

ADVOCACY IN PRACTICE: WOMEN OF COLOR AND OUR ALLIES

PAULETTE BROWN,* MADELINE GOMEZ & JIN HEE LEE*****

Moderated by AMREETA MATHAI****

Introduction by CHLOE BOOTSTAYLOR†

Chloe Bootstaylor: Good morning, everyone. I am Chloe Bootstaylor, the Vice President of Empowering Women of Color (EWOC). This is our first official panel, called *Advocacy in Practice: Women of Color and Our Allies*. This panel will discuss advocacy in the context of mentorship and advancement opportunities for women of color in the legal profession. In this conversation, panelists will share their paths to becoming a practitioner and their experiences with mentorship.

The panel will also address the distinction between mentors and allies, and the ways in which the latter can be mobilized to facilitate the growth and development of women of color in the practice of law. Our moderator is Amreeta Mathai. She is currently a Lecturer in Law at Columbia Law School via the Bronx Defenders Holistic Defense Externship Program. Please, give a warm welcome to our panelists.

Amreeta Mathai [AM]: Good morning, everyone. Thank you all so much for being here. The panelists and I would like to thank the organizers for putting together this discussion of women of color in legal practice. As litigators and legal practitioners,

© 2018 Bootstaylor, Brown, Gomez, Lee, and Mathai. This is an open access article distributed under the terms of the Creative Commons Attribution License, which permits the user to copy, distribute, and transmit the work provided that the original author(s) and source are credited.

* Paulette Brown is a partner and Co-Chair of the Diversity & Inclusion Committee at Locke Lord LLP.

** Madeline Gomez is a Legal Fellow at the Center for Reproductive Rights.

*** Jin Hee Lee is Deputy Director of Litigation at the NAACP Legal Defense & Educational Fund, Inc.

**** Amreeta Mathai is a Team Leader and staff attorney in the Civil Action Practice at The Bronx Defenders and a Lecturer in Law at Columbia Law School.

† Chloe Bootstaylor, J.D. candidate 2018, served as 2016–2017 Vice President of Empowering Women of Color at Columbia Law School.

part of what's really interesting about our job is that we're engaged both with the academic and theoretical aspects of legal principles and substantive legal issues and also with real-world situations.

We have to interact with real-world actors and issues. We're navigating both the academic, legal world and what it means to be on the ground, confronted with people and systems. The forums that we operate in can include things like trial courts and appellate courts, both at the state and federal level. It can include administrative fora. It also includes things like negotiating tables, mediation rooms, and—very important, I think, to this discussion—it also includes the question of whether or not we are included in spaces where decisions are made about litigation strategy, organizational policies, who gets access to opportunities, and how that is determined.

As to direct interaction with people, that can involve a variety of things including opposing counsel. Who's on the other side of the table when you're litigating? In involves interacting with judges, with court staff, with juries, with clients both in the corporate context and in the direct services context, and with your colleagues. "Colleagues" means people who are senior to you, your supervisors, and it means people who are your peers and people who are junior to you.

In all of these interactions, women of color have to navigate a very complicated landscape. In the practice of law, how people that you interact with—people you have to persuade—react to you actually has an effect on the outcome of your cases. How is a person on the other side of the negotiating table reacting to you? How are your supervisors and your colleagues reacting to you? How is a judge or a jury reacting to you?

Those are all complicated questions. Even more difficult is the question of how those reactions and your perception of those reactions affect your own sense of your ability as an advocate and your own sense of your entitlement to be at the negotiating table, to be a decision-maker. The women of this table come from an impressive array of legal experiences. That varies from corporate M&A issues to impact litigation to jury trials both at the state and federal level. We have some judicial experience on the panel as well. With that, I will leave it to the panelists to introduce themselves and their experience.

Madeline Gomez [MG]: Hi. My name is Madeline Gomez. I just want to echo Amreeta and thank you all so much for having me here. It is such an honor to be on this panel with this incredible lineup of women. I am currently a Litigation Fellow at the U.S. Litigation Program at the Center for Reproductive Rights. Before that, I was an If/When/How Federal Policy Fellow at the National Latina Institute for Reproductive Health based in Washington, D.C.

I am definitely new in my profession. It's been a really exciting time. I'm really thrilled to be talking about these mentorship things and to be here with you. At least when I was here at Columbia, EWOC was such an important space for me. It was so strengthening and nurturing. I'm really glad that this conference has continued. I'm really excited to talk about these issues with people.

