

**FAIL BETTER:
CONTINUING EFFORTS TO
ELIMINATE BIAS IN THE LAW**

A One-Hour LIVE Seminar Covering:

Elimination of Bias

Presented by:

Sean Carter
CA Bar# 200356

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TIMED AGENDA
FAIL BETTER: CONTINUING EFFORTS TO ELIMINATE BIAS IN THE LAW
(ELIMINATION OF BIAS)

In this presentation, the speaker will discuss how even hidden and seemingly benign biases based on race, gender, religion, disability and sexual orientation can affect even the most fair-minded person. Specifically, the speaker will discuss in detail how each of the foregoing biases impairs our efforts to administer justice fairly both inside and outside of formal legal settings.

- 0:00 - 0:05 Status Update – Where are we now?
 Significant progress (a look at the numbers)
 Still work to do
- 0:05 - 0:20 Ethnic Diversity
 The importance of perceptions
 Judging a book by its cover
 Cultural equality
 The difficulty of neutrality
- 0:20 - 0:30 Gender Diversity
 Harassment
 Work/Life Balance Issues
- 0:30 – 0:35 Religious Diversity
 Observances
 Accommodations
- 0:35 – 0:40 Disabilities
 More than just accommodations
 Assuming the “burden”
- 0:40 - 1:00 A Different Mindset
 No longer Us vs. Them, but Us FOR Them
 Employment practices
 Civility towards third parties
 Pro bono and community involvement

ABOUT THE SPEAKER

Sean A. Carter graduated from Harvard Law School in 1992. He was a corporate securities lawyer in private practice in large law firms in Boston and Los Angeles serving clients such as GNC, the Boston Beer Company, Experian, Safelite Auto Glass, J. Crew and many others. In 2000, he accepted a position as in-house counsel for a publicly-traded financial institution, at which he remained until October 2002.

Since that time, Mr. Carter has been a full-time lecturer, columnist, and legal commentator. His written have appeared in the Los Angeles Times, the Los Angeles Daily Journal, the ABA e-Report and on numerous blogs and websites, including Findlaw.com. He has been a guest on numerous radio programs across the country as well as online legal media outlets, such as The Legal Broadcast Network.

In addition, Mr. Carter delivers more than 100 MCLE presentations each year on topics such as legal ethics, professionalism, the elimination of bias, substance abuse prevention, constitutional law, etc. He has spoken for state and local bar associations, law firms, law schools and corporate in-house legal departments in more than 30 states. Here is a partial list of organizations that have engaged him to give MCLE presentations.

Bar Associations

11th Circuit Judicial Conference
Advocates' Society (Canada)
Akron Bar Association
Alabama State Bar
Alabama Courts
Alameda County Bar
Alaska Bar Association
American Bar Association
American Bankruptcy Institute
American Board of Trial Advocates
American College of Trial Lawyers
ACTL New Jersey
State Bar of Arizona
Arkansas Bar Association
Association of Corporate Counsel
Association of So Cal Defense Counsel
Atlanta Bar Association
Bar Association of Southern Illinois
Bar Association of St. Louis
Bleckley Inn of Court
California Bankruptcy Forum
CA Society for Healthcare Attorneys
State Bar of California

Center for American and Internatl. Law
Charlotte Estate Planning Council
Chattanooga Bar
Cincinnati Bar Association
Collier County Bar
Colorado Bar Association
Connecticut Defense Lawyers Assoc
Continuing Education of the Bar
Dade County Bar
Dallas Bar
Dayton Bar Association
DeKalb County Bar
Defense Research Institute
Erie County Bar Association
Federal Bar Association
Florida Bar
Foothills Bar Association
Georgia Assoc of Crim. Def. Lawyers
State Bar of Georgia
Hillsborough County Bar Association
Hispanic Bar Assoc of Orange County
Houston Bar Association
Idaho State Bar Association
Illinois State Bar Association
Illinois ICLE

