISM BIAS

NAME BIAS

CONFIRMATION  
BIAS

HALO EFFECT

CONFORMITY  
BIAS

BEAUTY BIAS

ATTRIBUTION  
BIAS

CONTRAST  
EFFECT

AFFINITY BIAS

HAIR COLOR  
BIAS

# Affinity Bias

- The Similar-to-Me Effect (Affinity Bias).
- We have unconscious tendencies to favor people who are physically and professionally similar to us.
- We tend to recruit attorneys that remind us of ourselves and shy away from those who are different
- We also tend to mentor those we have decided mirror us in some way

**She looks just like my sister.**

# Confirmation Bias

The tendency to filter information that supports your prior personal beliefs or values.





# The Remedy

*Step 2: Interruption*

# A Non-Exclusive List of Some Specific Areas Where We Can Interrupt Bias

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Hiring

Assignments

Performance Evaluations

Communication

# Some Thoughts on How to Interrupt Bias

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## Hiring

- Consider using redacted applications and resumes
- Interview in diverse groups of two or more and discuss candidate ranks
- Use scripted interview questions
- Disclose affinities and remove from consideration
- Cast a broader practical and intellectual net

# Some Thoughts on How to Interrupt Bias

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## Hiring

## Assignments

- Adopt rotational or system-based assignment protocols
- Routinely evaluate assignment distributions for unintentional patterns
- Obtain feedback from those receiving assignments



# Some Thoughts on How to Interrupt Bias

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## Hiring

## Assignments

- Provide accurate and honest feedback

## Performance Evaluations

- Vet evaluations for stereotypical, derogatory or condescending language
- Keep it job-related instead of person-related
- Obtain review by HR or manager
- Avoid generalities, untimeliness, comparing attorneys to coworkers and sarcasm/humor

# Some Thoughts on How to Interrupt Bias

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## Hiring Assignments Performance Evaluations Communication

- Practice having conversations about difficult topics in comfortable environments
- Consider the potential impact of any cultural/gender differences on how communications might be received
- Make yourself open and accessible time-wise and intellectually







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A satellite night view of the United States, showing city lights and road networks in yellow and orange against a dark blue background. The map is tilted slightly to the right.

Ogletree  
Deakins



**21st ANNUAL  
IN HOUSE COUNSEL CONFERENCE**

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