Jin Hee Lee [JHL]: Good morning, everyone. My name is Jin Hee Lee. I am currently the Deputy Director of Litigation at the NAACP Legal Defense Fund. I, too, am just thrilled to be here. I think this is a really important discussion. I was a student here at Columbia, class of 2000. It was a while ago. EWOC was called the Women of Color Coalition back then. I think this is a really important discussion.

When I was here at Columbia, I really felt it was important to talk about intersectionality and diversity issues when it comes to women in the profession, but also women in the public interest profession. There's a lot of discussion about that in the firm environment. I think it's equally true in the public interest field.

After law school, I worked at a firm, Morrison & Foerster. I clerked for a year. I then worked at another civil rights organization, New York Lawyers for the Public Interest. I've been at the Legal Defense Fund now for almost nine years. I really look forward to this discussion. Thank you so much for having me.

Paulette Brown [PB]: Good morning. Like the others, it's really an honor for me to be here. I really am grateful because I had the privilege of speaking at the first EWOC conference a couple of years ago. I am really thrilled to be back and happy that you thought me worthy to come back.

When I was listening to the judge this morning, I thought, "Is she talking about me?" Except I think I'm a year older than she is. Our backgrounds are similar: we both went to segregated schools in Baltimore. I've been practicing for more than forty years. I've had a wide array of experiences, from working in-house to owning

my own firm, from being a judge—which, don't tell her, I did not like being a judge—to being in a big firm. Now, I'm currently the immediate past president of the American Bar Association.

AM: I think maybe we can start off with each of the panelists talking about the path they took through their career and what, if any, obstacles or issues you might have encountered that were related to the intersectionality of your identities.

MG: As I said, I'm still very early in my career. I took four years off after undergrad before coming to law school and had a mini-career where I was working in the music industry. I was one of the only women in that space where I worked. That was a really interesting situation for me to think about intersectionality because now I work in reproductive justice where I am surrounded mostly by women.

At least now in my current position, I am one of very few women of color in my organization. Thinking about the dynamics of that has been interesting in the transition from being in a space where I was really one of the only women in the office. Then immediately after law school, I was at an organization that was primarily Latina women and now I'm in a program where I am one of three Latina women.

There are no black women in the U.S. Legal Program in the Center for Reproductive Rights, which is difficult. I think it is interesting. It's not for lack of awareness or lack of interest in developing that. One of the things that I'm facing right now, and that I think is an ongoing obstacle, is talking about the rooms that you're brought into. Frequently, I'm brought into rooms to talk about, "Why don't more women of color want to work here?"

I find myself answering, "Because you only bring me into the room to talk about this." I think that in social justice spaces, we have to really take care of one another and think more carefully and more imaginatively about where we're reaching out to one another—particularly women of color in a reproductive rights space, because there is another branch of reproductive freedom work that is led by women of color. We are aware we work in coalition with these organizations. We ask them frequently to partner with us. We are looking to them. I think that's important.

We have to find a way to fuse those two movements, to really think in our litigation more about how we're centering the work that reproductive justice activists are doing. For me, it is a challenge being one of the few women of color in the space. I also think it's so critical to be there, to be a voice. Basically, every day I wake up and I tell myself, "Being excellent in this space is a radical act." Speaking what I know and voicing what I've learned in the reproductive justice space is a radical act. It is a necessary one.

JHL: I actually have a little bit of a unique background. A lot of things about me, I think, are not readily apparent. One thing is that I grew up in the South. My accent left me in college because so many people made fun of me, I think. I'm a first-generation immigrant. My family immigrated when I was three years old. We grew up in this very, very tiny town in Middle Tennessee. I think 1,000 people lived in the town. We were the only non-white family in that community. That's where I grew up from age three until eighteen when I went to college. That experience was very formative. It really ingrained in me the importance of dealing with race and how much race is imbued in all parts of your life. For me, every second of every moment, being constantly aware of—and being reminded of—being different, had a tremendous impact on my life.

As an Asian American woman, there were a lot of assumptions made about me. The assumption is that I grew up in California or New York, and that my parents were doctors or engineers. In fact, my mother never made more than minimum wage the entire time that she worked to support all of us. These were also assumptions based on stereotypes of Asian women being passive, quiet and hardworking but never a leader that are things that are common in any kind of environment for any Asian woman. Those are things that have stuck with me as I've moved on through my career.

I grew up in a very isolated environment. So when I went to college, I was all about learning new things. I was an African Studies major because I knew nothing about Africa. I even studied in Africa. It was really an important part of my college experience. Yet, people just assumed I was an Asian Studies major. Then later there was this assumption that I knew nothing about poor people, that I never experienced that despite my family's financial struggles. I remember this one mock interview during law school when someone questioned my knowledge about that.