Indiana State Bar Association
Inn of Court - Shreveport
International Assoc of Gaming Advisors
International Assoc of Holistic Lawyers
International Society of Barristers
J. Franklyn Bourne Bar Association
Kansas Association of Defense Counsel
Kentucky Bar Association
Larimer County Bar (CO)
Lex Romano
Los Angeles County Bar Association
Louisiana Assoc of Defense Counsel
Maine Bar Association
Memphis Bar Association
State Bar of Michigan
Minnesota CLE
Missouri Association of Trial Attorneys
Missouri State Bar
Montana Assoc of Crim. Def. Lawyers
Montgomery County Bar Association
Nashville Bar Association
National Association of Bar Executives
Natl Network of Estate Planning Attys
Nebraska Assoc of Defense Counsel
State Bar of Nevada
New Hampshire Bar Association
New Hampshire Trial Lawyers Assoc
New Jersey ICLE
State Bar of New Mexico
New York State Bar Association
Ohio State Bar Association
Oklahoma Bar Association
Orange County Bar Association
Orange County Trial Lawyers Assoc
Oregon State Bar
Ottawa County Bar Association
Pennsylvania Bar Association
Pennsylvania Bar Association
Pennsylvania Bar Institute
Philadelphia Bar Association
Riverside County Bar
Salmon P Chase Inn of Court
Shreveport Bar Association
South Carolina Bar
Southeast Bar Association
Southern Law Network

State Bar of Texas
TX Assoc of Civ Trial and App
Utah State Bar
Virginia CLE
Virginia State Bar
Washington State Bar
Washoe County Bar
WealthCounsel
W San Bernardino County Bar Assoc
Wichita Bar Association
State Bar of Wisconsin

Law Firms

Akin Gump
Alston & Bird
Armstrong Teasdale
Arnstein & Lehr
Atkinson, Andelson, Loya, Ruud et al
Balch & Bingham LLP
Baker & Hostetler LLP
Baker, Manock & Jensen
Benesch, Friedlander, Coplan & Aronoff
Best, Best & Krieger
Brown & McCarroll
Cummins & White
Dickstein Shapiro
Drew Eckl & Farnham, LLP
Farella Braun + Marella
Finnegan
Fredrikson & Byron
Friedemann & Goldberg
Fisher & Phillips
Gibson Dunn & Crutcher
Hall Estill
Heller Ehrman
Henderson Franklin
Jones Day
King & Spalding
Kring & Chung
Larkin Hoffman Daly & Lindgren
Lewis Brisbois
Lionel Sawyer & Collins
Littler Mendelson
Looper Reed & McGraw
McDermott Will & Emery

McDonald Hopkins
McDonnell Boehnen et al
McGlinchey Stafford
Morgan Lewis & Bockius
Motley & Rice
Moore & VanAllen
Manatt Phelps
Perkins Coie
Quarles & Brady
Randick O'Dea & Tooliatos
Resources Law Group
Robins Kaplan Miller & Ciresi
Sheppard Mullin
Smith Gambrell & Russell
Sterne Kessler
Sutherland Asbill & Brennan
Troutman Sanders

Corporations

American Online
ARAG Insurance Group
Arizona Counties Insurance Pool
Boeing
Clorox
CVS Caremark Corporation
First Data
Health Management Association
Johnson Bank
Marathon Oil
New Century Mortgage
Sun Healthcare
Taco Bell
Xerox Corporation

Law Schools

Arkansas Little Rock
Brigham Young University
Thomas M. Cooley
Cumberland
Drake University
Florida State University
Georgia State University
Howard University
Loyola Marymount (LA)

North Carolina Central University
University of Houston
Washburn University
Widener University

Government Agencies

TN Administrative Office of the Courts
AL Administrative Office of the Courts
County Counselors of Kansas
Georgia State Board of Worker's Comp
Missouri Public Defender System
Riverside City Attorneys Office
San Bernadino District Attorneys Office

Professional Associations

Assoc of Continuing Legal Education
Assoc of Legal Administrators
Legal Marketing Association
Natl Org of Home & Life Guar Assocs
Los Angeles Paralegals Association
Orange County Paralegals Association



FAIL BETTER

Continuing Efforts to Eliminate Bias in the Practice of Law

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Sean Carter
Humorist at Law

Mr. Carter graduated from Harvard Law School in 1992. His ten years of legal practice focused on corporate securities and mergers and acquisitions. During this time, he represented such clients as GNC, Experian, The Boston Beer Company, Homeside Lending, Safelite Auto Glass, J. Crew and many others, before eventually serving as in-house counsel to a publicly-traded finance company.

