

Do Gender Prototypes Influence Attorney Willingness to Represent Sexual Harassment Victims?

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Objective: When women make sexual harassment claims, those who deviate from (vs. conform to) gender prototypes are viewed as less credible, their experiences are minimized, and they receive less support. We explored whether this prototype bias affects attorneys' willingness to represent nonprototypical claimants, beliefs about settlement success, and perceptions of case merit. **Hypotheses:** We hypothesized that attorneys exposed to a gender nonprototypical (vs. prototypical) woman claimant would perceive her claim as less desirable to represent, as less deserving of financial compensation, and as having less legal merit. We expected these effects to be unique to claims involving sexual harassment as we did not anticipate that gender prototypicality would affect attitudes toward those making control grievance claims. We further hypothesized that attorneys' personal and metabeliefs about prototypes of sexual harassment victims would mediate the effects of plaintiff prototypicality on the dependent measures. **Method:** Civil rights attorneys ($N = 553$) from across the United States participated in an online survey. Sample demographics roughly approximated those of the American Bar Association at the time across gender (31.83% women, 67.27% men, 0.90% other genders), race (3.07% Black or African American, 3.80% East or Southeast Asian, 4.70% Latino/a or Hispanic, 1.99% Middle Eastern, 0.72% Native American or Alaska Native, 0.36% Native Hawaiian or Pacific Islander, 88.43% White, and 3.44% other or declined to state), and age ($M = 52.04$ years). Attorneys reviewed an employment discrimination claim about either sexual harassment (experimental condition) or whistleblowing (control). We manipulated the description of the plaintiff such that she possessed either gender prototypical (i.e., feminine, communal) or nonprototypical (i.e., masculine, agentic) attributes, interests, and characteristics. **Results:** Attorneys reported that jurors perceive sexual harassment victims as more likely to resemble prototypical (vs. nonprototypical) women; however, attorneys did not rate nonprototypical (vs. prototypical) sexual harassment claimants as less credible or worthy of compensation and representation. Attorneys' personal and metabeliefs about prototypes of sexual harassment largely did not mediate effects. **Conclusion:** These findings diverge from prior scholarship with laypeople and suggest that attorneys may draw upon their legal socialization and focus primarily on aspects of the cases rather than extralegal factors, like plaintiff prototypicality, when evaluating the merits of a case. The findings also suggest that exposure to claims with more individuating and contextual information may encourage careful reasoning and reduce reliance on stereotypes.

Public Significance Statement


Although civil rights attorneys endorse stereotypes that sexual harassment victims are more prototypically feminine than masculine, they are no less willing to represent nonprototypical (vs. prototypical) sexual harassment claimants, and claimant prototypicality does not affect attorneys' judgments of case merit. Professional legal socialization may reduce attorneys' reliance on extralegal factors such as stereotypes about plaintiffs when making representation decisions.

Keywords: civil rights attorneys, gender, sexual harassment, prototypes, representation decisions

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Despite the pervasiveness of sexual harassment in the workplace, most sexual harassment victims never realize the full promise of civil rights laws (Goodman-Delahunty et al., 2010; Lockwood, 2008; Sweeney, 2009). Access to counsel represents a significant obstacle for sexual harassment claimants, as inability to obtain legal representation often leaves plaintiffs unable to successfully pursue justice (Albiston & Nielsen, 2006; Galanter, 1983). Attorneys' decisions to represent claimants are multidetermined and shaped by laws, fiscal constraints, workloads, and other contextual factors (Elwork et al., 1995; H. M. Kritzer, 1997; H. Kritzer & Krishnan, 1999). However, representation decisions are also subjective and may be susceptible to cognitive biases based on extralegal factors (e.g., stereotypes about successful claimants; Epstein & Goodman, 2018). Research with nonlegal lay perceivers reveals that women who deviate from (vs. conform to) gender prototypes are viewed as less credible and receive less support when they make sexual harassment claims (Goh et al., 2022; Kaiser et al., 2022). In this investigation, we explore whether attorneys harbor these same prototype biases and whether this affects attorneys' willingness to represent the claimants, predictions of settlement success, and perceptions of the merit of women's sexual harassment claims.

Sexual Harassment Cases and Access to Counsel

Access to counsel is a powerful determinant of whether grievances (i.e., perceptions of mistreatment) become legal cases (Galanter, 1983). The pyramid of disputes illustrates how experiences of grievances progress through the legal system (Miller & Sarat, 1981). Grievances reside at the wide base of the pyramid, and successful plaintiff wins at the narrow top. Grievances ascend the pyramid when legal decision-makers perceive these claims as potentially meritorious and fall from the pyramid when they are perceived as insufficiently meritorious (Friedland, 1989). Grievances of sexual harassment entail gender-based discrimination that involve unwelcome sexual advances, favors, or other verbal or physical harassment that create a hostile work environment for the victim or lead to negative employment outcomes (U.S. Equal Employment Opportunity Commission [EEOC], n.d.). Sexual harassment cases experience particularly steep attrition from the pyramid of disputes. Much of this attrition stems from access to counsel when attorneys choose not to represent a claimant (Albiston & Nielsen, 2006; Galanter, 1983; Miller & Sarat, 1981; Quintanilla, 2011; Sandefur, 2010). As pro se claimants are unlikely to be met with success, attorneys are critical gatekeepers in plaintiffs' ability to access justice (Albiston & Nielsen, 2006; Nielsen et al., 2010).

Attorneys' perceptions of the merit (i.e., credibility and strength of case) of a plaintiff's claim and its likely success are central to their representation decisions (Goodman-Delahunty et al., 2010; Lockwood, 2008; Sweeney, 2009). Attorneys consider both their personal perceptions of the claimants' merit and their expectations of jurors' judgments of merit if the case were to reach trial (i.e., their

metabeliefs; Epstein & Goodman, 2018; Spohn et al., 2001). Importantly, these case merit judgments are subjective (Department of Fair Employment and Housing, 2017; EEOC, 1999) and may be shaped by stereotypes, including perceptions of the prototypicality of sexual harassment victims (Goh et al., 2022; Kaiser et al., 2022). Prototypes are the ideal or typical representation of a category composed of fuzzy sets of shared attributes and traits (Cohen, 1981; Rosch, 1978). Prototypes are culturally determined, transmitted, and shared among members of the culture (Medin, 1989; Rosch, 1978; Rosch et al., 1976). The prototype of a woman revolves around traditional notions of femininity, including the possession of communal attributes (e.g., gentleness, kindness, interpersonally sensitivity) rather than agentic attributes (e.g., assertiveness, independence, dominance) and engagement in feminine hobbies, interests, and behaviors that align with traditional gender roles (Diekmann & Eagly, 2000; Eagly & Karau, 2002). The more peoples' attributes overlap with the prototype of their group, the more quickly others recognize them as members of the category (Rosch, 1978).

Prototype Bias Among Lay Perceivers

The more members of a category conform to (vs. deviate from) the group's prototype, the more readily others perceive them as experiencing life outcomes through the lens of their group membership. This extends to judgments that the individual experienced discrimination due to their group membership (Goh et al., 2022; Kaiser et al., 2022; Kaiser & Wilkins, 2010). In a series of studies on gender prototypicality and sexual harassment, participants perceived sexual harassment claimants who conformed to (vs. deviated from) prototypes of their gender group as more credible (Goh et al., 2022). This occurred when prototypicality was manipulated through physical features (e.g., subtle morphed facial features linked with femininity and masculinity), attributes, and traits (e.g., personality, hobbies) linked with the prototype. That is, participants perceived the very same claim of sexual harassment as more meritorious when made by a woman more (vs. less) prototypical of her gender category.

These reduced perceptions of claim merit disadvantage non-prototypical women who claim sexual harassment and are particularly troubling when one considers that nonprototypical women are in fact more likely than prototypical women to be targeted by sexual harassment (Berdahl, 2007; Cortina et al., 1998; Rossie et al., 2020). This prototype paradox (Kaiser et al., 2022) highlights how women who are most vulnerable to sexual harassment are in fact the least likely to have their claims of harassment perceived as meritorious and to receive support when they make these claims.

Prototype Bias in the Legal Context

Scholarship on perceptions of sexual harassment has largely focused on lay perceivers, often university students and convenience samples of adults, and has insufficiently addressed whether such

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biases emerge among legal professionals. Although research with lay perceivers can provide important insights into how prototypes shape social cognition surrounding sexual harassment claims, understanding access to justice requires sampling people socialized in the legal workplace (Fix, 2020; Goodman-Delahunty et al., 2010), particularly attorneys, who are the first gatekeepers to justice that many sexual harassment claimants encounter. As attorneys use judge and trial predictions to make strategic legal decisions, plaintiff attorneys are likely attuned to this bias, and it may impact decisions such as whether to take on cases and how to advise clients (e.g., the extent to which they see it important to fight for higher levels of redress, as in the case of settlement negotiations; Goodman-Delahunty et al., 2010). If attorneys possess prototype-based biases that disadvantage nonprototypical sexual harassment claimants, or believe that jurors may hold these biases, many women, especially those most in need, will have trouble accessing justice and attaining civil rights protections offered under the law.

