

## **An interdisciplinary approach to gender equality in the workplace**

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### **ABSTRACT**

Everyone has some stereotypes they carry in their minds whether consciously or unconsciously. Due to the commonality of stereotypes, we may feel stereotypes are just thoughts that are essentially harmless. This is wrong. In fact, stereotyping is a form of discrimination and stereotyping can be illegal in the workplace. The following reaction paper will discuss stereotypes through a review of The Supreme Court Case Price Waterhouse v. Hopkins, a review of the corresponding APA Amicus Brief, identification of biases that may impact amicus conclusions and a discussion of the value of an interdisciplinary approach to solving legal issues involving gender discrimination in the workplace.

Keywords: Stereotype, Gender, Discrimination, Title VII, Amicus Brief



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## INTRODUCTION

“Women are not as strong as men.” “Women should wear heels and speak in feminine tones.” Both of these are statements are stereotypes and oversimplifications of a fixed idea. Everyone has some stereotypes they carry in their minds whether consciously or unconsciously. Due to the commonality of stereotypes, we may feel stereotypes are just thoughts that are essentially harmless. However, this is not true. In fact, according to psychologists and legal experts, stereotypes can be discriminatory and damaging. The following reaction paper will discuss stereotypes through a review of The Supreme Court Case Price Waterhouse v. Hopkins, a review of the corresponding APA Amicus Brief, identification of biases that may impact amicus conclusions and a discussion of the value of an interdisciplinary approach to solving legal issues involving gender discrimination in the workplace.

## ABOUT THE CASE

Price Waterhouse v. Hopkins was a landmark case from the US Supreme Court argued October 31, 1988 and decided May 1, 1989. Ann Hopkins, was an accountant at Price Waterhouse for five years and she stated that she was denied a partnership, two years in a row, because she did not fit the partners’ perceptions of how female employees should present in the workplace. She was able to prove she had excellent performance evaluations that identified her as professionally qualified, yet her co-workers often described her as foul-mouthed, demanding, impatient and aggressive. After the second denial for partnership, Hopkins resigned from the accounting firm and sued Price Waterhouse for violating her rights under Title VII. While both the district court and the federal circuit court of appeals ruled in Hopkins favor, the courts did not agree about the level of proof required to show that Price Waterhouse made their decision based on criteria other than gender. Eventually, the case was granted a writ of certiorari and heard by the Supreme Court. The Supreme Court found that Price Waterhouse did not prove that Ms. Hopkins would have been denied the partnership regardless of gender and the court identified Price Waterhouse’s actions as a violation of sex discrimination under Title VII of the Civil Rights Act of 1964. This is a significant Supreme Court ruling for two reasons. First, it established that gender stereotyping is a form of sex discrimination and second, that a mixed motive framework can be used by employees to prove discrimination.

## APA AMICUS CURIAE OF PRICE WATERHOUSE V. HOPKINS

Amicus Curiae is a Latin phrase meaning “friend of the court.” This legal brief may be filed with an appellate court by a party not involved in the case but in support of one side or the other. The American Psychological Association (APA) submitted an amicus brief regarding Price Waterhouse v Hopkins. The APA amicus brief argued the following four points (Price Waterhouse v. Hopkins, 1989, para: 2):

- (1) empirical research on sex stereotyping has been conducted over many decades and is generally accepted in the scientific community.
- (2) stereotyping under certain conditions can create discriminatory consequences for stereotyped groups.
- (3) the conditions that promote stereotyping were present in petitioner's work setting.

(4) although petitioner was found to have taken no effective steps to prevent its discriminatory stereotyping of respondent, methods are available to monitor and reduce the effects of stereotyping.

The American Psychological Association explained in their amicus brief that sex stereotyping can create discriminatory consequences for stereotyped groups and that the circumstances surrounding Hopkins' partnership denial involved sex stereotyping that had a negative effect on women in work settings (Coffield, 2019).

When presenting an amicus brief, the APA is sharing their expertise to educate and advocate for others. The APA has often demonstrated a commitment to social justice through advocacy especially in recent decades (Vasquez, 2012). This is evident by the APA Bylaw 1.1 which reads, "The objects of the American Psychological Association shall be to advance psychology as a science, a profession, and as a means of promoting health, education and human welfare" (APA, 2008 para. 1). The APA views their role in submitting an amicus brief as beyond a summary of the case, the APA is seeking to support a shift towards social awareness and ethical responsibility.

### **APA AMICUS BRIEF PRICE WATERHOUSE V. HOPKINS AND POTENTIAL BIAS**

While the intent of the amicus brief may be education and advocacy, some researchers have identified concerns regarding bias in amicus briefs. Bills, Rothenberg and Smith (2020) describe that the influence of an amicus brief depends on the interaction of the group's bias and contextual factors. In other words, the perspectives and influence of a group is sensitive to the features of each case and whether the group is a stakeholder in the case issues.

