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THE RISE OF SELF SIDELINING

Leslie P. Culver*

ABSTRACT

This Article coins the term “self sidelining” as an experience emanating from two theories: impostor phenomenon and gender sidelining. The impostor phenomenon is a well-established psychological construct that describes the inability of some high-achieving women and men to internalize success. Gender sidelining, recently popularized in legal scholarship, describes the undermining of women’s achievements, as compared to men, that are unactionable as legal discrimination. In view of these theories, this Article contends that when internal fraudulent feelings (imposter phenomenon) are perceived to be externally validated by male gender preference (gender sidelining), women consciously or subconsciously discipline themselves to forgo their professional advancement. This false endorsement of inadequacy leads women to self sideline. Despite significant advances in legal theories and protections for traditionally diverse and underrepresented groups, there are still notable areas where the law is absent to balance injustices and compel inclusivity. Ultimately, this Article exposes the social harm of self sidelining, even absent adequate legal remedies, and urges its awareness and presence in the ongoing gender inequity discussion in the legal profession.

INTRODUCTION

I always thought that there was nothing an antifeminist would want more than to have women only in women’s organizations, in their own little corner empathizing with each other and not touching a man’s world. If you’re going to change things, you have to be with the people who hold the levers.

-Justice Ruth Bader Ginsburg¹

*Professor of Legal Writing, California Western School of Law; Visiting Professor of Lawyering Skills, University of California, Irvine School of Law. As always, I thank God first for the sound mind to write and for the growing desire to change lives by doing so, and second my husband for his unending support. I was honored to present this work at Faculty Scholarship Workshops at California Western School of Law, Chapman Law School, and New England School of Law, and as part of the Rocky Mountain Legal Writing Conference at the University of Denver-Sturm College of Law. I am grateful to the participants and attendees of those workshops for their affirmation and thoughtful suggestions. I am particularly grateful for the generous feedback on earlier drafts received by my colleagues at California Western: Professors Jessica Fink, Catherine Hardee, I. India Thusi, and Daniel Yeager. I extend a special thank you to my mentors Professors Barb Cox (California Western) and Roberta Thyfault (California Western), who encouraged the strength of my voice for years; and Professor Teri McMurtry-Chubb (Mercer) for pushing this work, and me, to greater depths. Finally, I am grateful to the excellent research and editing from my Research Assistant, Liza Ahmed. I pray everyone was awakened in some way by this work.

¹ Emily Bazelon, *The Place of Women on the Court*, N.Y. TIMES (July 7, 2009), http://www.nytimes.com/2009/07/12/magazine/12ginsburg-t.html?pagewanted=all&_r=0; Maeve McDermott, *All rise! 9 amazingly feminist Ruth Bader Ginsburg quotes in honor of her new book*, USA

The better part of critical legal scholarship surrounding traditionally marginalized groups, e.g., women, people of color, LGBTQ+, persons with disabilities, emerged as a need for social equality that seemed absent within the restraint of the normative legal structure.² While legal reform sometimes developed,³ there was often no “legal fix,” rather, the conversation *itself* was the moral outcome, despite criticism from scholarly purists.⁴ Even alongside the conversations, valuable legal theories and civil rights protections have emerged from critical legal scholarship, which progressively moved the legal profession forward into a more diverse and inclusive space. Despite such advances, there still are many areas where the law is noticeably absent to balance injustices, and perhaps justified in some instances. Yet, an absence of a legal presence or fix does not justify ignoring or excusing the inequality affecting traditionally marginalized groups. Even more so, it is often the legal academic voices that are best situated to continue the conversation toward awareness both for those within the academy and beyond.⁵ To this point, Professor Tayyab Mahmud writes,

While the legal academy remains the primary site of engagement for critical legal scholars, we must ensure that our scholarship and pedagogy also operates beyond the boundaries of the academy. . . . The privileges that accrue to us on account of being part of the legal academy can be an invaluable resource in building solidarity and coalitions among the subordinated. As we engage with

TODAY (Mar. 10, 2016 1:00 PM), <https://www.usatoday.com/story/life/entertainthis/2016/03/10/ruth-bader-ginsburg-new-book-my-own-words-most-feminist-quotes/81581010/>.

² See Phillip E. Johnson, *Do You Sincerely Want to be Radical?*, 36 STAN. L. REV. 247, 259-61 (1984) (comparing critical legal scholarship against standard liberal legal scholarship, noting that “[t]he Critical scholars are well aware that man does not live by bread alone. Their primary concern is for social equality, for abolition of hierarchies of power.”); Robin West, *The Contested Value of Normative Legal Scholarship*, 66 J. LEGAL EDUC. 6, 17 (2016) (defining critical legal scholarship as “scholarship with no direct normative ambitions whatsoever, but with the aim of better understanding our own situation, which just might be so steeped in injustice that no legal fix in the world will come close to correcting it.”).

³ See *What is the Americans with Disabilities Act (ADA)?*, ADA NATIONAL NETWORK <https://adata.org/learn-about-ada> (last visited Sept. 2, 2018) (commenting on the ADA becoming law in 1990 as a civil rights response to discrimination against individuals with disabilities).

⁴ See West, *supra* note 2. But see J. Paul Oetken, *Form and Substance in Critical Legal Studies*, 100 YALE L.J. 2209, 2210 (1991) (criticizing critical legal scholarship for failing to “deliver on its promise of a coherent radical vision.”).

⁵ See generally West, *supra* note 2, at 7 (defining “scholarly purists” as those whose legal scholarship is mostly normative with the aim to “make the law better, rather than to explain or describe subtle or nonobvious features of law or the legal system. Therefore, say the scholarly purists, it is not truly scholarship; rather, it is political posturing under the guise of scholarship. True historians, after all, don’t tag policy prescriptions onto their historical analyses. Empiricists of all stripes, quantitative and qualitative, aim for truth, not reform or justice or the good, in their writing.”).

the law in its institutionalized settings, we should also hear an eloquent voice from behind the prison walls: “*The solution is not in the courts but in an awake, aware people.*”⁶

While Professor Mahmud’s statement seeks to push the impact of the legal academy past its own four walls, the underlying sentiment reminds us of the need for, and value of, legal scholarship to bring critical consciousness from beyond the shadows.

This Article beckons awareness to expose yet another obstacle without a legal remedy that particularly affects women, the rise of which has a corrosive effect on the legal profession as a whole. That is, self sidelining. Self sidelining, as defined here, stems from impostor phenomenon effects being intensified through gender sidelining. Briefly, the impostor phenomenon, a psychological construct, emerged in 1978 by psychologists Dr. Pauline Clance and Suzanne Imes.⁷ The phenomenon describes the inability of high-achieving women and men to internalize their success, due to the distorted assumption that they are phonies in their respective field despite objective evidence to the contrary.⁸ While both men and women are susceptible to impostor feelings, research overwhelmingly indicates that the phenomenon is more limiting to women based on familial expectations and gender role socialization,⁹ both of which suggest women’s natural and skilled place is inside the home, not in the workplace. A separate theory, gender sidelining, popularized in legal scholarship by Professor Jessica Fink,¹⁰ describes “the various ways in which women across a wide range of employment settings may find themselves sidelined, upstaged or otherwise

⁶ Tayyab Mahmud, *Review Essay: Genealogy of a State-Engineered “Model Minority”*: “*Not Quite/Not White*” *South Asian Americans*, 78 DENV. U. L. REV. 657, 685–86 (2001) (essay part of LatCrit V Symposium, Class in LatCrit: Theory and Praxis in a World of Economic Inequality, Comparative Racialization)(quoting MUMIA ABU-JAMAL, LIVE FROM DEATH ROW 102 (1995)(emphasis added)).

⁷ See generally Pauline Rose Clance et al., *Imposter Phenomenon in an Interpersonal/Social Context: Origins and Treatment*, 16 WOMEN & THERAPY 79, 79-80 (1995).

⁸ Jaruwat Sakulku & James Alexander, *The Impostor Phenomenon*, 6 INT’L J. BEHAV. SCI. 73, 77 (2011) (citing PAULINE ROSE CLANCE, THE IMPOSTOR PHENOMENON: OVERCOMING THE FEAR THAT HAUNTS YOUR SUCCESS 24-25 (1985)).

⁹ Clance et al., *supra* note 7, at 80.

¹⁰ The concept of gender sidelining has been used in international law and gender studies to discuss the inequities of women. See, e.g., Rebecca Holmes & Nicola Jones, *Rethinking social protection using a gender lens* vii, 13, 19 (Overseas Dev. Inst., Working Paper No. 320, 2010), <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/6273.pdf>; Simone Datzberger & Marielle L.J. Le Mat, *Just add women and stir? Education, gender and peacebuilding in Uganda*, 59 INT’L J. EDUC. DEV. 61, 61 (2018)(“We showcase how gender-responsive approaches in education at the macro-level have traditionally been based on initiatives that embrace gender equality by means of a “just add women and stir approach” thereby sidelining history, cultural sensitivity and context.”), at <http://isiarticles.com/bundles/Article/pre/pdf/130164.pdf>. Recently though, the term was popularized in legal scholarship by Professor Jessica Fink.

marginalized [by men] in ways not reached by traditional antidiscrimination laws.”¹¹

The Article's central thesis suggest that when the impostor phenomenon welds itself to gender sidelining, the latent effects run deep, placing women at risk of *self sidelining* to their personal and professional detriment. In other words, despite objective evidence of success, the high achieving woman internally feels like an intellectual fraud (i.e., impostor phenomenon), but when her ideas and contributions are discounted by men (i.e., gender sidelining), these negative experiences externally validate, albeit erroneously so, the belief that she is an intellectual phony, and she begins to believe that perhaps she does not belong. In turn, she intentionally shies away or walks away from opportunities for professional advancement based on falsely endorsed feelings of inadequacy. She falls prey to self sidelining. At the start, I am mindful of areas of divergence this work takes with existing scholarship. First, that some female faculty at colleges and universities depart their posts pre-tenure due to intense impostor feelings,¹² but by and large the hallmark features of impostor phenomenon are anxiety, fear of failure, and self-doubt,¹³ not departure. Second, that Fink's use of the term gender sidelining as a reference to *women's* achievements and opportunities to advance are downplayed in comparison to *men*. By replacing the term “gender” with “self” to sidelining, I intentionally extend the theory of gender sidelining to suggest

¹¹ Jessica Fink, *Gender Sidelining and the Problem of Unactionable Discrimination*, 29 STAN. L. & POL'Y REV. 57, 57 (2018).

¹² Amy Jo Ahlfeld, *The Impostor Phenomenon Revisited: The Intersection of Race, Gender, and Professional Status for Women of Color* *56 (2009) (unpublished dissertation) (on file with California School of Professional Psychology at Alliant International University, San Diego) (commenting on 2005 study by Kets de Vries noting that “poor decision-making and self-sabotage are often a function of IP, thereby resulting in high-level executives turning down promotions or preemptively switching positions to relieve IP feelings.”); see T. Elon Dancy II & Gaetane Jean-Marie, *Faculty of Color in Higher Education: Exploring the Intersections of Identity, Impostorship, and Internalized Racism*, 22 MENTORING & TUTORING: PARTNERSHIP IN LEARNING 354, 360 (2014); T. Elon Dancy II & Christopher Brown II, *The Mentoring and Induction of Educators of Color: Addressing the Impostor Syndrome in Academe* 21 J. SCH. LEADERSHIP, 607, 616 (2011) (noting that impostor phenomenon was a factor of female faculty leaving colleges and universities pre-tenure). See also Kirsten Weir, *Feel like a fraud?*, AM. PSYCHOL. ASS'N, (Nov. 2013), <http://www.apa.org/gradpsych/2013/11/fraud.aspx> (“Though the impostor phenomenon isn't an official diagnosis listed in the DSM, psychologists and others acknowledge that it is a very real and specific form of intellectual self-doubt. Impostor feelings are generally accompanied by anxiety and, often, depression.”).

¹³ Gina Gibson-Beverly & Jonathan P. Schwartz, *Attachment, Entitlement, and the Impostor Phenomenon in Female Graduate Students*, 11 J. C. COUNSELING, 119, 119 (2008) (citing Pauline Rose Clance & Maureen Ann O'Toole, *The Impostor Phenomenon: An Internal Barrier To Empowerment and Achievement*, 6 WOMEN & THERAPY 51, 51-64(1987)); Dancy II & Brown II, *supra* note 12, at 615-16; Joe Langford & Pauline Rose Clance, *The Impostor Phenomenon: Recent Research Findings Regarding Dynamics, Personality and Family Patterns and Their Implications for Treatment*, 30 PSYCHOTHERAPY 495, 496-98 (1993).

that *women* may in fact downplay or prevent their *own* achievements and opportunities to advance.

While this work draws upon interdisciplinary principles, it is anchored in critical legal scholarship focused on gender disparities. Similar to gender sidelining, self sidelining not only lacks legally actionable remedies (and rightfully so), but it also threatens to further silence, suppress, and shrink voices that make up a significant and integral mass within the legal profession¹⁴ – female law students, attorneys, and judges – unconsciously of their own accord. These voices are vital to the vibrancy and diversity of the legal profession. Legal scholarship continues to underscore gender disparities in opportunities for advancement in legal education, practice and the judiciary.¹⁵ For instance, the very formation of the American Bar Association’s Commission on Women in the Profession in 1987, decades after formal legal reforms were initiated, signaled the need for continued conversations to remove persistent informal barriers.¹⁶ In many respects, the legal profession will remain shortsighted if it defines something as a problem only if there exists or should exist an identifiable legal remedy. This “‘no problem’ problem,” as Professor Rhodes frames it for gender inequity, is an obstacle for much of the discourse surrounding marginalized groups.¹⁷ In other words, “[b]arriers persist, and a central problem is the lack of recognition that there *is* a significant problem.”¹⁸

This Article attempts to bring awareness to a self-defeating phenomenon affecting women’s professional growth, with emphasis on women in the legal profession. The first part provides a background of the impostor phenomenon, discussing where it appears in the legal profession, its social science origins, disparate gender outcomes, and other characteristics. The second part briefly provides an overview of gender sidelining, and the final part theorizes how gender sidelining can trigger and falsely affirm previously held impostor feelings, thus leading to the rise of self sidelining.

The work focuses on white women for two reasons. First, white women coined impostor phenomenon and popularized gender sidelining. And although their respective work does not consider the effect on women with

¹⁴ See *A Current Glance at Women in the Law*, A.B.A. 1, 2 (Jan. 2018), <https://www.americanbar.org/content/dam/aba/administrative/women/a-current-glance-at-women-in-the-law-jan-2018.pdf> (noting that women make up 35% of the legal profession, while men account for 65%).

¹⁵ See also Deborah L. Rhode, *The Unfinished Agenda: Women and the Legal Profession*, 8-9, A.B.A. 1, 5-8 (2001), <http://womenlaw.stanford.edu/pdf/aba.unfinished.agenda.pdf>. (noting that men are two to three times more likely to become partners in law firms than women, and noting that although there have been some increases in female judges, law faculty, and law students, women are still significantly underrepresented in positions of power and prestige).

¹⁶ See also *id.* at 13.

¹⁷ See *id.*

¹⁸ See *id.*

multiple diverse identities, e.g., race, sexuality, disability, it may be foolish to assume that the absence of such explicit consideration deems the experiences of such diverse women automatically included in their findings.¹⁹ Second, while beyond the scope of this work, I would argue that the rise of self sidelining has a one-dimensional effect on white women, compared to a two-dimensional effect on women with multiple diverse identities. Even though white women are affected by *gender* bias, they still highly benefit from white privilege and white supremacy; that is, they are legitimized by their race.²⁰ Therefore, even in the wake of experiencing impostor feelings, any gender sidelining by men is an affront to a white woman's ability to professionally advance based on patriarchy alone.²¹ Thus, when the white woman self sidelines, she only has to push past a one-dimensional concern based on gender.²² Compare this one-dimensional concern to, for example, women of color who live in a space of multiple diverse dimensions.²³ Unlike white women who are only affected by gender bias, as compared to white men, women of color are affected by both *race* and *gender* bias and cannot be legitimized on either plane with white men.²⁴ For women of color who experience impostor feelings, it is uncertain whether any gender sidelining that may follow is an affront by white men based only on patriarchy, on race, or both – a problem widely recognized as intersectionality.²⁵ In this way, when a woman of color self sidelines, she has to consciously push past bias or presumed incompetency based on her race, as well as gender bias.²⁶ This represents a two-

¹⁹ I take care to attribute this racial reflection to Professor Teri McMurtry-Chubb; my mentor, friend, and fellow scholar. See *infra* note 65 and accompanying text. (noting that Clance and Imes' original research was conducted with 150 white women). For recent scholarship noting that gender is always mediated by race and class, making the experiences of Black women distinct and different from that of White women, see, e.g., Trina Jones & Kimberly Jade Norwood, *Aggressive Encounters & White Fragility: Deconstructing the Trope of the Angry Black Woman*, 102 Iowa L. Rev. 2017, 2025–26, 2060, 2060 (2017)(discussing legal scholarship of Professors Kimberle Crenshaw and Angela Harris who both note, respectively, that “Black women’s experiences are not merely additive (Black men’s experience + White women’s experience = Black women’s experience),” but that race and gender are interconnected to one’s identity, and that “there is nothing ‘essential’ about gender that causes all women to share the same experience of sexism. There is no monolithic or universal “women’s experience.”).