The present investigation builds upon the scholarly tradition of examining how cognitive biases in the legal field shape access to justice (for reviews see Korobkin & Guthrie, 2004; Weinstein, 2009). A demonstration that attorneys possess and rely upon prototype biases that disadvantage nonprototypical sexual harassment claimants would represent a critical first step in educating attorneys and judges about this disadvantage, and this could catalyze efforts to remedy this situation and increase access to justice. Understanding prototype bias could also have downstream consequences for case selection and the introduction of evidence about these biases within legal proceedings, thereby increasing access to justice for those most susceptible to experiencing sexual harassment.

Overview of Present Research

The present research tested whether women claimants' conformity with (vs. deviation from) the prototype of their gender group shapes attorneys' construals of their sexual harassment cases. We hypothesized that attorneys would be less likely to represent women sexual harassment claimants who possess nonprototypical attributes relative to prototypical attributes and that they would perceive claims by the former as less deserving of compensation and less meritorious. In this experimental design, we randomly assigned attorneys to review a workplace discrimination claim about either sexual harassment (experimental condition) or whistleblowing retaliation (control condition). We experimentally manipulated the woman's prototypicality such that she possessed either gender prototypical (i.e., feminine, communal) or nonprototypical (i.e., masculine, agentic) attributes, interests, and characteristics (Diekmann & Eagly, 2000; Goh et al., 2022). Although sexual harassment affects persons of every gender, we focused on women in the present study as women are the most prevalent victims of sexual harassment (Kabat-Farr & Cortina, 2014). The participating attorneys judged their representation intentions for both parties, their assessments of the plaintiff's deservingness of compensation, and the merit of both parties' cases.

Method

Participants

Using the superpower package (Lakens & Caldwell, 2021) in RStudio (R Core Team, 2021), we conducted an a priori power

analysis to detect a three-way interaction in a $2 \times 2 \times 2$ mixed analysis of variance (ANOVA). We estimated mean differences and standard deviation based on previous research (i.e., Goh et al., 2022) and with a correlation of $r = .50$ for the within-subjects factor. We conducted a simulation power analysis with 1,000 simulations and determined that, with an α level of .05 and 135 participants per cell, we would have 99% power to detect a three-way interaction with an effect size of Cohen's $f = 0.03$. Importantly, we determined that this sample size would also help us achieve at least 80% power to detect effects for pairwise comparisons between all conditions of interest. Thus, this power analysis results in a total proposed sample size of 540 participants.

Recruitment

Our recruitment process included aggregating attorney email addresses from 21 national organization websites (e.g., <https://www.Martindale.com>; state bar association websites). We sampled across every state in the United States for a total of over 13,000 attorneys. We contacted batches of 500–1,000 attorneys on the email lists each week (between August 2023 and January 2024) with a link to a Qualtrics online survey. The online survey contained all study materials. We aimed to recruit a representative sample of attorneys across the country, and we sent participation invitations in batches that were proportional to state population sizes as of the U.S. 2020 Census (e.g., for every one attorney from South Dakota, we invited 43 attorneys from California). We sampled civil rights attorneys without respect to their specialization to optimize the sample size. At the end of the survey, participants provided other attorneys' email addresses for potential snowball sampling (Goodman, 1961; we did not ultimately need these recommendations). The study took approximately 10 min, and participants were compensated with a \$20 gift card. This study received Institutional Review Board approval at the University of Washington (STUDY00014761) and was preregistered on the Open Science Framework (<https://osf.io/vxsh7/>).

Demographics

We removed participants who did not complete ($N = 39$) or failed an attention check ($N = 73$), leaving a total sample size of 553 U.S. civil rights attorneys. We preregistered that we would exclude participants who revealed they were not attorneys; however, this situation did not occur. A total of 49.37% of participants typically represented plaintiffs, and 29.29% typically represented defendants, with 35.99% experienced specifically in hostile work environment law. The sample was 31.83% women, 67.27% men, 0.90% other genders, and, on average, 52.04 years old ($SD = 14.99$). Participants reported their state bar association from all 50 states in the United States (23.33% Northeast, 46.29% South, 26.58% Midwest, 41.95% West) and had a range of political orientations ($M = 2.99$, $SD = 1.58$, 1 = *strongly liberal* to 7 = *strongly conservative*). The racial/ethnic breakdown was 3.07% Black or African American, 3.80% East or Southeast Asian, 4.70% Latino/a or Hispanic, 1.99% Middle Eastern, 0.72% Native American or Alaska Native, 0.36% Native Hawaiian or Pacific Islander, 88.43% White, and 3.44% other or declined to state. Participants could choose more than one answer for some demographic questions; thus, percentages do not add up to

100%. These demographics roughly approximate the demographics of the American Bar Association in 2023 (see Table 1).

Procedure

Attorneys partook in a study about legal thinkers’ perspectives. They considered a request to represent a potential client, Michelle Morgan. This request indicated that Morgan received an EEOC right-to-sue letter and met with a paralegal who compiled documents and noted about the claim. Participants read the paralegal’s notes, consisting of a description of the plaintiff, information on the plaintiff’s case, and the defendant’s response (see Appendix A–C). After reading the paralegal’s notes, participants provided their thoughts on the claim.

Prototypicality Manipulation

We manipulated the prototypicality of the plaintiff to indicate that she possessed either gender prototypical or nonprototypical attributes, interests, and behaviors. We derived these descriptions from previous work on this topic, which also used personality characteristics and hobbies to manipulate perceptions of prototypicality (see Goh et al., 2022). For example, in the prototypical condition, we described the plaintiff as having a “degree in psychology” as well as being “warm, caring, a team player, and intuitive” and having spent her last vacation on a regional getaway. In the nonprototypical condition, we described her as having a “degree in construction management” as well as being “independent, bold, competitive, and analytical” and having spent her last vacation on a fishing trip. The plaintiffs’ age, marital status, occupational title, work performance, and length of tenure at the company were held constant across conditions. See Appendix A for the full prototypicality manipulation. We pretested these descriptions in a between-subjects manner with U.S. adults via <https://www.Prolific.co>, an online, nationwide survey platform, and participants ($N = 200$) perceived the descriptions as significantly different in prototypicality in the intended direction, $t(198) = 9.64, p < .001, d = 1.37$.

Table 1
Study Sample as Compared With 2023 ABA Demographics

Demographic	Sample	ABA
Gender		
Woman	31.83%	39.00%
Man	67.27%	61.00%
Other	0.90%	0.00%
Median age	51 years	46 years
Race		
Black	3.07%	5.00%
East/Southeast Asian	3.80%	6.00%
Middle Eastern	1.99%	
Latinx/Hispanic	4.70%	6.00%
Native American/Alaska Native	0.72%	1.00%
Native Hawaiian/Pacific Islander	0.36%	
White	88.43%	79.00%
Other	3.44%	3.00%

Note. ABA demographics collected from the 2023 Profile of the Legal Profession report (ABA, 2023). ABA = American Bar Association.

Claim Type Manipulation

The sexual harassment and whistleblowing cases were nearly identical, except for the relevant details specific to the content of the claim (see Appendices B and C, respectively, for claims). We pretested these two conditions in an online survey with 99 participants who possessed legal backgrounds (37 attorneys, 20 paralegals, 14 law students, 16 legal assistants, 12 others). A two-way mixed ANOVA on perceived merit with claim type as between subjects and target of evaluation (plaintiff vs. defendant) as repeated measures revealed no significant main effect of claim type, $F(1, 97) = 0.03, p = .861$, and no significant interaction $F(1, 97) = 1.29, p = .259$. By holding the merit of the claims constant, and manipulating solely plaintiff prototypicality, we can draw causal conclusions about the role of prototypicality in affecting access to justice.

Measures

Representation of Plaintiff

Participants rated the extent to which they would be willing to represent the plaintiff and decline to represent the plaintiff (reverse coded), with scale endpoints of 1 = *extremely unlikely*, 2 = *unlikely*, 3 = *slightly unlikely*, 4 = *neither unlikely nor likely*, 5 = *somewhat likely*, 6 = *likely*, and 7 = *extremely likely* ($\alpha = .90$).

Representation of Defendant

Participants rated the extent to which they would be willing to represent the defendant and decline to represent the defendant (reverse coded) on the same 7-point scale ($\alpha = .93$).

Financial Compensation

Participants rated the amount of compensation the plaintiff is owed, compensatory damages the company owes, and punitive damages the company owes if there was an out-of-court settlement (scales ranged from \$0 to \$300,000, at \$50,000 intervals; $\alpha = .81$).

