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Danné L. Johnson
Oklahoma City University School of Law

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It's a Scandal:¹ Can Minority Women in the Legal Academy be Gladiators²?

Danné L. Johnson*

I. INTRODUCTION

When I joined the Academy³ ten years ago, I was attracted to the ability to manage my own time and my own thinking. The ability to impact students and contextualize the law promised to give meaning and depth to my professional life. I discussed my professional choices with men and women of all races and walks of life. I was encouraged. Each law professor that I interviewed spoke glowingly about the privilege of tenure that would

* Professor of Law, Oklahoma City University School of Law. The author also thanks the organizers of the Presumed Incompetent Symposium, hosted by Berkeley Law on March 8, 2013. Additionally, she thanks the Oklahoma City University School of Law for support during the writing process, Professor Lee Peoples, the OCU library staff, and OCU students and research assistants Kevin Garrett and Emily Eleftherakis. Copyright © 2013, Danné L. Johnson.

¹ *Scandal* (ABC television premier debut Apr. 5, 2012). Created by Shonda Rhimes, *Scandal* takes place in Washington, D.C., and focuses on Olivia Pope, a minority female who runs a crisis management firm. *Id.* In the series, Pope is portrayed as both revered and feared. *Id.*

² See *Scandal: Nobody Likes Babies* (ABC television broadcast Feb. 7, 2013). Harrison Wright:

We do what needs to be done and we don't question why. We put the personal to the left. Doesn't matter who gets hurt. Doesn't matter what gets broke. It's not the thing that needs fixing, it does not matter. You want to cry about your feelings? Hmm? Really? Here? We don't get to have feelings. That's the job. Gladiators don't get to have feelings. We rush into battle. We're soldiers. We get hurt in the fight we suck it up and we hold the line and we don't question.

Id.

³ The "Academy" is an institution of distinguished scholars, artists, or scientists that aims to promote and maintain standards in its particular field. In this article, the Academy refers to the Legal Academy – the institution of legal scholars that exist within law schools around the United States.

await me at the end of a few years of hard work.⁴ With this spirit of hope I uprooted my family, resigned from a promising professional track, left my friends, and moved for an untested yet promising experience. I was going to be a law school professor. This was really exciting for a girl from Detroit who was the first generation in her family to complete college.

Unfortunately, no one had shared with me the unofficial job description for minority women in the Academy: whatever respect or privilege I thought I had earned by being accepted as a part of the Academy was never actually even within my reach. Perhaps it had yet to be written, not due to the lack of time or knowledge, but rather because no one wants to write this description.⁵ The stories that we leave untold are often the most poignant. Minority women in the Academy find themselves underpaid,⁶ overworked,⁷

⁴ The hope was that tenure would provide protection and privilege. It would guarantee freedom of expression inside and outside of the Academy. It would enable me to share in the collective responsibility for the academic institution, which in turn would increase the quality of education the Academy provides as well as the research and the scholarship it would produce.

⁵ It is possible that I would have ignored this description crediting it to the peculiar experiences of the speaker. This often happens to good advice that we would rather not hear.

⁶ See Ann C. McGinley, *Reproducing Gender on Law School Faculties*, 2009 B.Y.U. L.REV. 99, 102 (2009).

[W]hile women have made continuous progress on law school faculties, they still occupy a disproportionate percentage of the lower-paying, lower-status jobs. From academic year 1998-99 to academic year 2007-08, the percentage of women law school deans rose from 10.4% to 19.8%. Their proportion of full professors grew from 20% to 29.3% of the population. Unfortunately, however, women represent 61.3% of lecturers and 65.4% of instructors. In contrast, men represent the vast majority of high-paying and high-prestige positions, 80.2% of deans, 70.7% of full professors, but a minority of low-paying and low-prestige positions, 38.7% of lecturers and 34.6% of instructors.