²⁰ See generally Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Anti-Discrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139 (1989).

²¹ See *id.*

²² See *id.*

²³ See *id.*

²⁴ PAULINE ROSE CLANCE, *THE IMPOSTOR PHENOMENON: OVERCOMING THE FEAR THAT HAUNTS YOUR SUCCESS* Preface (1985) (“In both my research and my work as a practicing psychotherapist, I constantly see men and women who have every reason to be on top of the world; instead they are miserable because in their eyes they never measure up.”).

²⁵ See generally Crenshaw, *supra* note 20.

²⁶ See generally Crenshaw, *supra* note 20.

dimensional concern (and in some cases three or more due to LGBTQ+ identity, living with a disability, or other diverse attributes as part of the women's identity).²⁷

While the focus is on white women, and at the risk of essentializing a monolithic woman experience, I believe there is value in the conversation of self sidelining for all women as an impetus against patriarchy. But the awareness of the unique way in which self sidelining may manifest in women with multiple diverse identities bears additional consideration in the face of white privilege, white supremacy, and white male domination.

I. THE FRAUDULENT LENS OF IMPOSTER PHENOMENON

There is a sense of grief in the abundance of scholarship concentrated on a woman's inability to internalize her successes, where she instead chooses to internalize a gross underestimation of herself,²⁸ to her own soul's despair. This undervaluation of women as compared to men is prevalent in our current culture, as demonstrated by the bombardment of litigation claims waging war against unequal pay²⁹ and sexual harassment,³⁰ impediments to professional advancement in predominantly male organizations,³¹ and most recently in the surge of women's voices in speaking out in the #metoomovement.³² It is an understatement to say this divergent landscape between male and female is bleak, although America

²⁷ See generally Crenshaw, *supra* note 20.

²⁸ CLANCE, *supra* note 24.

²⁹ See, e.g., Colleen O'Connor, *DU Professor Files Gender-Based Wage-Bias Case Against Law School*, DENV. POST, July 9, 2013, <http://www.denverpost.com/2013/07/09/du-professor-files-gender-based-wage-bias-case-against-law-school/>; Laurie Segall, *3 Former Google Employees Claim 'Pervasive' Pay Inequities Against Women*, CNN TECH (Sept. 15, 2017), <http://money.cnn.com/2017/09/14/technology/business/google-lawsuit-pay/index.html>; Joe Mullin, *Female Ex-Oracle Engineers Sue for Gender Discrimination*, ARS TECHNICA (Oct. 2, 2017), <https://arstechnica.com/tech-policy/2017/10/female-ex-oracle-engineers-sue-for-gender-discrimination>.

³⁰ Paul Farhi, *Report: Bill O'Reilly Settled Sexual Harassment Claim from Fox News Contributor for \$32 Million*, THE WASH. POST (Oct. 21, 2017), https://www.washingtonpost.com/lifestyle/style/bill-oreilly-settled-sixth-sexual-harassment-claim-for-32-million/2017/10/21/ff34b24c-b68c-11e7-9e58-e6288544af98_story.html?utm_term=.c66ba2a95d96; Doug Stanglin, *Report: Fox Kept Bill O'Reilly Despite \$32M Sexual Harassment Settlement*, USA TODAY (Oct. 21, 2017, 3:12 PM), <https://www.usatoday.com/story/news/2017/10/21/report-bill-oreilly-struck-sexual-harassment-deal-january-former-fox-analyst/787360001/>; *Fox Renewed Bill O'Reilly Deal Despite Harassment Suit*, BBC NEWS (Oct. 22, 2017), <http://www.bbc.com/news/world-us-canada-41712527>.

³¹ See generally *A Current Glance at Women in the Law*, A.B.A. (Jan. 2018), <https://www.americanbar.org/content/dam/aba/administrative/women/a-current-glance-at-women-in-the-law-jan-2018.pdf> (noting the low statistics of women in leadership positions in Fortune 500 general counsel (26.4%), law school deans (32.4%), federal and state judgeships (27.1%)), although the 2017 report noted that women made up 54% of leadership positions on law reviews and 51.2% of the ABA presidential appointments. See *A Current Glance at Women in the Law*, A.B.A. (Jan. 2017), https://www.americanbar.org/content/dam/aba/marketing/women/current_glance_statistics_january2017.authcheckdam.pdf.

³² See generally <https://metoomvmt.org> (last visited Feb. 16, 2019).

seems to beckon the world to recognize it as a leader on the stage of equality.³³ Perhaps parity exists for entry into professional opportunities, but in reality, *success* in those opportunities is usually for males, and even still, white males.³⁴ For behind America's curtains are highly educated female figures who, if they choose to speak, are strained to fight for workplace equality through strategies such as protests and litigation, for history cautions her, and contemporary gender stereotypes affirm, that her value and intellect lie primarily in domesticated work.³⁵ A binary struggle more prominent for women ensues; that is, an external crusade for equality, and at the same time an internal battle to believe her own self as competent in a domain outside the home.³⁶ One academic captures this sentiment well in noting, "women remained caught in an interplay between the desire to fight for what fe[els] right and the recognition that it may not be possible after all."³⁷ This portrayal is fertile ground for the impostor phenomenon.³⁸ The following sections discuss where the impostor phenomenon appears in legal scholarship, its social science origins, and finally its prominent and defining characteristics.

A. Latent Imposter Phenomenon in the Legal Profession

In professions where one sex is predominating, individuals of the opposite sex are more likely to demonstrate impostor behaviors.

-Anna Parkman³⁹

While the discussion of the impostor phenomenon among female attorneys appears limited in legal scholarship,⁴⁰ the legal profession

³³ See, e.g., Mia Bush, *US Women Make Strides Toward Equality, But Work Remains*, VOA NEWS (last updated Mar. 8, 2016, 7:45 AM), <https://www.voanews.com/a/international-womens-day-us-women-gender-equality-work-remains/3223162.html> (commenting that despite the United States' "huge strides" toward women's right to vote, place in the workforce, and higher earner of college degrees, the "U.S. rates 28th out of 145 countries in an annual world ranking of equality for women.").

³⁴ See generally *id.*

³⁵ See *id.*

³⁶ See *id.*

³⁷ Marianna Fotaki, *No Woman is Like a Man (in Academia): The Masculine Symbolic Order and the Unwanted Female Body*, 34 ORG. STUD. 1251, 1266 (2013).

³⁸ See *id.*

³⁹ Anna Parkman, *The Impostor Phenomenon in Higher Education: Incidence and Impact*, 16 J. HIGHER EDUC. THEORY & PRAC. 51, 53, 58 (2016) (referencing JOAN C. HARVEY & CYNTHIA KATZ, IF I'M SO SUCCESSFUL WHY DO I FEEL LIKE A FAKE: THE IMPOSTOR PHENOMENON (1985)).

⁴⁰ See Abigail Perdue, *Man Up or Go Home: Exploring Perceptions of Women in Leadership*, 100 MARQ. L. REV. 1233, 1287-88 (2017) (discussing how "sex stereotyping legitimates male power while potentially disadvantaging women" and noting that "[w]omen are also more susceptible to self-doubt and the feeling that they are frauds who do not belong in the position, a phenomenon oft-described as 'impostor syndrome.'"); Christyne J. Vachon, *Tiaras, Queen Bees, Impostors and the Board Room:*

reverberates with sounds of women feeling like frauds and second-guessing their work and contributions.⁴¹ Preeminent in this discussion is the gender equity work of Professor Deborah Rhode, through which she discusses the anomaly that characterizes female lawyers' satisfaction and dissatisfaction with legal practice.⁴²

For example, in her work, *From Platitudes to Priorities: Diversity and Gender Equity in Law Firms*,⁴³ Professor Rhode urges the legal profession to set the example of gender and diversity equity in the workplace.⁴⁴ According to a 2018 ABA report, the legal profession is comprised of 65% males, and 35% females, despite women actually graduating from law school at relatively the same numbers as men.⁴⁵ In a profession that remains male-dominated, it comes as no surprise that gender inequalities still exist.⁴⁶ Thus, while "female lawyers report about the same overall career satisfaction as" compared to male attorneys, they paradoxically "experience greater dissatisfaction with most specific dimensions of practice: salary, level of responsibility, recognition for work, content of work, chances for advancement, and control over their work lives."⁴⁷ To

Lean In & Women in Corporate Governance, 9 J. BUS. & TECH. L. 279, 289–91 (2014) (commenting on Sheryl Sandberg's acclaimed book *Lean In* (2013) and her discussion of the impostor syndrome, noting "[i]mpostor syndrome causes women to undervalue their contributions. 'For women, feeling like a fraud is a symptom of a greater problem. We consistently underestimate ourselves. Multiple studies in multiple industries show that women often judge their own performance as worse than it actually is, while men judge their own performance as better than it actually is.' Sandberg asserts that women underestimate themselves more when evaluating themselves in front of other people or in stereotypically male dominated roles.").

⁴¹ See, e.g., Perdue, *supra* note 40, at 1288 (noting that "[w]omen are also more susceptible to self-doubt and the feeling that they are frauds who do not belong in the position, a phenomenon oft-described as 'impostor syndrome'"; Deborah L. Rhode, *Leadership in Law*, 69 STAN. L. REV. 1603, 1649 (2017) ("Despite recent progress, women, like racial minorities, often fail to receive the presumption of competence enjoyed by white men."); Susanne Aronowitz, *A Secret Epidemic in the Legal Profession Imposter Syndrome*, 77 OR. ST. B. BULL. 36, 36 (2017) ("Imposter syndrome is particularly pronounced among lawyers who are women, racial minorities, LGBT, disabled or first-generation professionals. Attorneys who don't see themselves reflected in the people they work with tend to question their own legitimacy. Without peers and role models, attorneys in underrepresented groups are more likely to feel as though they don't belong.").

⁴² See generally Deborah L. Rhode, *From Platitudes to Priorities: Diversity and Gender Equity in Law Firms*, 24 GEO. J. LEGAL ETHICS 1041 (2011).

⁴³ *Id.*

⁴⁴ *Id.* at 1072-77.

⁴⁵ See *A Current Glance at Women in the Law*, A.B.A. (Jan. 2018), <https://www.americanbar.org/content/dam/aba/administrative/women/a-current-glance-at-women-in-the-law-jan-2018.pdf> (offering 2018 statistics for women in the legal profession as well as the number of women in law school, which latter numbers reported 51.3% (compared to 48.7% of men) women entered law school, with 47.3% women receiving their J.D. degree (compared to 52.7% of men)); Elizabeth Olson, *Women Make Up Majority of U.S. Law Students for First Time*, N.Y. TIMES (Dec. 16, 2016), <https://www.nytimes.com/2016/12/16/business/dealbook/women-majority-of-us-law-students-first-time.html>.

⁴⁶ Rhode, *supra* note 42, at 1042.

⁴⁷ *Id.* at 1044.

explain this inconsistency, Rhode restates two theories: one involving values and the second concerning lack of entitlement.⁴⁸ The first theory suggests that women value intellectual challenges more so than men do, supporting an overall job satisfaction.⁴⁹ But, because women are disadvantaged in notable areas, such as compensation and promotion, genuine job satisfaction may be fleeting and a synchronous dissatisfaction sets in.⁵⁰ The second theory, alluding to the imposter phenomenon, "is that women have a lower sense of entitlement, in part because their reference group is other women or because they 'have made peace with second best.'"⁵¹

The imposter phenomenon affects women in a different manner than men, as the discussion below indicates, and the reasons for this disparate gender effect are implicitly present in legal scholarship. For example, Rhode's article describes the "woman problem" as one of questioning a woman's "commitment and client development" as opposed to differing credentials from male attorneys.⁵² The woman problem, framed in this manner, fixes the prime focus on gender role socialization, a feature of imposter phenomenon negatively affecting women attorneys. To this point, Rhode argues that,

[b]ecause women continue to have disproportionate family responsibilities and are more likely to reduce their schedules or to take time out of the workplace than men, they are assumed to be less available, less dependable, and less worthy of extensive mentoring. . . . Women are also often presumed to be less adept in business development and in the self-promotional abilities that underlie it.⁵³

Recent legal scholarship by Professor Abigail Perdue, *Man Up or Go Home: Exploring Perceptions of Women in Leadership*, briefly addresses the imposter phenomenon, both specifically and implicitly.⁵⁴ Specifically, Perdue writes, "[w]omen are also more susceptible to self-doubt and the feeling that they are frauds who do not belong in the position,

⁴⁸ *Id.*

⁴⁹ *See id.*

⁵⁰ *See id.*

⁵¹ *Id.* (citing David Chambers, *Accommodation and Satisfaction: Women and Men Lawyers and the Balance of Work and Family*, 14 *LAW & SOC. INQUIRY* 251, 280 (1989)). For discussion of the theories, see Fiona Kay & Elizabeth Gorman, *Women in the Legal Profession*, 4 *ANN. REV. L. & SOC. SCI.* 299, 303, 317-18 (2008)).

⁵² *Id.* at 1048.

⁵³ *Id.* at 1048. ("In the ABA Commission on Women study, almost three-quarters of female lawyers reported that their career commitment had been questioned when they gave birth or adopted a child. Only 9% of their white male colleagues and 15% of minority male colleagues had faced similar challenges.").

⁵⁴ Perdue, *supra* note 40, at 1287-88.

a phenomenon oft-described as ‘impostor syndrome.’⁵⁵ Further, in like form to Rhode’s discussion of the “woman problem,”⁵⁶ Perdue’s criticism of gender stereotypes implicitly speaks to the uniqueness of impostor feelings among women.⁵⁷ That is, how gender stereotypes minimize women’s professional value,⁵⁸ pit a woman’s likeability and friendliness against a perception of competence,⁵⁹ and otherwise render women as the more community-oriented collaborative gender,⁶⁰ and not the gender that would self-promote or self-advocate.⁶¹

The existing gender inequity discourse and subtle impostor phenomenon undertones in legal scholarship ultimately provide unhealthy origins for *self sidelining*.⁶²

B. Social Science Origins of the Impostor Phenomenon

Women who experience the impostor phenomenon maintain a strong belief that they are not intelligent; in fact they are convinced that they have fooled anyone who thinks otherwise.

-Drs. Pauline Rose Clance & Suzanne Imes⁶³

Psychologists and professors Pauline Rose Clance and Suzanne Imes coined the term impostor phenomenon in 1978 based upon their seminal work at Georgia State University.⁶⁴ Over a period of five years, Clance and

⁵⁵ *Id.* at 1288.

⁵⁶ Rhode, *supra* note 42, at 1048.

⁵⁷ Perdue, *supra* note 40, at 1288.

⁵⁸ *Id.* at 1288. There is no suggestion Perdue’s comments would be limited to the legal profession.

⁵⁹ *Id.* at 1287. (citing *The Double-Bind Dilemma for Women in Leadership: Damned if You Do, Doomed if You Don’t*, CATALYST (July 15, 2007), <http://www.catalyst.org/knowledge/double-bind-dilemma-women-leadership-damned-if-you-do-doomed-if-you-dont-0>; Madeline E. Heilman & Julie J. Chen, *Same Behavior, Different Consequences: Reactions to Men’s and Women’s Altruistic Citizenship Behaviors*, 90 J. APPLIED PSYCHOL. 431, 431-32 (2005); Madeline E. Heilman & Tyler G. Okimoto, *Why are Women Penalized for Success at Male Tasks?: The Implied Communality Deficit*, 92 J. APPLIED PSYCHOL. 81, 81-82 (2007)).

⁶⁰ *Id.* at 1288. (citing SHERYL SANDBERG, *LEAN IN* 45 (2013); see Emily T. Amanatullah & Catherine H. Tinsley, *Punishing Female Negotiators for Asserting Too Much . . . or Not Enough: Exploring Why Advocacy Moderates Backlash Against Assertive Female Negotiators*, 120 ORG. BEHAV. & HUM. DECISION PROCESSES 110, 110-11 (2013); Hannah Riley Bowles, et al. *Social Incentives for Gender Differences in the Propensity to Initiate Negotiations: Sometimes it Does Hurt to Ask*, ORG. BEHAV. & HUM. DECISION PROCESSES 84, 84-85 (2007)).

⁶¹ *Id.* (citing SANDBERG, *supra* note 60; Amanatullah & Tinsley, *supra* note 60, at 110-11; Bowles et al., *supra* note 60, at 84-85).

⁶² *Id.* at 1287.

⁶³ Pauline Rose Clance & Suzanne Imes, *The Imposter Phenomenon in High Achieving Women: Dynamics and Therapeutic Intervention*, 15 PSYCHOTHERAPY THEORY RES. & PRAC. 241, 241 (1978).