Legal Merit of Plaintiff’s Case

Participants rated the extent to which a jury would find the plaintiff credible (1 = *not credible whatsoever*, 2 = *uncredible*, 3 = *slightly uncredible*, 4 = *neither credible nor uncredible*, 5 = *somewhat credible*, 6 = *credible*, 7 = *extremely credible*) and her case as strong (1 = *extremely weak*, 2 = *weak*, 3 = *slightly weak*, 4 = *neither weak nor strong*, 5 = *somewhat strong*, 6 = *strong*, 7 = *extremely strong*; $\alpha = .42$).

Legal Merit of Defendant’s Case

Participants rated the extent to which a jury would find the defendant credible and their case as strong on the same 7-point scales ($\alpha = .78$).

Mediating Beliefs

We assessed two potential mediators of the relationship between plaintiff prototypicality and the dependent measures. First, we assessed attorneys’ personal beliefs about the prototype bias by their level of agreement with the following two

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statements: “Women with personalities, interests, and characteristics like Morgan’s are especially likely to be sexually harassed compared to other women” and “When I imagine a victim of sexual harassment, I picture a woman who’s personality, interests, and characteristics are a lot like Morgan’s” (1 = *completely disagree*, 2 = *disagree*, 3 = *slightly disagree*, 4 = *neither disagree nor agree*, 5 = *somewhat agree*, 6 = *agree*, 7 = *completely agree*; $\alpha = .70$). Second, we assessed their metabeliefs of juror’s endorsement of the prototype bias with the following two statements: “Other people believe that women with personalities, interests, and characteristics like Morgan’s are especially likely to be sexually harassed compared to other women” and “When other people imagine a victim of sexual harassment, they picture a woman who’s personality, interests, and characteristics are a lot like Morgan’s” (1 = *completely disagree*, 2 = *disagree*, 3 = *slightly disagree*, 4 = *neither disagree nor agree*, 5 = *somewhat agree*, 6 = *agree*, 7 = *completely agree*; $\alpha = .78$).

Plaintiff Prototypicality Manipulation Check

We measured the prototypicality of the plaintiff as the average of the following two items: “the plaintiff is feminine” and “the plaintiff is masculine” (reverse coded; 1 = *completely disagree*, 2 = *disagree*, 3 = *slightly disagree*, 4 = *neither disagree nor agree*, 5 = *somewhat agree*, 6 = *agree*, 7 = *completely agree*; $\alpha = .76$).

Finally, participants answered an attention check (i.e., gauging the extent to which they carefully read survey questions) and completed demographics: their bar orientation, whether they specialize in hostile work environment law, state(s) they are licensed to practice in, age, gender, race, and political orientation (see Appendix D for all data variables). They were then directed to another survey wherein they input their email to receive compensation via a \$20 gift card. Anonymized data and analysis code are available in a public repository (<https://osf.io/vxsh7/>).

Hypotheses

Hypothesis 1A predicted that attorneys would perceive a non-prototypical (vs. prototypical) plaintiff’s sexual harassment claim (but not her whistleblowing claim) as less desirable to represent. Hypothesis 1B predicted that because assessments of the plaintiff and defense often operate relationally when there are conflicting accounts (Epstein, 2020), attorneys would perceive a nonprototypical (vs. prototypical) sexual harassment defendant (but not whistleblower defendant) as more desirable to represent. We predicted these hypotheses to manifest as interactions between plaintiff prototypicality, claim type, and repeated measures representation factor, which, when significant, were explored with simple effects test comparing the effects of prototypicality manipulation on representation decisions separately in the sexual harassment and whistleblower claim conditions.

Hypothesis 2 predicted that attorneys would perceive a non-prototypical (vs. prototypical), plaintiff’s sexual harassment claim (but not whistleblowing claim) as less deserving of financial compensation. Evidence for this hypothesis would be in the form of an interaction between plaintiff prototypicality and claim type, which if significant would be subjected to simple effects tests

examining the effects of prototypicality separately in the sexual harassment and whistleblower claim conditions.

Hypothesis 3A predicted that attorneys would perceive a non-prototypical (vs. prototypical) plaintiff’s sexual harassment claim (but not whistleblower claim) as less meritorious. Hypothesis 3B predicted that when the plaintiff was prototypical (vs. non-prototypical), attorneys would evaluate the defendant’s arguments as more meritorious in the sexual harassment claim condition (but not the whistleblower claim condition). We predicted these hypotheses to manifest as interactions between plaintiff prototypicality, claim type, and repeated measures representation factor, which, when significant, were explored with simple effect test comparing the effects of prototypicality manipulation on case merit judgments separately in the sexual harassment and whistleblower claim conditions.

Hypothesis 4 predicted that the effect of plaintiff prototypicality on the dependent variables would be mediated by attorney’s personal and metabeliefs about prototypes of sexual harassment victims in the sexual harassment condition only. Evidence for this hypothesis would be in the form of a significant indirect effect of plaintiff prototypicality on the dependent measures while accounting for both mediating variables.

Results

Before conducting analyses on the dependent variables, we calculated Cronbach’s α for all dependent measures to assess their internal reliability. For any two-item scales that show unusually low reliability ($\alpha < .60$), we analyzed the items separately. We then averaged the scale items to create a single index for each of the following variables: prototypicality, representation intentions, financial compensation, merit, personal beliefs, and metabeliefs. See Table 2 for zero-order correlations between all the main variables and Table 3 for means and standard deviations for all the main variables.

Hypotheses 1–3: ANOVA

Plaintiff Prototypicality Manipulation Check

As a manipulation check, a 2 (plaintiff prototypicality: prototypical vs. nonprototypical) \times 2 (claim type: sexual harassment vs. whistleblowing) ANOVA was conducted on the prototypicality scale. In line with our prediction, a plaintiff prototypicality main effect revealed that attorneys perceived the prototypical woman plaintiff to be more prototypical than the nonprototypical plaintiff, $F(1, 547) = 69.57, p < .001, \eta_p^2 = .113, 90\% \text{ CI } [.074, .155]$. There was also a main effect of case condition whereby participants who read the sexual harassment case rated the women as more prototypical than those in the whistleblowing condition, $F(1, 547) = 13.90, p < .001, \eta_p^2 = .025, 90\% \text{ CI } [.009, .050]$. This latter main effect is consistent with prior research showing that being a target of sexual harassment feminizes perceptions of women (Goh et al., 2022). The two-way interaction was not significant, $F(1, 547) = 0.05, p = .819, \eta_p^2 < .001, 90\% \text{ CI } [.000, .005]$.

Representation Likelihood

Both the plaintiff and defendant representation likelihood measures were submitted to a 2 (plaintiff prototypicality: prototypical vs.

Table 2
Zero-Order Correlations Between Main Variables

Variable	<i>M</i>	<i>SD</i>	1	2	3	4	5	6	7	8
1. Manipulation check	4.98	1.08	—							
2. Representation (plaintiff)	4.60	1.45	.02 (.671)	—						
3. Representation (defendant)	5.07	1.64	.01 (.735)	.06 (.133)	—					
4. Compensation	65,507	61,244	-.02 (.678)	.33 (<.001)	-.20 (<.001)	—				
5. Case merit (plaintiff)	4.89	0.84	.08 (.047)	.55 (<.001)	-.09 (.033)	.42 (<.001)	—			
6. Case merit (defendant)	4.22	1.01	.05 (.234)	-.37 (<.001)	.28 (<.001)	-.29 (<.001)	-.38 (<.001)	—		
7. Beliefs (personal)	3.66	1.06	.13 (.003)	.04 (.311)	-.18 (<.001)	.07 (.121)	.09 (.034)	-.15 (<.001)	—	
8. Beliefs (Meta)	3.77	1.03	.18 (<.001)	.08 (.069)	-.07 (.104)	.03 (.453)	.11 (.007)	-.07 (.082)	.49 (<.001)	—

Note. The values presented in parentheses are the *p*-value significance levels for the correlation coefficients in each cell.

nonprototypical) × 2 (claim type: sexual harassment vs. whistleblowing) × 2 (target of evaluation: plaintiff vs. defendant) mixed ANOVA. There was no main effect of plaintiff prototypicality, $F(1, 548) = 0.30, p = .586, \eta_p^2 = .001, 90\% \text{ CI } [.000, .008]$, nor claim type, $F(1, 548) = 3.11, p = .079, \eta_p^2 = .006, 90\% \text{ CI } [.000, .021]$. However, there was a significant main effect of target of evaluation, such that participants expressed more desire to represent the defendant than the plaintiff, $F(1, 548) = 27.21, p < .001, \eta_p^2 = .047, 90\% \text{ CI } [.022, .079]$. The three-way interaction was not significant, $F(1, 548) = 0.16, p = .689, \eta_p^2 < .001, 90\% \text{ CI } [.000, .007]$ (see Table 4).