Id. See also 2008-2009 AALS Statistical Report on Law Faculty, THE ASS'N OF AM. LAW SCHOOLS, available at <http://www.aals.org/statistics/2009dlt/gender.html> (last visited Nov. 24, 2013).

⁷ See McGinley, *supra* note 6, at 124-28.

undermined,⁸ and over-critiqued⁹ within their institutions. Further still, they are under-mentored and over-mentored,¹⁰ unsupported as women,¹¹ subject

White (pink) collar jobs that are gendered female, in comparison to jobs that are gendered male, demand less formal education, confer lower status, require or are perceived as requiring less intellectual work, entail more 'emotional labor,' subject the holder of the job to interruptions, require the employee to serve another person of greater status, involve less decision-making ability and more willingness and ability to take direction, have lower salaries and less upward mobility, and because they do not ordinarily have offices, provide little or no privacy during work or in the workspace.

Id.

⁸ See *Yale Law School Faculty & Students Speak Up About Gender: Ten Years Later*, YALE LAW WOMEN 21–34, available at <http://www.law.yale.edu/stuorgs/speakup.htm> (2012). For example, legal writing courses are a traditionally gendered job. *Id.* Most legal writing professors are female, placed in the role of gentle hand leading students through their first year of law school. *Id.* As such, the legal writing professor is not a professor at all – she is a mother, a sister, a friend. *Id.* She does not receive that same reverence and respect that a fully tenured professor that teaches substantive courses. See McGinley, *supra* note 6.

⁹ See Deborah A. Ballam, *Affirmative Action: Purveyor of Preferential Treatment or Guarantor of Equal Opportunity? A Call for a Revisioning of Affirmative Action*, 18 BERKELEY J. EMP. & LAB. L. 1, 19–21 (1997). See also McGinley, *supra* note 6, at 126.

[W]hat happens when women work in male jobs and men work in female jobs? The gender identity of the job does not always dictate how a person occupying the job will be treated Research demonstrates that women who occupy leadership roles that are gendered male are often considered to be less effective than men at the job even when performing the same quality of work. Women who do not conform to stereotypical norms of femininity are judged to be too aggressive or too masculine in their behavior even in jobs that expect or require aggressive or stereotypically masculine behavior from a man holding the job. These assessments place women in a 'double-bind.' If they act in too feminine a manner, they are not qualified to do the job, which has already been defined as requiring masculine characteristics; if they act too masculine, they are ostracized because they do not conform to stereotypical expectations of how women should behave.

Id.

¹⁰ McGinley, *supra* note 6, at 119.

¹¹ See *Heads Up! Minimize the Chance of Liability for Your College or University*, CTR. FOR WORK LIFE LAW, <http://worklifelaw.org/heads-up/> (last visited Mar. 3, 2014) (noting

to microaggressions,¹² and underappreciated both in and outside of their institutions. This particular description of a tenured law professor does not sound familiar; it is at odds with traditional notions of academia as a meritocracy.¹³ However, as the essays and empirical studies in *Presumed Incompetent* confirm, this job description is all too familiar to women of color in the legal academy and across universities. Most minority, female law professors can identify with this description in a unique and troubling way.¹⁴

A. “*What Have I Done?*”

During the first year as a law school professor, the smallest voice in my head would ask, “What have I done?” Initially, I thought that the voice of self-doubt was the result of starting a new venture in an unfamiliar setting. My response varied depending on the challenge *du jour*.¹⁵ “I’ll have the

that 1/3 of surveyed academic institutions currently maintained illegal or potentially illegal maternity leave policies), available at www.worklifelaw.org/pubs/Heads_up_Final.doc.

¹² See Aisha M.B. Holder, *Experiences of Racial Microaggressions and Coping Strategies of Black Women in Corporate America*, available at <http://fordham.bepress.com/dissertations/AAI3554163> (last visited Dec. 1, 2013).