⁶⁴ *Id.* Since their seminal work, later researchers have modified the name and definition of this phenomenon based on independent clinical studies. For example, Harvey and Katz describe the

Imes counseled over 150 “highly successful” white women who bore academic distinction, postgraduate degrees, were professionally respected, and otherwise recipients of praise and recognition for their accomplishments.⁶⁵ Yet, despite their accolades, Clance and Imes found that “these women [did] not experience an internal sense of success. They considered themselves to be ‘impostors.’”⁶⁶ Invariably, these women doubted their own success and capabilities, and saw any accomplishments as unrelated to ability, but rather to the result of luck or chance.⁶⁷

Described as a psychological construct or experience in the literature and research, the phenomenon’s attributes can not only affect all aspects of life, but can also particularly disturb one’s academic and professional endeavors.⁶⁸ To this point, impostor sufferers generally do not have a low self-esteem, yet when it comes to achievement, their self-esteem has been described as “precarious, requiring a system of defenses that is taxing and

Imposter Phenomenon as a “psychological pattern rooted in intense, concealed feelings of fraudulence when faced with achievement tasks.” Sakulku & Alexander, *supra* note 8, at 78 (quoting Chan M. Hellman & Tonia D. Caselman, *A Psychometric Evaluation of the Harvey Impostor Phenomenon Scale*, 83 J. PERSONALITY ASSESSMENT 161 (2004) (citing JOAN C. HARVEY & CYNTHIA KATZ, IF I’M SO SUCCESSFUL WHY DO I FEEL LIKE A FAKE: THE IMPOSTOR PHENOMENON (1985))). Harvey and Katz further believe three core characteristics exist: “(1) the belief that he/she has fooled other people, (2) fear of being exposed as an impostor, and (3) inability to attribute own achievement to internal qualities such as ability, intelligence, or skills.” Sakulku & Alexander, *supra* note 8, at 78. Kolligian and Sternberg believe the term “Perceived Fraudulence” is more appropriate than Imposter Phenomenon because “the normal meaning of ‘impostor’ [is] a fraud.” Sakulku & Alexander, *supra* note 8, at 78. (citing J. Kolligian Jr. & R. J. Sternberg, *Perceived Fraudulence in Young Adults: Is There an ‘Impostor Syndrome’?*, 56 J. PERSONALITY ASSESSMENT, 308, 308-26 (1991)). Finally, Kets de Vries would construe the term more broadly as a Neurotic Impostor, which manifests as “fear of failure or success” and perfectionism, inter alia, where they display “a public self that is different from their private self, in order to meet social expectations.” Sakulku & Alexander, *supra* note 8, at 79. (citing M. Kets de Vries, *The Dangers of Feeling Like a Fake*, 83 HARV. BUS. REV. 110, 110-16 (2005)).

⁶⁵ Clance & Imes, *supra* note 63. Clance & Imes’ sample included:

[Ninety-five] undergraduate women and 10 Ph.D. faculty women at a small academically acclaimed private [M]idwestern co-educational college; 15 undergraduates, 20 graduate students, and 10 faculty members at a large southern urban university; six medical students from northern and southern universities; and 22 professional women in such fields as law, anthropology, nursing, counseling, religious education, social work, occupational therapy, and teaching. They were primarily white middle- to upper-class women between the ages of 20 and 45. Approximately one-third were therapy clients with specific presenting problems (other than the impostor problem); the other two-thirds were in growth-oriented interaction groups or classes taught by the authors.

Clance & Imes, *supra* note 63, at 242.

⁶⁶ Clance & Imes, *supra* note 63, at 241.

⁶⁷ Clance & Imes, *supra* note 63, at 242; Gibson-Beverly & Schwartz, *supra* note 12, at 119; Dancy II & Jean-Marie, *supra* note 11, at 359.

⁶⁸ Beverly & Schwartz, *supra* note 13, at 119. In the literature, the Impostor Phenomenon is defined as a construct and is “discussed in terms of self psychological theory.” Langford & Clance, *supra* note 12, at 495.

anxiety-producing.”⁶⁹ For example, while harboring profound feelings of intellectual and professional phoniness, individuals who suffer from this phenomenon generally underestimate and doubt themselves, while simultaneously overestimating the strengths of other people, maintaining fears of evaluation and failure; feelings of guilt about, or downplaying, achieving success; or feelings that success is not even deserved.⁷⁰

To test whether a person displays impostor characteristics, and the degree to which one may be suffering, Dr. Clance developed a twenty-question test, commonly known as the Clance Impostor Phenomenon Scale.⁷¹ Clance describes it as a “self-report[ing] measurement that has been fully researched to give a quick answer to any who might be wondering if they are an ‘impostor.’”⁷² To date, there is no distinguishing category to which all impostor sufferers belong, as its members range broadly across disciplines and cultures.⁷³ Regardless of its reach (which is actually a disheartening realization), in subsequent work Clance extended four behaviors to six potential characteristics to which any person, male or female, can manifest:⁷⁴ (1) The Impostor Cycle, (2) The need to be special or to be the very best, (3) Superman/Superwoman aspects, (4) Fear of failure, (5) Denial of competence and discounting praise, and (6) Fear of guilt about success.⁷⁵ These characteristics are briefly set forth in the following section.

C. Impostor Phenomenon Characteristics

The genesis of impostor feelings is influenced largely by family dynamics and social contexts, i.e., gender role socialization.⁷⁶ Dr. Clance’s

⁶⁹ Langford & Clance, *supra* note 13, at 496, 498.

⁷⁰ Beverly & Schwartz, *supra* note 13, at 119 (referencing Pauline Rose Clance & Maureen Ann O’Toole, *The Impostor Phenomenon: An Internal Barrier To Empowerment and Achievement* 6 WOMEN & THERAPY 51 (1987)); Clance et al., *supra* note 7, at 80; Dancy II & Brown II, *supra* note 12, at 615-16.

⁷¹ CLANCE, *supra* note 24, at 19. To take the test visit, <http://paulineroseclance.com/pdf/IPTestandscoring.pdf>. For each question the respondent is asked to circle the number (1 indicating *not at all true*, through 5 signaling *very true*) that best indicates how true the statement is; for example, questions one and two ask: “1. I have often succeeded on a test or task even though I was afraid that I would not do well before I undertook the task” and “2. I can give the impression that I’m more competent than I really am.”

⁷² CLANCE, *supra* note 24, at 19.

⁷³ Clance & Imes, *supra* note 63, at 242; Sakulku & Alexander, *supra* note 8, at 73.

⁷⁴ Clance & Imes, *supra* note 63, at 244-45 (finding once the posture of impostor has been assumed, a woman may participate in any of the four behaviors (but seldom all): diligence and hard work, sense of phoniness, use of charm and perceptiveness to win approval, and avoiding success); Sakulku & Alexander, *supra* note 8, at 75 (citing PAULINE ROSE CLANCE, *THE IMPOSTOR PHENOMENON: OVERCOMING THE FEAR THAT HAUNTS YOUR SUCCESS* (1985)).

⁷⁵ Sakulku & Alexander, *supra* note 8, at 73,75.

⁷⁶ See *infra* note 108 and accompanying text.

six potential characteristics identify someone affected by the impostor phenomenon.⁷⁷

1. The Impostor Cycle

Certainly the first characteristic, *The Impostor Cycle*, is the most referenced in relevant literature, if not by name, than in content.⁷⁸ Beginning with “a new opportunity . . . new project, or [the] start[] [of] any challenging occupational task,” the Impostor Cycle starts running.⁷⁹ With the onset of a new challenge, anxiety may set in, which results in a person over-preparing, or procrastinating until the last minute, and then “engag[ing] in a frenzy of activity.”⁸⁰ If they are successful by over-preparing, they will believe they must *always* over-prepare to compete with their colleagues, and that any success was due to immense effort and hard work.⁸¹ Likewise, if they are successful despite procrastination, they will presume it was sheer luck in pulling off a last minute task.⁸² In either case, the person “forfeits the affirmation of a job well-done” and accepts that they are an impostor.⁸³ The person’s belief about how success was achieved (e.g., effort or luck) makes the person feel like a fraud and that such success cannot be duplicated, thus triggering self-doubt and anxiety when another new task presents itself.⁸⁴ The Impostor Cycle is repeated.⁸⁵

2. The need to be special or to be the very best

This self-evident characteristic arguably creates an interesting conflict, placing the person on the losing end of his or her own measuring stick. Desiring to be the very best in a given situation, the person also realizes there are many talented and successful people around them, particularly at a university level, thus his or her own brilliance is no longer atypical and it is dismissed.⁸⁶

As an aside, this characteristic is animated in the Disney movie, *The Incredibles*, the endearing story of a family of superhero crime-fighters who are relegated to live as “normal” citizens after a stint of attempts to help their fellow man back-fired.⁸⁷ In one scene, Dash, so named for his

⁷⁷ Sakulku & Alexander, *supra* note 8, at 75.

⁷⁸ Sakulku & Alexander, *supra* note 8, at 75.

⁷⁹ Clance et al., *supra* note 7, at 80, 81; see Sakulku & Alexander, *supra* note 8, at 75, 76.

⁸⁰ See Clance et al., *supra* note 7, at 81.

⁸¹ Clance et al., *supra* note 7, at 81; see also Sakulku & Alexander, *supra* note 8 at 76.

⁸² Clance et al., *supra* note 7, at 81; see Sakulku & Alexander, *supra* note 8, at 76.

⁸³ Clance et al., *supra* note 7, at 81.

⁸⁴ See Sakulku & Alexander, *supra* note 8, at 76.

⁸⁵ See Sakulku & Alexander, *supra* note 8, at 75, 76 (displaying Impostor Cycle figure).

⁸⁶ See Sakulku & Alexander, *supra* note 8, at 77.

⁸⁷ THE INCREDIBLES (Walt Disney Pictures 2004).

superhero speed, is frustrated by his mom's repeated denial of his request to join a sports team at school.⁸⁸ Pleading with his mom to let him go out for sports, he promises to "only be the best by a tiny bit" and adds, "Dad always said our powers were nothing to be ashamed of; our powers made us special."⁸⁹ With a heavy sigh his mom replies, "Everyone's special Dash," to which he sulkily remarks, "which is another way of saying no one is."⁹⁰ Despite the son's need to be special or to be the very best, his mom is constructing this normalized belief that everyone is the same, that everyone has talent and is special.⁹¹ Thus, the subtext is that Dash's own talents as a superhero are really not special and, most relevant, that he should dismiss or suppress them.⁹² Sadly, Dash's face expresses the crushed spirit of someone who desires to be the very best, and simply cannot.⁹³

3. Superman/Superwoman aspects

Related to the need to be the best, this *Superman/Superwoman* characteristic describes the proverbial perfectionist.⁹⁴ The perfectionist's goals are high and "almost impossible" to reach; the failure to do so renders them overwhelmed and disappointed.⁹⁵ To this point, relevant studies attribute impostor feelings to an unhealthy belief that perfectionism can and should be attained.⁹⁶ For example, in one study of college students where the relationship between impostorship and perfectionism was tested, the study, unsurprisingly, "supported that perfectionism correlates to the extent that participants externalized success, set high standards for themselves, and self-analyzed."⁹⁷ Interestingly, a later study confirmed the positive correlation between impostorship fears and perfection, but found that the

⁸⁸ Wrbeatty, *Incredibles Dash and Mom*, YOUTUBE (Sept. 19, 2009), https://www.youtube.com/watch?v=1E9pKU_N15A (showing a clip from the film *The Incredibles*).

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ *See id.*

⁹² *See id.*

⁹³ *See id.*

⁹⁴ Sakulku & Alexander, *supra* note 8, at 77.

⁹⁵ Sakulku & Alexander, *supra* note 8, at 77.

⁹⁶ Dancy II & Brown II, *supra* note 12, at 617 (citing J. Stoeber & K. Otto, *Positive Conceptions of Perfectionism: Approaches, Evidences, Challenges*, 10 PERSONALITY & SOC. PSYCHOL. REV. 295, 295-319 (2006); T. Thompson, H. Davis, & D. Davidson, *Attributional and Affective Responses of Impostors to Academic Success and Failure Outcomes*, 25 PERSONALITY & INDIVIDUAL DIFFERENCES 381, 381-96 (1998)).

⁹⁷ Dancy II & Brown II, *supra* note 12, at 615-18 (referencing a Thompson, Davis & Davidson 1998 study of 164 college students (citing T. Thompson, H. Davis, & D. Davidson, *Attributional and Affective Responses of Impostors to Academic Success and Failure Outcomes*, 25 PERSONALITY & INDIVIDUAL DIFFERENCES 381, 381-96 (1998))).

fears were more associated with “displays of public perfection, not simply general self-presentation [sic] concerns.”⁹⁸

4. Fear of failure

The *fear of failure*, particularly when a new achievement-related task is assigned, results in a person overworking due to high levels of anxiety.⁹⁹ The idea of “not performing at the highest standard precipitates feelings of shame and humiliation.”¹⁰⁰ To this point, those with imposter feelings, more so than those without, “experience greater concern over mistakes, overestimate the frequency of mistakes, have less satisfaction with their performance, and feel less confident about their performance.”¹⁰¹ Even knowing that failure is unavoidable, the impostor “can[not] tolerate the thought of it and they avoid it at all costs.”¹⁰² For some, the fear of failure may be so profound that they simply belittle their own ability and talent to be successful, assuming they cannot fail if “they don’t reach too high.”¹⁰³ Or, perhaps from a childhood incident or the hallowed halls of family memories, the fear of failure is closely tied to “appearing foolish or stupid” – an identity the person with imposter feelings cannot bear.¹⁰⁴ Thus, with the impossible goal of never being humiliated, they do not place themselves in situations where failure of this magnitude could even occur.¹⁰⁵

5. Denial of competence and discounting praise

⁹⁸ *Id.* at 618 (referencing a Ferrari and Thompson study of 165 undergraduate students attending a medium-sized urban university (citing J. Ferrari & T. Thompson, *Impostor Fears: Links with Self-Presentational Concerns and Self-Handicapping Behaviors*, 40 PERSONALITY & INDIVIDUAL DIFFERENCES 341, 341-52 (2005))).

⁹⁹ Sakulku & Alexander, *supra* note 8, at 77 (emphasis added).

¹⁰⁰ Sakulku & Alexander, *supra* note 8, at 77.

¹⁰¹ Gibson-Beverly & Schwartz, *supra* note 13, at 120.

¹⁰² CLANCE, *supra* note 24, at 63.

¹⁰³ *Id.* at 72.

¹⁰⁴ *Id.* at 74. See also SANDBERG *supra* note 60, at 351 n.12 (discussing 2008 Girl Scout Survey finding despite “no difference between girls and boys in terms of their likelihood to have leadership aspirations and to think of themselves as leaders” those girls who did not want to be leaders “attributed their lack of desire to ‘fear of being laughed at, making people mad at them, coming across as bossy, or not being liked by people.’” GIRL SCOUT RESEARCH INSTITUTE, CHANGE IT UP: WHAT GIRLS SAY ABOUT REDEFINING LEADERSHIP 19 (2008), http://www.girlscouts.org/research/pdf/change_it_up_executive_summary_english.pdf).

¹⁰⁵ Truthfully, most people would acknowledge that some of the most highly successful people had a myriad of failures along the way, such as Albert Einstein, Walt Disney, Thomas Edison, Oprah Winfrey, J.K. Rowling, Lucille Ball, Stephen Spielberg, and many others. Rachel Sugar, et. al, 29 *Famous People Who Failed Before They Succeeded*, BUS. INSIDER (Jul. 9, 2015 2:45 PM), <http://www.businessinsider.com/successful-people-who-failed-at-first-2015-7/#rah-winfrey-was-publicly-fired-from-her-first-television-job-as-an-anchor-in-baltimore-for-getting-too-emotionally-invested-in-her-stories-2>.

Observed in this characteristic, a person *discounts praise* or downplays positive feedback and “objective evidence of success,” but actually takes the time to invest in arguments as to why they do not deserve any praise or attention for successes achieved.¹⁰⁶ In other words, imposter feelings generate an individual’s almost insistent need to negate any apparent evidence that would contradict their *self-belief* that they are really not intelligent.¹⁰⁷

6. Fear and guilt about success¹⁰⁸

Interestingly, this final characteristic of *fear and guilt about success* is driven by external concerns. That is, unlike the other more internal characteristics, such as feeling special (or desiring to feel such), lofty goals, or the opposite extreme of overwhelming anxiety and self-doubt, this final fear rests in how others will perceive such success.¹⁰⁹ To this fear, social science scholars Sakulku and Alexander write: “when their successes are unusual in their family or their peers, Impostors often feel less connected and more distant. They are overwhelmed by the guilt about being different and worry about being rejected by others.”¹¹⁰

In short, the literature on the impostor’s feelings of inadequacy seem unending, with perhaps an attempt not to dim the reality that these individuals are generally exceptional academics and professionals.¹¹¹ While both women and men are prone to the impostor phenomenon, the next section discusses its particular, and often limiting, effect upon women.

D. The Unique Effect of Impostor Phenomenon on Women

Since success for women is contraindicated by societal expectations and their own internalized self-evaluations, it is not surprising that women . . . need to find explanations for their accomplishments other than their own intelligence — such as fooling other people.

-Drs. Pauline Rose Clance & Suzanne Imes¹¹²

In their seminal clinical research, Clance and Imes found the impostor phenomenon occurred more in women than in men in both frequency and

¹⁰⁶ See Sakulku & Alexander, *supra* note 8, at 77 (emphasis added).

¹⁰⁷ See generally Clance & Imes, *supra* note 63 (emphasis added).

¹⁰⁸ Sakulku & Alexander, *supra* note 8, at 75.

