Using Grit and Growth Mindset to Advance Women in the Law

Discussion Guide for Scenarios

Thank you for agreeing to act as a Grit Project workshop facilitator and for helping us spread the word about the importance of grit and a growth mindset. We have prepared this discussion guide to help you lead participants through an interesting, engaging, and—we hope—enlightening conversation about how these powerful traits might be applied in a law firm or law school setting.

A Few Words About the Scenarios
We have prepared ten different scenarios for you to choose from. We have provided them to you in writing without the discussion guide so you can have the group read them at the session (or ahead of time) and then have a discussion about them. Alternatively, we have also filmed four of them in case you would prefer to show them on video. We do not expect that you will need to use them all. Two or four should be more than sufficient depending on the length of the program you are planning to offer.

Each scenario is drawn from the experiences of Grit Project team members and friends, and it is important that they ring true for you and your lawyers or law students. When choosing which scenarios to use, we suggest that you pick ones that you think your audience will best identify with. We have tried to offer a broad range of scenarios that address experiences that lawyers at all levels—from law students to junior associates to senior associates and even partners—may have had or are likely to have at some point in their careers.

The scenarios are designed to set up a challenging situation with no immediate obvious answers; they do not show you how the scenario ends or what ultimately happens. The idea is to set the stage for the participants to think through how they might use grit and a growth mindset to help them deal with the issues the protagonists in each scenario are confronted with. There are a couple of reasons we have chosen to approach the scenarios in this way: (1) There are no easy answers, and to suggest that any of these situations can be solved quickly or easily is to deny how difficult they are and would be overstating the way in which grit and mindset can be used. Grit and growth mindset are not “quick fixes” to the problems women lawyers and law students face, but rather tools that can be used to help women lawyers navigate complex challenges and still manage to help them keep their heads above water; (2) Research suggests that reflecting on these traits and then trying to apply them to real life scenarios—in other words, really taking the time to engage with these concepts—leads to the most effective, lasting learning.
Discussion Questions
At the end of each scenario you will see a list of discussion questions. You can use these discussion questions in a few different ways. The first option is to ask the participants to read them and try to answer them in small groups and then select one or two people who wish to report back to the larger group. From there, you can facilitate a larger group discussion. The second option is for you and your co-facilitators (if applicable) to pose them to the group at large and jump right into a full group discussion. The best use of the discussion questions depends on the size and structure of your group and what you think will work best for you. With groups of less than 10, a good group discussion is certainly possible, but with larger groups, we recommend splitting into smaller groups so that everyone has an opportunity to meaningfully participate.

While there are no right or wrong answers to any of these questions, we have provided some suggested responses in case the group gets stumped on a particular question or scenario and looks to you for advice. We suggest that you do not share these suggested responses with the group as it is best for them to think about them on their own and suggest possible responses first—think of this guide as the teachers-only version of the textbook!

Some Tips and Observations
- There are no right or wrong answers and no limit to the number of ways that grit and/or mindset can be helpful in these situations.
- On the flip side, grit and mindset are not the only traits than can help you navigate the challenges posed by these scenarios. There will be countless other traits that will be helpful in these situations.
- Although you can and should choose any scenarios that you think will resonate with your audience, we designed each of the scenarios with specific audiences in mind:
  - Scenarios 4, 5, and 6 were written with law students in mind.
  - Scenarios 1, 8, and 9 were written with junior lawyers in mind.
  - Scenarios 2, 3, 7 and 10 were written with more senior lawyers in mind.
Scenario 1
Struggling with Your Workload (also available as a video)

You are a first year associate at a large firm. Since your arrival at the firm you've been working hard, regularly billing in excess of 200 hours per month. If you keep up this pace, you're on track to bill 2,400 hours for the year, which is well above your billable hours requirement. You do most of your work for the same client, VIP, and you are actively engaged in a variety of different tasks that will take you at least a few months to complete. While the work that you are doing for VIP is challenging and you are learning a great deal (almost everything is new to you at this stage), the nature of the work is less interesting to you than other areas of work at the firm. You don't want to get pigeonholed too early in your career. That said, after almost nine months on the job, you are starting to feel like you have some idea what you're doing, and that makes you feel pretty good. You also like the rest of the team; everyone gets along well and the senior associates have been helpful and welcoming.