Barret and Morris (1993) identified three levels of bias in the Price Waterhouse v. Hopkins brief. First, the brief only used theories when the theories supported the APA's position. Second, the APA accepted Hopkins's perspectives concerning the case facts. Third, there was an incomplete representation of the empirical literature. Upon review of the brief, Barret and Morris found that 33 studies cited in the brief did not fully support the brief's position. In addition, the APA made no mention to the substantial body of research that contradict the APA's position. From this perspective, bias was present in the presentation of the brief position.

Might bias also exist in the APA perspective of the case? In the amicus brief, the APA takes the position that gender stereotyping is discrimination. But this is not the only perspective about stereotyping. Consider, the following two alternative perspectives of stereotyping. First, stereotypes are simply cognitive associations of traits about a particular social group (Saks, 1993). Shaffie (2009) stated, "The Price Waterhouse Amicus Brief affirms the widely held view that stereotyping is the result of the benign and very normal cognitive process of "categorization" (Shaffie, 2009, p. 3). Second, people use social categorizations in social situations in ways that are helpful or meaningful to understanding their environment (Knippenberg and Kijksterhuis, 2011). Knippenberg and Kijksterhuis (2011) argue that, "in many situations social categorizations are used because perceivers expect the categories involved to differ in important respects and this can create spontaneous social category selection used as a guide for the perceiver's stereotypes," (p. 1). If stereotyping is simply part of normal cognition, might the APA's position regarding Price Waterhouse's actions be unfair? Might another group identify the partners at Price Waterhouse as simply engaging in a benign process of categorization rather than discrimination?

## ARE AMICUS BRIEFS EFFECTIVE?

The participation of social scientists in amicus briefs has raised numerous important issues for the scholarly community (Roesch, Golding, Hans and Reppucci, 1991). Issues like, should social scientists limit themselves to conducting and publishing research, not application of findings? Or do social scientists have an ethical obligation to assist groups and courts on topics relating to their expertise? These questions have been under debate for years as experts consider the role of the social scientist in social justice (Reppucci, 1985). If it is determined that an activist role for social scientists is appropriate, what specific roles should be fulfilled? Is the most effective role for the social scientist to engage in brief writing? To answer this question, one would have to explore if brief writing is effective for the social scientist.

Kearney and Merrill (2000) found that amicus curiae briefs were only filed in approximately 10% of the Supreme Court's cases during the first few years of the 20<sup>th</sup> Century. But in recent years, this percentage has drastically increased with at least one amicus curiae brief being filed in at least 85% of the Court's cases that incorporated oral arguments (Kearney and Merrill, 2000). Clearly with increased numbers of filings, one could argue that the amicus brief has also increased in ability to influence the outcomes of court cases, especially in areas calling for change in social policy (Kearney and Merrill, 2000).

APA's amicus briefs have not only influenced judicial decisions they have ultimately changed American laws, "The Supreme Court has specifically cited APA's briefs in 23 of its decisions, as have various lower courts in 20 decisions. In a 2004 survey in the *Journal of Law & Politics*, 70 Supreme Court clerks who served between 1966 and 2001 said that APA was among the few friends of the court whose briefs they actually read," (DeAngelis, 2019 para. 6). Simply put, APA amicus briefs present courts with "the best psychological science the discipline has to offer, based on our field's peer-reviewed research," says APA General Counsel Deanne M. Ottaviano, JD. (Fiske, Bersoff, Borgida, Deaux and Heilman, 1991). Justices are utilizing APA briefs and will incorporate language directly from amicus briefs into their opinions thus contributing to their ability to make effective laws and policies (Collins, Corley and Hammer 2015).

It is clear that amicus briefs are effective in influencing the legal system (Collins, 2020). The amicus briefs are likely effective for several reasons. First, the amicus brief signals to the Court how many groups and individuals will be potentially affected by the decision and outcome. Second, the amicus briefs offer a valuable presentation of case stakeholder's perspectives. Finally, the briefs simply provide extra information to the Court.

## INTERDISCIPLINARY APPROACHES TO PROBLEM SOLVING IN THE COURTS

The Price Waterhouse v. Hopkins Case is a landmark case for several reasons. Of course, The Supreme Court's ruling established that gender stereotyping is a form of sex discrimination, but this case was also the first Supreme Court case to use psychological research on sex stereotyping. In this case, a social psychological expert testified to the conditions, consequences, indicators and solutions for stereotyping (Fiske, Bersoff, Borgida, Deaux and Heilman, 1991). The psychologist's testimony was cited in the decision reached in the trial as well as in the Supreme Court's review (Fiske, Bersoff, Borgida, Deaux and Heilman, 1991).