¹⁰⁹ Sakulku & Alexander, *supra* note 8, at 78.

¹¹⁰ Sakulku & Alexander, *supra* note 8, at 78.

¹¹¹ Sakulku & Alexander, *supra* note 8, at 74.

¹¹² Clance & Imes, *supra* note 63, at 242 (emphasis added).

intensity, despite mixed opinions from males who testified to experiencing the phenomenon.¹¹³ They supported their early findings with the work of attribution theorist Kay Deaux, whose 1976 study of sex differences in attribution demonstrated that “women consistently have lower expectancies than men of their ability to perform successfully on a wide variety of tasks,” thus women “attribute their successes to temporary causes, such as luck or effort, in contrast to men who are much more likely to attribute their successes to the internal, stable factor of ability.”¹¹⁴

Subsequent research, however, has confirmed that impostor phenomenon occurs fairly equally in women and men, foregoing its once feminist shadings.¹¹⁵ Yet because women exist in a male-normed society, women, more than men, suffer from impostor phenomenon in a more *particular* and intense way due to family dynamics and gender role socialization.¹¹⁶

With respect to family dynamics, the daughter is constantly trying to validate her intellect and please her family, thus an impostor is borne.¹¹⁷ Clance and Imes' pioneer work describes two early family dynamic groups that may give birth to a woman's future misery (or therapy): the Socialite and the Perfectionist.¹¹⁸ The first is the Socialite daughter who played the

¹¹³ *Id.* at 241 n.1 (“The attribution research findings, summarized later, imply that the impostor phenomenon would be found less frequently in men than in women. We have noticed the phenomenon in men who appear to be more in touch with their ‘feminine’ qualities. This clinical observation needs to be researched.”).

¹¹⁴ *Id.* at 242.

¹¹⁵ See Clance et al., *supra* note 7, at 80 (“We propose here that, particularly for women, this phenomenon is rooted in interpersonal and social contexts, in that both the family and female gender-role socialization in a predominantly male-normed social system form the backdrop for impostor feelings. And although both women and men experience impostor feelings, we focus here on the significant challenges faced by women in overcoming *both* intrapsychic and sociocultural determinants of such patterns.”); see also Gibson-Beverly & Schwartz, *supra* note 13, at 123 (studying female university graduate students “because women have been found to experience especially high levels of IP and, as a result, to experience more negative effects.”). But see Christian Jarrett, *Feeling Like a Fraud*, 23 THE PSYCHOLOGIST 380, 381 (2010), <https://thepsychologist.bps.org.uk/volume-23/edition-5/feeling-fraud> (“Today the condition has lost many of its feminist undertones and subsequent research has suggested that men can be as prone or even more prone to impostor feelings as women.”); Parkman, *supra* note 39, at 53 (citations omitted) (“The research findings regarding the incidence of IP in the sexes has been mixed. While early work in IP centered on its prevalence in professional women, a significantly higher mean IP score for men was reported in a sample of male and female faculty members in a study by Topping (1983).”); Langford & Clance, *supra* note 13, at 496.

¹¹⁶ See Clance et al., *supra* note 7, at 80.

¹¹⁷ See Langford & Clance, *supra* note 13, at 499 (alteration in original) (“[I]n order to develop a secure sense of identity and stable self-esteem, children need to have an environment in which their feelings and strivings are responded to and respected (‘mirrored’). Such an affirming atmosphere allows the development of a cohesive sense of self with stable self-esteem. When validation of the self is lacking, as appears to be the case in the families of those who develop impostor feelings, the child may compensate by trying to live up to an idealized image that will win the affirmation from others that is necessary for self-esteem.”).

¹¹⁸ See Clance et al., *supra* note 7, at 82; Clance & Imes, *supra* note 63, at 243; Gibson-Beverly & Schwartz, *supra* note 13, at 120-21; Langford & Clance, *supra* note 13, at 495-98, 500.

sensitive or social role to the designated, and more favored, intelligent sibling or other close relative.¹¹⁹ The implication for the Socialite is that she can never prove she is as intelligent as her siblings, despite her academic success.¹²⁰ Unmoved by the Socialite's efforts, the family remains relatively unimpressed, constraining her to find additional ways to validate her actual intelligence and prove she is bright.¹²¹ Yet sadly, the Socialite also has simultaneous thoughts that perhaps her family is correct; that perhaps her accolades have been gained "through sensitivity to teachers' expectations, social skills, and feminine charms. Thus, the impostor phenomenon emerges."¹²²

In the second family dynamic group, the Perfectionist emerges from a family origin that places tremendous priority on achievement,¹²³ and perfectionism.¹²⁴ The Perfectionist outshines those around her in "intellect, personality, appearance, [and] talents,"¹²⁵ and is quite familiar with being told she can do anything she puts her mind to, and will likely succeed with ease.¹²⁶ But the Perfectionist soon realizes that she cannot in fact do everything she wants to, but "feels obligated to fulfill the expectations of her family, even though she knows she cannot keep up the act forever. Because she is so indiscriminately praised for everything, she begins to distrust her parents' perceptions of her. Moreover, she begins to doubt herself."¹²⁷ The Perfectionist, who likely lives in a rule-oriented home,¹²⁸ still pushes herself to achieve perfection and tries relentlessly to please others,¹²⁹ which creates a breeding ground for unrealistic expectations.¹³⁰

¹¹⁹ See Clance & Imes, *supra* note 63, at 243.

¹²⁰ *Id.* ("The implication from immediate and/or extended family members is that she can never prove that she is as bright as her siblings regardless of what she actually accomplishes intellectually. One part of her believes the family myth; another part wants to disprove it. School gives her an opportunity to try to prove to her family and herself that she is bright. She succeeds in obtaining outstanding grades, academic honors, and acclaim from teachers. She feels good about her performance and hopes her family will acknowledge that she is more than just sensitive or charming.")

¹²¹ *Id.*; See Langford & Clance, *supra* note 13, at 495.

¹²² See Clance & Imes, *supra* note 63, at 243.

¹²³ See Gibson-Beverly and Schwartz, *supra* note 13, at 120-21.

¹²⁴ See Clance & Imes, *supra* note 63, at 243.

¹²⁵ *Id.* (alteration in original).

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ See Langford & Clance, *supra* note 13, at 496-97 (referencing CAMILLE BUSSOTTI, *THE IMPOSTOR PHENOMENON: FAMILY ROLES AND ENVIRONMENT* (1990)).

¹²⁹ See Clance & Imes, *supra* note 63, at 243; see also Langford & Clance, *supra* note 13, at 500 (citation omitted) (discussing therapeutic roles for counseling women who experience "new awarenesses of the pressures and forces within the family that led the child to adopt a role aimed at pleasing others to win support and approval."). Camille Bussotti, upon examining family role assignments, suggested family patterns may be associated with the impostor phenomenon. See Langford & Clance, *supra* note 13, at 498 (referencing CAMILLE BUSSOTTI, *THE IMPOSTOR PHENOMENON: FAMILY ROLES AND ENVIRONMENT* (1990))(alterations in original)(citations omitted). "From questions covering a range of family roles, . . . [she] found that impostor feelings were highly correlated with a need to please others in the family. Bussotti suggested that, in families in which support for the child's

Ultimately, the Perfectionist “jumps to the conclusion that she must be dumb. She is not a genius; therefore, she must be an intellectual impostor.”¹³¹

Second, gender role socialization also contributes to the progression of impostorship in women.¹³² Socialization has been described as “the process through which children acquire the behavior considered appropriate by the groups to which they relate (i.e., their family, community, and the larger society).”¹³³ Perhaps common knowledge to most, gender roles, as social learning theorists explain, derive from approved or disapproved behavior for girls and boys.¹³⁴ So now, in addition to the struggles of validating her intellect within her family, a woman is also defending herself against a society that questions her intellectual capability as compared to a man, and in some respect may presume her incompetent.¹³⁵ Not surprisingly, the problems that gender socialization present have been suggestively linked to family of origin dynamics.¹³⁶ As Gibson-Beverly and Schwartz describe, women whose families more readily emphasized achievement reported impostor feelings at considerably higher rates than men.¹³⁷ The concerning point is the limits and boundaries of achievement and success that parents, albeit latently, express to females as compared to males. For example, if a

feelings and individual development was lacking, the child who becomes an impostor may have experienced parentification or in some other way been required to develop a ‘false self’ in order to receive validation, similar to Langford’s finding about the importance for impostors of getting outside validation. That false self is then likely to carry over into adulthood as insecurity about one’s true identity, often felt as impostor feelings in those who are successful achievers.” *Id.*

¹³⁰ Clance et al., *supra* note 7, at 82.

¹³¹ Clance & Imes, *supra* note 63, at 243.

¹³² See Gibson-Beverly & Schwartz, *supra* note 13, at 120; Dancy II & Jean-Marie, *supra* note 12, at 360; Dancy II & Brown II, *supra* note 12, at 617 (citation omitted)(citing work by Gibson-Beverly & Schwartz who found attachment and entitlement were strong predictors of impostor syndrome in women graduate students, and women with anxious attachment “were unable to internalize feedback because of a negative view of self.”).

¹³³ Pamela Trotman Reid, ET AL., *Socialization of Girls: Issues of Ethnicity in Gender Development*, in *BRINGING CULTURAL DIVERSITY TO FEMINIST PSYCHOLOGY: THEORY, RESEARCH, AND PRACTICE* 93 (Hope Landrine ed., 1995).

¹³⁴ *Id.* at 97 (commenting that the social learning theory was premised on White middle-class parents and their children but has been thought to be “flexible enough . . . to be applicable to minority groups”).

¹³⁵ PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA (Gutierrez y Muhs, et al. eds., 2012)(offering the collected personal narratives and qualitative empirical studies of more than forty women faculty of color who discuss the intersecting roles of race, gender, and class in the academy). *Id.* See also Clance & Imes, *supra* note 63, at 44 (“We do believe that the societal stereotype of women being less able intellectually than men begins to exacerbate and confirm at an early age the self-doubts that have already begun to develop in the context of the family dynamics.”).

¹³⁶ Gibson-Beverly & Schwartz, *supra* note 13, at 120-21(citations omitted). (“Looking at IP and child-rearing patterns, Clance and O’Toole found that certain family patterns may strengthen stereotyped gender roles and, in turn, women’s inherent conflict over autonomy. More specifically, examining the potential link between IP and early family environments, previous research suggested that individuals from family environments heavily emphasizing achievement may be especially likely to experience IP.”); Dancy II & Jean-Marie, *supra* note 12, at 360.

¹³⁷ Gibson-Beverly & Schwartz, *supra* note 13, at 120-21.

male is successful in math, his success is attributed to a natural ability, but a female's success is reduced to her effort.¹³⁸ Such "overt and covert messages concerning ways that achievement is related to effort rather than talent may contribute to the development of [impostor phenomenon] in women."¹³⁹ In addition, research supports that when it comes to applying for jobs, women's self-doubt induced by the impostor phenomenon may often prevent them from applying unless they believe they are 100% qualified for the position, as compared to men applying with far less of the criteria met.¹⁴⁰

If the particularized impact of the impostor phenomenon on women was not discouraging enough, gender sidelining delivers yet another blow to the female gender.

II. UNDERSTANDING GENDER SIDELINING

What to say when a male's three-way tie for second place is headlined over a female's world-record gold-medal dominance . . . at the Olympic games?¹⁴¹ Or when the photo of a former male president, circa 2001, makes the front page after a country nominates its first female in a presidential election . . . fifteen years later?¹⁴² This is Gender Sidelining.¹⁴³ While one need not probe extensively to find ample research on men's achievements deemed superior to women's achievements of the same ilk, Professor Fink popularized this occurrence as "gender sidelining" in legal scholarship.¹⁴⁴ The following section provides a brief overview of Fink's use of gender sidelining as well as illustrations of this phenomenon on the professional stage.

¹³⁸ *Id.* at 121.

¹³⁹ *Id.* (alteration in original)(citations omitted)("Some individuals with IP may hold the belief that genuine achievement is only worthwhile if it comes naturally, which discounts success that comes through hard work. In contrast, other individuals with IP may believe that if achievement does come easily, it is not genuine because it is due to natural ability.")

¹⁴⁰ See Perdue, *supra* note 40, at 1288 (citing Georges Desvaux, Sandrine Devillard-Hoellinger, & Mary C. Meaney, *A Business Case for Women*, THE MCKINSEY Q., Sept. 2008).

¹⁴¹ Fink, *supra* note 11, at 59; Kelly Brown, *The Eagle Headline That's Making Headlines*, THE EAGLE (Aug. 19, 2016), http://www.theeagle.com/blogs/fajitas_for_one/the-eagle-headline-that-making-headlines/article_015458f8-65a2-11e6-98d3-f3beaeaa233b.html.

¹⁴² Ryan Maloney, *Newspapers Criticized for Running Photos of Bill Clinton After Hillary Made History*, HUFFINGTON POST CA (July 27, 2016, 05:59 EDT), http://www.huffingtonpost.ca/2016/07/27/bill-clinton-newspapers-hillary-clinton_n_11225280.html.

¹⁴³ Fink, *supra* note 11.

¹⁴⁴ *Id.*

A. Defining Gender Sidelining

Fink's discussion of gender sidelining arose from viewing a male's achievement literally and figuratively headlined over a female's far superior achievements on a national stage.¹⁴⁵ On a momentous Olympic night in the summer of 2016, swimmer Katie Ledecky shattered world records (including her own), demonstrating her athletic prowess and becoming one of the greatest swimmers in sports history.¹⁴⁶ That same night, Michael Phelps, most certainly with a celebrated record of his own, was part of a three-way tie for second place.¹⁴⁷ To be sure, for any athlete to be competing and medaling at the Olympic games is no small feat; yet one small college newspaper's reporting of these events the next morning may forever mark them with a Scarlet A (or more appropriately an "S" for sexist) in media history.¹⁴⁸ The August 13, 2016, headline of the *Bryan-College Station Eagle*, displayed a headline in large bold font reading "Phelps ties for silver in 100 fly" and beneath in "smaller and less prominent print . . . 'Ledecky sets world record in women's 800 freestyle.'"¹⁴⁹ *The Eagle's* account is one example of biased media coverage nationwide that vividly demonstrates "gender sidelining."¹⁵⁰

Gender sidelining, according to Fink, describes "the various ways in which women across a wide range of employment settings may find themselves sidelined, upstaged or otherwise marginalized in ways not reached by traditional anti-discrimination laws."¹⁵¹ While Title VII provides some relief from gender discrimination, it does not provide protection from the subtle biases such as "a lack of access to certain

¹⁴⁵ *Id.* at 59.

¹⁴⁶ *Id.*; Kevin Loria, *Katie Ledecky is Redefining the Limits of Athletic Performance*, BUSINESS INSIDER (Aug. 12, 2016, 9:40 PM), <http://www.businessinsider.com/katie-ledecky-olympics-swimming-swimmer-2016-8>.

¹⁴⁷ Fink, *supra* note 11, at 59.

¹⁴⁸ The *Eagle* has tried to explain the headline in a non-sexist way, citing Phelps' dominance generally as being the more newsworthy event regardless of who else had been successful that night. Compare Kelly Brown, *The Eagle Headline That's Making Headlines*, THE EAGLE (Aug. 19, 2016), http://www.theeagle.com/blogs/fajitas_for_one/the-eagle-headline-that-s-making-headlines/article_015458f8-65a2-11e6-98d3-f3beaeaa233b.html with *The Scarlet Letter*, SPARKNOTES, <http://www.sparknotes.com/lit/scarlet/context.html> (last visited Sept. 24, 2018) (explaining how the reference to Scarlet "A" comes from author Nathaniel Hawthorne's literary work *The Scarlet Letter* where he "uses the repressive, authoritarian Puritan society as an analogue for humankind in general," and *The Scarlet Letter*, SPARKNOTES, <https://www.sparknotes.com/lit/scarlet/summary/> (last visited Sept. 25, 2018) (identifying the Scarlet A as being a symbol bore upon the chest of the female lead, Hester Prynne, who is punished for having an affair while her husband was away).

¹⁴⁹ Fink, *supra* note 11, at 59; Brown, *supra* note 141.

¹⁵⁰ Fink, *supra* note 11, at 60.

¹⁵¹ *Id.* at 57 (alteration in original).

opportunities, the diversion of credit for an idea, [and] a nagging sense of being held to a higher standard than their male peers.”¹⁵²

B. Professional Reach of Gender Sidelining

The subtle biases pointing to gender sidelining can be found in nearly every professional arena. To demonstrate its reach, I include a few examples from sports, literary arts, the sciences, politics and the corporate world.¹⁵³ First, on the athletic field, media coverage for women’s sports has decreased, and most reported highlights focus on a women’s age and familial ties or obligations.¹⁵⁴ For example, swimmer Dara Torres, who broke her first world record in 1982 at the age of 14, had her motherhood and age portrayed in a 2008 *New York Times* article titled, *A Swimmer of a Certain Age*.¹⁵⁵ But if the news article was trying to celebrate her amazing career, it sadly missed the mark.¹⁵⁶ The author, in commenting on some Olympics luminaries near the warm-up pool in Sydney, stated in part,

Meanwhile, Dara Torres, who won the first of her nine Olympic medals in 1984, a year before Michael Phelps was born, stripped off her baggy T-shirt and sweat pants, revealing a breathtaking body in a magenta Speedo. She pulled on a cap marked with her initials and prepared to swim. Torres is now 41 and the mother of a 2-year-old daughter, Tessa Grace. She broke her first of three world records in 1982, at 14, and she has retired from swimming and come back three times, her latest effort built on an obsessive attention to her aging body.¹⁵⁷

¹⁵² *Id.* at 64.