You are working your third late night this week, when a partner, John, who is not someone you work regularly with, stops by your office. John tells you that he's heard good things about you and has been looking for an opportunity to work with you. He describes an assignment that he needs help with. It's an assignment for a new client in an area that you are really interested in. The catch is that the assignment needs to be started immediately. "If you're up for it, we'd love to have you on the team, but this assignment is going to be fast-paced, and if you're in, you need to be ALL in. I need to be able to count on you 100%," John says.

While you know that the assignment will conflict with the work that you already have on your plate, you really want to work with John and gain some exposure to the type of work that he does. However, you also don't want to let your team down and in spite of the long hours, you feel like you have a pretty good thing going.

Discussion Questions

1. Have you ever faced a situation like this? If so, how did you handle it and what was the outcome?

_There are obviously no correct responses here. This question is designed to get a group discussion started and to encourage participants to discuss their own personal experiences if they would like to do so. In advance of the session it would be helpful for facilitators to reflect on whether or not they have personally experienced something like this, and, if so, to offer to share their story with the group (this will be particularly useful as a way to get the conversation started in_
the event that you have a quiet group or that no one has ever experienced anything similar).

2. What should you say to John? How would you decide what to do next?

Again, there are no correct responses here, but one approach would be to be honest with John and come clean about your dilemma. Letting him know that working with him is a top priority for you but that you are really worried about your ability to fit it in given your current responsibilities might be a good way to reaffirm your interest in his work but also communicate the other items you have on your plate (since he didn’t appear to pick up on that in the scenario, despite all of the evident signs that you were already spread too thin).

In terms of what to do next, there are many options, but no matter what you ultimately choose, don’t let the stress of the situation cause you to panic—it’s normal to feel stress and anxiety on the job, and it doesn’t necessarily mean that you did anything wrong. People with strong growth mindsets will see this as an opportunity to develop certain skills, and gritty people will see this as a way to really dig in and go after what you want, in spite of whatever obstacles (awkwardness, heavy workload, etc.) may be in your way. That doesn’t mean that you just need to take on the extra work and find a way to make it work, but it does mean that finding a way to the best solution will no doubt require some grit and perseverance.

3. Is it more important to finish what you started or should you jump at the opportunity to develop a relationship with John and to do the kind of work you’re most interested in doing?

The answer to this question depends on a number of factors, not all of which we are given in the scenario. For many people, this will depend upon the culture of the firm. Some firms will respect someone who goes after what they want, whatever the cost, and other firms will view this less favorably. It will also depend on your relationship with John and others on the team.

4. How might your reaction to the situation differ if you approached the situation with a fixed mindset versus a growth mindset? How might a gritty person respond? How might both of these traits be helpful to you in this situation?

Someone with a fixed mindset would probably be likely to see this situation as a lose/lose situation. They might feel as if they had been dealt a bad hand, and that they would end up suffering no matter what they did. Someone with a growth mindset would be more likely to see this situation as an opportunity to excel in a really challenging work situation. They would believe in the power of their own efforts and their ability to successfully navigate their way through the
situation. A gritty person would also double down on their efforts to make the best of the situation. For some, this might mean taking on the extra work, giving up sleep for a while, and finding a way to make it all work. For others, this might mean saying no to the assignment, and finding a different way of maintaining a strong relationship with John and finding a way to work together in the future. In both cases, grit and a growth mindset can help you view the situation less as an opportunity to panic and more as an opportunity for professional and personal growth.

Scenario 2
Billing Credit Dispute (also available as a video)

Kate was promoted to income partner several years ago. She has been working hard to develop business so she can become an equity partner. As part of her business development, she has been trying to expand the scope of the work the firm does for client X. Kate has been working closely with the Associate General Counsel on environmental matters that the firm has handled for client X. Senior Partner Jim brought the client’s environmental work to the firm over 20 years ago, and receives the relationship, origination and billing credit for client X.