In 2002, Mr. Carter left the practice of law to pursue a career as the country's foremost Humorist at Law. Since then, Mr. Carter has crisscrossed the country delivering his Lawpsided Seminars for state and local bar associations, law firms, in-house corporate legal departments and law schools. Each year, he presents more than 100 humorous programs on such topics as legal ethics, stress management, constitutional law, legal marketing and much more.

Mr. Carter is the author of the first-ever comedic legal treatise -- *If It Does Not Fit, Must You Acquit?: Your Humorous Guide to the Law*. His syndicated legal humor column has appeared in general circulation newspapers in more than 30 states and his weekly humor column for lawyers appeared in the *ABA e-Report* from 2003 to 2006.

Finally, Sean lives in Mesa, Arizona with his wife and four sons.

THE PROFESSION

NUMBER OF LICENSED LAWYERS - 2010

1,225,452

Source: ABA Market Research Department, 4/2011

RACE / ETHNICITY IN GENERAL POPULATION

	2000*	2010*
White, not Hispanic	75.1%	72.4%
Black, not Hispanic	12.3%	12.2%
Hispanic	12.5%	16.3%
Asian	3.6%	4.7%
Native American	0.9%	0.7%
Pacific Islander	0.1%	0.15%

**Source: 2010 U.S. Census, Bureau of the Census*

RACE / ETHNICITY AMONG LAWYERS

	2000*	2010*
White, not Hispanic	88.8%	88.1%
Black, not Hispanic	4.2%	4.8%
Hispanic	3.4%	3.7%
Asian	2.2%	3.4%
Native American	0.2%	----
Pacific Islander	.04%	----

**Source: 2000, 2010 U.S. Census, Bureau of the Census*

LAW STUDENTS

<i>Academic Year</i>	2007-2008	2008-2009	2009-2010
Total JD enrollment	141,719	142,922	145,239
Gender			
Male	53%	53%	53%
Female	47%	47%	47%
Minority enrollment	21.6%	21.9%	22.4%

Source: ABA Section of Legal Education & Admissions to the Bar

A SNAPSHOT OF WOMEN IN THE PROFESSION

In 2006, the ABA Commission on Women in the Profession compiled the following statistics:

Percentage of Women Law Graduates: 48.8%

Percentage of Women Lawyers: 30.2%

Women Lawyers in Private Practice

Summer Associates	Associates	Partners
47.9%	44.1%	17.3%

Percentage of Women Fortune 1000 General Counsel: 15.7%

Women in Law School Administration

Deans	Associate/Vice Deans	Assistant Deans/Directors
20.4%	45.5%	69.4%

Women in Law School Faculties

All Faculty	Tenured	Tenure Track
35.4%	26.5%	43.2%

Women in the Judiciary

District Court Judges	23.3%
Circuit Court Judges	23.6%
State Supreme Courts	29.2%

Salary (as a percentage of men's salary): 77.5%

IN-HOUSE COUNSEL INITIATIVES

In 1999, the Chief Legal Officers of about 500 major corporations signed a document entitled *Diversity In The Workplace – A Statement of Principle*. The Statement evidenced the commitment of the signatory corporations to diversity in the legal profession.

DIVERSITY IN THE WORKPLACE – A STATEMENT OF PRINCIPLE

As the Chief Legal Officers of the companies listed, we wish to express to the law firms which represent us our strong commitment to the goal of diversity in the workplace. Our companies conduct business throughout the United States and around the world, and we value highly the perspectives and varied experiences which are found only in a diverse workplace. Our companies recognize that diversity makes for a broader, richer environment which produces more creative thinking and solutions. Thus, we believe that promoting diversity is essential to the success of our respective businesses. It is also the right thing to do.

We expect the law firms which represent our companies to work actively to promote diversity within their workplace. In making our respective decisions concerning selection of outside counsel, we will give significant weight to a firm's commitment and progress in this area.

