



Recognizing and Countering Implicit Bias

By Bill Trine

What is **implicit or subconscious bias**, and how does it differ from explicit or conscious bias? As trial lawyers, we are trained to identify explicit bias and use that knowledge to assist our clients in achieving justice in the courtroom. However, we have not been trained to understand and counter implicit biases which, by definition, are attitudes or stereotypes that affect our understanding, decision making and behavior without our even realizing it. It has only been in the last twenty years that social cognitive psychologists have discovered novel ways to measure the existence and impact of implicit biases.¹

Explicit bias, on the other hand, can be so open and obvious that it is easy to detect, or it may be intentionally hidden or denied to avoid detection. Anytime discretion is at play in the civil and criminal justice system, overt or explicit bias may influence the outcome, and nearly every decision being made during the judicial process contains an element of discretion. Likewise, as this article will demonstrate, implicit bias can influence the outcome of discretionary decisions being made at every step in the judicial process.

For example, in a criminal case the police often exercise discretion in deciding who to investigate and ultimately, who to arrest. The prosecutor then decides whether to bring charges and if so, what charges to bring. The judge then makes decisions about bail and pretrial detention. The prosecutor decides what plea bargain to offer and the defense lawyer makes recommendations to the client regarding a plea bargain. If the client is convicted, the prosecutor makes sentencing or post-trial recommendations and the judge decides what sentence to impose. Every step in the process involves an element of discretion that is potentially subject to explicit and/or implicit bias.

Likewise, in a civil case, the court must exercise its discretion in ruling on pre-trial motions including evidentiary motions in limini, motions made during jury selection, evidentiary motions during trial, and post-trial motions. Jurors must make verdict decisions. Again, every step in the process is potentially subject to explicit and/or implicit bias.

Conscious bias can be present in many forms—gender, racial, ethnicity and through many attitudes and stereotypes. The list is endless because it involves thinking and acting in ways that are not rational. When we recognize overt bias that is detrimental to our clients, we take steps to counter the bias to protect our clients from prejudicial decisions influenced by that bias. We may use evidence of bias to seek appellate review of adverse discretionary decisions or to disqualify the presiding judge. We may use evidence of bias in the cross-examination of witnesses. Lawyers have been trained at the Trial Lawyers College to discover the ‘danger points’ in their cases, and how to design a voir dire examination of prospective jurors to ferret out concealed explicit bias.

All of this is well and good. But how do we identify and counter implicit or subconscious bias, when it is an attitude or stereotype that affects our behavior, understanding and decision-making, **without our even realizing it?**

Perhaps the first step is to discover and identify some of our own implicit attitudes and understand how our own life events and experiences have created those attitudes. How can we identify possible implicit biases in others, without first going through the process of identifying the source of our own attitudes? Much of this work has been accomplished by lawyers who have participated in psychodrama as protagonists, auxiliaries and soul-searchers. Once I recognize my own implicit attitudes and how they have affected my behavior, I can more readily understand how others may develop, but not recognize, similar attitudes. In that regard, I highly recommend two important sources of information that every trial lawyer should study: Adam Benforado’s book, *Unfair*,² and a law review article, *Implicit Bias in the Courtroom*.³

As we know, attitudes and stereotypes can pose threats to fairness at every step of the judicial process. But the threat posed by implicit bias can sometimes be far more dangerous than explicit bias in, for example, a jury trial. Why? Because we have a much better chance of identifying jurors with explicit bias. As Jerry Kang stated,

For instance, the threat to fairness posed by jurors with explicit negative attitudes towards Muslims but who conceal their prejudices to stay on the jury is quite different from the threat posed by jurors that perceive themselves as nonbiased but who nevertheless hold negative implicit stereotypes about Muslims.⁴

People often do not relate their existing attitude or stereotype to an underlying bias, and, in fact, they would deny such a bias. A recent article on racial and gender bias in large law firms and in the court room contains many examples of this.⁵

- A new black associate attorney is in a nearby parking lot when told by a partner, “I hope you aren’t planning to break into that car.”
- A female attorney has been working 250 billable hours per month preparing for a trial. She hurriedly leaves the building to go meet a witness, and when she passes a partner he asks if she is beginning her “mom time.”
- A male lawyer, while negotiating a settlement with female opposing counsel states, “I bet there aren’t a lot of men who say ‘no’ to you.”
- A female lawyer cross-examines a male medical expert at trial. The expert, in frustration, exclaims to the judge and jury, “I feel like I’m talking to my wife.”

