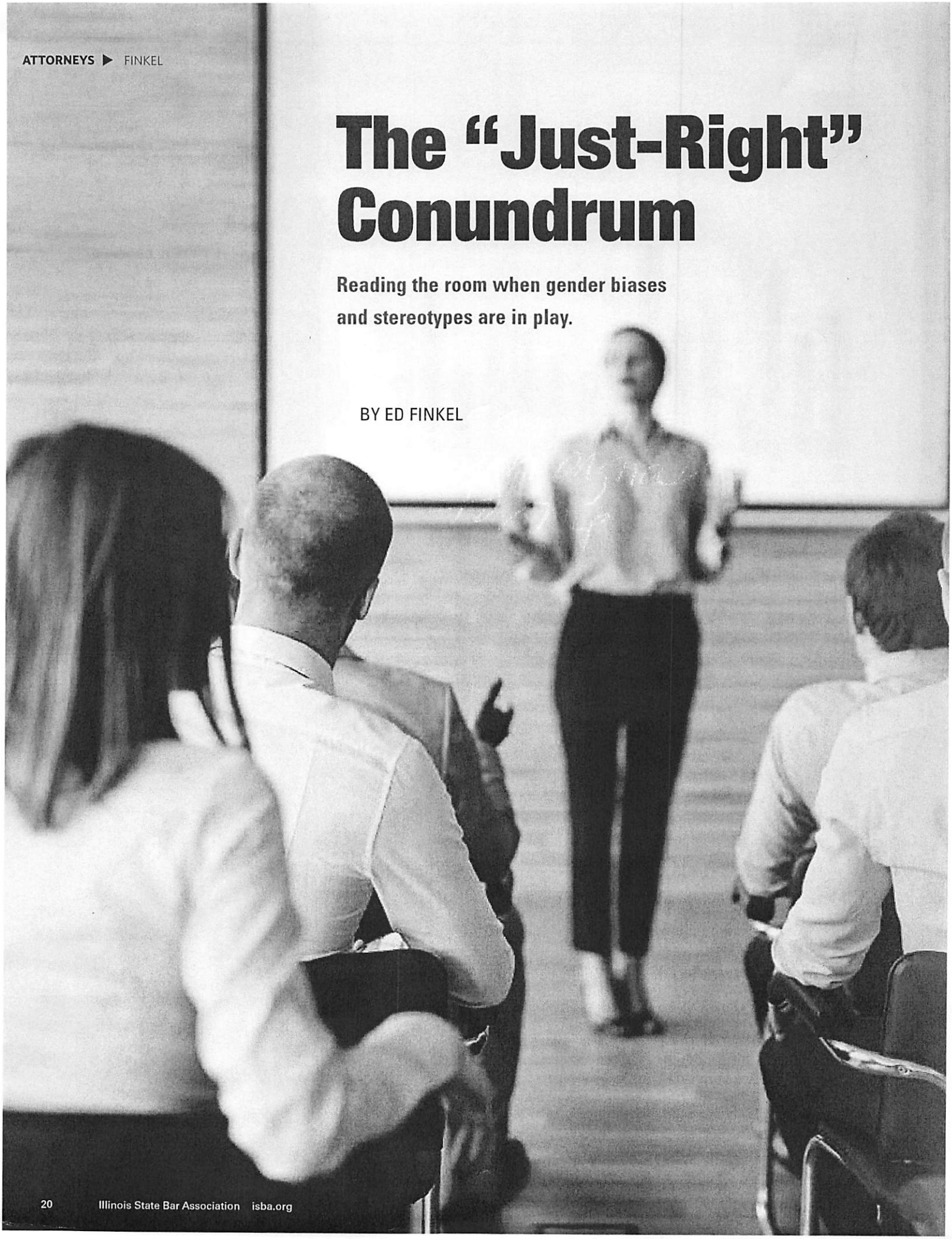