However, Kate not only works on environmental matters, but also has begun to create a new niche for herself in the area of cybersecurity. The firm has not previously handled such work. As part of her business development efforts and on her own initiative, Kate has been sending articles and talking to the Associate General Counsel of client X about cybersecurity and steps the client should be taking to protect its business.

As a result of Kate’s efforts, the Associate General Counsel wants her to perform a cyber-security audit. She tells Kate that this business is coming to the firm because of Kate’s expertise in this area.

After Kate opened the client file for this new matter, Jim called to congratulate her on securing this business for the firm. However, he advised her that he will be the relationship, origination, and billing partner for this new matter. Jim also told Kate that he wants to be included in all meetings and correspondence with the client on this matter.

Kate is stunned by Jim’s insistence that he receive origination and billing credit for the cybersecurity work. She developed that work entirely on her own and the client retained her directly.

This is not the first time that Kate has had an issue with Jim concerning origination and billing credit. Last year, after Kate succeeded in expanding the firm’s
role in handling environmental work for client X, she talked to Jim about receiving some billing credit for that work. However, Jim refused and told Kate in no uncertain term that he was entitled to all the credit because of his long-standing relationship with client X.

Although she was upset, Kate did not make an issue of the refusal by Jim to accord her any billing credit on the expanded environmental work last year. Yet, she realizes that obtaining origination and billing credit for the new cybersecurity work will be critical to making equity partner. On the other hand, she also recognizes that seeking such credit in the face of Jim’s resistance is fraught with political risk.

**Discussion Questions**

1. Given Jim’s insistence on keeping the billing and origination credit for the cybersecurity work for himself, what should Kate do?

   *There are no obvious answers, but clearly Kate needs to take some action here and find a way to get through this without losing hope. What Kate should not do is panic and assume that she cannot handle the situation. Hopelessness can lead to helplessness, and what Kate really needs to focus on now is how to respond in the way that will get her closer to her long-term goal, which is making equity partner. Kate should try her best to see this as an opportunity for her to end a vicious cycle and start getting credit for the work that she brings to the firm.*

2. Are there any steps Kate can take to try to persuade Jim to change his mind?

   *It is clear that Jim does not expect Kate to object to his request for billing and origination credit. It is also possible that Jim actually feels entitled to both, and hasn’t even considered the fact that this should rightfully go to Kate. As an initial matter, Kate could raise these issues with Jim directly and try to explain some of her concerns to Jim.*

3. Given the political risk involved and Jim’s seniority, should Kate acquiesce to Jim’s position?

   *Although there are no perfectly right or wrong answers, acquiescing to Jim seems like the wrong move here, and standing up to him, either directly or through some other approach, is a terrific opportunity to use grit and a growth mindset to overcome a significant challenge. This represents a critical moment in Kate’s career and should be thought of an opportunity to right a wrong rather than a moment of defeat of hopelessness. There are no guarantees that Kate will ultimately get what she wants, but either way, she will no doubt learn some important lessons during the process.*
4. If Kate is unable to persuade Jim to change his mind, what might she do to enlist support from others for her request for billing and origination credit?

Kate might try reaching out to someone in a leadership position at the Firm, either a male or a female, with whom she has a good relationship and who knows both her and her work product.

5. Utilizing grit and a growth mindset, identify various pro-active measures that Kate might want to consider as next steps.

Here are some examples of things that Kate might do:

(a) Leave the firm and take the business
(b) Have the client call Jim or the firm managing partner
(c) Reach out to sponsors or other senior partners at the firm

Scenario 3
Lost Motion

You are a mid-level associate and have been given the opportunity to take the lead on responding to a summary judgment motion for an important client, High Maintenance Tires, in their ongoing litigation dispute with Overpriced Cars. You feel great about the fact that there have been many discovery disputes throughout the case and the Judge has consistently ruled in your favor. There is no reason to think you will not win on summary judgment. You have spent weeks of hard work putting together your response. You assure the client that it is highly unlikely the judge would dismiss your case and that you expect serious settlement discussion to begin after the plaintiff loses the motion. Given how the judge has responded throughout the case, you are confident.