How many lawyers refer white clients to white trial lawyers only rather than a highly qualified and respected black trial lawyer, and do so out of habit, without giving it any consideration? If questioned about this, the referring lawyer might honestly say that he or she has never given it any thought. But in now thinking about it, the lawyer might explain his conduct with the rationalization that “my white client might not feel comfortable with a black lawyer,”

or “he might be at a disadvantage with some judges or jurors.” In any event, the lawyer might honestly insist that he or she has no overt prejudice toward blacks or black lawyers. But is there a previously unrecognized implicit bias?

Franz Hardy, an African American lawyer from Colorado, was recently questioned about his experience with implicit bias. He explains that, because of his name, new clients, expert witnesses, and even opposing counsel who meet him for the first time, often express surprise—if not dismay—to see that he is black and not a white German. They express their surprise with statements like, “Oh, I didn’t appreciate you would look like you do” or “you don’t look like a Franz.” “I don’t get the next question out loud, ‘are you as good as a white lawyer?’”⁶

There have been many studies of implicit bias, including one in which 60 partners in a law firm evaluated the same legal memo.⁷ Those who were told that a lawyer of color wrote the memo evaluated it more harshly than those who were told it a Caucasian lawyer wrote it. Professor Eli Wald, who has studied this subject states,

[B]ecause of implicit bias, minority lawyers are systematically graded more harshly than their counterparts, and consequently, over time, receive worse evaluations, are handed worse assignments, and do worse in terms of promotion for partnership.⁸

How does implicit bias affect the discretionary decisions being made in the civil and criminal judicial process? Let’s look first at racial bias.

Racial Bias

The most relied upon psychological measure of implicit racial bias is the computerized *Implicit Association Test* (IAT), which has been taken by over

two million people online at the website Project Implicit.⁹ This test has been used to find anti-black prejudice among 75 percent of whites and, surprisingly, 59 percent of blacks.¹⁰ “This bias, unconscious or otherwise, has consequences—not just in our daily interactions, but in matters of life and death. Racial prejudice among police officers has been at the top of the public agenda after fatal shooting of an unarmed black teenager, Michael Brown, by a white officer in Ferguson, Mo. Though it’s difficult to know for sure that bias has played a part in any individual case, Brown’s killing echoed that of other unarmed young black men—Trayvon Martin, Amadou Diallo, Oscar Grant—all of whom died under circumstances that made people suspect they’d still be alive if they hadn’t been black.”¹¹

So, how do we know that the killing of blacks by cops may sometimes result from implicit bias and not just outright prejudice? Well, the IAT test detects in milliseconds the time it takes for a respondent to associate black faces with positive and negative words relative to the time it takes to match white faces. “When a respondent pairs black faces and negative words more quickly than other pairings, it reveals implicit bias.”¹² As stated by Chris Mooney in the *Washington Post*, “It is very important to note that implicit bias is not the same thing as conscious racism. People who harbor implicit biases may not think of themselves as prejudiced, and in fact, might consider prejudice to be abhorrent. They also may not know they even have these biases.”¹³ For example, the IAT test showing that 59 percent of the blacks taking the test demonstrated implied bias against blacks came as a surprise to many of the blacks who took the test.

However, social scientists have explained this phenomenon in numerous studies showing widespread negative attitudes toward African Americans as

well as stereotypes about their being violent and criminal.¹⁴ It should come as no surprise that police could have an implicit association between blackness and weapons that could affect how quickly shots are sometimes fired. Testing has shown that the decision to shoot or not shoot can be made in a half second, the same length of time it takes to distinguish black from white. “In the policing context, that half second might mean the difference between life and death.”¹⁵ Without an implicit bias linking black with violence and weapons, shots may not be so quickly fired.