¹⁵³ *Id.* at 65-86 (discussing five professional arenas where women thrive but their achievements are overlooked or made inferior in male-dominated settings).

¹⁵⁴ *Id.* at 66. (“A recent study conducted by University of Southern California researchers found that coverage of women’s sports barely has increased over the past twenty-five years, despite a substantial rise in the number of girls and women who play youth, high school, college and professional sports. According to this study, which focused on Los Angeles broadcasting affiliates and ESPN’s SportsCenter program, coverage of women’s sports actually has *decreased* in recent years, with the Los Angeles-based stations devoting only 3.2% of their coverage to women’s sports (down from 5% in 1989), and SportsCenter devoting a paltry 2% of airtime to women’s sports (a number that has remained flat since the study began tracking this program in 1999).”); see also Elizabeth Weil, *A Swimmer of a Certain Age*, N.Y. TIMES, June 29, 2008, <http://www.nytimes.com/2008/06/29/magazine/29torres-t.html> (discussing the Olympic records of swimmer Dara Torres with a notable insert of information remarking on her age and age of her child).

¹⁵⁵ Weil, *supra* note 154.

¹⁵⁶ See *id.*

¹⁵⁷ See *id.*

The 2008 Olympic games were her last; she retired following the 2012 Olympic trials.¹⁵⁸

In contrast, a 2016 *LA Times* article on Michael Phelps detailing his final relay race before retirement spoke vividly of his historic career, noting that his comeback to the sport following retirement was “in search of a better ending to more than two decades in the pool.”¹⁵⁹ Sadly, for Dara Torres, her comeback was described as an “effort built on an obsessive attention to her aging body.”¹⁶⁰ The Phelps article continued describing him on his final night as,

[T]he same dominant swimmer who holds three individual world records and revolutionized the sport, only more at ease, comfortable with himself and able to enjoy the moment. At times during the last week, Phelps shook his head in disbelief at the stream of victories. He repeatedly laughed, kissed his son, Boomer, after races and shed tears during some medal ceremonies.¹⁶¹

Dara Torres' career ended with twelve Olympic medals spanning five Olympic games, but thanks to the media, many may remember her as the oldest female swimmer with a breathtaking, but aging, body, and Michael as the most dominant swimmer of all time that revolutionized the entire sport.¹⁶² The gender sidelining is (almost) embarrassing.

The literary world has also battled with gender bias. As a historical example, writer Mary Helen Washington in her essay, *The Darkened Eye Restored*, maintains that the slave history of African-American literature is primarily read as a male tradition, despite that oppression affects women and men differently.¹⁶³ For example, in Frederick Douglass' 1845 *Narrative*, he issues a call toward abolition, to which renowned African-American male writers, including W.E.B. Du Bois, James Baldwin, and Ralph Ellison respond “loud and clear.”¹⁶⁴ On this male-only conversation, Washington remarks,

¹⁵⁸ Pat Borzi, *Torres Misses Out on Sixth Trip to the Olympics*, N.Y. TIMES: 2012 LONDON OLYMPICS (July 2, 2012 10:23 PM), <https://london2012.blogs.nytimes.com/2012/07/02/torres-misses-out-on-sixth-trip-to-the-olympics/>; Chelsea J. Carter, *Dara Torres' Bid to Be Oldest Woman on U.S. Olympic Swim Team Comes Up Short*, CNN (last updated Feb. 8, 2017, 11:24AM) <http://www.cnn.com/2012/07/03/sport/olympics-torres-quest/index.html>.

¹⁵⁹ Nathan Fenno, *Michael Phelps Ends Record-breaking Career with 23rd Olympic Gold Medal*, L.A. TIMES, Aug. 13, 2016, <http://www.latimes.com/sports/olympics/la-sp-oly-rio-2016-michael-phelps-ends-record-breaking-1471141061-htm1story.html>.

¹⁶⁰ See Weil, *supra* note 154.

¹⁶¹ See Fenno, *supra* note 159.

¹⁶² See *id.*; Weil, *supra* note 154; Carter, *supra* note 158.

¹⁶³ Mary Helen Washington, *The Darkened Eye Restored*, in READING BLACK, READING FEMINIST: A CRITICAL ANTHOLOGY 442-53 n.6 (Henry Louis Gates, Jr. ed., 1990).

¹⁶⁴ *Id.*

So firmly established is this male hegemony that even men's arguments with one another . . . get written into the tradition as a way of interpreting its development. As most feminist critics have noted, women writers cannot simply be inserted into the gaps, or be used to prefigure male writers, the tradition has to be conceptualized from a feminist viewpoint.¹⁶⁵

As a more recent example, VIDA: Women in Literary Arts, a non-profit feminist organization, reports on the prevalence of gender bias in literature.¹⁶⁶ Seeking to answer why “the male voice seems to hold more gravitas?”¹⁶⁷ author Catherine Nichols sent out her novel to fifty agents using her own name and then sent the same materials again using a male moniker, George.¹⁶⁸ As “Catherine,” she received two manuscript requests; as “George,” the novel was requested seventeen times.¹⁶⁹ During her experiment, she observed even sexist differences in the rejections – specifically, Catherine's rejections commented on the “beautiful writing” (which actually referred to the book's cover artwork), yet the rejection letters to “George” “were polite and warm,” commenting that his “work was ‘clever,’ . . . ‘well-constructed’ and ‘exciting.’”¹⁷⁰ As such a vivid example of gender sidelining, Catherine reflects on her experiment, noting

[t]here's a fundamental change in how I look at my work now, how I look at the novel I already wrote and the one that I'm working on now. I quit sending out queries entirely, and used the critiques that George got to improve the book — *a book I would have put away in frustration long ago if I hadn't tried my experiment.*¹⁷¹

¹⁶⁵ *Id.*

¹⁶⁶ *About VIDA*, VIDA, <http://www.vidaweb.org/about-vida/> (last visited Sept. 27, 2018); *see also* Evie Gaughan, *Viewpoint: Gender Bias in the Literary World*, WOMEN WRITERS, WOMEN'S BOOKS (Oct. 30, 2016), <http://booksbywomen.org/viewpoint-ongender-bias-in-the-literary-world/> (According to the 2014 VIDA Count survey, between 500 and 700 male authors or critics were featured, compared to less than 250 women authors in the London Review of Books and the New York Review of Books). The 2014 VIDA count survey referred to in the Gaughan article is available at *The 2014 VIDA Count*, VIDA, <http://www.vidaweb.org/2014-vida-count/#The%202014%20VIDA%20Count%20Overall>. (last visited Sept. 27, 2018).

¹⁶⁷ Gaughan, *supra* note 166.

¹⁶⁸ Alison Flood, *Sexism in Publishing: 'My Novel Wasn't the Problem, it was Me, Catherine.'* THE GUARDIAN (Aug. 6, 2015, 3:00 AM), <https://www.theguardian.com/books/2015/aug/06/catherine-nichols-female-author-male-pseudonym>.

¹⁶⁹ *Id.*; Catherine Nichols, *Homme de Plume: What I Learned Sending My Novel Out Under a Male Name*, JEZEBEL (Aug. 4, 2015 11:00 AM), <https://jezebel.com/homme-de-plume-what-i-learned-sending-my-novel-out-und-1720637627>.

¹⁷⁰ Nichols, *supra* note 169.

¹⁷¹ *Id.* (emphasis added).

Undoubtedly, most would rejoice in Catherine's literary success, but arguably there is also sadness in realizing that her work had to journey through maleness to be validated.

Third, in the laboratory the work of earlier female scientists was marginalized (or missing entirely) from the limelight, while their male supervisors or sometimes co-researchers obtained the Nobel Prizes or textbook accreditations.¹⁷² While today's female scientists, unlike their predecessors, may have legal relief for gender discrimination from denied hiring or promotion, the law would still be fruitless to help them "demand[] that members of the public . . . change their views about women's capabilities in the sciences."¹⁷³ To this point, the 2016 multi-award winning movie *Hidden Figures*, based on Margot Lee Shetterly's book of the same name,¹⁷⁴ bears mentioning as an example of women's notable scientific achievements and contributions being subverted by male performance (or lack thereof). Inspired by true events, this movie features three African-American women, Katherine Johnson, Dorothy Vaughan, and Mary Jackson, known as "human computers," whose brilliant mathematical, scientific, and engineering work was instrumental in propelling NASA's program into the Space Race with Russia, and most notably in the 1962 launch of John Glenn into orbit.¹⁷⁵ As one example of gender sidelining, Katherine (Goble) Johnson began working at NASA in 1953, and spent four years analyzing data from flight tests before landing her most acclaimed position on the Space Task Group in 1957.¹⁷⁶ For years, Katherine's name did not appear on the launch projection reports though her work was deeply embedded in its pages; hence an almost double entendre for the movie's title - *hidden figures*.¹⁷⁷ In fact her coauthored work with engineer Ted Skopinski in 1960, seven years after

¹⁷² See Fink, *supra* note 11, at 74; see also, e.g., Stu Borman, *These Female Scientists Should Have Won the Nobel*, CHEM. & ENG'G NEWS (Sept. 11, 2017), <https://cen.acs.org/articles/95/i36/female-scientists-should-won-Nobel.html>; Jane J. Lee, *6 Women Scientists Who Were Snubbed Due to Sexism*, NAT'L GEO. (May 19, 2013), <https://news.nationalgeographic.com/news/2013/13/130519-women-scientists-overlooked-dna-history-science/>; Michael Greshko, *Nearly 900 People Have Won Nobel Prizes. Only 48 Were Women*, NAT'L GEO. (Oct. 6, 2017), <https://news.nationalgeographic.com/2017/10/nobel-prize-winners-laureates-charts-graphics-science/>.

¹⁷³ See Fink, *supra* note 11, at 76.

¹⁷⁴ Maya Wei-Haas, *The True Story of "Hidden Figures," the Forgotten Women Who Helped Win the Space Race*, SMITHSONIAN (Sept. 8, 2016), <https://www.smithsonianmag.com/history/forgotten-black-women-mathematicians-who-helped-win-wars-and-send-astronauts-space-180960393/>.

¹⁷⁵ *Id.*

¹⁷⁶ Sarah Loff, *Katherine Johnson Biography*, NASA <https://www.nasa.gov/content/katherine-johnson-biography> (last updated Aug. 16, 2018) (noting the Space Task Group was a highly specialized engineering team which was instrumental in calculating and documenting the math that launched the United States into the Space Race).

¹⁷⁷ Jesse Shanahan, *NASA Computer Katherine Johnson Celebrates Her 100th Birthday*, FORBES (Aug. 28, 2018 8:00 AM), <https://www.forbes.com/sites/jesseshanahan/2018/08/28/nasa-computer-katherine-johnson-celebrates-her-100th-birthday/#78b23e3f17b9>.

she began working at NASA, was “the first time a woman in the Flight Research Division had received credit as an author of a research report.”¹⁷⁸

Fourth, in the political arena, it is no shock that the presidential campaign between Hillary Clinton and Donald Trump provided ripe ground for witnessing the sidelining of female politicians on a world stage.¹⁷⁹ Most notable is when, following former President Bill Clinton’s nomination speech, Hillary Clinton won the Democratic nomination for President, yet the next morning it was Bill’s photograph on the front page of several newspapers.¹⁸⁰ Hillary Clinton’s photograph, as America’s first female presidential nominee of a major party, was, as one news article stated, “nowhere to be seen.”¹⁸¹ Also notable is the sidelining of female Supreme Court Justices. In a recent study conducted by Professors Hannah Brenner and Renee Newman Knake, they noted that during the week of nominations female justices had their gender and sexuality mentioned more than any male nominees.¹⁸² If political figures such as these, committed to indispensable work for our country, are not immune from exhausted and superficial stereotypes that undermine their achievements, or being inappropriately called out of their name, what hope is there for the common woman?¹⁸³

Finally, gender sidelining is arguably most notable in the corporate world.¹⁸⁴ In this respect, sidelining (1) inhibits female access to corporate leaders and advancement opportunities, (2) results in females “being held to a higher standard than their male peers,” and (3) leads to females having their “ideas being overlooked, ignored and usurped.”¹⁸⁵ This differential treatment can come about both informally or in less formal ways. A Wall

¹⁷⁸ See Loff, *supra* note 176; T.H. SKOPINSKI AND KATHERINE G. JOHNSON, NASA, DETERMINATION OF AZIMUTH ANGLE AT BURNOUT FOR PLACING A SATELLITE OVER A SELECTED EARTH POSITION (1960), <https://ntrs.nasa.gov/archive/nasa/casi.ntrs.nasa.gov/19980227091.pdf>.

¹⁷⁹ See Fink, *supra* note 11, at 77.

¹⁸⁰ See *id.*

¹⁸¹ Marianne Banks, *Reactions to Absence of Hillary Clinton Photo on Front Page*, DAILY HAMPSHIRE GAZETTE (Aug. 1, 2016), <http://www.gazettenet.com/Reactions-to-Clinton-photo-use-3762038>.

¹⁸² See Hannah Brenner & Renee Newman Knake, *Rethinking Gender Equality in the Legal Profession’s Pipeline to Power: A Study on Media Coverage of Supreme Court Nominees (Phase I, The Introduction Week)*, 84 TEMP. L. REV. 325, 364 (2012), and HANNAH BRENNER & RENEE NEWMAN KNAKE, *SHORTLISTED: WOMEN, DIVERSITY, AND THE SUPREME COURT* (NYU Press)(forthcoming 2019).

¹⁸³ See Fink, *supra* note 11, at 78; see also e.g., Liz Plank, *Think Sexism Against Hillary Clinton Is Bad? Wait until She Wins*, VOX (Oct. 6, 2016, 6:05 PM), <https://www.vox.com/2016/10/6/13178190/hillary-clinton-sexism-in-office>; Sabrina Siddiaui, *Hillary Clinton: There’s a ‘Game That Keeps Women in Their Place’*, GUARDIAN (Sept. 16, 2017 12:40 PM), <https://www.theguardian.com/us-news/2017/sep/16/hillary-clinton-theres-a-game-that-keeps-women-in-their-place>; Michelle Cottle, *The Era of ‘The Bitch’ Is Coming*, ATLANTIC (Aug. 17, 2016), <https://www.theatlantic.com/politics/archive/2016/08/the-era-of-the-bitch-is-coming/496154/>.

¹⁸⁴ Fink, *supra* note 11, at 79.

¹⁸⁵ *Id.* at 80-86.

Street study demonstrated that the numerical rating of female junior associates in comparison to their male counterparts, received greater scrutiny.¹⁸⁶ In a less formal experiment, a male employee doing business under his female co-worker's email signature resulted in the male having his work constantly questioned and being treated in a condescending manner.¹⁸⁷

While the examples of gender sidelining are overwhelming, the popularization of gender sidelining in legal scholarship is a thoughtful contribution to the legal profession— especially to its women— who will be more single-minded in fighting against yet another obstacle we now have a name for.

III. THE RISE OF SELF SIDELINING

What's different is, would women have had the courage to start these firms before? To me, it's more that women have the confidence to do it [now].

-Susanne T. Jones, Esq.¹⁸⁸

According to the American Bar Association's (ABA) 2017 report on women in the legal profession, women are entering law school at nearly the same rate as men, but represent only 36% of the legal profession.¹⁸⁹ Baffled by this statistic, ABA President Hilarie Bass, launched a national study in November 2017 called *Achieving Long-Term Careers for Women in the Law* to find out why more seasoned women are leaving law firms.¹⁹⁰

¹⁸⁶ *Id.* at 82.

¹⁸⁷ *Id.* at 82-83.

¹⁸⁸ Stephanie Russell-Kraft, *10 Accounts of Women Who Left Big Law to Run Their Own Firms*, BIG L. BUS. (Sept. 19, 2017)[hereinafter *10 Accounts*], <https://biglawbusiness.com/10-accounts-of-women-who-left-big-law-to-run-their-own-firms/>.

¹⁸⁹ See A.B.A. – COMM'N ON WOMEN IN THE PROFESSION, A CURRENT GLANCE AT WOMEN IN THE LAW 2, 4 (January 2017), https://www.americanbar.org/content/dam/aba/marketing/women/current_glance_statistics_january2017.authcheckdam.pdf.