¹³ Katherine Barnes & Elizabeth Mertz, *Is It Fair? Law Professors’ Perceptions of Tenure*, 61 J. LEGAL EDUC. 511 (2012).

During the years when the profession began to admit female scholars and scholars of color in significant numbers, tenure was frequently described as the crucial institutional process through which the legal academy could block or open the doors to gender and racial integration. At the same time, the tenure process is perceived as a guardian of quality and high standards in legal education, standards that some have felt might be diluted were issues of gender or race to be raised in law school hiring and promotion.

Id. See also PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA (Gabriella Gutierrez y Muhs, Yolanda Flores Niemann, Carmen G. Gonzalez & Angela P. Harris, eds. 2012).

¹⁴ I do not seek to detract from the narratives of those minority women who are satisfied and equal to their white, male peers in the Academy.

¹⁵ Susan J. Becker, *Advice for the New Law Professor: A View from the Trenches*, 42 J. LEGAL EDUC. 432, 433 n.7 (1992).

hang of it soon,” I told myself. “Next year there won’t be so much class preparation,” and “I will stay up until I find the answer to that question.” As I became more seasoned, more confident in my daily activities, I became disappointed that the voice would not stop taunting me: “What have I done?” The self-questioning continued.

As time marched on, I responded with a variety of answers. I would say, “The next article will be better. I will not rush to complete the project. I will tell the Dean no. I will cancel the next commitment that I made rooted in affinity group guilt.¹⁶ I will stop mentoring every minority, female, gay, bisexual, lesbian, Muslim, transgendered, adopted, special-needs law student that seeks me out believing that I am a mother or ‘mammy’ figure,¹⁷

Learning to teach is only one of the many challenges facing the novice professor. One should also be braced to handle other aspects of the job, such as law school committee assignments, pro bono and community service, and legal scholarship. Although nonteaching activities make serious demands on your time, they cannot be ignored, since they will almost surely be scrutinized as part of the tenure decision.

Id.

¹⁶ Affinity group membership is best understood by recognizing that everyone, in some way or another, is connected to a group or association. Our interests, backgrounds, and other factors will naturally lead us to those organizations or affiliations that serve our needs. Race, culture, and religious beliefs also play a role in identifying us as members of unique groups that we often come to trust—sometimes to our detriment. *Affinity Fraud: Beware of Swindlers Who Claim Loyalty to Your Group*, NORTH AM. SEC. ADM’RS ASS’N, <http://www.nasaa.org/7157/affinity-fraud-beware-of-swindlers-who-claim-loyalty-to-your-group/> (last visited Jan. 11, 2014). See Lisa M. Fairfax, *With Friends Like These: Toward a More Efficacious Response to Affinity-Based Securities and Investments Fraud*, 36 Ga. L. Rev. 63, 70 (2001) (defining affinity fraud). The detriment of such affiliations can come in the form of letting your guard down, volunteering to help the group, and/or taking on responsibility. These actions are not only motivated by a desire to help and participate in the group, but also can be motivated by guilt.

¹⁷ The Mammy myth was a Black woman, [during slavery], who acquiesced to her own inferiority and to white supremacy. [She] was a Black woman who accepted that her role was to raise, train, and suckle future white mistresses and masters. As a Black woman who accepted and enjoyed her own inferiority, whites revered [her]. [She] was said to be so enamored of her white charges that she placed their welfare above that of her own children. Mammy was “the perfect slave—a loyal, faithful, contented, efficient,

or hoping that perhaps the minority woman will be able to understand and in some way relate to my oppression.”

“What have I done?” I discovered that I was being paid markedly less than white, male faculty while doing the same work. I realized that my environment was actually not a place where I could think and develop because I was not being nurtured. I realized that they wanted me to change.