You file the response and feel extremely proud of the work you did and know that you could not have worked harder. Several weeks later, as you are getting ready to leave for the evening, the head partner on the case, Bill, storms into your office and asks if you have read the ruling. Your stomach drops because you know that despite all your hard work things must not have gone as you had hoped. As you skim the ruling with Bill in your office, you find that you have lost the motion on all counts but one. Of note, the judge finds that you have over-reached on the main case you cited in support of your motion and that the case’s holding does not support your argument. Also, you failed to cite a critical case that the other side found. Bill is furious and says that the client will be as well. How can you respond?
Discussion Questions

1. Have you ever faced a situation like this? If so, how did you handle it and what was the outcome?

   There are obviously no correct responses here—this question is designed to get a group discussion started and to encourage participants to discuss their own personal experiences if they would like to do so. In advance of the session it would be helpful for facilitators to reflect on whether or not they have personally experienced something like this, and, if so, to offer to share their story with the group (this will be particularly useful as a way to get the conversation started in the event that you have a quiet group or that no one has ever experienced anything similar).

2. What should you say to Bill?

   It is important to stay calm in this situation, even if you don’t (understandably) feel that way. You have to keep in mind that what happened to you could happen to anyone. Everyone who practices law can and will get a tough break once in a while—even when it looks like everything is going to work out perfectly there are no certainties. You know that you worked hard, and that you did the best you could, and in spite of your best intentions that won’t always lead to the results that you, the firm, and your client want. And, even if he is upset now, Bill understands this too. He may be frustrated in the moment, especially if he was expecting a different outcome, but eventually he will calm down and be able to discuss the situation rationally. Importantly, this is not a reflection on your abilities as a lawyer, and while it may not feel like it in this moment, everyone will ultimately recognize that.

3. How would you handle the client?

   Just like Bill, the client will no doubt be disappointed by the ruling, and you should be prepared for that. That said, this could happen to anyone in any situation, and you’ll need to reiterate that there are no certainties. There are many possible responses to the client, but the most important thing to do is to respond quickly and honestly and make sure that you have a plan for next steps in mind, so that the client can envision where you should go from here. Don’t focus on the negatives and instead, focus on moving forward in the best possible way.

4. Would your reaction to the situation differ if you approached the situation with a fixed mindset versus a growth mindset? How might a gritty person respond? How might both of these traits be helpful to you in this situation?
Someone with a fixed mindset would be more likely to interpret this as a personal failure, and possibly even as a sign that she doesn’t have what it takes to be a successful lawyer. Failure, particularly unexpectedly failure, can be very demoralizing to someone who connects their self-worth with outward measures of success (e.g., I am a good lawyer because I win motions and I don’t miss cases). On the other hand, someone with a growth mindset sees failure simply as an opportunity to learn. In this case, their conclusion might be something along the lines of: “This is a really disappointing and unexpected loss, but the good news is that I can learn something from this which will potentially save me from making the same mistake (overconfidence, not triple-checking instead of just double-checking cases, etc.) twice.” What someone with a growth mindset would not do is decide that this says something about their ability to succeed as a lawyer.

Grit is helpful in this situation because it can give you the courage you need to overcome a significant setback like this one. A gritty person will generally double-down on their efforts when they encounter a challenge rather than shying away from it or allowing it to lead to inertia.

Scenario 4
Speaking Up in Class

Sloane is a first year student at a nationally ranked law school. She left her friends and family and moved to a new city to pursue her dream of becoming a litigator. Classes started a little over two months ago and although Sloane is sleep deprived, over caffeinated, and having a very hard time keeping up with all the reading assignments, she has managed to attend every class on time and has truly begun to develop a routine.

Nonetheless, Sloane still can't shake the feeling that she is totally overwhelmed and out of her element. In college she always managed to feel confident and get great grades with half as much effort as what she is putting in now. Everyone Sloane meets seems to have amazingly impressive credentials: Master’s Degrees, High Honors, and even full careers, all before starting law school. Sloane finds herself doubting the usefulness of her degree in Cultural Anthropology on a daily basis, and wondering whether she should have opted for volunteering with that NGO.