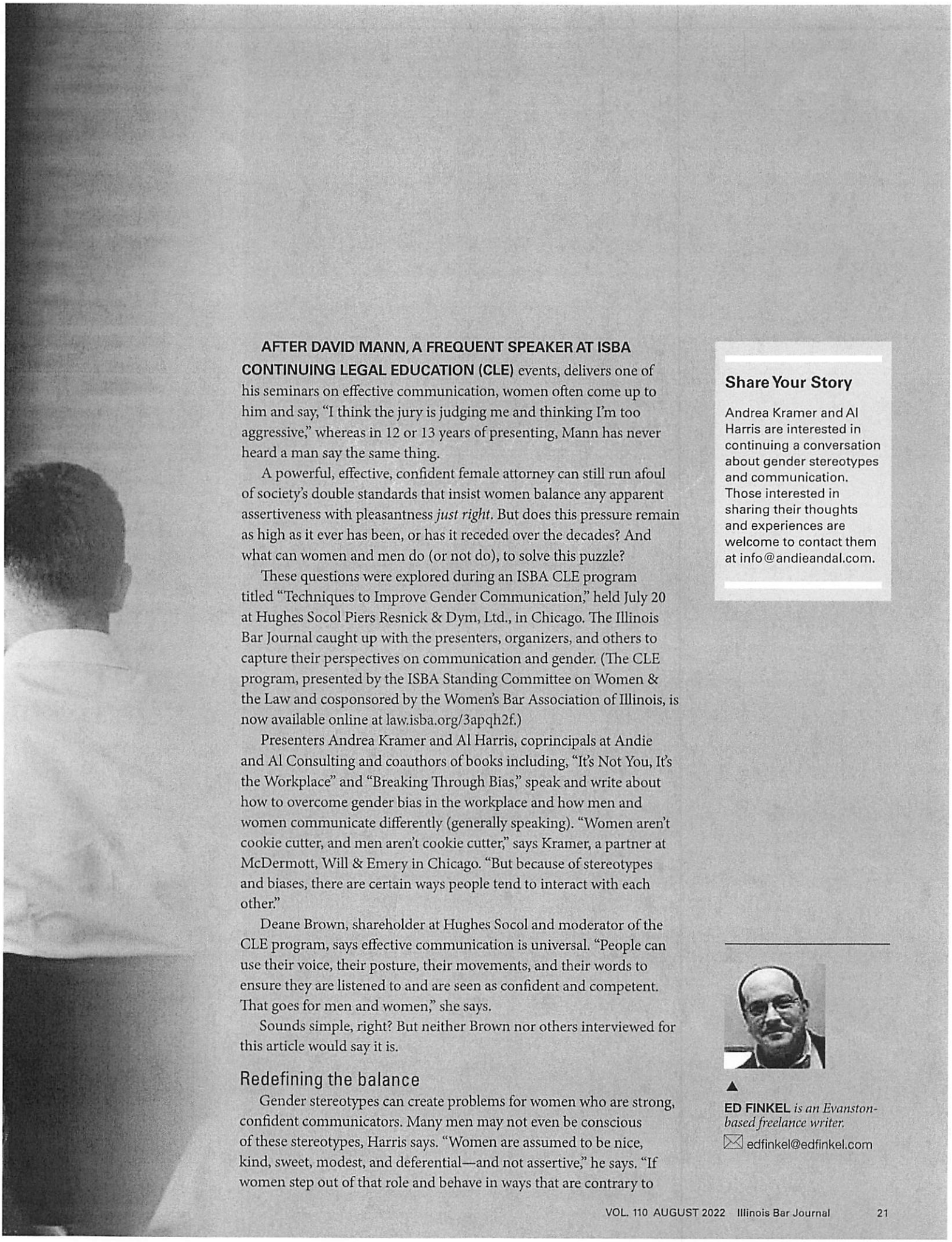
The "Just-Right" Conundrum