In 2004, a number of the original signatories released that “all objective assessments show that the collective efforts and gains of law firms in diversity have reached a disappointing plateau.” As a result, they reaffirmed their commitment to diversity in the following call to action:

A CALL TO ACTION: DIVERSITY IN THE LEGAL PROFESSION

“As Chief Legal Officers, we hereby reaffirm our commitment to diversity in the legal profession. Our action is based on the need to enhance opportunity in the legal profession and our recognition that the legal and business interests of our clients require legal representation that reflects the diversity of our employees, customers and the communities where we do business. In furtherance of this renewed commitment, this is intended to be a Call to Action for the profession generally, in particular for our law departments, and for the law firms with which our companies do business.

In an effort to realize a truly diverse profession and to promote diversity in law firms, we commit to taking action consistent with the referenced Call to Action. To that end, we pledge that we will make decisions regarding which law firms represent our companies based in significant part on the diversity performance of the firms. We intend to look for opportunities for firms we regularly use which positively distinguish themselves in this area. We further intend to end or limit our relationships with firms whose performance consistently evidences a lack of meaningful interest in being diverse.”

The following is a partial list of the companies signing on to the Call to Action.

Eli Lilly & Company	The Dow Chemical Company
Qwest	Wal-Mart
The Boeing Company	General Mills, Inc.
Verizon	Pitney Bowes, Inc.
Hewlett Packard Company	Bank of America Corporation
Prudential Financial, Inc.	Bristol-Myers Squibb Company
H.J. Heinz Company	Lockheed Martin Corporation
JC Penney	DuPont Company
Starbucks Coffee Company	Viacom, Inc.
Federal Department Stores Inc.	PepsiAmericas, Inc.
Lockheed Martin Corporation	Sara Lee Corporation
The Oracle Corporation	Southern California Edison
Halliburton Company	Kellogg Company
New York Life Insurance Company	Del Monte Foods
Johnson & Johnson	Longs Drug Stores Corporation
Intel Corporation	Mass Mutual Financial Group
SBC Communications Inc.	Marriott International, Inc.
Cargill, Inc.	Abbott Laboratories
Aon Corporation	Accenture LLP
Merck & Company, Inc.	Gap Inc.
BellSouth Corporation	Microsoft Corporation
ConocoPhillips	International Paper
Unocal Corporation	Bear Stearns & Company, Inc.
Tyson Foods, Inc.	The Clorox Company
General Motors Corporation	Wells Fargo & Company
Computer Associates International	PepsiCo Inc.
The Goodyear Tire & Rubber Company	BJ's Wholesale Club, Inc.
Circuit City Stores, Inc.	The New York Times Company
Union Pacific Corporation	Fannie Mae
IKON Office Solutions, Inc.	Limited Brands, Inc.
United Parcel Service	BP America, Inc.
Proctor & Gamble Company	The Hartford
The Coca-Cola Company	3M Company
American Airlines, Inc.	
Pfizer, Inc.	
Levi Strauss & Co.	
Honeywell International	
Shell Oil Company	
Clear Channel Communications, Inc.	
Harley-Davidson, Inc.	
Tyco International Ltd.	
TIAA CREF	
ITT Industries	

ACTION STEPS FOR ENHANCING DIVERSITY IN LEGAL ORGANIZATIONS

- Identify diversity is one of the organization's key strategic initiatives and develop a formal diversity plan, complete with measurable action steps.
- Communicate the importance of diversity both within and outside of the organization
- Key members of the organization (e.g., the managing partner, general counsel, director, etc.) should play a key role in the development and implementation of the diversity plan and be held accountable for the success of the plan
- Diverse lawyers should participate on key committees or groups within the organization
- Offer diversity and leadership training to foster an atmosphere of inclusion
- Promote work/life balance and make reasonable accommodations for cultural/religious observances
- Broaden recruiting efforts by building strong relationships with women and minority law students groups, supporting women and minority bar organizations and participating in women and minority career fairs
- Foster both the professional and career development of attorneys through training and educational opportunities
- Institute a mentoring program, wherein mentors are appropriate trained and rewarded for success