Armed with the knowledge that the shooting of black men might often be the result of implicit bias, rather than overt prejudice, many police departments have recently started programs to train officers to recognize and mitigate their biases. This is a work in progress. For example, the social psychology professor Jennifer Eberhardt, who did the testing and experiments that showed how quickly people link black faces with crime and danger, is heavily involved with the Oakland Police Department in raising awareness about implicit bias. Her work has resulted in changes in police policy and training.¹⁶

Eberhardt’s research also demonstrated that the blacker the face of an African American, the greater the prejudice toward that person. In 44 murder cases in Philadelphia involving black defendants and white victims, the half of defendants rated as stereotypically black were more than twice as likely to receive the death penalty as those not as black in color.¹⁷ This is consistent with many other studies demonstrating the implicit bias associated with facial appearance, body tattoos and shapes, and even hair style and color.¹⁸

Prosecutorial Bias

Prosecutors are not immune from implicit bias, if not outright explicit bias. For example, various studies in Los Angeles, Florida, and Indiana, found that prosecutors are more likely to press charges against black than white defendants when such disparities could not be accounted for by race-neutral factors such as weapons, criminal history, or seriousness of offense.¹⁹ Further, a U.S. Sentencing Report found that at the federal level prosecutors were more likely to offer white defendants generous plea bargains below the prescribed guidelines than to offer them to black or Latino defendants.²⁰

However, establishing this bias in a criminal case can be very difficult as evidenced by defendants’ failed motion to dismiss the indictment alleging

selective prosecution in *United States v. Armstrong*,²¹ There, defendant filed a discovery motion in the United States District Court with an affidavit showing that in every one of the 24 crack distribution cases handled by the prosecutor’s office during 1991, the defendant was black. The motion requested the court to order the prosecutor to disclose the names of similarly situated suspects of other races who were not prosecuted. When the court granted the motion, the prosecution refused to provide the information. The court dismissed the indictment, and the Court of Appeals for the Ninth Circuit upheld the dismissal.

However, the Supreme Court reversed and remanded the case to the lower court, stating that for a defendant to be entitled to discovery based on a claim of selective prosecution because of race, the defendant must meet the

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threshold requirement of showing that the government did not prosecute “similarly situated suspects of other races.” But how is a defendant going to obtain such bias evidence without formal discovery—discovery that is not permitted unless the defendant first meets the threshold requirement?

Judicial Bias

It should come as no surprise that every judge, like the police, prosecutors, trial lawyers and jurors, has implicit biases that can affect discretionary rulings. Like all of us, a judge’s attitudes and stereotypes result from a lifetime of experiences. Implicit biases have been identified by researchers who administered the race attitude IAT to judge’s from three different judicial districts and, consistent with the general population, the white judges showed strong implicit attitudes favoring whites over blacks.²² Further testing of these judges by Rachlinski and colleagues demonstrated that black judges who showed a stronger black preference on the IAT were less likely to convict a black defendant, as compared to a white defendant, and those black judges who showed a white preference on the IAT were more likely to convict a black defendant.²³

Since implicit biases function automatically, without thought, can a judge set aside the bias once he or she recognizes it? Several studies involving state judges have shown that when a judge recognizes implicit bias as a potential problem, he can then be motivated to take steps to counter the bias by

- 1) not responding quickly without deliberation—try to avoid snap judgments when implicit bias is most likely to occur;
- 2) engage in behavioral modification programs to decrease the influence of such biases; and

3) take the IAT tests to become more fully aware of unrecognized attitudes and stereotypes.

Countering Implicit Bias

What can we do as trial lawyers to overcome implicit bias in the courtroom? First, we must identify what it is about our case and client that could produce adverse attitudes and stereotypes among potential jurors. In a properly prepared and directed voir dire examination, explicit attitudes will generally be revealed and discussed, but not implicit biases. So, what can we do? Studies have shown that if a person has unconscious negative attitudes about particular groups of people, that attitude or bias will not be directed toward a member of that group if it is a member that the person has grown to respect and like—that compassion and understanding can negate the implicit bias.²⁴ That being the case, it becomes critically important in a jury trial to transfer the client’s humanity to the jury—the common human empathy that we all share—in order to overcome any and all potential implicit biases.

The first step is to get to really know and understand our client and the story of our client’s case. If we have not lived our client’s life through re-enactments, role reversals and discovering the client’s life stories, how can we transfer ‘**the feelings**’ and human elements of the client to a judge and jury? We cannot transfer the client’s humanity to the jury without becoming the client—without walking in their shoes. We cannot overcome the implicit biases of jurors without transferring the human elements of the client to the jurors.

My first experience with this simple truth occurred in the 1970’s in a civil lawsuit against police officers in Boulder, Colorado. The client, Jim, was portrayed as one of the homeless, drunk, dirty, long-haired hippies who were living in

the local city park. The transformation of the popular park to a community of homeless hippies did not sit well with many of the Boulderites who wanted them removed.