With the increasing realization that I might not be experiencing equal treatment in the Academy, I could no longer focus on how *I* could improve my work product or my work ethic. After all, the students had noted me for my community service and my excellent classroom teaching. I instead looked for ways in which *the institution* could improve. I attempted to define avenues of unequal treatment and possible remedies. Were there ways in which I and other minority women could benefit from increased support? I would no longer answer the “What have I done?” question with self-blaming. There was nothing wrong with me, but somehow being me and doing great work was not yielding the results.

I began to bring up issues of diversity and inequality. I attempted to enrich my course coverage by addressing race, class, and gender as appropriate instead of ignoring them.¹⁸ Perhaps student evaluations could inquire about race and gender identification and coverage. Surely we could

conscientious member of the family who always knew her place; and she gave the slaves a white-approved standard of black behavior.” She was “the personification of the ideal slave, and the ideal woman, . . . an ideal symbol of the patriarchal [and white supremacist] tradition. She was not just a product of the ‘cultural uplift’ theory [sic] [which touted slavery as a means of civilizing blacks], but she was also a product of the forces that in the South raised motherhood to sainthood.” Mammy sacrificed everything. All of Mammy’s mothering and teaching was exclusively focused on the white family. Pamela J. Smith, *Teaching the Retrenchment Generation: When Sapphire Meets Socrates at the Intersection of Race, Gender, and Authority*, 6 WM. & MARY J. WOMEN & L. 53, 119 (1999).

¹⁸ Race, class, and gender are accessible in civil procedure through existing case law. See *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *Haddle v. Garrison*, 525 U.S. 121 (1998); *Erie Railroad v. Tompkins*, 304 U.S. 64 (1938).

ask panel organizers and presenters to consider diversity. When these suggestions fell on deaf ears, I began to ask whether that questioning, “my” internal voice, was actually the whispers of my academic colleagues taunting, teasing, waiting for me to fail and encouraging my distance, my separateness. Were they actually asking “Why are you here?” and “Why do you stay?”

On the day that I decided to stand up for myself, to complain and agitate, the voice went away. The self-doubt melted and was replaced by fear and determination. I was standing up for myself as an educated professional: a grown-ass woman.¹⁹ In spite of being untenured, I did not want to waive my right to be treated fairly. I could not, and would not, wait for tenure, then complain. In that moment I felt ready and able to shoulder the burden of so many minority women who cannot stand up and cry out. I did not want to hide.

I made the difficult decisions to seek assistance from the University’s general counsel, file a claim with the Equal Employment Opportunity Commission, file a grievance with the university, and file a suit in federal court.²⁰ What had I done? In large part, based on my personal experiences, my current status as a tenured professor, and my willingness to discuss this personal and painful journey, I was invited to bring remarks directed at confronting, remedying, and brainstorming about surviving race and gender discrimination in the Academy at the Presumed Incompetent Symposium, hosted by Berkeley Law School on March 8, 2013. What follows are

¹⁹ “Grown-ass” is an African-American colloquialism used to “(1) reply angrily to an absurd suggestion; (2) [express] being of the mindset of taking life head-on instead of crying . . . ; (3) A guy or girl the like, that is ‘on top of [his or her responsibilities].’ Essentially, responsible for his/her doings, and not settling for the subpar.” URBAN DICTIONARY, available at <http://www.urbandictionary.com/define.php?term=grown%20ass%20man>; See also BERKELEY HIGH SCHOOL SLANG DICTIONARY 11 (2004) (defines “-ass” as: suffix/adj., Adds emphasis to an adjective”).

²⁰ Some of these steps, while necessary, were a waste of time and energy and only seemed to confirm the patriarchy and racism in the landscape in which I existed.

suggestions for surviving and working against race and gender based discrimination in the Academy based on my personal experiences.

B. Irrational Shock in Response to Irrational Behavior

Discrimination based on race, gender, class, and sexual orientation is irrational and fueled by internal bias and preconceived notions.²¹ The harm is borne by those who are discriminated against through micro and macro aggressions.²² All justifications for disparate treatment are irrational post hoc rationales for irrational behaviors. This irrationality contributes to nefarious changes in society and institutions, which at first blush seem meaningless or can appear helpful. These very changes actually re-entrench cultural biases.