Financial Compensation

Financial compensation was submitted to a 2 (plaintiff prototypicality: prototypical vs. nonprototypical) × 2 (claim type: sexual harassment vs. whistleblowing) fully between-subjects ANOVA. There were no main effects of plaintiff prototypicality, $F(1, 527) =$

2.86, $p = .091, \eta_p^2 = .005, 90\% \text{ CI } [.000, .021]$, or claim type, $F(1, 527) = 0.98, p = .322, \eta_p^2 = .002, 90\% \text{ CI } [.000, .013]$. The two-way interaction was not significant, $F(1, 527) = 0.11, p = .739, \eta_p^2 < .001, 90\% \text{ CI } [.000, .006]$.

Case Merit

Both the plaintiff and defendant case merit measures were submitted to a 2 (plaintiff prototypicality: prototypical vs. nonprototypical) × 2 (claim type: sexual harassment vs. whistleblowing) × 2 (target of evaluation: plaintiff vs. defendant) mixed ANOVA. The two-item index for plaintiff case merit had an unusually low Cronbach’s α ($\alpha = .42$); thus, consistent with our a priori plan, we analyzed each case merit item individually. However, the individual item and aggregate scale analyses yielded largely consistent results; thus, we report only the aggregate scale analyses below (for all results see Tables 5–7).

Table 3
Means and Standard Deviations for All Variables as a Function of a 2 (Case Condition) × 2 (Woman Prototypicality) Design

Variable (condition)	Prototypical		Nonprototypical	
	<i>M</i>	<i>SD</i>	<i>M</i>	<i>SD</i>
Plaintiff prototypicality manipulation check				
Harassment	5.47	0.98	4.78	1.06
Control	5.18	0.99	4.44	0.98
Representation (plaintiff)				
Harassment	4.80	1.47	4.71	1.34
Control	4.38	1.52	4.50	1.45
Representation (defendant)				
Harassment	5.22	1.60	4.93	1.80
Control	5.04	1.55	5.08	1.60
Compensation				
Harassment	64775.24	56767.31	75,559.17	64907.43
Control	61264.54	59986.15	68501.96	63366.48
Merit (plaintiff)				
Harassment	4.96	0.88	4.84	0.83
Control	4.85	0.79	4.88	0.85
Merit (defendant)				
Harassment	4.21	1.03	4.18	1.00
Control	4.27	1.02	4.24	0.99
Personal beliefs				
Harassment	3.83	1.10	3.49	1.00
Control	3.91	0.93	3.39	1.11
Metabeliefs				
Harassment	3.99	1.03	3.46	0.94
Control	4.20	0.86	3.43	1.06

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Table 4
Analysis of Variance Effects for Representation Likelihood

Effect	<i>F</i>	<i>p</i>	η_p^2	90% CI
Plaintiff prototypicality	0.30	.586	.001	[.000, .008]
Claim type	3.11	.079	.006	[.000, .021]
Target of evaluation	27.21	<.001	.047	[.022, .079]
Plaintiff Prototypicality × Claim Type	1.90	.168	.003	[.000, .016]
Plaintiff Prototypicality × Target of Evaluation	0.63	.427	.001	[.000, .011]
Claim Type × Target of Evaluation	2.85	.092	.005	[.000, .020]
Three-way interaction	0.16	.689	<.001	[.000, .007]

Note. Effects are on 1 and 548 degrees of freedom. CI = confidence interval.

Neither the main effect of plaintiff prototypicality, $F(1, 545) = 0.73, p = .394, \eta_p^2 = .001, 90\% \text{ CI } [.000, .011]$, nor claim type, $F(1, 545) = 0.08, p = .782, \eta_p^2 < .001, 90\% \text{ CI } [.000, .005]$, was significant. However, there was a significant main effect of target of evaluation, such that attorneys rated the plaintiff's case as more meritorious than the defendant's case, $F(1, 545) = 99.63, p < .001, \eta_p^2 = .155, 90\% \text{ CI } [.111, .200]$. The three-way interaction was not significant, $F(1, 545) = 0.23, p = .632, \eta_p^2 = .000, 90\% \text{ CI } [.000, .008]$.

Hypothesis 4: Mediation

We tested multiple mediation by personal and metabeliefs about sexual harassment victims with the RStudio lavaan package (Rosseel et al., 2023). We tested the indirect effect of plaintiff prototypicality on the dependent measures, accounting for parallel mediation by belief (personal and meta). We tested the significance of this indirect effect using bootstrapping procedures. We computed unstandardized indirect effects for each of 5,000 bootstrapped samples and computed the 95% confidence interval by determining the indirect effects at the 2.5th and 97.5th percentiles. Beliefs did not indirectly mediate the relationship between plaintiff prototypicality and dependent measures, with two exceptions. In the whistleblowing condition only, there was a small indirect effect of personal beliefs on both willingness to represent the defendant, $b = -0.15, SE = 0.07, p = .044$, and case merit perceptions of the defendant, $b = -0.13, SE = 0.05, p = .008$ (see Supplemental Material). As these findings were neither predicted nor theoretically relevant, we do not discuss them further.

We conducted separate mediation analyses with sensitivity analyses using the mediation package (Tingley et al., 2014) to account for the sequential ignorability violation in our procedures

(caused by assessing the mediator after the dependent measures; Tingley et al., 2022). As the mediation package does not allow for parallel mediation, we fit separate models for each mediator (personal beliefs and metabeliefs) and condition (sexual harassment or whistleblowing) resulting in four models per variable (representation of plaintiff, representation of defendant, compensation, merit of plaintiff, merit of defendant). We used 5,000 resampled bootstraps of the estimate of the indirect effect and 95% confidence intervals. Findings generally mirrored the results of the parallel mediation models above with some minor differences. Specifically, the additional mediation analyses showed that, in the sexual harassment condition, both personal beliefs, average causal mediated effect (ACME) = 0.12, 95% CI [.02, .26], $p = .008$, and metabeliefs, ACME = 0.13, 95% CI [.00, .27], $p = .040$, mediated the relation between plaintiff prototypicality and representation of defendant. Further, in the whistleblowing condition, metabeliefs mediated the relation between plaintiff prototypicality and the full scale for plaintiff case merit, ACME = $-0.10, 95\% \text{ CI } [-.20, -.02], p = .014$. However, the sensitivity analyses demonstrated that the results of all the additional mediation models, including the models that were consistent with the results of the former parallel mediation models, were not robust to a violation of sequential ignorability (see Supplemental Material). Thus, conclusions drawn from any of these models may be less plausible with larger departures from the ignorability of the mediator.

Exploratory Analysis Plan

We conducted several exploratory covariate-adjusted models controlling for relevant individual difference measures to explore the robustness of our effects across these factors (see Appendix D for

Table 5
Analysis of Variance Effects for Case Merit (Full Scale)

Effect	<i>F</i>	<i>p</i>	η_p^2	90% CI
Plaintiff prototypicality	0.73	.394	.001	[.000, 0.011]
Claim type	0.08	.782	<.001	[.000, 0.005]
Target of evaluation	99.63	<.001	.155	[.111, .200]
Plaintiff Prototypicality × Claim Type	0.70	.403	.001	[.000, .011]
Plaintiff Prototypicality × Target of Evaluation	0.02	.891	<.001	[.000, .003]
Claim Type × Target of Evaluation	0.53	.466	.001	[.000, .010]
Three-way interaction	0.23	.632	<.001	[.000, .008]

Note. Effects are on 1 and 545 degrees of freedom. CI = confidence interval.

Table 6
Analysis of Variance Effects for Case Merit (Item 1)

Effect	<i>F</i>	<i>p</i>	η_p^2	90% CI
Plaintiff prototypicality	0.03	.859	<.001	[.000, .004]
Claim type	0.01	.912	<.001	[.000, .002]
Target of evaluation	386.95	<.001	.416	[.37, .460]
Plaintiff Prototypicality × Claim Type	0.89	.346	.002	[.000, .012]
Plaintiff Prototypicality × Target of Evaluation	0.01	.921	<.001	[.000, .002]
Claim Type × Target of Evaluation	0.04	.852	<.001	[.000, .004]
Three-way interaction	0.72	.397	.001	[.000, .011]

Note. Effects are on 1 and 544 degrees of freedom. CI = confidence interval.

covariates). For each of the main analyses outlined above (excluding the manipulation check), we conducted an additional linear regression, controlling for participant bar orientation, legal specialization, age, gender, and political orientation. Results did not differ after controlling for these demographic variables (see [Supplemental Material](#) for full results).

Additionally, we conducted two ANOVAs to explore the effects of plaintiff prototypicality (prototypical vs. nonprototypical) and claim type (sexual harassment vs. whistleblowing) on the mediators: personal and metabeliefs about sexual harassment victims. There was a significant main effect of plaintiff prototypicality, such that attorneys who saw a prototypical (vs. nonprototypical) plaintiff reported that women like her were more likely to be sexually harassed relative to those who saw a nonprototypical plaintiff, $F(1, 548) = 23.48, p < .001, \eta_p^2 = .041, 90\% \text{ CI } [.018, .071]$. Metabeliefs also revealed that attorneys believed jurors would perceive prototypical women resembled sexual harassment victims to a greater degree than nonprototypical women, $F(1, 548) = 60.17, p < .001, \eta_p^2 = .099, 90\% \text{ CI } [.063, .140]$. Thus, attorneys both endorse the prototype bias and perceive that jurors do as well.