Reading the room when gender biases and stereotypes are in play.

BY ED FINKEL





AFTER DAVID MANN, A FREQUENT SPEAKER AT ISBA CONTINUING LEGAL EDUCATION (CLE) events, delivers one of his seminars on effective communication, women often come up to him and say, "I think the jury is judging me and thinking I'm too aggressive," whereas in 12 or 13 years of presenting, Mann has never heard a man say the same thing.

A powerful, effective, confident female attorney can still run afoul of society's double standards that insist women balance any apparent assertiveness with pleasantness *just right*. But does this pressure remain as high as it ever has been, or has it receded over the decades? And what can women and men do (or not do), to solve this puzzle?

These questions were explored during an ISBA CLE program titled "Techniques to Improve Gender Communication," held July 20 at Hughes Socol Piers Resnick & Dym, Ltd., in Chicago. The Illinois Bar Journal caught up with the presenters, organizers, and others to capture their perspectives on communication and gender. (The CLE program, presented by the ISBA Standing Committee on Women & the Law and cosponsored by the Women's Bar Association of Illinois, is now available online at law.isba.org/3apqh2f.)

Presenters Andrea Kramer and Al Harris, coprincipals at Andie and Al Consulting and coauthors of books including, "It's Not You, It's the Workplace" and "Breaking Through Bias," speak and write about how to overcome gender bias in the workplace and how men and women communicate differently (generally speaking). "Women aren't cookie cutter, and men aren't cookie cutter," says Kramer, a partner at McDermott, Will & Emery in Chicago. "But because of stereotypes and biases, there are certain ways people tend to interact with each other."

Deane Brown, shareholder at Hughes Socol and moderator of the CLE program, says effective communication is universal. "People can use their voice, their posture, their movements, and their words to ensure they are listened to and are seen as confident and competent. That goes for men and women," she says.

Sounds simple, right? But neither Brown nor others interviewed for this article would say it is.

Redefining the balance

Gender stereotypes can create problems for women who are strong, confident communicators. Many men may not even be conscious of these stereotypes, Harris says. "Women are assumed to be nice, kind, sweet, modest, and deferential—and not assertive," he says. "If women step out of that role and behave in ways that are contrary to

Share Your Story

Andrea Kramer and Al Harris are interested in continuing a conversation about gender stereotypes and communication. Those interested in sharing their thoughts and experiences are welcome to contact them at info@andieandal.com.

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—Andrea S. Kramer, partner, McDermott, Will & Emery, Chicago, and women's advocate.

the stereotypes that we typically associate with women—which are *communal* stereotypes—if they behave in strong, forceful, powerful ways, they're often viewed as abrasive, aggressive, selfish, or not likable."

Communal stereotypes for women often clash with *agentic* stereotypes, which are typically associated with men, Harris says. "So, men can come across—I wouldn't say forcefully—but I would say with authority, with confidence, with a sense that they know what they are talking about and deserve to be taken seriously," he says. "Women have what we refer to as an impression-management job ahead of them. They've got to not be too soft, or too communal; or too hard, or too agentic."

Men are not completely off the hook for managing their more-agentic tendencies. "Men, typically in the business context or the legal context, can behave in assertive, even angry or aggressive ways, and they are accepted as: 'that's just the way men are,'" Harris says. "For men, the problem is not to avoid appearing too strong and confident. The problem is to adopt a speaking style that is welcoming and inclusive of other people, so that they are not dominating the conversation, meeting, or negotiation."

Self-awareness is key

Kramer clarifies that she and Harris are not suggesting that women need to change who they are. "There is a fine line," she says. "But it's helpful if we're aware of how we're perceived by other people as we confront somebody who has these stereotypes. Unfortunately, we have these stereotypes about how women are supposed to be and how men are supposed to be. It's not that women need to change who they are, they just need to feel comfortable in being prepared to defend their position."

Women lawyers often thrive with finding this balance when it comes to representing their clients. In fact, they're often more effective than men, because representing a client involves being helpful, Kramer says. "You're flowing into the communal 'bucket,'" she says. "The negative aspect comes up not in the way they are representing the client, but in the way they are advancing their careers. Helping yourself is a different situation entirely."

Mann (who was not part of last month's CLE) suggests that women can learn from the place where the most is at stake: the courtroom.

Mann believes jurors adopt a mindset that transcends their cultural baggage. "They know they're there to do a job," he says. "That guy could be sitting at a diner and hear that woman talking at the next booth and make some harsh judgment about her. But I bet you he would not make that same judgment [in a courtroom]. The context is everything.

"Don't overthink it," Mann adds. "I tell women attorneys, 'Try to remember that you're looking at blank faces looking back at you. Whatever you are perceiving they are thinking is in your head—because you don't know what they're thinking.' Be careful of projecting judgment onto a blank face. You can retrain your brain—you must do this on purpose—to see acceptance and interest in a blank face. You might as well choose the positive perception rather than the negative, since you don't know."

Mann acknowledges that other settings, like the boardroom, are likely to carry more cultural baggage and dysfunction. "If a woman is in a male-dominated firm, and she's very good, and they don't want her in the upper ranks of the partnership because of their male egos, there's only so much she can do in terms of presenting skills. There are a whole lot of other layers there."

Two steps forward

During the past couple of generations, prospects for female attorneys have improved and the stranglehold of stereotypes have eased … somewhat. But this has played out more slowly than people might have expected 30 years ago, Kramer says. "There are more women in leadership positions. That makes it better," she says. "But we are still talking about many of the same issues as we've been talking about for a very long time. You would hope that these problems would have been solved by now, and that's just not the case."

Harris cites the annual "Women in the Workplace" report prepared by McKinsey & Company and Leanin.org that has found women now comprise about 25 percent of c-suite executives in large companies, compared with about 15 percent in 2015. "But the context is that women have also grown to comprise almost 50 percent of entry-level professionals. They drop down at each progressive stage of the management level," he says. "We've got a long way to go before we achieve anything that can be considered gender parity."