¹⁹⁰ See Stephanie Russell-Kraft, *Top Lawyer to Investigate Legal Profession's Gender Problem*, BIG L. BUS. (Sept. 19, 2017)[hereinafter *Top Lawyer*], <https://biglawbusiness.com/lawyer-to-investigate->

While some women are making lateral moves for increased flexibility and mentorship,¹⁹¹ others are departing law firms for government employment, in-house counsel positions,¹⁹² or to start their own law firms,¹⁹³ among other things. Decades of ABA statistics on women in the profession, including the 2017 study, and copious scholarship focused on the advancement, attrition, and retention of women,¹⁹⁴ not only emphasize the gender gap in the legal profession, but also that parity for this marginalized group mandates conversation even absent a legal remedy—a sentiment central to this article’s thesis.¹⁹⁵ The theory of self-sidelining is unlikely to resolve the inequity facing female attorneys, but it merits a seat at the table of conversation to raise conscious awareness concerning stagnant professional advancement of women in a culture of white male domination within the legal profession.¹⁹⁶

At the heart of the cycle that culminates in self-sidelining there exists highly intelligent, capable, and successful women—certainly a norm within the legal profession. Their worthy accomplishments should not be

legal-professions-gender-problem/ (longitudinal study to determine why, at around age 50, women are leaving Big Law at, arguably, the high point of their careers); *Achieving Long-Term Careers for Women in Law*, ABA, https://www.americanbar.org/groups/diversity/women/initiatives_awards/long-term-careers-for-women/ (last visited Feb. 14, 2019); *Achieving Long-Term Careers for Women in Law: Presidential Initiative*, ABA, https://www.americanbar.org/content/dam/aba/administrative/office_president/Initiative_Overview.pdf (commenting that “[a]lthough women have been graduating from law school in roughly equal numbers to men for almost 30 years, their career paths over time are quite different. Some 20 years after graduating from law school – a time when lawyers should be in their most productive years – far too many women have not reached the same success as men, or have left the profession entirely.”)

¹⁹¹ Rhode, *supra* note 15, at 16 (“Excessive hourly demands, inadequate rewards for mentoring, and high attrition rates compound the problem. Overworked senior lawyers are reluctant to invest time assisting those who are soon likely to leave. The result is that many female lawyers remain out of the loop of career development. They aren’t adequately educated in their organization’s unstated practices and politics. They aren’t given enough challenging, high visibility assignments. They aren’t included in social events that yield professional opportunities. And they aren’t helped to acquire the legal and marketing skills that are central to advancement So too, women who aren’t gaining the experience necessary to succeed have difficulty gaining mentors who could help address the problem. Overburdened senior attorneys are often reluctant to spend scarce time mentoring junior colleagues who seem unlikely to advance. Women who are not mentored are in fact less likely to advance. Their disproportionate attrition then reduces the pool of mentors for lawyers of similar backgrounds, and perpetuates the assumptions that perpetuate the problem.”).

¹⁹² *Top Lawyer*, *supra* note 190.

¹⁹³ *10 Accounts*, *supra* note 188.

¹⁹⁴ *Women in the Profession*, A.B.A., <https://www.americanbar.org/groups/diversity/women/> (last visited Oct. 08, 2018) (resources for women in the profession).

¹⁹⁵ See *supra* notes 1-3 and accompanying text.

¹⁹⁶ *Do You Have the GRIT to Go the Distance?*, 98 *WOMEN LAW. J.* 1, 4 (2013), https://www.americanbar.org/content/dam/aba/administrative/women/wlj_grit.authcheckdam.pdf (“If you ask women at the top to describe factors that contributed most to their success, you’re likely to hear a variety of answers, including finding the right mentor or sponsor, inheriting the right clients and *taking advantage of opportunities to develop new business*. But what about the factors that do not depend – at least in some small way – on good luck?”) (emphasis added).

overlooked. Sadly, the impostor phenomenon displaces this space of success with internal fears of unworthiness or incompetence; after which gender sidelining's devaluation of women, as compared to men, serves to falsely endorse a woman's preexisting internal impostor feelings. Finally, the resurgence of impostor feelings, now externally validated by gender sidelining, may prevent women from even staying in the game – this is self sidelining. More simply stated, gender sidelining can trigger previously held impostor feelings, placing women at risk of sidelining themselves out of career opportunities to their professional detriment.

To be clear, as previously stated, this Article recognizes that the term gender sidelining refers to *women's* achievements and opportunities to advance that are downplayed, or ignored entirely, in comparison to *men*. By replacing the term “gender” with “self,” I am intentionally tailoring Fink's theory to suggest that external gendered forces may consciously or unconsciously make women discipline themselves to downplay or prevent their *own* achievements and opportunities to advance. The following sections anecdotally demonstrate the evolution from impostor to self sidelining, then, as an example, discusses two gender sidelining consequences that reawaken impostor feelings, and finally how those resurrected impostor feelings lead to self sidelining.

A. A Short Story: Tracy Chou, Stanford-trained impostor?

But even though I was completely immersed in tech culture [as the child of two software engineers and a Stanford graduate], I had trouble envisioning a career in software engineering for myself. The issue wasn't a lack of interest or ability. It was that the sexism I encountered, both in school and in the workplace, had me convinced that I wasn't just [sic] good enough to make it in tech.

-Tracy Chou¹⁹⁷

Tracy Chou, a software engineer who graduated from Stanford, had her own battle with self-doubt and feelings of being “out of place and not quite good enough.”¹⁹⁸ In a self-authored 2016 article, “*I Had So Many Advantages, and I Barely Made It*”: *Pinterest Engineer on Silicon Valley Sexism*,” she discussed the confidence gap she faced, largely influenced by her braggadocious male classmates who made her question her decision to

¹⁹⁷ Tracy Chou, “*I Had So Many Advantages, and I Barely Made It*”: *Pinterest Engineer on Silicon Valley Sexism*, QUARTZ (Apr. 12, 2016), <https://qz.com/659196/i-had-so-many-advantages-and-i-barely-made-it-pinterests-tracy-chou-on-sexism-in-tech/>.

¹⁹⁸ *Id.*

major in computer science.¹⁹⁹ Her reflection signals the presence of impostor feelings, as she writes, “[i]n the face of my classmates’ bluster, I didn’t consider the idea that they might be bluffing. *Instead I assumed the problem was me.*”²⁰⁰ That she absorbed the notion of being an impostor is all but confirmed in her later statements where she reflects upon an opportunity to serve as a teaching assistant, stating,

Then something happened that helped alert me to the gender dynamics at work. A couple months after I had completed that “weeder” class, my professor asked me to be a teaching assistant the next time the course was offered. *I thought for sure that he had made a mistake.* My impulse was to write back in total disbelief. Maybe he had confused me with someone else? Instead I sent an email saying mildly, *“I’m a little doubtful of my qualifications to be a TA.”* But my professor insisted, and I took on the role.

The experience was a revelation *I had always taken my classmates’ word for it that they were coding masterminds I finally acknowledged that I might have underestimated my own abilities.* And I contemplated the irony of the fact that I was performing solidly as a teaching assistant for the course that had convinced me I wasn’t cut out for the major only two quarters prior.²⁰¹

As Chou’s article continues, recounting the sexist treatment she received while interning at iconic technology companies, her experiences really highlight Clance and Imes’ original theory that gender role socialization is a forceful agent for the impostor phenomenon, particularly in women.²⁰² For example, she writes that tech-minded women will face similar obstacles like being socialized early on toward gendered toys and away from toys that can encourage an “interest in science and engineering.”²⁰³ Though Chou remained in the tech field, she believed that she barely made it, despite her many advantages – *“Too many girls and women cannot say the same.”*²⁰⁴ *This is the Impostor Phenomenon.*

¹⁹⁹ *Id.* (“Lots of my classmates talked about how the course really wasn’t as bad as everyone made it out to be. I disagreed. By the end of the quarter, their unflappable self-assurance had me convinced that I was meant to be rooted out. I decided not to major in computer science.”).

²⁰⁰ *Id.* (emphasis added) (“I remember the first “weeder” computer science course I took—meant to discourage the unworthy from pursuing the major. My classmates bragged about finishing assignments in three hours. Listening to them chat, I felt mortified: the same work had taken me 15 hours of anguish at the keyboard to complete. *They are quantifiably five times better than I am,* I told myself.”).

²⁰¹ *Id.* (emphasis added).

²⁰² See Chou, *supra* note 197. See also *supra* notes 7-11 and accompanying text.

²⁰³ Chou, *supra* note 197 (“For those girls who do somehow manage to make into the computer science classroom in college, the dangers of imposter syndrome are strong. Women all too frequently report fearing that they are frauds who don’t deserve their jobs. They tend to have an irrational ability to dismiss their own success, attributing it to factors like luck, timing, or external help, and dismissing their own role in achieving it.”).

²⁰⁴ *Id.* (emphasis added).

After college, Chou began working with a start-up company where she “discovered a significant flaw in the company’s code.”²⁰⁵ Her concerns were dismissed, and only when a male co-worker confirmed her discovery and he “raised the alarm, whereupon people in the office began to listen.”²⁰⁶ Although Chou stated she could fix the flaw, the company insisted her changes be reviewed and signed off by two other engineers, who “rationalized their scrutiny” by stating that the error, and the fix were important.²⁰⁷ It is not a shock that this Stanford-trained female engineer, whose previous employs included internships at Google and Facebook, was correct all along.²⁰⁸ Sadly, it is also not a shock that a potentially unlearned gender-biased company forced Chou and her discovery to undergo multiple stages of verification and proof through a male co-worker.²⁰⁹ *This is Gender Sidelining.*

Now, Chou’s own narrative ends here. But, theoretically, if this display of gender sidelining triggered her prior impostor feelings of underestimating her own abilities, she may feel devalued and be hesitant in the future to draw attention to any errors, or even volunteer for new tasks within the company for fear that she really is not good enough.²¹⁰ *This is Self Sidelining.*

B. Gender Sidelining Consequences Expose Impostor Feelings

The genesis of impostor feelings usually arises in early childhood.²¹¹ Once rooted, or as Clance and Imes describe, “once the posture of being an intellectual phony has been assumed” the stage is set for former impostor feelings to be triggered and self-defeating.²¹² This Article maintains that gender sidelining can act as a trigger to reawaken impostor feelings. As an illustration, this section sets forth two thematic gender sidelining consequences,²¹³ that reawaken, and are actually identical to, two of the

²⁰⁵ Liza Mundy, *Why Is Silicon Valley So Awful to Women?*, ATLANTIC (Apr. 2017), <https://www.theatlantic.com/magazine/archive/2017/04/why-is-silicon-valley-so-awful-to-women/517788/>.

²⁰⁶ *Id.*

²⁰⁷ *Id.*

²⁰⁸ Chou, *supra* note 197.

²⁰⁹ Mundy, *supra* note 205.

²¹⁰ Chou, *supra* note 197.

²¹¹ See Clance & Imes, *supra* note 63, at 243.

²¹² *Id.* at 244.

²¹³ Fink, *supra* note 11, at 86-97 (setting forth gender sidelining consequences to include, (1) Silencing Female Voices, (2) Robbing the Workplace of Female Input and Perspectives, (3) Undermining Employee Morale and Productivity, (4) Fueling Existing Biases that Hinder Women’s Advancement at Work, and (5) Encouraging Women to Opt Out of Professional Opportunities).

impostor phenomenon characteristics Dr. Clance identifies: silence,²¹⁴ and fear of failure.²¹⁵

1. Gender sidelining theme #1: Silence

It is not the case that the [wo]man who is silent says nothing.

- Margaret Montoya, quoting Apache maxim²¹⁶

“Perhaps the most insidious impact of Gender Sidelining is the silencing of female voices in the workplace.”²¹⁷ Most certainly there is a deception in believing, as the Apache maxim suggests, that to be silent is the end of, or prevention of, one’s voice.²¹⁸ In retrospect, the silence is really the tip of the iceberg that often signals generous depth of insight. If silence is the manifestation or tip of the iceberg, then the hull represents the numerous ways in which women’s efforts to speak have been thwarted.²¹⁹ For example, some of the common thwarting occurrences include women being interrupted by men (or “maninterrupted”), having their ideas commandeered (or “bro-opted”) by their male colleagues or not even having their ideas and contributions valued, but rather “discounted or ignored.”²²⁰ In addition, as a thought-provoking side-note to the “Chatty Cathy” idiom, Fink remarks that,

the idea that female voices are silenced in the workplace actually runs counter to some of [the]common assumptions about how men and women interact, both inside the workplace and beyond. While many in society adhere to the stereotype of the “chatty female,” statistics show that men speak much more frequently than women (at least within professional settings).²²¹

²¹⁴ See Clance et al., *supra* note 7.

²¹⁵ See Clance et al., *supra* note 7.

²¹⁶ Angela Onwuachi-Willig, *Silence of the Lambs*, in PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA 142, 143 (Gabriella Gutierrez y Muhs et al. eds., 2012) (quoting Margaret Montoya, *Silence and Silencing: Their Centripetal and Centrifugal Forces in Cultural Expression, Pedagogy and Legal Discourse*, 5 MICH. J. OF RACE AND L. 847, 859 (2000)).

²¹⁷ Fink, *supra* note 11, at 86.

²¹⁸ See Onwuachi-Willig, *supra* note 216, at 143.

²¹⁹ To be sure, the impostor research does not suggest that women suffering from impostor phenomenon generally volunteer to speak in the first place, given they consider themselves as intellectual phonies, rather their speaking may more likely be the result of an assignment or task that they’ve been given. See, e.g., CLANCE, *supra* note 24, at 49 (discussing impostor cycle triggered by first job, new task, or project).

²²⁰ Fink, *supra* note 11, at 84, 86.

²²¹ *Id.* at 86.

As if thinking about *when* to speak was not enough, add to that a concern that women must also consider the appropriate tone of their speech so as not to appear “too passive or too aggressive” or “balancing between being ‘barely heard’ or being seen as unpalatably forceful.”²²² All of these mental hurdles are exhausting and undeniably would lead any woman to doubt her value and remain silent.

The silence of women as a theme of gender sidelining consequences also beckons brief mention of the muted group theory for its similar effect in silencing women.²²³ At its core, “[a] muted group . . . framework exists in any society that includes asymmetrical power relationships.”²²⁴ This theory initially converged around women based on an anthropological study that perceived women’s inability to communicate effectively in a predominantly male setting, rendering them inarticulate.²²⁵ To this point, feminist Cheris Kramarae notes, in her seminal work utilizing this theory in American feminist communication, that “[w]omen are writing of their ‘silencing’ because the tools of expression have been shaped by men.”²²⁶ She argues that,

many women are now working to name themselves and their activities; and they are very conscious that this action is not traditionally a women’s action. *Many of them speak of having been “silenced” by men who have been the definers of the worlds of both men and women.*²²⁷

As Kramarae’s work found, men’s language simply did not “fit the expressive needs of women.”²²⁸ And so, in this male-dominated society,

²²² *Id.* at 83. See also SANDBERG, *supra* note 60, at 98-99 (2013) (“When psychologists study power dynamics, they find that people in low-power positions are more hesitant to share their views and often hedge their statements when they do. This helps explain why for many women, speaking honestly in a professional environment carries an additional set of fears: Fear of not being considered a team player. Fear of seeming negative or nagging. Fear that constructive criticism will come across as just plain old criticism. Fear that by speaking up, we will call attention to ourselves, which might open us up to attack (a fear brought to us by that same voice in the back of our heads that urges us not to sit at the table.”); see also Rhode, *supra* note 15, at 6 (“A longstanding obstacle to equal opportunity involves the mismatch between characteristics associated with women and those associated with professional success, such as assertiveness and competitiveness. Women still face a long-standing double standard and a double bind. They risk criticism for being too ‘soft’ or too ‘strident,’ too ‘aggressive’ or ‘not aggressive enough.’”).

²²³ For in-depth discussion of the muted group theory, see Leslie P. Culver, *Conscious Identity Performance*, 55 SAN DIEGO L. REV. 577, 588-91 (2018).

²²⁴ *Id.* at 16 (citing MARK P. ORBE, *CONSTRUCTING CO-CULTURAL THEORY: AN EXPLICATION OF CULTURE, POWER, AND COMMUNICATION* 4 (1998)).

²²⁵ *Id.* at 14 (citing Edwin Ardener, *Belief and the Problem of Women*, in *PERCEIVING WOMEN* 1-2 (Shirley Ardener ed., 1975)).

²²⁶ CHERIS KRAMARAE, *WOMEN AND MEN SPEAKING: FRAMEWORKS FOR ANALYSIS* 5 (Newbury House Pub., 1981).

²²⁷ *Id.* at 8 (emphasis added).

²²⁸ *Id.* at 25.

her work foreshadows a sentiment of this article, when she asks, “[w]hat happens if women define the nature of their interactions?”²²⁹ Kramarae’s early application of the muted group theory to contrast how women and men speak and the silencing of women, is still sadly relevant nearly four decades later as women continue to be silenced and sidelined by men. In retrospect, the rise and growth of feminist communication research and scholarship²³⁰ signals that women are still bearing the burden of developing their feminist speech and conventions distinct to male norms, while simultaneously monitoring when they can and should speak in view of “multiple perceptions and interpretations of the world” based on social expectations.²³¹ Pertinent to the discussion of self-monitoring, more contemporary work describes gender stereotype as a direct correlation to women being silenced in the workplace. For example, in her book *Lean In*, Sheryl Sandberg comments “[y]oung women internalize societal cues about what defines ‘appropriate’ behavior and, in turn, silence themselves.”²³²

The detriment of women’s silence intensifies the complexity and wearying wheel of impostor feelings, particularly the impostor characteristic, *fear of failure*. That is, a woman has the burden of establishing and expressing her own voice amidst male dominance, all the while guarding against feeling that she is a failure in an intellectual space she rightfully occupies.