Discussion

Laypeople perceive women sexual harassment claimants who deviate from (vs. conform to) gender prototypes as less credible, less harmed by harassment, and less likely to intervene on their behalf (Goh et al., 2022; Kaiser et al., 2022; Schachtman et al., 2023). These perceptions, especially of lower credibility and harm, are key determinants of the legal standing of harassment cases and are essential predictors of the level of justice and redress plaintiffs receive (e.g., Epstein, 2020). The present work investigated how

this prototype bias impacts attorney's perceptions of a claimant's case and willingness to represent them, as counsels' evaluations of cases are critical junctures that can determine sexual harassment claimants' access and benefit from civil rights enforcement. A large, geographically diverse sample of U.S. civil rights attorneys endorsed the prototype bias, as those exposed to a prototypical (vs. nonprototypical) claimant indicated that she more closely resembled a sexual harassment victim. However, inconsistent with our hypotheses, attorneys did not exhibit the prototype bias on any of the dependent measures (representation decisions, financial compensation, case merit), and there were no theoretically relevant mediation effects driven by personal and metabeliefs about sexual harassment victims' prototypicality.

The combination of results suggests that while civil rights attorneys endorse the prototype bias in the abstract, they may correct for this bias when making decisions to represent clients. Because prototype endorsement is largely driven by cultural representations of a given social category (Bailey et al., 2019; Bandt-Law et al., 2021; Eagly & Kite, 1987), it is perhaps expected that attorneys would also endorse prototypes of sexual harassment victims. However, unlike laypeople, civil rights attorneys have higher levels of expertise about discrimination and frequently interface with victims of discrimination. In fact, domain expertise can decrease reliance on stereotypes in decision making (for a review, see Lerner & Tetlock, 1999). Additionally, attorneys' accountability to external parties such as clients and judges may enhance their motivation for accuracy, reducing reliance on stereotypes (Weary et al., 2001). Consequently, attorneys may have drawn upon their expertise and focused on aspects of the case and other legal considerations rather than extralegal factors such as prototypes. It is promising that attorneys' own endorsement of the prototype bias did not impact their legal

Table 7
Analysis of Variance Effects for Case Merit (Item 2)

Effect	<i>F</i>	<i>p</i>	η_p^2	90% CI
Plaintiff prototypicality	1.75	.487	.003	[.000, .016]
Claim type	0.37	.544	.001	[.000, .009]
Target of evaluation	2.02	.156	.004	[.000, .017]
Plaintiff Prototypicality × Claim Type	0.13	.716	<.001	[.000, .007]
Plaintiff Prototypicality × Target of Evaluation	0.02	.895	<.001	[.000, .003]
Claim Type × Target of Evaluation	1.65	.200	.003	[.000, .015]
Three-way interaction	1.62	.203	.003	[.000, .015]

Note. Effects are on 1 and 544 degrees of freedom. CI = confidence interval.

decision making, as doing so could disproportionately impede access to justice and redress for less prototypical women who are often most vulnerable to and harmed by sexual harassment (e.g., Kaiser et al., 2022).

Unexpectedly, attorneys expressed more support for representing defendants, despite rating plaintiffs as having a more meritorious case and our sample being disproportionately comprised of plaintiff-serving attorneys. This could be driven by financial incentives, as attorneys' compensation is often lower when representing a plaintiff than a defendant, as compensation depends on the outcome of the case (e.g., percentage of settlement, compensation and damages awarded). Attorneys may refuse to represent a plaintiff's case even when they perceive it as meritorious if the case is potentially expensive to litigate or anticipated compensation and damages are low (Schwartz, 2022). Future research should examine how financial incentives interplay with potential biases among attorneys to influence legal representation decisions.

Implications for Practice and Research

In the present study, civil rights attorneys' attunement to issues of fairness and representation may have increased social desirability concerns and prevented the expression of prototype biases. Indeed, social desirability can reduce the expression of biases in legal decision-making research. For example, participants in mock juror studies have exhibited inflated pro-Black judgments, possibly due to concerns about appearing prejudiced (Salerno et al., 2023). Similarly, socially desirable responding may suppress the expression of bias in laboratory settings, leading to findings that diverge from real-world disparities (Smalarz et al., 2023). Future research using more indirect methods can disentangle genuine legal judgment processes from reputational concerns or socially desirable responding.

The null results observed in this study may also suggest that civil rights attorneys do not display prototype biases in the specific context explored in this study. Past research documenting the prototype bias has used ambiguous claims of harassment and minimal information about claimants (e.g., Goh et al., 2022). In the present study, however, our stimuli were extensive, offering some disambiguating and contextual information by providing more comprehensive information about both the plaintiff and her claim of harassment. More realistic stimuli expose participants to individuating information, multiple narratives, and contextual detail, which may encourage careful reasoning and reduce reliance on stereotypes or personal beliefs (Guttek et al., 1999; Heilman, 1984). When people form impressions of others, they tend to give substantially more weight to individuating information than to stereotypes, particularly when both types of information are available and people are motivated to make accurate judgments (Kunda & Thagard, 1996). It may then be advantageous for clients to paint as detailed a picture as they can (of both themselves and their claim) when soliciting counsel and for plaintiff attorneys to do the same when presenting their case to judges and jurors.

Additionally, the present study presented attorneys with stimuli indicating that the plaintiff had a case that was compatible with the legal standards for sexual harassment, had already been issued an EEOC right-to-sue letter, and spoken with a paralegal (indicating that the case had already been evaluated as moderately compelling). Because biases in discrimination attributions are especially likely to

occur when discrimination is ambiguous (e.g., Major et al., 2002), the detailed and relatively unambiguous information provided to the lawyers may have mitigated the effect. It is possible that the prototype bias would emerge even among civil rights attorneys when they are presented with more ambiguous information about alleged sexual harassment and perhaps early in the legal process. Ongoing research in our lab suggests that attorneys (across all specializations) do perceive nonprototypical (vs. prototypical) sexual harassment claimants as less credible when they are presented with minimal information about a potential plaintiff (Ferguson et al., 2025), suggesting that this issue could use further attention.

Limitations and Future Directions

While we did not observe evidence of the prototype bias in attorneys' decisions about the plaintiff, it is possible that the prototype bias could impact legal decisions at other stages in the legal process. For example, prototype biases may influence judges' decisions to grant or deny summary judgments that determine whether a case will go to trial, as judicial decision making with respect to summary judgment in discrimination cases involves discretion and is vulnerable to bias (Schneider, 2006). Additionally, prototype biases may influence judicial and juror decision making at trial, influencing whether plaintiffs receive favorable decisions as well as the levels of injunctive relief and monetary benefits provided to them.

It is also possible that prototype biases may impact case attrition at earlier stages in the pyramid of disputes, such as when potential claimants bring allegations of harassment to those without legal backgrounds such as managers and human resource officers. Indeed, most women who make claims are met with disbelief and indifference by dismissive complaint handlers, and their claims are dismissed without an investigation (Frankel & Ward, 2018; Hershcovis et al., 2021). Future research should explore in what ways the prototype bias emerges in this initial stage of high attrition among both informal and formal justice gatekeepers.

The strengths of our method include presenting a large sample of attorneys from across the United States with ecologically valid stimuli (case summary judgment document). Further, this sample matched American Bar Association demographics fairly consistently. Although we recruited civil rights attorneys, we defined this broadly as those who specialize in ensuring equal treatment under the law and protection from discrimination based on protected classes. As such, attorneys represent a wide range of legal specializations (e.g., discrimination, retaliation), with only 34% reporting they had experience with hostile work environment law specifically.

Conclusion

Although civil rights attorneys endorse the prototype bias, this bias did not influence their evaluations of sexual harassment. The gender prototypicality of the plaintiff did not impact attorneys' decisions to represent claimants, allocate financial compensation, or differentially assess case merit. Thus, attorneys may consciously correct for the prototype bias when evaluating cases, potentially due to their expertise in discrimination law. Nonetheless, future research should continue to investigate the conditions under which prototype biases emerge, particularly in ambiguous cases or among other justice gatekeepers at earlier and later stages in the legal process.

This investigation points to the importance of testing whether biases observed with laypeople will generalize to legal populations with expertise in these domains, as the convergence and divergence in findings will have implications for understanding these phenomena.

