Gender in the Courtroom: Does It Matter?

Is gender bias alive and well in the courtroom? Are jurors influenced by the gender of the attorney? Do judges treat male and female attorneys differently?

Recent research on “implicit bias” suggests that many, if not most, of us have biases of which we may be unaware – automatic preferences favoring one gender or race, for example, over another. Little is known, though, about the role that implicit bias plays at trial, and particularly in jurors’ decision-making. This is an important consideration for law firms and corporate legal departments in thinking about gender equity as part of a broader diversity initiative.

When it comes to both leadership and visibility at trial, the gender gap is very real. Despite making up about half of law school graduates for the past two decades, women are still significantly underrepresented in equity partnership, law firm governance and other leadership roles. And, outside of prosecutors’ offices, they are significantly underrepresented on trial teams, particularly as lead counsel. The questions remain:

What impact does the underrepresentation of women in courtrooms have on jurors?

Can diversifying your trial teams help your case?

Recent nationwide surveys conducted by DOAR offer insight into these questions, and into the perceptions of male and female attorneys held by both mock jurors and attorneys themselves. Highlights of our findings include:

Jurors rated the exact same opening differently depending on whether they thought a male or female attorney had written it.

Men favored male attorneys; women favored female attorneys.

Female attorneys reported more negative reactions from judges, colleagues and clients than from jurors.