This case is also an example of an interdisciplinary approach to legal problem solving. The case benefitted from the training, knowledge and expertise of a social psychologist. Without

the psychologist and the professional's unique training, the general public might still view gender stereotyping as benign. But, with expert testimony and amicus briefing, the damaging aspects of stereotyping can be uncovered through a scientific process. Amicus briefs are important because they are supporting interdisciplinary problem solving of legal issues and in this case, psychologists created the bridge for understanding and transferring information (Jones, 2020).

## **AN INTERDISCIPLINARY APPROACH TO GENDER EQUALITY IN THE WORKPLACE**

Despite legal rulings and organizational policies, gender stereotyping continues to exist in the workplace. Researchers from New York University, the University of Denver and Harvard University found that men are more likely than women to be viewed as "brilliant" when measuring global perceptions linked to gender (New York University, 2020). Lead researchers on the study found that the stereotypes portraying brilliance as a male trait will likely hold women back in prestigious careers (New York University, 2020). Additionally, the experts identify that it is important to gain awareness regarding the magnitude of the "gender-brilliance" stereotype as awareness may help minimize gender inequality in the workforce (New York University, 2020). How can awareness of gender stereotyping be supported in the workplace? Just as the psychologist is bringing an expert research-based approach to human understanding in the courtroom, the psychologist has the ability to serve as a bridge in interdisciplinary problem solving in the workplace.

In the organization, serious issues of gender stereotyping are often addressed by the Human Resource Leadership Team. Of course, HR seeks a proactive resolution to gender discrimination in an ongoing basis through training and communication. Additionally, when gender decimation occurs, the HR team applies the necessary employment and organizational laws and a resolution is sought. Consider, The Society for Human Resource Management (SHRM) and their article, "10 Tips to Help HR Leaders Fight Gender Discrimination." The article lists HR strategies of putting women on boards, educating senior leadership, hiring and promoting women, fighting bias, evaluating work assignments, eliminating gender pay gaps, creating an inclusive work environment, supporting work/life balance, evaluating the evaluators and including men in the solutions (Segal, 2015). These are proactive and effective ideas. However, could the additional application of a psychological perspective improve gender awareness outcomes in the organization, as it does in the courts?

Gender stereotyping is a complex issue that is often hidden in implicit bias. To truly resolve the issue, there must be a complex solution that is based in an understanding of human behavior. Organizational leaders will benefit from including current research from human resources experts, legal experts and psychological experts to create organizational policies that educate and advocate, for workplace gender equality.

What would an organizational gender equality policy look like that considers accepted Human Resources strategies, the Supreme Court's perspective and the American Psychological Association findings in the Price Waterhouse v. Hopkins amicus brief? Such an approach would acknowledge:

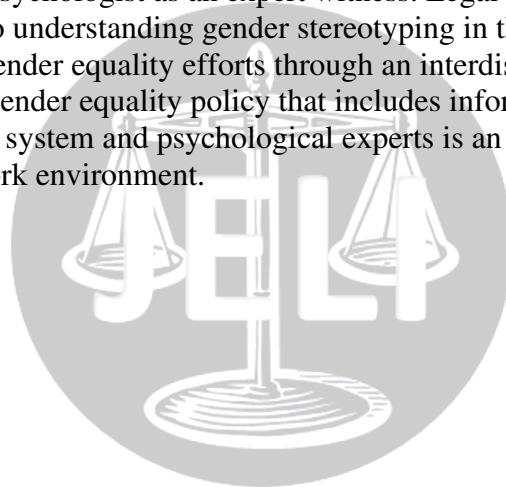
- The Supreme Court's position that gender stereotyping is a form of sex discrimination and that a mixed motive framework can be used to prove gender discrimination.

- The American Psychological Association's position that empirical research on stereotyping is accepted in the scientific community, that stereotyping causes negative consequences and that there are methods available to monitor and reduce sex stereotyping in the workplace.
- Human Resources strategies including ongoing gender discrimination training, elimination of pay gaps, active pursuit of an inclusive work environment, evaluation of the evaluators and including both men and women in problem-solving gender equality.

Such an interdisciplinary approach will likely increase ability to resonate with diverse employees and identify unique solutions that could not be identified by a singular group. Figure 1 is a visual of the described interdisciplinary approach for gender stereotyping in the workplace.

## CONCLUSION

The case *Price Waterhouse v. Hopkins* is an important case for many reasons. First, the Supreme Court ruled that gender stereotyping is discrimination. This is an important ruling for supporting fair and equitable work environments. But this case was also important because it was the first to include a social psychologist as an expert witness. Legal experts applied an interdisciplinary approach to understanding gender stereotyping in the workplace. Organizations may further improve their gender equality efforts through an interdisciplinary approach as well. Creating an organizational gender equality policy that includes information from human resources research, the legal system and psychological experts is an important step towards creating a truly inclusive work environment.



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**APPENDIX**

Figure 1: Interdisciplinary Approach for Gender Equality in the Workplace