References

- Albiston, C. R., & Nielsen, L. B. (2006). The procedural attack on civil rights: The empirical reality of Buckhannon for the private attorney general. *UCLA Law Review*, *54*(5), 1087–1134. <https://escholarship.org/uc/item/9m03857j>
- American Bar Association. (2023). *2023 profile of the legal profession*. <https://www.americanbar.org/content/dam/aba/administrative/news/2023/potlp-2023.pdf>
- Bailey, A. H., LaFrance, M., & Dovidio, J. F. (2019). Is man the measure of all things? A social cognitive account of androcentrism. *Personality and Social Psychology Review*, *23*(4), 307–331. <https://doi.org/10.1177/1088868318782848>
- Bandt-Law, B., Cheek, N. N., Goh, J. X., Sinclair, S., & Kaiser, C. R. (2021, February 9–13). *#WhatAboutUs: The neglect of non-prototypical sexual harassment victims* [Paper presentation, Virtual]. Society for Personality and Social Psychology 22nd Annual Meeting.
- Berdahl, J. L. (2007). The sexual harassment of uppity women. *Journal of Applied Psychology*, *92*(2), 425–437. <https://doi.org/10.1037/0021-9010.92.2.425>
- Cohen, C. E. (1981). Person categories and social perception: Testing some boundaries of the processing effect of prior knowledge. *Journal of Personality and Social Psychology*, *40*(3), 441–452. <https://doi.org/10.1037/0022-3514.40.3.441>
- Cortina, L. M., Swan, S., Fitzgerald, L. F., & Waldo, C. (1998). Sexual harassment and assault: Chilling the climate for women in academia. *Psychology of Women Quarterly*, *22*(3), 419–441. <https://doi.org/10.1111/j.1471-6402.1998.tb00166.x>
- Department of Fair Employment and Housing. (2017). *California department of fair employment and housing workplace harassment prevention guide for California employers*. <https://calcivilrights.ca.gov/wp-content/uploads/sites/32/2017/06/DFEH-Workplace-Harassment-Guide.pdf>
- Diekmann, A. B., & Eagly, A. H. (2000). Stereotypes as dynamic constructs: Women and men of the past, present, and future. *Personality and Social Psychology Bulletin*, *26*(10), 1171–1188. <https://doi.org/10.1177/0146167200262001>
- Eagly, A. H., & Karau, S. J. (2002). Role congruity theory of prejudice toward female leaders. *Psychological Review*, *109*(3), 573–598. <https://doi.org/10.1037/0033-295X.109.3.573>
- Eagly, A. H., & Kite, M. E. (1987). Are stereotypes of nationalities applied to both women and men? *Journal of Personality and Social Psychology*, *53*(3), 451–462. <https://doi.org/10.1037/0022-3514.53.3.451>
- Elwork, A., Andrew, G., & Benjamin, H. (1995). Attorneys in distress. *The Journal of Psychiatry & Law*, *23*(2), 205–229. <https://doi.org/10.1177/009318539502300201>
- Epstein, D. (2020). Discounting credibility: Doubting the stories of women survivors of sexual harassment. *Seton Hall Law Review*, *51*(2), 289–329. <https://doi.org/10.2139/ssrn.3575843>
- Epstein, D., & Goodman, L. A. (2018). Discounting women: Doubting domestic violence survivors' credibility and dismissing their experiences. *University of Pennsylvania Law Review*, *167*, 399. https://scholarship.law.upenn.edu/penn_law_review/vol167/iss2/3
- Ferguson, Z. E., Schachtman, R., & Kaiser, C. R. (2025). *An educational intervention to broaden prototypes of sexual harassment victims among laypeople and lawyers* [Manuscript in preparation]. Department of Psychology, University of Washington.
- Fix, R. L. (2020). Justice is not blind: A preliminary evaluation of an implicit bias training for justice professionals. *Race and Social Problems*, *12*(4), 362–374. <https://doi.org/10.1007/s12552-020-09297-x>
- Frankel, B., & Ward, S. F. (2018). *Little agreement between sexes on how to target harassment*. American Bar Association. https://www.abajournal.com/news/article/tackling_harassment_survey_women_men
- Friedland, S. I. (1989). On common sense and the evaluation of witness credibility. *Case Western Reserve Law Review*, *40*, 165. <https://scholarlycommons.law.case.edu/caselrev/vol40/iss1/5>
- Galanter, M. (1983). Reading the landscape of disputes: What we know and don't know (and think we know) about our allegedly contentious and litigious society. *UCLA Law Review*, *31*(1), 4–71. <https://repository.law.wisc.edu/suwlaw/item/30581>
- Goh, J. X., Bandt-Law, B., Cheek, N. N., Sinclair, S., & Kaiser, C. R. (2022). Narrow prototypes and neglected victims: Understanding perceptions of sexual harassment. *Journal of Personality and Social Psychology*, *122*(5), 873–893. <https://doi.org/10.1037/pspi0000260>
- Goodman, L. A. (1961). Snowball sampling. *Annals of Mathematical Statistics*, *32*(1), 148–170. <https://doi.org/10.1214/aoms/1177705148>
- Goodman-Delahunty, J., Granhag, P. A., Hartwig, M., & Loftus, E. F. (2010). Insightful or wishful: Attorneys' ability to predict case outcomes. *Psychology, Public Policy, and Law*, *16*(2), 133–157. <https://doi.org/10.1037/a0019060>
- Gutek, B. A., O'Connor, M. A., Melancon, R., Stockdale, M. S., Geer, T. M., & Done, R. S. (1999). The utility of the reasonable woman legal standard in hostile environment sexual harassment cases: A multimethod, multi-study examination. *Psychology, Public Policy, and Law*, *5*(3), 596–629. <https://doi.org/10.1037/1076-8971.5.3.596>
- Heilman, M. E. (1984). Information as a deterrent against sex discrimination: The effects of applicant sex and information type on preliminary employment decisions. *Organizational Behavior and Human Performance*, *33*(2), 174–186. [https://doi.org/10.1016/0030-5073\(84\)90019-9](https://doi.org/10.1016/0030-5073(84)90019-9)
- Hershcovis, M. S., Vranjes, I., Berdahl, J. L., & Cortina, L. M. (2021). See no evil, hear no evil, speak no evil: Theorizing network silence around sexual harassment. *Journal of Applied Psychology*, *106*(12), 1834–1847. <https://doi.org/10.1037/apl0000861>
- Kabat-Farr, D., & Cortina, L. M. (2014). Sex-based harassment in employment: New insights into gender and context. *Law and Human Behavior*, *38*(1), 58–72. <https://doi.org/10.1037/lhb0000045>
- Kaiser, C. R., Bandt-Law, B., Cheek, N. N., & Schachtman, R. (2022). Gender prototypes shape perceptions of and responses to sexual harassment. *Current Directions in Psychological Science*, *31*(3), 254–261. <https://doi.org/10.1177/09637214221078592>
- Kaiser, C. R., & Wilkins, C. L. (2010). Group identification and prejudice: Theoretical and empirical advances and implications. *Journal of Social Issues*, *66*(3), 461–476. <https://doi.org/10.1111/j.1540-4560.2010.01656.x>
- Korobkin, R., & Guthrie, C. (2004). Heuristics and biases at the bargaining table. *Marquette Law Review*, *87*, 795–808. <https://doi.org/10.2139/ssrn.513142>
- Kritzer, H., & Krishnan, J. (1999). Attorneys seeking clients, clients seeking attorneys: Sources of contingency fee cases and their implications for case handling. *Law & Policy*, *21*(4), 347–375. <https://doi.org/10.1111/1467-9930.00077>
- Kritzer, H. M. (1997). Contingency fee attorneys as gatekeepers in the civil justice system. *Judicature*, *81*(1), 22–29. <https://www.ojp.gov/nrcjrs/virtual-library/abstracts/contingency-fee-lawyers-gatekeepers-civil-justice-system>
- Kunda, Z., & Thagard, P. (1996). Forming impressions from stereotypes, traits, and behaviors: A parallel-constraint-satisfaction theory. *Psychological Review*, *103*(2), 284–308. <https://doi.org/10.1037/0033-295X.103.2.284>
- Lakens, D., & Caldwell, A. R. (2021). Simulation-based power analysis for factorial analysis of variance designs. *Advances in Methods and Practices in Psychological Science*, *4*(1), 1–14. <https://doi.org/10.1177/2515245920951503>