A lot of assumptions were made because of stereotypes of who an Asian woman was and what an Asian woman's experience is. In fact, not only among Asian women but any women of color, there's a wide variety of experiences, a wide variety of rich challenges that people have. Everyone is different. Everyone is an individual snowflake. Yet, people, I think, are quick to make these kinds of stereotypes about a person based on their race and based on their gender.

Another important thing that I realized is the economics of a lot of people of color—and women of color too—when it comes to going into the public interest law profession. That was something that I had always wanted to do, probably from my childhood experiences. This is the reason I went to law school. But when I was in law school, my mother became very sick. I'm the oldest. It was on me to support her. I don't think I'm unique in that way, especially for students of color who are the first people in their generation to go to law school, perhaps the first to have gone to college. There is a big difference between going to a law firm and making this tremendous salary, where you can not only help yourself pay off your loans but also provide for your parents and your siblings—versus having no one but yourself to worry about. It can be very frustrating when that's not recognized in the law school environment.

These differences can affect the diversity of people who are able to go into public interest law. It is a privilege that I am able to do exactly what I want to do. That's not something that a lot of people can do. For a lot of people, you have to have a job because you have to provide for your family. Not recognizing that difference is something that is really challenging. Exactly as Madeline says, it's disappointing and it's absolutely unacceptable when public interest lawyers who believe in racial justice—who believe in the rights of the poor, the oppressed, the people who are marginalized—are not self-reflective about themselves. The standards that we place on society as to what justice means should also apply to ourselves. It's always a challenge. It's something that we should all work on, and we shouldn't accept the fact that only certain people can go into this field.

It's not even a matter of just diversity. It's also a matter of being the best advocates and representatives for our clients. It doesn't mean that you have to have a certain type of experience in order to be able to represent the clients that we represent. But it definitely enriches the legal representation to have a diverse array of views and experiences.

I am very fortunate right now to work at the Legal Defense Fund. The top three positions, the three leaders of our organization, are all women of color. Diversity is placed at a high premium in our organization. I think that is reflected in the diversity of our attorney staff. In a lot of organizations, unfortunately, the attorney staff is not as diverse as the support staff, and the imbalance is really evident. But we're able to have that diversity when we have a legal team.

PB: That's a lot to follow, Jin. As we were sitting here, I was wondering how many people, women of color my age, are still actively practicing, especially in law firms. I know that in New Jersey, for example, I don't think there's anyone my age or who has been practicing as long as I have who is still involved in litigation.

It's been an interesting journey for me. I started my career at an interesting place, in a steel company, which is very clearly a man's world. It was because ERISA became effective the year I graduated from law school. They were looking for any naïve person who was willing to do it; I raised my hand. It was very interesting because race was not as much of an issue as gender. They were not accustomed to having "educated people" or women with degrees working in that industry.

There was certain information that was withheld because they weren't accustomed to women, as they said, being able to understand it. When I wanted to start participating in union negotiations, they made all sorts of excuses why I couldn't; how dangerous it was; I would have to wear a hard hat; you had to do this and that. A lot of things evolved over time.

I remember the challenges I faced in going to court. Coming into court, the sheriff officer asked first, "Are you the defendant? Are you a juror?" and never asked, "Are you the lawyer?" When he ran out of questions, he asked, "Who are you, then?" There were a number of these different types of challenges, but none that really couldn't be overcome. I listened to the judge because I did not know any lawyers either.

Perry Mason, in black and white, he was the guy. Over time, some things changed. Sometimes, things still have not changed. I do a lot of implicit bias training too. People, as soon as they see you, they start formulating opinions about you. As soon as, for example, they see Jin they may automatically think she's smart, they look at me and automatically think I don't know anything. If I behave

in a manner other than the subdued person they would think Jin is, I am, in their opinion, a word that begins with a “B” if I speak my mind.

There are constant challenges. There are still instances where people don’t want to accept that you hold a certain position or that you’re capable of doing certain things. I remember when I went to a detention center in California. We were meeting an immigration judge. All of us who went were women. All of the lawyers were women. I was introduced. The immigration lawyer said, “Judge, we are so happy to have the president-elect of the American Bar Association here.” He looked all around the room looking for the president-elect of the ABA. I finally told him that it was me. This was just less than two years ago.

The challenges continue depending on who you are and who you look like. I have been fortunate to have mentors of all different sorts. Most of them have been people of color. Some have been my mentors, and they didn’t know it. Sometimes, you have to do a little bit of friendly stalking to make sure you get to the right person to serve as your mentor or mentors. I think you need a lot of them.