Scholars, minorities, men, women, and queers²³ in all fields, ranging from sociology and psychology to jurisprudence, have taken on discrimination in its many forms. We have worked to classify, organize, and critique these problems. We have developed discourse and pathways to change. However, minority women have failed to examine and bring light

²¹ Kathleen M. Sullivan, *Constitutionalizing Women's Equality*, 90 CAL. L. REV. 735, 749 (2002).

[S]pecific group-based criteria might also be understood to increase the efficiency of enforcement: all irrational discrimination is bad but discrimination based on sex, race, illegitimacy, alienage, or religion (or, for those willing to go further than the Supreme Court, discrimination based on sexual orientation or on disability) is likely to be persistent rather than self-correcting, given the entrenchment of discriminatory social norms Specificity helps isolate and focus . . . upon those social groups that are likely to experience irrational discrimination more commonly than would be the case through the random exercise of idiosyncratic tastes.

Id.

²² See Holder, *supra* note 12, at 30–32.

²³ “Queer,” as a reclaimed term, encapsulates a personal and political identification that stands in direct opposition to the social and legal supremacy of Euro-centric hetero-patriarchy. Francisco Valdes, *Sex and Race in Queer Legal Culture: Ruminations on Identities & Inter-Connectivities*, 5 S. CAL. REV. L. & WOMEN'S STUD. 25, 67 (1995).

to their own plight in the Academy. Perhaps this failure is rooted in our common cultural brainwashing, which prescribes that people of reason, rational people with education and privilege, those familiar with the law, and in fact in charge of teaching the law, will object to discrimination. We somehow dream that the dream of equality is more attainable in these rarified places. This acculturation makes the recognition of discrimination as it happens to us devastating, disorientating, and painful. To endure discrimination in the Academy, what we believe to be an unlikely venue, feels like a form of shaming.²⁴

Unfortunately, class and comfort have made minority women in the Academy view discrimination as something that happens to others.²⁵ When we listen to, teach about, or speak on panels regarding pay inequality, we do not think of ourselves. We think of waitresses, secretaries, and low-level managers. We consider the many “other” places where minority women are paid less than their peers for the same work. When we think of harassing language and physical intimidation, we think of other women in other places. The other women and other places are about class, access, education, and so many other factors that allow minority women with education to ignore, and in some ways, dismiss or blame “those” minority women who are not like us. We are told that we are special, unique, and that we stand apart. Self-preservation allows this false uncoupling to become a reality.

However, there are many places where minority women in the Academy are ill-treated. We are subjected to harassing comments from our students,

²⁴ “Isolation is the glue that holds oppression in place.” Lauren Slater, *THE COMPLETE GUIDE TO MENTAL HEALTH FOR WOMEN* 97 (Lauren Slater et al. eds., 2003).

²⁵ “[T]he glass ceiling effect experienced by women law professors is somewhat surprising given law schools’ liberal orientation and flexible work conditions.” Eli Wald, *Glass Ceilings and Dead Ends: Professional Ideologies, Gender Stereotypes, and the Future of Women Lawyers at Large Law Firms*, 78 *FORDHAM L. REV.* 2245, 2288 (2010).

peers, and mentors. At the outset, there is the meat market, the interviews, and the callbacks. Once a position is secured, the venues of ill treatment change. The new setting is the classroom where minority women are subjected to, and victimized by, anonymous student comments.²⁶ Perhaps the students have complained about her poor classroom management or that she inappropriately has used guest lecturers. These complaints are credited against the good work of the female faculty of color. We are intellectually belittled.