Someone in the park called 911 when Jim began vomiting blood. When the police arrived, observed his condition, and decided to take him to the hospital for observation, he resisted, was kicking at them with his dirty, bare feet, spitting at them, screaming profanities, and had to be restrained. All the officers wanted to do was help him. They were just doing their job. However, on the way to the hospital, he struggled against the belts, screamed and kicked, and continued spitting. The officers pulled over, opened the back door, and assaulted him, allegedly to restrain him, on their way to the hospital.

I told the jury this story during voir dire, and explained that when I first heard the story, my reaction was that my client got what he deserved. How many felt the same way? With the hostile feelings, the community had toward the hippies, nearly every hand shot up. Jurors expressed their anger toward hippies and Jim, with many stating they could not render a verdict for Jim, no matter what additional evidence might be introduced. The explicit bias and prejudice toward hippies and Jim, resulted in many successful challenges for cause. But what about probable implicit biases among the remaining seated jurors? Instead of filing motions in limini to keep out evidence of Jim’s sordid life history, I decided to use his life events to humanize him and perhaps overcome any remaining bias by touching upon the jurors’ basic compassion and understanding—by touching the jurors with the basic elements of humanity that we all share and that make us human.

In opening statement, I said,

During jury selection, I told you a story that was true and will be supported by undisputed evidence. Now let me tell you the rest of that story. It starts when Jim was a young boy living in Arizona when his mother died. With her death, there was no one at home to protect the children from an abusive, alcoholic father, who frequently beat them. At age 13, Jim ran away. He traveled some distance to the home of an aunt who took him in for awhile, but his aunt had a family and an unhappy husband who could not afford to feed another youngster.

Jim was asked to leave. He was shoved from family to family, and he was sometimes homeless until he turned 17, lied about his age and joined the military. While in Viet Nam his best friend was decapitated in his presence. He began using drugs and became addicted.

After discharge he continued using drugs, but was able to work, and he married a woman with two children. He lost his job, they had serious marital problems, and she kicked him out and filed for divorce. One day, in a drug induced state, he confronted her with a shot gun and forced her to drive him out into the countryside where he threatened to commit suicide if she would not drop the divorce. She refused. He left the car, she drove away, and he turned the shot gun on himself, pulled the trigger and shot himself in the abdomen. A passing motorist called 911.

He was in critical condition, had emergency surgery and survived. They charged him with kidnapping (a felony), convicted him and

sentenced him to prison. While in prison, two armed guards brutalized him for disobeying an order. Upon release from prison four years ago, he obtained steady employment as a construction worker in Utah and stayed clean – no alcohol or drugs. He understood, following his abdominal surgeries, that alcohol consumption could cause internal bleeding. He worked hard for three years, and then left for a vacation in Boulder, where he met a group of friendly hippies and began using alcohol. Three weeks later he was in the city park with other hippies – drunk and vomiting blood.

Now, during jury selection I told you that when Jim was in the park he didn't look like he does today in the courtroom. But neither did these officers. Officer Jones is in a coat and tie today, but in the park that day he was in uniform, with a revolver on one hip and a flashlight, 16 inches long, weighing three pounds on the other hip. When he stands up, you will see that he is six feet, two inches, 220 pounds and all muscle. Officer Smith is also in a coat and tie today, but in the park that day, he also was in uniform with a revolver and a heavy flashlight that can be used as a club, and when he stands up you will see that he is 6' tall, weighs about 200 pounds and stays in good physical shape.

Now I will tell you what happened on the way to the hospital. Officer Jones lost his cool and pulled over and stopped. Officer Smith stopped behind him. Jones opened the back door, Smith grabbed Jim by his long hair with his left hand and yanked his head down exposing the back of his head, then used his flashlight as a

club and **beat and beat and beat** Jim over the back of his head, leaving three dents in the roof of the car, and crushing his skull!

Folks, Jim Brough has paid in rare coin for all his mistakes, and there have been many. As a result, he lost his family, spent time in prison, had no friends, has severe internal injuries resulting from his attempted suicide, and now suffers brain damage. These officers also made a serious mistake and it's now time for them to pay for viciously beating Jim and crushing his skull.

Some of the jurors looked at Jim during the opening statement with expressions of understanding and compassion, and I saw one brushing away some tears. The first offer of settlement came after opening statements, and we settled the case during trial.

I believe that the human aspects of the client's life stories helped to overcome any remaining subconscious biases held by the jurors, and perhaps any implicit bias by the court, based on the favorable evidentiary rulings during trial. And what about defense counsel? Well, they settled.