Similarly, in the legal profession, Brown notes close to half of associates are women. Yet, a much smaller percentage are partners. "Women don't advance at the same rate as men. That hasn't changed much in the past 20 years," she says.

On the positive side, Brown says that compared with the 1970s and 80s, women are less likely to feel the need to act like men, "whether it was in terms of their dress, in terms of how they spoke, or in terms of their general persona," she says. "I feel like women can be themselves and use their own skills, talents, and traits to make

better impressions."

"It's called being your authentic self. You don't need to talk about sports to network and to communicate," Brown adds. Men and women alike may enjoy networking at sporting events and on the golf course, as Brown does. But women and men who aren't into sports should be free to connect professionally around whatever they enjoy, whether it's a gourmet cooking class or visiting a spa.

One step back

One danger zone is a resurgent patriarchal culture in various quarters of America in the past few years.

"The acceptability of explicit gender bias and the open, hostile criticism of women have become far more prevalent," Harris says. "It has long been assumed there were people who held very misogynistic views of women, but they were shy about putting those ideas forward. Now it's become part of the mainstream."

Mann is optimistic that among men his age and younger, a critical mass is growing more aware of gender bias and discrimination and will push back against attempts to revive antiquated gender roles.

Women have educated Mann that it is not as easy as saying "confidence is confidence," as he once believed was the case. "What has changed for me is women coming up to me and saying, 'Actually, I think it is different for us,'" he says. "It's a matter of degree. I haven't gone all the way to thinking it's night-and-day different. It's in the middle somewhere. I don't think the culture has completely changed on how women are perceived."

Practical tips

As part of their presentation, Kramer and Harris suggest ways that women and men can address and push back against gender stereotypes.

"Very often, women will be in a meeting, say something brilliant, and people act as if they haven't heard them," Kramer says. "And then, five minutes later, Fred says the same thing and people talk about how brilliant Fred is. Women need to make sure they're heard and that their point is made. But everybody can be more effective in helping women, so it becomes a collaborative effort."

Brown reiterates what Kramer discusses in her books about using personal space. "Men will come into a conference room, spread out, take up space. Women tend to pull back and minimize their space—right down to where you sit at the table," she says. "A lot of times, the head of the table is reserved for the person running the meeting. Sit next to that person. Or claim as much space as the men do."

Harris says men should support women in the moment, so that "Fred" doesn't get all the credit when he repeats what they've just said. "They should engage in interventions when they see biased behavior," he says. "We're all very good at seeing biased behavior in other people. We're very poor at recognizing it in ourselves. We all have responsibilities to watch out for biased ways in which other people operate—stealing women's ideas, speaking over them, ignoring them, not giving them equal airtime."

Brown (borrowing from Kramer's work) points out many ways women can assert themselves other than by deepening the pitch of their voice to resemble a man's (as Theranos founder Elizabeth Holmes was famously derided for doing).

"Some of it is how you use gestures," she says. "Eye contact is important. Facial expressions are important. A good sense of humor goes a long way toward developing likability and trustworthiness. You don't want to be a standup comedian, but humor is also a good coping mechanism. It breaks the ice and it makes people feel more comfortable with you."

Mirroring others' communication styles can help you connect with them, Brown says. "If you're talking to somebody, and they are leaning forward, you can lean forward," she says. "You can speak at the same rate or lower and raise your pitch (within reason) as someone who is speaking to you is doing."

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—Al Harris, advocate, author, speaker

When it comes to electronic communications, Brown suggests writing in complete sentences and not using emojis, abbreviations, or—unless it's a congratulatory note to a friend—exclamation points. "I also try to be very succinct in all my emails, which I think men do a lot. Be very clear in what you want. Lay it out: A, B, C. I'm not saying write a one-word email, but you don't need to be overly expansive."

In court, Brown suggests projecting professionally and being very firm in one's position. "Don't let other people, other than the judge, talk over you or interrupt you. And call them out when it happens," she says. "A lot of that comes down to preparation and being confident. Friends who are judges comment on how much they appreciate counsel being prepared."

When Mann delivers his seminars to a mixed audience, he discusses skills that apply to both genders, such as delivering an organized, clear, and illustrative narrative. "The vast majority of people who are going to be listening are going to be grateful that you did that work. Because you clearly organized it in a way that's for their benefit," he says. "That goes a tremendous distance."