To make matters worse, Sloane has started to hear rumblings about her Constitutional Law Professor, Professor Smith, a.k.a. "Smithsonian." According to friends of friends, his ideas about women in the work place, women in law, and unfortunately for Sloane – women in the classroom – are as outdated and antiquated as the artifacts in the museum he’s nicknamed after. Rumor has it that years ago he lectured a female student on his views about a woman’s role in the legal profession:
they should all be secretaries. Sloane can't verify whether or not this is true, and he is a tenured professor. She has noticed how it seems much harder for female students than male students to get his attention in the classroom.

According to Professor Smith's syllabus he determines, in his sole discretion, what percentage of your grade will be based on classroom participation within a given range. Sloane knows the importance of getting practice in formulating an opinion and articulating it to others. She is also keenly aware that Professor Smith is the faculty advisor to the moot court team, on which she really hopes to win a spot. She has been told in no uncertain terms that making a great impression on Smith will not only help her in first year, but throughout law school. That said, she has personally witnessed Professor Smith lambaste a student for asking "the wrong question." Also, she sees other students rolling their eyes when someone asks too many questions. She wants to get good grades and a spot on the moot court team, but she doesn't want Professor Smith or her fellow students to think she is stupid, pushy or arrogant.

Discussion Questions

1. Have you ever had a similar experience? How did you handle it and were you pleased with the outcome?

   There are obviously no correct responses here—this question is designed to get a group discussion started and to encourage participants to discuss their own personal experiences if they would like to do so. In advance of the session it would be helpful for facilitators to reflect on whether or not they have personally experienced something like this, and, if so, to offer to share their story with the group (this will be particularly useful as a way to get the conversation started in the event that you have a quiet group or that no one has ever experienced anything similar).

2. What advice would you give Sloane about how to proceed in Professor Smith's class?

   Again, there are no right or wrong answers here, and there is lots of good advice that could be helpful to Sloan in this situation, including not to let herself be defeated by what is undoubtedly a frustrating situation and encouraging her to use this an opportunity to push herself outside of her comfort zone. Often success, particularly when something doesn't come easily to you, requires grit and perseverance, and a profound belief in your own ability to succeed, even in the face of (seemingly insurmountable) obstacles.

3. What factors would you consider in deciding how to successfully contribute/speak up?
If time allows, we recommend that facilitators read the Yale Law School Speak Up About Gender study, available here: http://yalelawwomen.org/speak-up/. This study has some great statistics about class participation at Yale Law School that will be useful background information as you work through this question. In addition, Ms. JD has an easily-digestible blog post about the recommendations from the Yale Law Study that would be great for people who don’t have time to review the full study: http://ms-jd.org/blog/article/yale-law-study-gender-recommendations. This post: http://ms-jd.org/blog/article/yale-law-school-faculty-students-speak-about-gender-ten-years-later also describes the findings generally.

If you don’t have time to read the study, don’t worry—there are still lots of good answers here. Again, the key is that Sloane does not let her fear of “looking stupid”, something that many women struggle with, interfere with her success in law school. Sloane, like all of her fellow 1Ls, is in school to learn, not to prove that she already has all of the answers. It may not feel good to speak up, only to be told that she’s “wrong”, but she cannot let this impact what she believes about her own ability to be a successful law school student, or force her to sit quietly in class when she knows this will hurt her in the long run.

4. What value is there in the opportunity to learn from your mistakes?

Someone with grit and a growth mindset sees mistakes as one of the best opportunities to learn. They do not take failure personally or seek to draw larger conclusions about their own abilities from mistakes (e.g., I screwed this up, so I must not be smart/capable/good enough). There is tremendous value in adopting this philosophy early on in your career, as it will continue to be useful to you, even at very senior levels of practice.

Scenario 5
Job Search (also available as a video)

Julie is a second year law student. She graduated magna cum laude from a prestigious undergraduate university and is accustomed to being at the top of her class. Law school has been more challenging than undergraduate. While she is in the top 10% of her class, she did not make law review. When she did not make law review, she applied to the International Journal and made it. She is currently a staff editor but is planning to write a Note for the journal and hopes to be Notes editor in her third year.