- Lerner, J. S., & Tetlock, P. E. (1999). Accounting for the effects of accountability. *Psychological Bulletin*, 125(2), 255–275. <https://doi.org/10.1037/0033-2909.125.2.255>
- Lockwood, G. (2008). A legal analysis of sexual harassment employment tribunal cases 1995–2005. *International Journal of Law and Management*, 50(6), 316–332. <https://doi.org/10.1108/17542430810919268>
- Major, B., Gramzow, R. H., McCoy, S. K., Levin, S., Schmader, T., & Sidanius, J. (2002). Perceiving personal discrimination: The role of group status and legitimizing ideology. *Journal of Personality and Social Psychology*, 82(3), 269–282. <https://doi.org/10.1037/0022-3514.82.3.269>
- McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973). <https://supreme.justia.com/cases/federal/us/411/792/>
- Medin, D. L. (1989). Concepts and conceptual structure. *American Psychologist*, 44(12), 1469–1481. <https://doi.org/10.1037/0003-066X.44.12.1469>
- Miller, R. E., & Sarat, A. (1981). Grievances, claims, and disputes: Assessing the adversary culture. *Law & Society Review*, 15(3–4), 525–566. <https://doi.org/10.2307/3053502>
- Nielsen, L. B., Nelson, R. L., & Lancaster, R. (2010). Individual justice or collective legal mobilization? Employment discrimination litigation in the post civil rights United States. *Journal of Empirical Legal Studies*, 7(2), 175–201. <https://doi.org/10.1111/j.1740-1461.2010.01175.x>
- Quintanilla, V. D. (2011). Beyond common sense: A social psychological study of Iqbal's effect on claims of race discrimination. *Michigan Journal of Race & Law*, 17(1), 1–61. <https://www.repository.law.indiana.edu/facpub/712>
- R Core Team. (2021). *R: A language and environment for statistical computing* [Computer software]. R Foundation for Statistical Computing. <https://www.R-project.org/>
- Rosch, E. (1978). *Principles of categorization*. MIT Press. <https://doi.org/10.7551/mitpress/3080.003.0017>
- Rosch, E., Mervis, C. B., Gray, W. D., Johnson, D. M., & Boyes-Braem, P. (1976). Basic objects in natural categories. *Cognitive Psychology*, 8(3), 382–439. [https://doi.org/10.1016/0010-0285\(76\)90013-X](https://doi.org/10.1016/0010-0285(76)90013-X)
- Rossee, Y., Jorgensen, T. D., Rockwood, N., Oberski, D., Byrnes, J., Vanbrabant, L., Savalei, V., Merkle, E., Hallquist, M., Rhemtulla, M., Katsikatsou, M., Barendse, M., Scharf, F., & Du, H. (2023). *lavaan: Latent variable analysis* (R package Version 0.6-14) [Computer software]. <https://cran.r-project.org/web/packages/lavaan/lavaan.pdf>
- Rossie, A., Tucker, J., & Patrick, K. (2020). *Out of the shadows: An analysis of sexual harassment charges filed by working women*. National Women's Law Center. <https://nwlc.org/wp-content/uploads/2018/08/SexualHarassmentReport.pdf>
- Salerno, J. M., Kulak, K., Smalarz, L., Eerdmans, R. E., Lawrence, M. L., & Dao, T. (2023). The role of social desirability and establishing nonracist credentials on mock juror decisions about Black defendants. *Law and Human Behavior*, 47(1), 100–118. <https://doi.org/10.1037/lhb0000496>
- Sandefur, R. L. (2010). The impact of counsel: An analysis of empirical evidence. *Seattle Journal for Social Justice*, 9(1), 51–95. <https://digitalcommons.law.seattleu.edu/sjsj/vol9/iss1/>
- Schachtman, R., Gallegos, J., & Kaiser, C. R. (2023). Gender prototypes hinder bystander intervention in women's sexual harassment. *Personality and Social Psychology Bulletin*, 51(6), 1007–1029. <https://doi.org/10.1177/01461672231203290>
- Schneider, E. M. (2006). The dangers of summary judgment: Gender and federal civil litigation. *Rutgers Law Review*, 59, 705. <https://doi.org/10.2139/ssrn.968834>
- Schwartz, J. C. (2022). Civil rights without representation. *William & Mary Law Review*, 64, 641. <https://ssrn.com/abstract=4046203>
- Smalarz, L., Eerdmans, R. E., Lawrence, M. L., Kulak, K., & Salerno, J. M. (2023). Counterintuitive race effects in legal and nonlegal contexts. *Law and Human Behavior*, 47(1), 119–136. <https://doi.org/10.1037/lhb0000515>
- Spohn, C., Beichner, D., & Davis-Frenzel, E. (2001). Prosecutorial justifications for sexual assault case rejection: Guarding the “gateway to justice”. *Social Problems*, 48(2), 206–235. <https://doi.org/10.1525/sp.2001.48.2.206>
- Stone v. City of Indianapolis Public Utilities Division, 281 F.3d 640 (7th Cir. 2002). <https://law.justia.com/cases/federal/appellate-courts/F3/281/640/633138/>
- Sweeney, J. A. (2009). Credibility, proof and refugee law. *International Journal of Refugee Law*, 21(4), 700–726. <https://doi.org/10.1093/ijrl/eeep027>
- Tingley, D., Yamamoto, T., Hirose, K., Imai, K., Keele, L., Trinh, M., & Wong, W. (2022). *mediation: Causal mediation analysis* (R package Version 4.5.0) [Computer software]. <https://cran.r-project.org/web/packages/mediation/mediation.pdf>
- Tingley, D., Yamamoto, T., Hirose, K., Keele, L., & Imai, K. (2014). mediation: R package for causal mediation analysis. *Journal of Statistical Software*, 59(5), 1–38. <https://doi.org/10.18637/jss.v059.i05>
- U.S. Equal Employment Opportunity Commission. (n.d.). *Sexual harassment*. <https://www.eeoc.gov/sexual-harassment>
- U.S. Equal Employment Opportunity Commission. (1999). *Enforcement guidance: Vicarious liability for unlawful harassment by supervisors*. <https://www.eeoc.gov/laws/guidance/enforcement-guidance-vicarious-liability-unlawful-harassment-supervisors>
- Weary, G., Jacobson, J. A., Edwards, J. A., & Tobin, S. J. (2001). Chronic and temporarily activated causal uncertainty beliefs and stereotype usage. *Journal of Personality and Social Psychology*, 81(2), 206–219. <https://doi.org/10.1037/0022-3514.81.2.206>
- Weinstein, I. (2009). Don't believe everything you think: Cognitive bias in legal decision making. *PsycCRITIQUES*, 8(41), 783–834. <https://doi.org/10.1037/a0017460>

Appendix A

Prototypicality Manipulation

Plaintiff (Michelle Morgan): Prototypical Condition

Morgan is a married 33-year-old woman and has worked at Smithe & Simon since February 2013. Before starting at Smithe & Simon, she received a degree in psychology. At Smithe & Simon, Morgan works within the sales department. Morgan has always been a diligent worker, and colleagues say she has what some may describe as a soft and cooperative working style; she is warm, caring, a team player, and intuitive. She spent her most recent

vacation enjoying a regional getaway with her husband. Morgan has consistently had positive performance reviews, which highlight her talent to make customers feel confident in her ability to anticipate their needs.

Plaintiff (Michelle Morgan): Nonprototypical Condition

Morgan is a married 33-year-old woman and has worked at Smithe & Simon since February 2013. Before starting at Smithe &

(Appendices continue)

Simon, she received a degree in construction management. At Smithe & Simon, Morgan works within the sales department. Morgan has always been a diligent worker, and colleagues say she has what some may describe as a tough and dominant working style; she is independent, bold, competitive, and analytical. She spent her most recent vacation enjoying a fishing trip with her husband. Morgan has consistently had positive performance reviews, which highlight her talent to make customers feel confident in her ability to get the job done.

Defendant (Smithe & Simon): Held Constant Between Conditions

Smithe & Simon, Inc., is a corporation that employs over 600 individuals. Smithe & Simon designs, builds, and sells a variety of products that are then sold in merchandizing stores to eventually reach the consumer. Smithe & Simon is a highly respected company whose products are associated with being of consistently high quality.

Appendix B

Sexual Harassment Condition

Imagine your paralegal conducted an intake interview with Michelle Morgan, who brought an EEOC right-to-sue letter to your office. Please see their intake notes below.

Paralegal Notes

MICHELLE MORGAN has been a sales representative at SMITHE & SIMON since February 2013, where her primary tasks involve working with distributors who will eventually sell SMITHE & SIMON's products at their stores. She reported to a single supervisor, Justin Thomas (THOMAS).

Criteria for Sex Discrimination

A prima facie case of sex discrimination is established if the plaintiff shows that (1) she belongs to a protected class, (2) she was adequately performing to her employer's legitimate business expectations, (3) she suffered an adverse employment action, and (4) other similarly situated male employees were treated more favorably (*McDonnell Douglas Corp. v. Green*, 1973).

MORGAN's Claim

MORGAN states that she believes she suffered an adverse employment action, in that she was passed over for a promotion because she had rejected her supervisor's sexual advances. MORGAN's supervisor THOMAS was typically very friendly with MORGAN, and he would frequently come to her workstation to socialize. In a recent encounter, THOMAS asked MORGAN to stay late to work together on an upcoming sales presentation.