Minority women in the Academy neatly disassociate from the racism and sexism that we experience because our lives are good. We know all too well that it could be worse so we do not complain. The result of failing to name and resist the pervasive cultural view that racism can be overcome with education and employment is that we all believe that the educated and privileged minority women in the Academy can care for themselves. Further, we accept that these women will not and cannot be harassed out of their jobs. This phenomenon is similar to Japanese-Americans who were placed in internment camps. There is a general unwillingness among this group to call the internment camps concentration camps because the experience of the Japanese-Americans was not like the experience of the Jews.²⁷

²⁶ See, e.g. Sylvia R. Lazos, "Are Student Teaching Evaluations Holding Back Women and Minorities? The Perils of 'Doing' Gender and Race in the Classroom" in PRESUMED INCOMPETENT, *supra* note 13, at 164–85; Okianer Christian Dark, *Just My 'Magination*, 10 HARV. BLACKLETTER L.J. 21, 21–28 (1993); Trina Grillo, *Tenure and Minority Women Law Professors: Separating the Strands*, 31 U.S.F. L. REV. 747, 752–54 (1997); Joyce Hughes, *Different Strokes: The Challenges Facing Black Women Law Professors in Selecting Teaching Methods*, 16 NAT'L BLACK L.J. 27, 29 (1998); Reginald Leamon Robinson, *Teaching from the Margins: Race as a Pedagogical Sub-Text*, 19 W. NEW ENG. L. REV. 151, 151–52, 168–72 (1997); Donna E. Young, *Two Steps Removed: The Paradox of Diversity Discourse for Women of Color in Law Teaching*, 11 BERKELEY WOMEN'S L.J. 270, 279–80 (1996); Vincene Verdun, *The Ugly Truth: Was the Outburst Anything but Racism?*, 3 BUS. L. TODAY 18 (1994).

²⁷ See THE RABBIT IN THE MOON (Wabi-Sabi Productions 1999).

C. Can We Earn Tenure or is it a Happy Surprise?

Minority women join the Academy with the promise of respect, academic freedom, and tenure. We believe that we can earn tenure. Many minority women have a record of achievement comparable to their peers. Yet, they are told that the standard has changed, or that they just aren't ready. Is it possible that minority women cannot *earn* promotion and tenure? I suggest this question because in a system developed by patriarchy and racism, minority women do not write the rules. In fact, these rules can be changed or applied differently at any point without the input of minority women. In advance of my tenure decision, my faculty passed new tenure rules, "just to be sure that we get it right this time." The query seems almost laughable. However, this question must be addressed. Is it possible that tenure can only be given? Earning is very different from being the recipient of a gift. Earning creates an expectation, while the gift of tenure is more elusive.

Minority women face a revolving door in the Academy.²⁸ Many minority women somehow do not stay at any one institution long enough to attain tenure. Those that stay are often confronted with new or revised tenure standards, while others are flatly denied tenure or told to depart because tenure would be unlikely. For minority women, meeting the articulated tenure standard does not guarantee tenure. If this is true, then tenure is more like a gift or a grant than something earned. This would do a great deal to explain how white men with lack luster records who are writing in esoteric areas receive tenure.

Is it possible that we face an insoluble problem, and that numerous, if not all, minority women with tenure are lucky beneficiaries of a system that

²⁸ Research at the Irvine Foundation Project demonstrates that racial minorities are in and out of academia as if there were a revolving door. Daryl G. Smith & José F. Moreno, *Hiring the Next Generation of Professors? Will Myths Remain Excuses?* CHRON. HIGHER EDUC., Sept. 29, 2006, at B22, B24, available at <http://chronicle.com/weekly/v53/i06/06b02201.htm>.

must accept one or two along the way as mere tokens?²⁹ We cannot ignore this question. It begs our consideration. As we explore or ignore this question and our reality, I have just a bit of advice for pre-tenured and tenured, minority women.

Work with your eyes wide open. Observe and read all of the signs. Work hard and be most excellent.

Develop special purpose allies in and outside of the Academy, mentors for each facet of your professional and personal life balance. No one ally can do it all.