If you get jurors on your side, and they

trust you, "They will assume you're being appropriately assertive" rather than overly angry, Mann adds. "Generally, people who are your audience—a jury or even a judge—are still human beings. They still respond to whether what you're saying is clear and whether they should care about it. But if you are delivering this dry, flatlined thing, you're going to hand them the opportunity to judge you personally. That's probably another circumstance where people tend to be harder on women than men."

Law firms and other legal employers need to ensure that women receive the same kind of training as men—but not focused on changing women to make them more confident and assertive, Harris says. "We don't think that's the way to go," he says.

Rather, training should focus on equipping all people to balance stereotypically female communal instincts with stereotypically male agentic instincts, Kramer says. Studies show women who have 'nice, kind, sweet' dispositions and effectively communicate can get the job done are more likely to succeed, she adds.

Common mistakes

Women who believe that they must act like a man to succeed are making a mistake, Kramer says.

"You have to be true to yourself," Kramer says. "The notion that the only way to succeed is to be tough and agentic is not true." Women do need to be conscious of dialing up or dialing down communal and agentic impulses, she adds.

Brown says women sometimes speak in ways that make them seem hesitant, ending a sentence with, "Do you agree?" or "Isn't that right?"; or ending a sentence with "up-talk," in which a declaratory statement sounds like a question. Using these phrases and mannerisms can suggest you are seeking or needing validation. "And there are all sorts of words that can be omitted," she says. "I've personally omitted the word, 'just.' It's a minimizing word. 'I'm just following up'—no, you are following up."

Also, strike words such as "perhaps" and "uh-huh"; and qualifiers like "I may be off-base here," "just my two cents," and "just my opinion," Brown suggests. "Obviously it's your opinion—you're speaking. It's very self-deprecating," she says. "One of Andie's biggest beefs is saying 'I'm sorry' for everything. It's raining outside, and women will say, 'I'm sorry.' You're not responsible for bad things that happen."

Another pitfall Brown has learned from Kramer is that women frequently nod their heads to communicate to the speaker that they're paying attention. "They may not necessarily agree with what the speaker is saying," she says. "They may nod to acknowledge the speaker, but unintentionally convey they are agreeing when they are not."

Also avoid playing with one's hair, jewelry, or buttons while speaking, Brown says. (Most men typically have less hair and jewelry to play with, giving them fewer objects with which to fidget). She also cautions women against pointing their fingers at people, speaking too loudly, or using an unfriendly voice. (Which men shouldn't do, either.)

Mann says that unrelated to gender, attorneys who haven't organized their court materials well or present in a monotone, uninvested, or rapid-fire fashion also sound less confident and tend to make less of a good impression.

"Whether it's a man or a woman, you are not making very much of an impression," he says. "Women will tend to be too apprehensive about putting energy into a delivery to overcome that monotone affect. They're afraid they're going to overcompensate and come across as aggressive."

"Absolutely, there are cultural differences in how the genders are perceived," Mann adds. "But I do think women will tend to get in their own way in overcoming some of these things. They're imagining more judgment than is happening to them. Which is understandable, because they are judged more harshly in the culture than men."

Deepening Ties

The ISBA and the Women's Bar Association of Illinois.

The Women's Bar Association of Illinois (WBAI) sees an ongoing partnership with the ISBA as cosponsors of anything of relevance to female attorneys. The feeling is mutual.

"When I envision the ISBA reaching out to affinity bar associations in Illinois, it's groups like the WBAI I have in mind," says ISBA President Rory Weiler.

"Anything the ISBA does that is female-related, we'd love to be part of," says Lauren Witkowski, WBAI president and senior trial attorney in the Chicago staff legal office of Zurich North America. "Anytime we're presented with the opportunity to cosponsor a CLE or another event like this, we jump at the opportunity."

The July event featuring Andrea Kramer and Al Harris, and moderated by Deane Brown (see main story), came about due to the WBAI's prior ties to all three, Witkowski says. But it's far from the first time the WBAI and ISBA have cosponsored a CLE.

"We're hoping to continue to strengthen that relationship and pave the path for women to be part of multiple bar associations and also be involved in others—whether or not they're a paying member—and open their eyes to what the ISBA has to offer women," she says. "And we would hope the ISBA feels the same way about the WBAI."

Witkowski says last month's event hopefully opened the eyes of women—and men—about how to surmount the communication challenges that female attorneys face.

"A lot of women have trouble in meetings with men and getting their voices heard," she says. "The goal was to give women tools to effectively communicate, without coming across as bossy or aggressive, and be heard. This is a struggle a lot of women face. I can attest to this, being a female attorney in a male-dominated world."