Julie is in the process of applying for summer clerkship jobs. She is determined to be in Washington, D.C. as she is very interested in antitrust law, and she believes that Washington is where the best antitrust practices are located. She would like to work for one of the large global law firms in Washington, D.C. because she is also...
interested in global competition law. But, competition is fierce and firms have cut back on their summer programs. Because of her strong academic record, Julie has had a relatively easy time securing preliminary interviews and has had nine interviews to date. However, Julie has not been as successful as she would like. She has received four rejections. She has a callback scheduled with two firms, and she has not yet heard from the remainder.

Julie was very discouraged when she received the four rejections; they were her top choices. She is wondering why she didn’t make the cut. Did she answer the substantive questions they asked her incorrectly? Is her resume lacking? Did she set her sights too high and narrow? Was it her personality? She tends to be a bit quiet but can certainly be assertive when she needs to be. In thinking back over the interviews, she thinks that she was intimidated by the “grandeur” of the firms—and that this may have been reflected in the way she presented herself. While she is usually very self-confidence, the grueling nature of the interview process as well as the rejections are undermining this confidence, and she is beginning to doubt herself.

Discussion Questions

1. Have you ever faced a situation like this? If so, how did you handle it and what was the outcome?

   There are obviously no correct responses here—this question is designed to get a group discussion started and to encourage participants to discuss their own personal experiences if they would like to do so. In advance of the session it would be helpful for facilitators to reflect on whether or not they have personally experienced something like this, and, if so, to offer to share their story with the group (this will be particularly useful as a way to get the conversation started in the event that you have a quiet group or that no one has ever experienced anything similar).

2. From whom could Julie seek advice on surviving this grueling process?

   Julie has lot of options here. Family and friends are obvious choices for emotional support (which is key), but she should also reach out to any mentors that she has, either at school or from earlier professional experiences. She should also seek out advice from experts in the field, including the career center staff at her law school. It’s important for her to consult with people who are knowledgeable about the current legal landscape so that they can reassure her that this is not something specific to her and may simply be a reflection of an uncertain economic environment and limited job options for law school graduates. The most important thing here is that she talks this though with people who can convince her not to take this personally and not to assume that
she has no hope of achieving success.

3. What would help her to stick to her goal, namely to go to Washington and practice antitrust law? How might this situation differ if Julie approached it with a fixed mindset versus a growth mindset?

If Julie uses a fixed mindset approach, she might reach the following conclusion: “This is never going to happen for me. I just don’t have what it takes to land the job of my dreams. I need to reconsider my future.” If Julie employs a growth mindset approach, she would reach an entirely different conclusion, something more like this: “Wow, this is so much harder than I thought it would be, but I know I have what it takes to be successful as an antitrust lawyer, and I am going to do whatever it takes to make that happen. I know it won’t be easy, but I believe in myself, and I know I will learn a lot about myself in the process.”

4. How might grit be helpful in this situation?

Grit, like growth mindset, will be incredibly helpful to Julie in this situation. She will need passion (her strong desire to be an antitrust lawyer) and perseverance (dogged determination to land a job, in spite of a somewhat grim outlook) in order to get through this. She may have to reconsider all of her options (maybe she doesn’t get to start out her career practicing antitrust law in DC, and instead has to follow a more circuitous path) but at this point, it would be a big mistake to rule anything out, especially her dream of being an antitrust lawyer.

Scenario 6
Poor Performance on a Midterm Paper

You are a first year law student at ABC University. Since your arrival at law school, you’ve been working hard, attending classes regularly, meeting with your study groups, and making a point of talking to and getting to know your professors. You were assigned your first paper on “Shopkeeper’s Privilege.” You did all of the research, asked the appropriate questions and wrote what you thought was an excellent paper. You expected your grade to reflect the amount of effort and time you spent on writing and reviewing your paper with your professor. But upon receiving your grade, you were highly disappointed. Not only was the grade a bad reflection of your time and effort but the comments given by the professor were vague and unhelpful for the future. You attempted to speak with the professor about your grade, but your professor was very dismissive and did not give adequate responses. You now have a conflict. You must decide if you will raise this issue with the Dean or accept your grade (you already know that you will have the same professor next semester). Additionally, you are one of a few women in this particular class and do not want to come off as “whiny” or overly sensitive.
Discussion Questions