Watch out for special interest politics; your special interest might not be the special interest of another.

Have a list of emergency numbers: a group of people with deep experience that you have met along the way; a group that you can trust with everything, or at least those who have no reason to hurt you. Perhaps you can find the name of a woman who has experienced a similar obstacle, who is willing to listen and share.

D. Is that a Call to Duty I Hear?

The call to duty or action is different for everyone. Perhaps it is a denial of promotion, mentoring that directs you to withdraw your application of promotion, threats that you will not make the cut, a revelation that you are paid less than a white man who was hired after you, or a denial of tenure. Very few realize that collectively, minority women in the Academy have

²⁹ Martha Albertson Fineman, *The New "Tokenism,"* 23 VT. L. REV. 289 (1998).

When I was in law school, there were so few women in positions of prestige and power within the profession that we called such women 'tokens.' We hoped that these women were tokens in the sense that their presence represented 'a sign, indication, or symbol' of the gender equality to come. Viewed in hindsight, it might have been more realistic to see their presence as token in the negative sense, 'merely simulated; slight or of no real account.'

Id.

fought these same battles for at least 30 years, and are still fighting them.³⁰ Over the decades, there have been lawsuits, institutional grievances, binding arbitrations, and settlements. No one is keeping a record, a scorecard, or a list of the injured. No one keeps an account of fallen gladiators. These battles and its warriors are forgotten, and things return to the status quo. We forget. We continue on our individual journey with situational amnesia.³¹

When you are faced with discrimination and can no longer ignore it, you should take two steps back to reflect on what is happening. You should also examine your participating role and your wherewithal to respond. As you reach your personal decision about how and if you can respond, you must also face the fact that you are a role model for your friends, children, and students. You are being watched and admired by some. After considering how people on the outside will respond to or be impacted by your decisions, you must also be true to yourself. It is you alone who must face the choices you make each day.

I did hear a very loud call to action, and I responded. My analysis was reflective and very personal. I rationalized that if I were not in a position to stand up for myself, then no minority woman ever would be. I have an advanced degree, skills, savings, work experience, a supportive family

³⁰ See e.g. *Presseisen v. Swarthmore College*, 442 F. Supp. 593 (E.D. Pa. 1977); *Weinstock v. Columbia Univ.*, 224 F.3d 33 (2d Cir. 2000); *Hirsch v. Columbia Univ.*, 293 F. Supp. 2d 372 (S.D.N.Y. 2003); *Alungbe v. Bd. of Trustees of Conn. St. Univ. Sys.*, 283 F. Supp. 2d 674 (D. Conn. 2003); *Bauer v. Coll. of Santa Fe*, 78 P.3d 76 (N.M. App. 2003); *Lawrence v. Curators of the Univ. of Mo.*, 204 F.3d 807 (8th Cir. 2000); *Fabunmi v. University of Md.*, 1999 U.S. App. LEXIS 2726 (4th Cir. 1999); *Tapp v. St. Louis Univ.*, 78 F. Supp. 2d 1002 (E.D. Mo. 2000); *Garmon v. Fisk Univ.*, 1999 Tenn. App. LEXIS 144 (Tenn. Ct. App. 1999); *Board of Trustees of the Univ. of Ky. v. Hayse*, 782 S.W.2d 609 (Ky. 1989); *Kunda v. Muhlenberg Coll.*, 621 F.2d 532, 548 (3d Cir. 1980); *Blasdel v. Northwestern Univ.*, 787 F. Supp. 2d 759 (N.D. Ill. 2011).

³¹ Situational amnesia is a survival mechanism found in oppressed peoples which allows them to ignore, through various methods, injustice and renders them unable to accurately and logically assess current injury or estimate future threats. An example is that after you sue your institution alleging gender and race discrimination, you believe against all logical indicators that you will be treated fairly in your upcoming tenure vote.

structure, and an employed spouse. When facing these decisions, I had more than most. I reasoned that in the end I could stand to lose socializing with people who obviously did not regard me as an equal. I would be able to withstand the work place isolation: not such a great loss.