During their meeting, THOMAS continually brought up his own dating life and asked MORGAN if she was in a relationship. When MORGAN tried to change the conversation by telling THOMAS about an upcoming trip with her husband, he told her that he would be looking forward to when she returned. After they finished the presentation, when MORGAN reached her car in the company parking lot, THOMAS got close to her and tried to hug her. MORGAN stepped back from her supervisor and said that this behavior was inappropriate. MORGAN then got into her car and drove off. After this incident, MORGAN reports that THOMAS's behavior completely changed and he began acting very cold toward her. He stopped giving her as many opportunities at work, such as helping work on presentations or meeting with big potential clients. Not long after the described event, THOMAS decided to promote MORGAN's male colleague who had previously received similar performance evaluations. MORGAN believes her colleague was given this promotion instead of her because she had rejected her supervisor's sexual advances.

SMITHE & SIMON's Response

SMITHE & SIMON states that there was no discriminatory system in place to determine promotion decisions. SMITHE & SIMON states that both MORGAN and her colleague were qualified candidates, but through the interview and review process, her colleague possessed ideas and qualifications that made him the more suitable candidate to receive a promotion. They maintain that sex discrimination did not influence the decision that resulted in MORGAN not receiving the promotion.

Appendix C

Whistleblowing Condition

Imagine your paralegal conducted an intake interview with Michelle Morgan, who brought an EEOC right-to-sue letter to your office. Please see their intake notes below.

Paralegal Notes

MICHELLE MORGAN has been a sales representative at SMITHE & SIMON since February 2013, where her primary tasks involve working with distributors who will eventually sell SMITHE &

SIMON's products at their stores. She reported to a single supervisor, Justin Thomas (THOMAS). Earlier that year, MORGAN lodged an anonymous complaint to human resource that THOMAS had mismanaged company funds while at a conference.

Criteria for Retaliation Against Whistleblowers

A prima facie case of retaliation against whistleblowers is established if the plaintiff shows that (1) she and her employer are covered

under the specific statutory or common law relied upon for action, (2) she engaged in protected whistleblower activity, (3) the defendant had knowledge that the plaintiff engaged in such activity, (4) the retaliation against the employee was motivated, at least in part, by the employee's engaging in protected activity, (5) she suffered an adverse employment action, and (6) she would not have been subject to an adverse action in the absence of her protected whistleblower conduct (*Stone v. City of Indianapolis Public Utilities Division*, 2002).

MORGAN's Claim

MORGAN states that she believes she suffered an adverse employment action, in that she was passed over for a promotion because she had reported her supervisor for using company funds for personal expenses and he was retaliating. MORGAN's supervisor THOMAS was typically very friendly with MORGAN, and he would frequently come to her workstation to socialize. In a recent encounter, THOMAS asked MORGAN to stay late to work together on an upcoming sales presentation. During their meeting, THOMAS continually brought up how he knows it must have been someone in the department who got him in trouble with his boss. When MORGAN tried to change the conversation by telling THOMAS about an upcoming trip with her husband, he told her that he wished the trip would be a long one. After they finished the presentation, when MORGAN reached her car in the company

parking lot, THOMAS got close to her and asked if she was the one who reported him. MORGAN stepped back from her supervisor and said that this behavior was inappropriate. MORGAN then got into her car and drove off. After this incident, MORGAN reports that THOMAS's behavior completely changed, and he began acting very cold toward her. He stopped giving her as many opportunities at work, such as helping work on presentations or meeting with big potential clients. Not long after the described event, THOMAS decided to promote MORGAN's male colleague who had previously received similar performance evaluations. MORGAN believes her colleague was given this promotion instead of her because she had reported her supervisor for mismanaging company funds.

SMITHE & SIMON's Response

SMITHE & SIMON states that there was no discriminatory system in place to determine promotion decisions. SMITHE & SIMON states that both MORGAN and her colleague were qualified candidates, but through the interview and review process, her colleague possessed ideas and qualifications that made him the more suitable candidate to receive a promotion. They maintain that retaliation for whistleblowing did not influence the decision that resulted in MORGAN not receiving the promotion.

Appendix D

Dependent Variables

- Representation
 - Now that you know the facts of the case, imagine that you were approached by both parties in *Morgan v. Smithe & Simon* asking for you to provide legal counsel.
 - Assuming you had appropriate legal expertise and were in plaintiff bar (1 = *extremely unlikely*, 2 = *unlikely*, 3 = *somewhat unlikely*, 4 = *neither unlikely nor likely*, 5 = *somewhat likely*, 6 = *likely*, 7 = *extremely likely*),
 - what is the likelihood that you would agree to represent Morgan?
 - what is the likelihood that you would decline to represent Morgan? (R)
 - Assuming you had appropriate legal expertise and were in defense bar (1 = *extremely unlikely*, 2 = *unlikely*, 3 = *somewhat unlikely*, 4 = *neither unlikely nor likely*, 5 = *somewhat likely*, 6 = *likely*, 7 = *extremely likely*),
 - what is the likelihood that you would agree to represent Smithe & Simon?
 - what is the likelihood that you would decline to represent Smithe & Simon? (R)
- Settlement Amount
 - Imagine that both parties decide to settle out of court. In your estimation, what is an appropriate amount for (\$0–\$300,000, intervals of \$50,000)
 - an out-of-court settlement for Morgan (from Smithe & Simon)?
 - compensatory damages from Smithe & Simon?
 - punitive damages from Smithe & Simon?
- Legal Merit Plaintiff
 - How strong would a jury find Michelle Morgan's claim against Smithe & Simon? (1 = *extremely weak*, 2 = *weak*, 3 = *somewhat weak*, 4 = *neither weak nor strong*, 5 = *somewhat strong*, 6 = *strong*, 7 = *extremely strong*)
 - How credible would a jury find Michelle Morgan? (1 = *not credible whatsoever*, 2 = *uncredible*, 3 = *somewhat uncredible*, 4 = *neither credible nor uncredible*, 5 = *somewhat credible*, 6 = *credible*, 7 = *extremely credible*)
- Legal Merit Defendant
 - How strong would a jury find Smithe & Simon's arguments? (1 = *extremely weak*, 2 = *weak*, 3 = *somewhat weak*, 4 = *neither weak nor strong*, 5 = *somewhat strong*, 6 = *strong*, 7 = *extremely strong*)
 - How credible would a jury find Smithe & Simon? (1 = *not credible whatsoever*, 2 = *uncredible*, 3 = *somewhat uncredible*, 4 = *neither credible nor uncredible*, 5 = *somewhat credible*, 6 = *credible*, 7 = *extremely credible*)

(Appendices continue)

- Personal Endorsement of the Prototype Bias
 - Women with personalities, interests, and characteristics like Morgan's are especially likely to be sexually harassed compared with other women (1 = *completely disagree*, 2 = *disagree*, 3 = *somewhat disagree*, 4 = *neither disagree nor agree*, 5 = *somewhat agree*, 6 = *agree*, 7 = *completely agree*).
 - When I imagine a victim of sexual harassment, I picture a woman whose personality, interests, and characteristics are a lot like Morgan's (1 = *completely disagree*, 2 = *disagree*, 3 = *somewhat disagree*, 4 = *neither disagree nor agree*, 5 = *somewhat agree*, 6 = *agree*, 7 = *completely agree*).
- Metabeliefs of the Prototype Bias
 - Other people believe women with personalities, interests, and characteristics like Morgan's are especially likely to be sexually harassed compared with other women (1 = *completely disagree*, 2 = *disagree*, 3 = *somewhat disagree*, 4 = *neither disagree nor agree*, 5 = *somewhat agree*, 6 = *agree*, 7 = *completely agree*).
 - When other people imagine a victim of sexual harassment, other people picture a woman whose personality, interests, and characteristics are like Morgan's (1 = *completely disagree*, 2 = *disagree*, 3 = *somewhat disagree*, 4 = *neither disagree nor agree*, 5 = *somewhat agree*, 6 = *agree*, 7 = *completely agree*).
- Prototypicality of Plaintiff
 - Please rate your agreement with the following statements. The plaintiff, Morgan (1 = *completely disagree*, 2 = *disagree*, 3 = *somewhat disagree*, 4 = *neither disagree nor agree*, 5 = *somewhat agree*, 6 = *agree*, 7 = *completely agree*)
 - ... is feminine.
 - ... is masculine.
- Attention Check
 - People vary in many characteristics that might be of interest to researchers. For example, some people are more extraverted, while others are more introverted. In this case, we are interested in how people read sentences. Please answer the following question by clicking the "other" option and writing the answer to the following question in the blank space below. What is the fifth word in the following sentence? "John went to the shopping center on Tuesday" (reading, hiking, going to the beach, going to museums, other).
- Demographic Questions
 - What is your bar orientation? (plaintiff, defendant) [covariate]
 - Do you specialize in hostile work environment law? (yes, no) [covariate]
 - In what state(s) are you licensed? (select all that apply)
 - How old are you? [covariate]
 - What is your gender? (select all that apply) [covariate]
 - What racial/ethnic group(s) do you identify with? (select all that apply)
 - How would you describe your political orientation [covariate]

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