The Universal Truth

So, why does demonstrating the client's humanity help overcome implicit biases? A famous and successful trial lawyer, Dan Rodriguez,²⁵ describes the implicit racial prejudice toward the Latino or Latina plaintiff that "is alive and well in our present-day society," and how this can be overcome in a jury trial²⁶. He explains that since, "it's easier to relate to and even like those people who are most like us," we must look for the elements in the client's story that are universal to all people – the elements that make us "all the same – that make us all human." Then present

this “**Universal Truth**” to the jury in the client’s stories.²⁷ Dan gives these excellent illustrations of elements of the Universal Truth that can unite the client with the jury and dispel the implicit biases against Latinos:

“For instance, take the case where our client is a Latino male who lives on the ‘Hispanic side of town’ and doesn’t speak English. A not too uncommon case for a lot of us. Yes, we can highlight those things that make our client different from the jurors. Or, we can also look to see what makes our client similar to the rest of us in the courtroom. Might it be that our client is a man, who works to support his family, who likes sports, who likes to barbeque, who annoys his wife with his snoring at night... Might it be that our client stays up at night trying to figure out what he has to do to get promoted at work to get a raise? Might it be that our client stays up at night waiting for his daughter to come home from a date? Might it be that our client beats himself up because he thinks he’s not spending enough time with his elderly mom?”

“How about if our client is a Latina who works cleaning houses and is paid cash under the table and doesn’t speak a word of English? Should we highlight those things about her that make her different from everyone else in the courtroom? Or, should we look for the Universal Truth? Might it be that this client is a woman, who’s trying to figure out whether she’s going to fit into the dress she picked out for the Christmas party, whether she’s going to call her sister that night because she hasn’t talked to her in a month, whether she’ll be able to get time off work to make it to the parent-teacher meeting next week... Might it be that this client is trying not to think about the lump that appeared on one of her breasts a month ago, is trying to figure out how to save enough

money to get her son the video game he’s been wanting, is trying to figure out whether to let her 15 year old daughter go out on her first date?”

As explained by Dan in conclusion: “The power of telling of our client’s Universal Truth is that it shows the jurors a truth that is also their truth. After all, our client’s Universal Truth is a conglomeration of his fears, ambitions, hopes and dreams. And, our client’s fears are no different that the fears, ambitions, hopes and dreams of our jurors. Our client’s truth is the juror’s truth; that’s why it’s universal. Our Job is to show our client’s truth.”²⁸

Conclusion

In conclusion, we have all developed attitudes and stereotypes that affect our behavior and decision making, often without our even realizing it. This can result in implicit biases toward particular groups of people, organizations, and institutions. However, when we discover that a member of that group is just like us and has the same human elements that we all share, the implicit bias does not surface or is overcome by the compassion and understanding we develop for that individual. It may not remove our attitude toward the group the individual belongs to — although it might open the door — but we will treat the individual fairly.

So, to overcome any implicit biases in jurors, we must discover the life stories of our client that demonstrate the human qualities that create compassion and understanding in all people — that bond all of us as human beings — and then show those qualities to the jury during the trial in the stories told by the client and witnesses. This describes the important process of demonstrating the client’s humanity, and showing the jury the client’s *Universal Truth*, which is also their truth.

Bill Trine was a practicing trial lawyer in Boulder, CO for 55 years before retiring in 2015. He is a past president of the Colorado Trial Lawyers Association, a founder and past president of the Trial Lawyers for Public Justice and on the Board of Directors of the Human Rights Defense Center, which publishes Prison Legal News. He has been on the teaching staff of the Trial Lawyers College in Wyoming since its inception in 1994. He is the co-author of a book and the author of over 75 published articles.

Endnotes:

- ¹ See, Kang, Jerry, et al., *Implicit Bias in the Courtroom*, 59 UCLA L. Rev. 1124 1126 (2012), which references the numerous studies that have been published in recent years, which “have provided convincing evidence that implicit biases exist, are pervasive, are large in magnitude, and have real-world effects.”
- ² ADAM BENDORADO, UNFAIR: THE NEW SCIENCE OF CRIMINAL INJUSTICE (2015).
- ³ Kang, *supra* note 1.
- ⁴ *Id.* at 1134.
- ⁵ See, Ronald M. Sandgrund, Esq., *Can We Talk? Bias, Diversity, and Inclusiveness in the Colorado Legal Community, Part 1—Implicit Bias*, COLO. LAW., Jan. 2016, at 48.
- ⁶ *Id.* at 50.
- ⁷ See, Reeves, Dr. Arin, *Yellow Paper Series: Written in Black & White --- Exploring Confirmation Bias in Racialized Perceptions of Writing Skills*, NEXTIONS YELLOW PAPER SERIES, (2014), available at www.nextions.com/wp-content/files_mf/14468226472014040114WritteninBlackandWhiteYPS.pdf
- ⁸ Sandgrund, *supra* note 5, at 48.
- ⁹ See, Greenwald, Anthony G., et al., *Measuring Individual Differences in Implicit Cognition: The Implicit Association Test*, 74 J. PERSONALITY & SOC. PSYCHOL. 1464, at 1464-66 (1998) (introducing the implicit association test (IAT). For more information on the IAT, see Nosek, et al., *The Implicit Association Test at age 7: A Methodological and Conceptual Review*, in AUTOMATIC PROCESSES IN SOCIAL THINKING AND BEHAVIOR 265 (John A. Bargh, ed., 2007).

- ¹⁰ See, Neyfakh, Leon, *The Bias Fighters: Psychologists are Testing Ways to Reduce Unconscious Racial Prejudice—Not Just in the Police, But in All of Us*, THE BOSTON GLOBE, Sept. 21, 2014, available at www.bostonglobe.com/ideas/2014/09/20/the-bias-fighters/1TZh1WyzG2sG5CmXoh8dRP/story.html.
- ¹¹ *Id.*
- ¹² See, Johnson, Theodore R., *Black-on-Black Racism: The Hazards of Implicit Bias*, THE ATLANTIC, Dec. 26, 2014, available at www.theatlantic.com/politics/archive/2014/12/black-on-black-racism-the-hazards-of-implicit-bias/384028/.
- ¹³ See, Mooney, Chris, *Across America, Whites Are Biased and They Don't Even Know It*, WASH. POST, Dec. 8, 2014. www.washingtonpost.com/news/wonk/wp/2014/12/08/across-america-whites-are-biased
- ¹⁴ See generally, Patricia G. Devine & Andrew J. Elliot, *Are Racial Stereotypes Really Fading? The Princeton Trilogy Revisited*, 21 PERSONALITY & SOC. PSYCHOL. BULL. 1139 (1995).
- ¹⁵ Kang, *supra* note 1, at 1138.
- ¹⁶ See, Sam Scott, *A Hard Look at How We See Race*, STANFORD MAG., Sept./Oct. 2015, available at alumni.stanford.edu/get/page/magazine/article/?article_id=80755.
- ¹⁷ *Id.*
- ¹⁸ Benforado, *supra* note 2, at 47, 141-2, and see Bibliography pages 193+.
- ¹⁹ Kang, *supra* note 1, at 1140.
- ²⁰ See, Justice on Trial: *Racial Disparities in the Criminal Justice System, Leadership Conference on Civil Rights* (2000), available at www.protectcivilrights.org/pdf/reports/justice.pdf. See also McNally, Kevin, *Race and Federal Death Penalty: A Nonexistent Problem Gets Worse*, 53 DEPAUL L. REV. 1615 (2004) (compiling studies on the death penalty).
- ²¹ *United States v. Armstrong*, 517 U.S. 456, 116 S. Ct. 1480, 134 L. Ed. 2d 687, 517 U.S. 456 (1996).
- ²² See, Rachlinski, Jeffrey J., et al., *Does Unconscious Racial Bias Affect Trial Judges?* 84 NOTRE DAME L. REV. 1210 (2009).
- ²³ *Id.* at 1220.
- ²⁴ See, Neyfakh, *supra* note 10, referring to the tests performed by Calvin Lai and the work of Lorie Fridell, an associate professor at the Univ. of S. Florida.
- ²⁵ Daniel Rodriguez is a graduate of the Trial Lawyers College where he has been on the teaching staff for many years. He is the senior partner in the law firm that he founded in Bakersfield, CA. He grew up in a family of migrant farm workers and experienced many episodes of racism starting at a very young age.
- ²⁶ See, Daniel Rodriguez, *Fighting for Justice for the Latino or Latina Plaintiff*, presented at the AAJ Convention (Feb. 2012), available from Amer. Assoc. for Justice.
- ²⁷ *Id.* at 2.
- ²⁸ *Id.* at 3-4.