When I called minority women in the Academy for advice and good counsel, numerous people failed to respond, including senior minority women in the Academy. Many of my advisors said, “wait for tenure, put your head down and work, publish.” Many suggested that I wait to air my objections until after I obtained the platform on which to preach. I was heartbroken that women who knew my pain would see me continue to suffer.

My next step, and one that I recommend others take, was the adoption of a personal mantra.³² I would repeat a dozen times per day, “I have done nothing wrong, and I will not be shamed.” I would also say, “I have been hated by better.” These two phrases sustained me when several of my colleagues stopped speaking to me in relation to my attempt to agitate for my rights.

I live my life with a series of checklists. When bad things begin to worsen, you need to consider this checklist: (1) Be calm, call your support group, and adopt an affirming mantra; and (2) Accept that you wear many hats.

³² A mantra is a tool for self-guidance. Mantras are known to hold cosmic vibrations that can bring about personal transformation. Repetition of such statements helps emphasize a person’s presence in the world. Mantras serve as a tool in overcoming fear, doubt, and lack of self-esteem. R.A. Yelle, *Explaining Mantras: Rhetoric, the Dream of a Natural Language, and the Efficacy of Ritual*, 266 (Univ. of Chicago 2002), available at <https://ezproxy.okcu.edu/login?url=http://search.proquest.com/docview/305466359?accountid=12942> (last visited Dec. 1, 2013).

1. The Job

You must arrive each day in spite of the events that are causing you distress and discomfort. You must dutifully perform your job. You cannot risk allowing a legitimate reason to mar your pristine record. Stay calm in the classroom and carry on in the best manner you can. I bought new clothes as a coping mechanism. I felt certain that while everything was falling apart, I would not let them take my fashion sensibility.

2. Life as a Litigator

Consider document preservation and collection to support your allegations. You might need to back up materials with your personal e-mail account and remove your items from the office. Collect all of your institutional documents and phone lists. Before you get evicted, get as much info related to your concern as possible: copies of Form 1099s, past promotion standards, and dates of amendments.

3. Engage in Self-Help

Finally, you need to take care of your physical and mental health. You will need to develop a relationship with a mental health professional. Let's face it, your best friend does not want to hear your story about your crazy job one more time – and neither does your spouse! You need crisis intervention. Live to talk about it, be strong.

II. CONCLUSION

Minority women in the Academy must acknowledge that racism and sexism works against us, just as it works against low-paid domestic workers, factory workers, and para-professionals. We must resist being the object of these very harmful influences. When confronted with subtle and not so subtle unequal treatment in the workplace, it is your choice how to deal with and within this environment. Whatever your choice, be encouraged by knowing that you are not alone. You have friends who have

experienced the same poor treatment. You might be a gladiator prepared for battle standing for justice. You might be silent with a stoney perseverance. Weigh your options and be confident as you move forward while being subjected to the Academy.

CLIP AND CARRY CARD

A wallet sized card for minority women in the Legal Academy

<p>I AM COMPETENT Discrimination survival guide for Minority Women in the Legal Academy</p> <p>STEP 1 STAY CALM Fear, disbelief, and anger are your enemies. Call the members of your support group, and adopt an affirming mantra.</p> <p>STEP 2 CARRY ON I. <u>The Job</u> You must do your job in the most excellent manner as not to give an excuse to your detractors.</p>	<p>F O L D H E R E</p> <p>II. <u>The Case</u> Assemble all materials to outline your feelings about discrimination. Collect policies, backup e-mails, and spend some time documenting who, what, when, where, and how.</p> <p>III. <u>Your Life</u> Finding peace is essential to survival even in the most trying situations. Attend to your physical and mental health. Seek out spiritual support and the assistance of mental health professionals.</p>
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