2. Gender sidelining theme #2: Fear of failure

Fear is at the root of so many of the barriers that women face. Fear of not being liked. Fear of making the wrong choice. Fear of drawing negative attention. Fear of overreaching. Fear of being judged. Fear of failure.

-Sheryl Sandberg²³³

²²⁹ *Id.* at 30.

²³⁰ Culver, *supra* note 223, at 590-92 (discussing the work of feminist communication theorists Cheri Kramarae and standpoint theorist Dorothy Smith (1972), Nancy Hartsock (1983), and Sandra Harding (1987) (citations omitted)).

²³¹ KRAMARAE, *supra* note 226, at 12.

²³² SANDBERG, *supra* note 60, at 16 (discussing the oft mentioned culture of blue for boys and pink for girls, not to mention the feminine requirements of being pretty and nurturing in contrast to embracing subjects like math and science. Sandberg posits that such gender stereotypes continue to be reinforced beyond childhood to women’s detriment).

²³³ Louisa Peacock, *Skirting the Issue: My biggest barrier, is in fact, me*, THE TELEGRAPH (Mar. 13, 2013, 4:03 PM), <https://www.telegraph.co.uk/women/womens-life/9927103/Sheryl-Sandberg-Fear-is-at-the-root-of-so-many-of-the-barriers-that-women-face.html>. See also Jim Camp, *For Women in Negotiations, the ‘Impostor Syndrome’ Can Be Problematic*, FORBES (Nov. 5, 2013, 11:42 AM), <https://www.forbes.com/sites/jimcamp/2013/11/05/for-women-in-negotiations-the-impostor-syndrome-can-be-problematic/#6b70655a26dc> (interviewing Joyce Roche, business leader and impostor sufferer, “I believe fear of failure, especially for those suffering with the impostor syndrome, can lead to being willing to accept less than what you actually want,” she said. “The concern that some flaw or lack will be highlighted if you push too hard can cause those with impostor syndrome to settle for ‘good enough’ rather than pushing for what is achievable.”).

Similar to the prevalence of women's silence in the workplace, Fink's work demonstrates that fear of failure is also a common impact or consequence of gender sidelining.²³⁴ This fear is due in large part to greater professional demands on women than men, which leaves "many female executives shy[ing] away from entering into transactions unless they are confident that they will come out on top, because failure can have devastating consequences."²³⁵ Professor Joan Williams, renowned for her gender bias work, notes that because women are judged according to their performance, in contrast to men judged by their potential, "even small failures seem critical."²³⁶

Social science research and current scholarship lends further support to women's failure being weightier, almost an intrinsic defect, in comparison to men's. For example, in two preeminent social science studies on gender-biased attributions for women's and men's successes and failures,²³⁷ the overall findings demonstrated that "failures [were] more expected for women than men."²³⁸ More specifically, in a subsequent study where the task was deemed more masculine in nature, it was even more likely that the women's failure was attributable to "the stable causes of low ability and task difficulty," whereas any failure by the man was attributed to "unstable causes of low effort and bad luck."²³⁹

²³⁴ See Fink, *supra* note 11, at 81.

²³⁵ *Id.* (commenting that women are more scrutinized by reviewers, evaluators, and peers on management decisions, strategic plans, and even their personal lives). See also SANDBERG, *supra* note 60, at 9 ("This brings us to the obvious question—how? How are we going to take down the barriers that prevent more women from getting to the top? Women face real obstacles in the professional world, including blatant and subtle sexism, discrimination, and sexual harassment. Too few workplaces offer the flexibility and access to child care and parental leave that are necessary for pursuing a career while raising children. Men have an easier time finding the mentors and sponsors who are invaluable for career progression. Plus, women have to prove themselves to a far greater extent than men do. And this is not just in our heads. A 2011 McKinsey report noted that men are promoted based on potential, while women are promoted based on past accomplishments."); Deborah L. Rhode, *The Unfinished Agenda: Women and the Legal Profession*, AM. BAR ASS'N COMM'N ON WOMEN IN THE PROFESSION 6 (2001), <http://womenlaw.stanford.edu/pdf/aba.unfinished.agenda.pdf> ("A related obstacle is that female attorneys often do not receive the same presumption of competence or commitment as their male colleagues.").

²³⁶ Fink, *supra* note 11, at 81 (discussing the "Prove it Again" bias, which subjects women to twice the scrutiny of their male counterparts when seeking managerial positions) (citing Joan C. Williams & Veta Richardson, *New Millennium, Same Glass Ceiling? The Impact of Law Firm Compensation Systems on Women*, 62 HASTINGS L.J. 597, 667 (2011)).

²³⁷ *Id.*

²³⁸ Janet K. Swim & Lawrence J. Sanna, *He's Skilled, She's Lucky: A Meta-Analysis of Observers' Attributions for Women's and Men's Successes and Failures*, 22 PERSONALITY & SOC. PSYCH. BULL. 507, 508 (1996) (discussing a study by Deaux (1984) who found women's success attributable to the unstable cause of effort and luck, and Hansen and O'Leary (1985) who found women's success attributable to effort, task or luck).

²³⁹ Swim & Sanna, *supra* note 238, at 516-17 (findings more consistent with Deaux (1984) over Hansen and O'Leary (1985) and commenting that this study is self-limiting as a useful guide for

In addition, current scholarship, such as Babcock and Laschever's *Women Don't Ask*, and Professor Anna Fels' *Do Women Lack Ambition*, reinforce women's fear of failure as a product, not of shallow disregard, but of gender role socialization²⁴⁰ –a precursor to impostor phenomenon. In some respect, our culture's recent attention to empowering women and young girls²⁴¹ signals awareness of the damaging effect of this socialization. Specifically, that women have generously been given a low sense of entitlement and fear, and rendered ill-equipped to be their own advocates; to be their own voice is "unfeminine, unattractive, and unwelcome – not to mention ineffective."²⁴² To the notion of femininity, women's passivity may be linked to a woman's femininity.²⁴³ In other words, girls and women seem comfortable competing with each other for affirmation and pursuing roles, but their behaviors change when they are competing with men.²⁴⁴ There is an "expectation that 'feminine' women will forfeit opportunities for recognition at home and at work. . . [and] in. . . work situation[s] or . . . high-visibility positions. . . their femininity is routinely assailed. They are caricatured as either asexual and unattractive or promiscuous and seductive. . ."²⁴⁵ Similar to the gender sidelining consequence of silence, the consequences of fear of failure also intensifies the impostor characteristic by the same name. That is, a woman has the burden of fighting against the expectation that she will fail, due to task difficulty, that any successes will be inherently judged more harshly than a man's, and simultaneously ignore unspoken requirements that her femininity should compel her to not compete in the first place.

In view of these impostor-themed overtones situated within gender sidelining, to *self sideline* seems the less onerous posture. Most men have no such encumbrance.

C. Self-sidelining as a Social Harm

Silence begets further silence; disempowerment begets disempowerment.
Without any positive reinforcement to encourage women to push back against

demonstrating how stereotypes can undermine women's performance at work based on studies examining the effects of a target's gender . . . wan[ing] in popularity," but that the study is useful for studying the effect of gender on the attributional process (citations omitted)).

²⁴⁰ See LINDA BABCOCK & SARA LASCHEVER, *WOMEN DON'T ASK: NEGOTIATION AND THE GENDER DIVIDE* 12 (2004); Anna Fels, *Do Women Lack Ambition?*, HARV. BUS. REV. (Apr. 2004), <https://hbr.org/2004/04/do-women-lack-ambition>.

²⁴¹ Leslie Pascaud, *Empowering Women One Brand at a Time*, FORBES (May 19, 2015, 11:36am), <https://www.forbes.com/sites/teconomy/2015/05/19/empowering-women-one-brand-at-a-time/#2f7df785231b>.

²⁴² BABCOCK & LASCHEVER, *supra* note 240.

²⁴³ Fink, *supra* note 11, at 87.

²⁴⁴ BABCOCK & LASCHEVER, *supra* note 240.

²⁴⁵ Fink, *supra* note 11, at 87.

marginalizing behavior in the workplace, women may continue to tolerate (or even grudgingly expect) such sidelining, writing it off as simply another cost of doing business in the predominantly-male working world.

- Jessica Fink²⁴⁶

The rise of self sidelining has several steps. First, to be clear, women must already harbor (or must have harbored at some point) impostor feelings of intellectual phoniness or feelings of being a fraud.²⁴⁷ Second, gender sidelining occurs,²⁴⁸ resulting in implicit messages that trigger and erroneously confirm impostor feelings, e.g., fear of failure. Finally, gender sidelining's external validation of the internal impostor feelings may lead women to discipline themselves to forego professional opportunities, thus she *self sidelines*.

This Article recognizes the social science literature that demonstrates some people withdraw from career promotion based on intense impostor feelings alone;²⁴⁹ in other words, an intervening gender sidelining act would not be required for someone to sabotage their career. But this untimely departure based on impostor feelings appears to be the exception, not the general rule. Particularly so because the onset of impostor feelings are internal and *contrary* to objective evidence of achievement and success,²⁵⁰ thus research and articles lean more toward therapeutic and self-help objectives to push through inadequate feelings.²⁵¹ I argue, however,

²⁴⁶ *Id.* at 89.

²⁴⁷ See Carl Richards, *Learning to Deal with the Imposter Syndrome*, NY TIMES (Oct. 26, 2015), <https://www.nytimes.com/2015/10/26/your-money/learning-to-deal-with-the-imposter-syndrome.htm>.

²⁴⁸ For a discussion of Fink's and Kramarae's reasons for women's silence, see *supra* Section III.B.1; See also "Mansplain," URBAN DICTIONARY (Mar. 18, 2017), <https://www.urbandictionary.com/define.php?term=Mansplain> ("A derisive and condescending term insultingly used by women when referring to a man that they are in a conversation with. The man's point is derided not because his reasoning is faulty or his evidence is unreliable; his point is derided simply on the basis of his gender.") (last visited Apr. 19, 2018); Fink, *supra* note 11, at 57, 61, 89, 91, 93, 95 (setting forth gender sidelining consequences to include, (1) Silences Female Voices, (2) Robs the Workplace of Female Input and Perspectives, (3) Undermines Employee Morale and Productivity, (4) Fuels Existing Biases that Hinder Women's Advancement at Work, and (5) Encourages Women to Opt Out of Professional Opportunities).

²⁴⁹ CLANCE, *supra* note 24, at 64. See also, e.g., Ahlfeld, *supra* note 12, at *56 (commenting on study by Kets de Vries (2005) noting that "poor decision-making and self-sabotage are often a function of IP, thereby resulting in high-level executives turning down promotions or preemptively switching positions to relieve IP feelings.").

²⁵⁰ Sakulku & Alexander, *supra* note 8, at 77 (citing DR. PAULINE ROSE CLANCE, THE IMPOSTOR PHENOMENON: OVERCOMING THE FEAR THAT HAUNTS YOUR SUCCESS 24 (1985)).

²⁵¹ Clance & Imes, *supra* note 63, at 246; Pauline Rose Clance et al., *Impostor Phenomenon in an Interpersonal Context/Social Context: Origins and Treatment*, 16 WOMEN & THERAPY 79, 87 (1995); Langford & Clance, *supra* note 13, at 497, 499 (1993). See also, e.g., Moira Forbes, *The One Thing You Need To Do To Overcome Impostor Syndrome*, FORBES (Sept. 13, 2017), <https://www.forbes.com/sites/moiraforbes/2017/09/13/the-one-thing-you-need-to-do-to-shut-down-impostor-syndrome/#315c8b7f2fe7>; Kirsten Weir, *Feel like a Fraud*, AM. PSYCH. ASS'N (Nov. 2013), <http://www.apa.org/gradpsych/2013/11/fraud.aspx>; Joyce Roche, *10 Ways to Overcome Impostor*

that when a woman is gender sidelined within a male dominated culture, her initial “*I am a fraud and I don’t belong*” feelings take on a new level of gravitas because a male (or male dominated profession) is seemingly affirming them. In other words, the internal impostor feelings have now been externally validated; and any feelings of inadequacy may be nominal in comparison to a seemingly palpable obstruction, e.g., the entire male gender.

A hypothetical dramatization might look like this:

Woman: {I have previously experienced impostor feelings}

Man: The reason I keep interrupting you, taking credit for, or micromanaging your work, is because you are not quite cut out for this job, and your voice does not matter. [gender sidelining]

OR

Male-dominated Profession: The reason you are not advancing is because we (i.e., males) set the norm for what success looks like in this industry, and you do not meet our standards, and arguably you never can because you didn’t create the rules. But to seem as though we delight in parity, we will extend an opportunity for you to advance, but, again, without knowing the rules by which we play, you will always be at a disadvantage.

Woman: Before I thought the fear was in my head, but now there is external validation that I am out of my league.²⁵² I really don’t belong in this job; who was I kidding? [impostor feelings triggered]. I thought about seeking a promotion or salary raise, volunteering for that committee, or applying for a tenure position, but I’m clearly not qualified – the standards are so high, or different or both – I’ll just stay right where I am. At least I have a job. She self sidelined.

While I use the term *self sidelining* to describe women disciplining their own professional opportunities due to fear and male standards as the norm, the practice of self sidelining is certainly not novel. Self-sidelining is supported as a detrimental outcome of gender sidelining, it is implicit in legal scholarship, and it is readily visible in modern literature and feminist movements.

First, self sidelining is manifest through the consequences of gender sidelining. For example, one harmful outcome of gender sidelining is the disempowerment of women.²⁵³ Specifically, women feel out of place; they

Syndrome, THE SHRIVER REP. (Oct. 9, 2013), <http://shriverreport.org/10-ways-to-overcome-impostor-syndrome-joyce-roche/>; Richards, *supra* note 246.

²⁵² Langford & Clance, *supra* note 13, at 499 (discussing achievement orientated behaviors common in people who experience impostor feelings and noting that the self-esteem of impostors is “not well internalized and derives largely from others’ feedback, [thus impostors] appear to be both more needing of praise and more sensitive to criticism than others.”); Fink, *supra* note 11, at 89 (citing Clance & Imes, *supra* note 63, at 58).

²⁵³ See Fink, *supra* note 11, at 96-97 (discussing the “dropping-out-due-to-not-belonging” phenomenon in the fields of tech, medicine and the legal profession, citing reasons to include not just

believe there is a lack of desire for female contributors and they are “made to feel that their efforts lack importance.”²⁵⁴ In view of these feelings, women self sideline by opting out of professional opportunities and avoiding collegial collaboration where valuable contributions could be made.²⁵⁵ Ultimately, by women’s advancement being hindered, they “become increasingly demoralized regarding the prospects for their own success”²⁵⁶ and thus make the choice to withdraw from professional growth opportunities.

Second, the presence of self sidelining is also implicit in legal scholarship and should be part of the ongoing gender inequity conversation as a theory of diminished visibility for women in the legal profession.²⁵⁷ Critical legal and feminist scholarship is replete with confirmation that, even with inadequate feelings, men are more likely to take a risk and push themselves to the next professional level while women are more apt to withdraw from such ascent toward achievement²⁵⁸ For example, under the

family, but other workplace obstacles such as gender stereotypes, lack of access to key roles, feeling stalled and lack of respect, to name a few).

²⁵⁴ *Id.* at 91 (noting that the failure of a woman’s contributions to be valued is an organizational detriment because the “organization loses out on the valuable feedback and ideas that women otherwise could offer to improve overall operations.”).

²⁵⁵ *Id.*

²⁵⁶ *Id.* at 92.

²⁵⁷ See Debra Cassens Weiss, *Suit by former income partner claims Winston tethered her career to male lawyers’ employment*, ABA J. (Sept. 26, 2017), http://www.abajournal.com/news/article/suit_by_former_income_partner_claims_winston_strawn_tethered_her_career_to_m/?utm_source=feeds&utm_medium=rss&utm_campaign=site_rss_feeds (“A former income partner at Winston & Strawn contends in a lawsuit that the firm discriminated against her by tying her continued employment to the careers of male equity partners and retaliated against her when she refused the law firm’s request to leave.”); See also Victor D. Quintanilla & Cheryl R. Kaiser, *The Same-Actor Inference of Nondiscrimination: Moral Credentialing and the Psychological and Legal Licensing of Bias*, 104 CAL. L. REV. 1, 63–64 (2016) (commenting that other gender imbalance factors include “disparate motherhood . . . motherhood penalties, discrimination against women” such as women being “less likely to be thought of as leaders, further slowing their ascent up the ladder.”).