It’s true. You really also need allies, people who believe in the same things that you believe in. They can be people who are younger than you, people who are in different disciplines than you are, but people who are interested in the same types of things you are interested in that when your voice is not enough, they will lend their voice to what it is that you believe in.

AM: We want to transition into a discussion about support systems and allies. I think all of our panelists have described a situation of being one of the first in their community to go somewhere, maybe one of the few people in the room that looks the way they do or represents the community they come from.

Can you describe a situation where you felt actively thwarted by other people in the room because of the intersectionality of your identity? How did you navigate that to seek support and to seek allies? If there were situations where your first shot at finding a mentor and an ally didn’t work out, how did you come back from that? How did you pivot to find an ally elsewhere?

PB: I’ll volunteer. Interestingly, one of the first things that came up in listening to the other speakers and talking was about whether you belong some place—just understand that we belong everywhere. There’s an understanding of belonging and

not just fitting in. That's not why you're here, to fit in. You're here because you belong here. As such, you have to make a contribution. You have to always do some sort of self-analysis of yourself.

All of you can also be allies and peer mentors to everyone else in the room. I've had a number of different experiences where I have had to build allies. I remember, I had an opportunity to co-chair the Report on *Visible Invisibility: Women of Color in Law Firms*. Unfortunately, those statistics reported in 2006 haven't changed very much.

I'm looking to all of you to really break through some of that. I became Chief Diversity Officer in 2006 in my firm and became very much involved in the recruiting process and in increasing the numbers of diverse lawyers within our firm. It was interesting to watch how people became your allies over a period of time to the point where I did not have to say certain things. It became their idea. It's really important to draw allegiances with people who are not like you.

When I spoke about diversity and inclusion in the run up to my term as President of the ABA, some people actually said to me, "I hope that you won't make that your focus just because you're the first woman of color to be president of the ABA." My position was if I don't do it, who the heck's going to do it? It was also important, because of the many policy changes I wanted to make, to ensure people understood that inclusion did not mean exclusion.

People thought I was crazy because I went to all fifty states, including Wyoming, Montana, Idaho, Alaska, the Dakotas, all of those places. I knew I was going to need allies in remote places, people who did not necessarily look like me. My thing was to get them to believe that this was the right thing to do. In doing it, it takes some effort sometimes on your part to get there. You do it in a way that they start to think it's their idea. That's even better.

That's what happened in my firm, after a while, when working with the recruiting team. The hiring partner started saying all sorts of inclusive things that I couldn't believe. I thought, "Okay. I don't have to say this anymore." One of the things some of the recruiters did because they don't think about people a lot with our backgrounds, was they thought it was okay to ask a question in an interview, "What lawyer influenced you to go to law school?"

I said, “You can’t ask that question.” “Why not? Everybody had a lawyer to influence them.” I said, “No. They didn’t.” Basically, their thought was if the person couldn’t answer that question, then they may not be a good candidate for the law firm, which was ridiculous and which is why it’s so important to be in the room, because when you have homogenous people, they have no clue as to what else is going on in the world. It’s not placing blame because it is unintentional and as a result of a lack of exposure. It’s really, really important, no matter how unpalatable we may think it is sometimes. We have to always be in the room to have people to understand different perspectives on life and that everyone does not come from the same place.

When you want to bring an implicit bias to someone’s attention you don’t want to do it in a way that you are putting it directly in their face and call them out publicly—because I don’t think that works really well. When you pull them aside and say, “Did you consider this,” or, “Did you consider that,” you will be amazed at the allies that you can build. It doesn’t always happen; they won’t be with you all the time. In critical moments when you need people, sometimes those people can be true allies for you.

JHL: There is something that’s always stuck with me . . . you don’t have to deny who you are. Some people are very outspoken. Then, there are people who may be a little bit more reserved. It doesn’t mean that you have to change your personality or be a different person. There are advantages and perhaps disadvantages in both situations.

The core of it is to be confident about who you are. As an attorney, you have to be prepared. As a woman of color, you might have to be more prepared than the next person. As long as you’ve done the work and you’re confident, then you can do it. You can do it as who you are. That’s something that’s always stuck with me.

You have to be pragmatic about your career and try to get the resources that you can from wherever you can. If you are lucky enough to be able to work with a woman of color or a man of color, or even someone who’s not but is understanding about the experiences that you’re going through, you should rely on that. There may be times when it is important to be able to share experiences that come up.