²⁵⁸ BABCOCK & LASCHEVER, *supra* note 240, at 4. Beyond the initial impostor research, a veteran social science study relying on the impostor phenomenon found that women are less likely to take professional risks as compared to men, yet another mode of self-sidelining. Specifically, this research explored the relationship between impostor feelings and personality traits to find that women and men responded differently to “a perception of threat from others in achievement situations.” Kingsley R. Browne, *Sex and Temperament in Modern Society: A Darwinian View of the Glass Ceiling and the Gender Gap*, 37 ARIZ. L. REV. 971, 981 (1995) (commenting, with respect to Federal Glass Ceiling Commission, “Would a showing that men are more inclined than women to take physical risks affect our view of the acceptability of the ‘death gap’? If we are prepared to accept the notion that men and women might tend to sort themselves on the basis of their own values, we should hardly be surprised if the group that is more risk averse tends to find itself more often in occupations that are less risky. Also, even if there were no sex difference in risk preference per se, the fact that men assign higher priority than women to resource acquisition might make men disproportionately willing to trade safety for dollars.”); Langford & Clance, *supra* note 13, at 498 (noting withdrawal is due in large part to concern about impacting relationships and noting that women are simply more apt than men to be quite cautious or avoid professional growth even where change is needed); Langford & Clance, *supra* note

same-actor doctrine, Professors Victor Quintanilla and Cheryl Kaiser theorize that the increase of women's skill during their career actually makes them more susceptible to gender stereotype and increases the difficulty of self-promotion.²⁵⁹ Specifically, the same-actor doctrine suggests that because women are hired for a specific set of skills, their natural aim toward higher positions requires that the organization *not* view them as the same actor as when they began.²⁶⁰ "As they build their careers within an organization, however, they increasingly target higher positions that demand greater leadership skills and agentic traits, characteristics stereotypically viewed as more characteristic of men than of women."²⁶¹ Ultimately, because women do not "seem like leaders" when compared to men, they are deemed aggressive if they try to self-promote to advance their careers.²⁶² Or, as other legal scholars suggest, women's lack of self-confidence leads to self-censorship making them "more likely to second guess their opinions, suppress doubts, and couch opinions in a tentative manner."²⁶³ Thus, if they choose not to self-promote, self-censor, or alternatively, follow the longer process of feeling adept to offer their opinion, it may lead to self-sidelining.

13, at 498 (discussing early but informative research of Beard (1990) and Prince (1989) and their use of the Personality Research Form (PRF) on college students). The study noted that:

For females, impostor, [sic] feelings had low correlations with impulsivity and need for change, consistent with the usual description of impostors as cautious and unlikely to engage in risk-taking. For males, on the other hand, impostor feelings were associated with high impulsivity and a strong need for change, as well as a low need for order. Beard (1990) speculated that, instead of dealing with their sense of inadequacy in the withdrawing style typical of females impostors, male impostors may tend to compensate by pushing themselves in a frenetic manner in order to prove their competency. Beard speculated that *the primacy of relationships in females' value systems might prevent them from putting relationships at risk by taking the kinds of chances that males might take in order to prove themselves through achievements.*

Patricia Gillette, *Lack of Self-Promotion Hurts Women in Large Firms*, THE AM L. DAILY (July 7, 2009 1:09pm), <http://amlawdaily.typepad.com/amlawdaily/2009/07/self-promotion.html>; Bonnie Marcus, *Women in Law Need to Advocate for Themselves to Succeed*, FORBES (Dec. 17, 2012 10:16pm), <https://www.forbes.com/sites/bonniemarcus/2012/12/17/women-in-law-need-to-advocate-for-themselves-to-succeed/#54b2b7d358c4>; Perdue, *supra* note 38, at 1287. See also Doug Sundheim, *Do women take as many risks as men?*, HARV. BUS. R. (Feb. 27, 2013), <https://hbr.org/2013/02/do-women-take-as-many-risks-as>; Weiss, *supra* note 258.

²⁵⁹ Quintanilla & Kaiser, *supra* note 257, at 63-64.

²⁶⁰ *Id.*

²⁶¹ *Id.*

²⁶² *Id.* (citing Laurie A. Rudman & Peter Glick, *Feminized Management and Backlash Toward Agentic Women: The Hidden Costs to Women of a Kinder, Gentler Image of Middle Managers*, 77 J. PERSONALITY & SOC. PSYCH. 1004 (1999); Laurie A. Rudman & Kimberly Fairchild, *Reactions to Counterstereotypic Behavior: The Role of Backlash in Cultural Stereotype Maintenance*, 87 J. PERSONALITY & SOC. PSYCH. 157 (2004); Laurie A. Rudman et al., *Status Incongruity and Backlash Effects: Defending the Gender Hierarchy Motivates Prejudice Against Female Leaders*, 48 J. EXPERIMENTAL SOC. PSYCH. 165 (2012)).

²⁶³ Marleen A. O'Connor, *Women Executives in Gladiator Corporate Cultures: The Behavioral Dynamics of Gender, Ego, and Power*, 65 MD. L. REV. 465, 498-99 (2006).

Finally, modern literature and feminist movements also recognize the work of self sidelining as evidenced by their rally cry to empower women generally and particularly in the workplace. In mainstream literature, some authors suggest that women are concerned about affecting professional relationships and thus, withdraw from professional ascent.²⁶⁴ The work of Babcock and Laschever in *Women Don't Ask*,²⁶⁵ supports the idea that a relationship heartstring can often act as a professional snare. They stated, “[w]omen often worry more than men about the impact their actions will have on relationships.”²⁶⁶ Thus, spending more time ensuring all parties at the table are happy, rather than negotiating their own professional growth.²⁶⁷ Their research, spurred on by an initial observation of male graduate students teaching their own courses while many female graduate students served as teaching assistants, led them to question whether “women [are] really less likely than men to ask for what they want[.]”²⁶⁸ In a word, yes.

Arguably one of the most well-known modern books and taglines concerning women and their dim visibility in the professional realm is Sheryl Sandberg's, “Lean In,”²⁶⁹ where she challenges an entire gender not to retreat from male dominated spaces, but instead to claim a seat at the table. In this work, she suggests the multiple roles that women play may contribute to their lack of self-promotion. Specifically, Sandberg draws attention to the negative images portrayed when women play the double or triple duty roles of wife, mother, and professional, commenting that “[w]e need more portrayals of women as competent professionals and happy mothers—or even happy professionals and competent mothers.”²⁷⁰ As an impostor sufferer herself,²⁷¹ she comments that the lack of such positive portrayals unnecessarily feeds a woman's disabling fears that she cannot do

²⁶⁴ Langford & Clance, *supra* note 13, at 498 (noting withdraw is due in large part to concern about impacting relationships).

²⁶⁵ BABCOCK & LASCHEVER, *supra* note 240. The authors then conducted a study of starting salaries of graduate students who had obtained Masters Degrees, finding men's salaries were 7.6% higher on average than women's salaries. *Id.*

²⁶⁶ *Id.* See also SANDBERG, *supra* note 60, at 31 (commenting that teamwork is still the paramount goal, and “[u]ntil we can get there, I fear that women will continue to sacrifice being liked for being successful.”).

²⁶⁷ BABCOCK & LASCHEVER, *supra* note 240, at 13 (finding a great need to help women augment their “negotiating voice” to advance their professional goals).

²⁶⁸ *Id.* at 1. The authors then conducted a study of starting salaries of graduate students who had obtained Masters Degrees, finding men's salaries were 7.6% higher on average than women's salaries.

²⁶⁹ SANDBERG, *supra* note 60.

²⁷⁰ SANDBERG, *supra* note 60, at 17.

²⁷¹ *Id.* at 19-20 (discussing hearing and resonating with Peggy McIntosh as Keynote address for her Phi Beta Kappa honor society ceremony where McIntosh discussed feeling like a fraud and the impostor syndrome).

both, so why even try; and if she does try she's subject to the oft overused and bothersome phrase, "*I don't know how she does it.*"²⁷²

For all the accolades and star power that arose from *Lean In*, this tagline has also been met with criticism,²⁷³ one in particular that this Article is sensitive to in the discussion of self sidelining. That is, the locus of gender inequality is on women; that women need to fix themselves. My guess is that was neither Sandberg's intended outcome nor prevailing thought, nor is it this Article's assertion. But the criticism surrounding this call to action as a well-meaning prescription raises larger issues of a social harm.

Do we have the right remedy, or worse still, have we undersold female empowerment as a remedy, and missed discussing the underlying layers of how gender socialization affects identity formation; and how, right or wrong, women must live in a state of readiness to push back against male norms to confidently perform their identity? As a society, do we oversimplify the message to women to lean in harder, have the will to lead, just be more empowered?²⁷⁴ In many respects, though, aren't many women doing this? Recent reports indicate that women are earning more college and graduate degrees than men.²⁷⁵ As previously discussed, in the legal profession women are entering law schools in equal, if not greater numbers, than men.²⁷⁶ Yet, after law school, despite female attorneys being represented on prestigious platforms such as organizational presidents, commissioners, and judgeships, they still comprise significantly less than half of the legal profession.²⁷⁷

Undoubtedly, the preference toward maleness as the industry standard is rearing its ugly head, which arguably intensifies the inquiry. I suggest that it is the gravity of fraudulent feelings based on gender role socialization, which are continually reaffirmed by society's preference for the male standard, that may be conditioning women to discipline their professional choices. To the extent this socially constructed cycle of

²⁷² *Id.* at 17. Interestingly, Sarah Jessica Parker stars in the 2011 Romantic Comedy bearing the same title, "*I Don't Know How She Does It.*" See Stephen Holden, *Even a Things-to-Do List Seems to be Multi-tasking*, N.Y. TIMES, (Sept. 15, 2011), <https://www.nytimes.com/2011/09/16/movies/i-dont-know-how-she-does-it-review.html> (last visited Feb. 14, 2019).

²⁷³ See Jessica Guynn, *Sheryl Sandberg tells women: 'Lean in harder'*, USA TODAY (Feb. 1, 2017), <https://www.usatoday.com/story/tech/talkingtech/2017/02/01/sheryl-sandberg-women-lean-in-harder/97345950/>.

²⁷⁴ *See id.*

²⁷⁵ Nolan Feeney, *Women Are Now More Likely to Have College Degree than Men*, TIME (Oct. 7, 2015), <http://time.com/4064665/women-college-degree/>; Ashe Schow, *Women earning more doctoral and master's degrees than men*, WASH. EXAMINER (Sept. 19, 2016), <http://www.washingtonexaminer.com/women-earning-more-doctoral-and-masters-degrees-than-men/article/2602223>.

²⁷⁶ Rhode, *supra* note 15, at 13.

²⁷⁷ *Id.*

inferiority toward an entire gender is not legally actionable, it is offensive to suggest that there is no social harm deserving of a meaningful discussion and response.

The social harm resulting from self-sidelining may actually be worse than we believe if it causes women, even in small numbers, to exit their careers. This harm, for example, results in less female partners in our nation's law firms, fewer women in tenured law professor positions, fewer female judges in state and federal courts – simply fewer women at the top and with adequate job security and pay. If the remedy is to tell female attorneys to strengthen their will and resolve, to simply lean further in on the table, do we risk minimizing the emotional and perhaps psychological impact that has occurred behind the scenes? That is, the triple impact of the impostor phenomenon, gender sidelining, and self sidelining. This impact may generate considerable insecurity and anxiety, making some women unable to move forward in their profession, or have little courage to try.

It is clear from the body of literature that a woman's struggle with self-promotion and doubting her value is due, in part, to the aftermath of a history of rigid gender roles being shaped within a male normative social structure.²⁷⁸ That is to say, women, unlike men, have long been socialized *not* to promote themselves, *not* to speak their mind, *not* to take risks, and *not* to believe they are deserving of professional growth, thus causing veritable anxiety if they do ask for something at all.²⁷⁹ This struggle for value, for voice, for parity, is not a matter of apathy, and it unlikely is willed away—it is a forerunner to self sidelining.

CONCLUSION

During the time of writing this article a colleague asked me if, during the past year, I felt any sort of professional paradigm shift in my career and scholarly work. The prior year had been particularly challenging in my career. I was drowning in a sea of unmet expectations, believing only others could be successful, and that certain marks of professional achievement were beyond my reach. These thoughts were grounded, in part, by a vocational glass ceiling that was beyond my control. And my own subconscious had simply surrendered to the false narrative that I was defeated.

As I reflected on my colleague's question, I had to smile. Paradigm shift was an understatement. My work over the past year pushed my personal growth. Or, perhaps better phrased, my need to grow, to be

²⁷⁸ See generally Fink, *supra* note 11, at 89 (commenting that “the more that women disengage and doubt their value, the less likely they are to speak up in the face of further interruptions or appropriations.”).

²⁷⁹ BABCOCK & LASCHEVER, *supra* note 240, at 11.

responsible for my own voice, had pushed my work with a force that, upon reflection, takes my breath away. I was, and still am, living the very work that has become my passion (and my life line) – raising conscious awareness of identity performance.²⁸⁰

I believe God ornately created women and, thus, we have a beautiful origin and identity. Yet, relative to men in the legal profession, among other male-dominated professions, women's identity becomes shaped by male norms and expectations. Our feminine distinctiveness exists on the fringes.

Self sidelining then, is not simply a knee-jerk reaction to a potential career advancement. It is much more debilitating than this reflexive response. The very essence of the impostor phenomenon research is that women, more so than men, are limited by self-doubt. When gender sidelining then externally validates self-doubt by men's dominance or favoritism, a woman's decision to remain silent or not be professionally proactive is often intentional and exhaustive. We doubt ourselves, doubt our abilities, and doubt the strength of our own voice. We doubt our way right out of the way.

There is an earnest desire to increase women's voices in American society. As just one example, the exhaustive but important work performed by the ABA, and similar work by feminist legal scholars, which underscore the need for and value of women at the forefront of the legal profession.²⁸¹ Yet, much of that research focuses on the inequity of women positioned inferiorly to men.²⁸² Perhaps it is time for an additional conversation, one that both recognizes that gender socialization is instrumental in shaping our identity, as well as the pressure to communicate that identity in a predominantly male legal profession.

To consciously perform our identity as women requires more than being aware of the gender inequity and engaging in corporate dialogue about the same.²⁸³ Individually, we must begin with the acute awareness that our feminine identity often triggers opposing forces that seek to push us towards inferiority. We must *continue* then with an individual and

²⁸⁰ The notion of conscious identity performance is discussed in depth in earlier work and is based on Professor Mark Orbe's co-cultural theory identity categories, which I argue broadens the few identity strategies relied upon in legal scholarship. See Culver, *supra* note 223.

²⁸¹ See *A Current Glance at Women in the Law*, *supra* note 14 (providing statistics on females in the legal profession).

²⁸² Debra Cassens Weiss, *Women Still Make Up Fewer Than 35 Percent of Lawyers in US Law Firms*, *Survey Says*, ABA J. (July 25, 2017), http://www.abajournal.com/news/article/women_still_make_up_fewer_than_35_percent_of_lawyers_in_us_law_firms.

²⁸³ See Deborah L. Rhode, *Law is the least diverse profession in the nation. And lawyers aren't doing enough to change that*, WASH. POST (May 27, 2015), https://www.washingtonpost.com/posteverything/wp/2015/05/27/law-is-the-least-diverse-profession-in-the-nation-and-lawyers-arent-doing-enough-to-change-that/?utm_term=.cc818444aeac.

conscious decision to push back, first internally through our own feelings of fear and inadequacy, and then externally by seeking and accepting opportunities for professional growth and advancement. To be sure, this cycle of conscious awareness should never end. Men are creating and seizing opportunities for growth and are unlikely apologizing for doing so.

Returning to the conversation with my colleague, I acknowledged that I did have internal and external forces working against my career advancement. Internally, I had to confront my own feelings of inadequacy, and, as a woman of color, the incessant thoughts of presumed incompetency based on my race. As a professor of legal writing, I also combatted the external marginalization of teaching a skills-related course inside a predominantly male-dominated doctrinal sphere. This, in my mind, further validated my internal feelings of inadequacy. I self-sidelined. The fertile ground for this current piece began when a male colleague, and mentor, asked me to be part of an academic symposium cohort. I initially laughed away the opportunity because I perceived I lacked the doctrinal depth necessary to be valuable. The paradigm shift came when, after seeing many of my white female²⁸⁴ colleagues join the committee, I finally accepted the opportunity. For weeks, I was unsure of how to contribute to the committee, yet I finally pushed myself past the fear and made an effort to speak up and engage. Slowly, I found the courage to contribute; I began to find my voice and simultaneously increased my awareness as to when I was disciplining myself to forego other career opportunities.

To be clear, the gender inequities that women face in the legal profession are real, damaging, and still deserve our attention.²⁸⁵ But women need conscious awareness when the existence and presence of their identity requires a push past fear and male gender preference, in some instances, instead of reasoning with either. In this space of intentional resistance, I am reminded of the words of *Invictus*, which not only paint the picture of this struggle for gender equality, but inspire women to own their voice, navigate their own journey toward success, and ultimately forge a resiliency to avoid self-sidelining:

Beyond this place of wrath and tears
Looms but the Horror of the shade,
And yet the menace of the years
Finds and shall find me unafraid.
It matters not how strait the gate,

²⁸⁴ This example highlights the different experience that women of color may have with respect to self-sidelining, as compared to white women. See *supra* notes 18-19 and accompanying text.

²⁸⁵ Joyce Smithey, *Women and the Legal Profession: Four Common Obstacles Faced by Female Lawyers*, MS. JD BLOG (Jan. 13, 2017), <https://ms-jd.org/blog/article/women-and-the-legal-profession-four-common-obstacles-faced-by-female-lawyer>.

How charged with punishments the scroll,
I am the master of my fate,
I am the captain of my soul.
- William Ernest Henley²⁸⁶

²⁸⁶ William Ernest Henley, *Invictus*, POETRY FOUND.,
<https://www.poetryfoundation.org/poems/51642/invictus> (last visited Jan. 17, 2019).