There will be times when you have experiences that shake you to the core. I remember once as an attorney, I was in this terrible fight with opposing counsel.

We were talking to the judge, and I tried my best—tried my very, very best—not to be argumentative. It is not helpful to be argumentative in front of a judge. Afterwards, the supervisor commented about how quiet I was. He said, “I don’t know if it’s because you’re an Asian woman.” Here I was, trying so hard not to be overly argumentative because I had been fighting with this opposing counsel. And here I am being penalized for doing this. Having even a colleague to be able to share those feelings with is important because those times are going to come up.

About allies, it is so important to find your allies but also be an ally. It’s important that you don’t leave it to your colleague or your friend to be the person to speak out about a racist or sexist incident. Sometimes, you should be the one to speak out. That makes a difference. It makes a difference for the people who hear. It also makes a difference for your friend because that’s a tremendous responsibility and obligation to constantly be the one to have to say those things. Sometimes, it’s difficult. Sometimes, it’s uncomfortable. But it shows that this is something that you care about just as much as anybody else. And it’s not because of your identity—it’s because you believe it’s right.

However, when we grapple with these issues of race and gender in the workplace, it can get complicated as lawyers because we have responsibilities to our clients. We have responsibilities to the organizations that we represent. We have responsibilities as lawyers as part of the profession. One thing I want to press upon everyone is to be very pragmatic about not only this issue, but also about how you talk about any issue. It may not be helpful and could possibly be a disadvantage to your client to raise a particular issue in a particular circumstance.

Sometimes if you are faced with a situation where someone has said something that is offensive or perhaps disrespectful, whether knowingly or unknowingly, the better course may be to try to have a conversation and not to cut off ties and burn bridges. There are different ways of talking about those things. But then sometimes, it is important to speak out and not care what that person says because it tells the entire room that this is important and, “I’m not going to stand for this.”

Every situation is different. It’s not easy. It’s absolutely not easy. This is why it is important to have colleagues or law school classmates to stay in touch with, or mentors or anyone to talk through things when these situations happen. Talk about it with someone and think it through so that you’re prepared on how to handle that particular situation. It’s all a learning process.

One of the things that I have always tried to do, and something that Paulette talked about, is to talk about implicit bias. That's something that we've thought a lot about in my job, and something that I've tried to incorporate into my conversations about this. Implicit bias is not something that's unique to certain types of people. Everybody in this society has their own biases. You could be the most well-intentioned civil rights lawyer, person of color, it doesn't matter. You have implicit biases about yourself and about other people that you interact with.

Talking about implicit bias is a way of engaging in these types of conversations. Defensiveness can be an immediate reaction, as opposed to saying, "We all suffer from this. I've been guilty of this. I've been guilty of making these mistakes. The difference is I've made a mistake, and I want to make a difference. I want to change. I want to learn from this." I think engaging in these types of conversations with that kind of mentality—that we're all in it together and that we're all trying to learn from this—sometimes, though maybe not all the time, can help make the conversation a bit more productive than it might otherwise be.

MG: There's so much that y'all are bringing up that is resonating with me. The one thing I really do want to make a point to echo is to be aware of who you are going into any space, but particularly in crafting your career. I am really skeptical of anyone that tells me that there is only one way to do something, or that I can't do the next step if I make this one choice.

I spent my 2L summer at a law firm. My boss my 1L summer at a social justice organization told me that I wouldn't be able to go back into social justice if I went to a law firm my 2L summer. I later found out that this man had graduated from law school and bought an apartment in Inwood. I said, "Your financial situation is very different from mine. That's just not where I'm at. This law firm summer is actually so necessary for me."

Then, I went after law school to do policy work. I had a number of people tell me that I wouldn't be able to get back into litigation if I spent time doing policy work. At each of those steps, I was able to say, "You have a lot to offer me, but you're not going to be my mentor." That is not going to be a relationship that's going to work, because I just don't believe anyone that tells me I can't do this next thing.

I understood each way what I needed to get from each situation. That's all to say that Jin's point also of having the conversations about why you're not heeding particular advice is also important. I think about what you were talking about—how we engage in these conversations—as calling in versus calling out.

With that 1L summer boss, I actually sat him down at one point. I said, "Look. This is why I'm making this financial decision. This is not really a choice for me, I don't think. I think there's quite a lot that I can gain from it." I'm hoping that he never told any other interns that. I was able to find mentors in other spaces, not just in law. That is also critical in how we are talking to one another and how we're conceiving of the people who can help us move forward.

AM: Thank you all so much for coming to have this discussion with this great group of panelists.