1. Have you ever faced a situation like this, if so how did you handle it?

   *There are obviously no correct responses here—this question is designed to get a group discussion started and to encourage participants to discuss their own personal experiences if they would like to do so. In advance of the session it would be helpful for facilitators to reflect on whether or not they have personally experienced something like this, and, if so, to offer to share their story with the group (this will be particularly useful as a way to get the conversation started in the event that you have a quiet group or that no one has ever experienced anything similar).*

2. Should you try reaching out to your Professor again or should you go straight to the Dean?

   *There is no right or wrong answer here. The important thing is that you carefully consider all of your options (and to do so, you’ll probably need more information that we’ve provided in this scenario). What you don’t want to do is simply accept your fate because you are afraid of being typecast as an overly sensitive female. There are many ways to address this with both the Dean and the Professor in a calm, cool, and professionally detached way. It is your right to speak up when you are not getting the help you need to learn what you need to learn in law school.*

3. How might your reaction to the situation differ if you approached the situation with a fixed mindset versus a growth mindset?

   *Someone with a fixed mindset might react like this: “I guess I am just not good at this—everyone else seems to understand what he is saying, and to do well on the papers, so there must be something wrong with me. I may not have what it takes to be a good lawyer, especially if I can’t even write a decent paper in law school. Maybe I should think twice about whether or not this is the right career for me.”

   *Someone with a growth mindset, on the other hand, might react more like this: “Everyone told me that law school was going to be brutal, and they weren’t kidding! I guess it’s going to be a lot harder to get an A in law school than it was in college. I’m going to have to figure out how to write a good paper, but I know I can do this if I set my mind to it—it may not be easy, especially since my Professor seems pretty unwilling to help me, but I know I will learn a lot along the way and he’s not the only person who knows how to write a great paper.”*
4. How might grit be helpful in this situation?

Grit, like growth mindset, will be incredibly helpful to this young law student. She will need passion (her strong desire to do well in law school and have a successful career as a lawyer) and perseverance (dogged determination to master the perfect law school paper) in order to get through this. Even with a lot of hard work, she may not be the “A” student she was in college and high school, but this does not mean she can’t be an “A-list” lawyer eventually. A gritty person would double-down on her efforts and refuse to let one bad grade (or even a rocky first semester) stand in her way or define her legal career.

Scenario 7
Not Invited to a Key Social Event/Lunch/Golf Outing

You transitioned to an in-house counsel role at a Fortune 500 company a year ago, and you find it to be rewarding and challenging. During your last performance review your manager recommends that you get more involved with some of the larger projects that are being developed and implemented within the company to help with your business acumen. Three months ago you were asked by the Marketing team to help with the launch of a new disease awareness program, and provide legal guidance and strategy through-out. You spent 60% of your time over the last 3 months on this project and were very proud of the outcome as the Marketing team was able to meet their deadline for launch of the program.

This was a cross-functional project as it involved Marketing, IT, Purchasing, Legal, and Business Intelligence. There was a great deal of opportunity to learn and network, which helped with improving your business acumen as your manager recommended. Once this project was launched the Marketing team arranged an appreciation dinner for all of the team members involved in the launch of the program. The department asked the General Counsel to extend the invitation to those he felt were most instrumental in getting the deal done. The General Counsel invited two attorneys from the legal department to attend the dinner. You did not receive an invitation to the dinner. Those attorneys played a much smaller role in the project than you did. While you were very disappointed that you did not receive an invitation, you decide not to pursue the issue with the General Counsel.

Discussion Questions

1. Have you ever faced a situation like this, if so how did you handle it?

There are obviously no correct responses here—this question is designed to get a group discussion started and to encourage participants to discuss their own personal experiences if they would like to do so. In advance of the session it
would be helpful for facilitators to reflect on whether or not they have personally experienced something like this, and, if so, to offer to share their story with the group (this will be particularly useful as a way to get the conversation started in the event that you have a quiet group or that no one has ever experienced anything similar).

2. Did you make the right decision? Should you consider raising this with the General Counsel after all?

*It would be easy to assume that the General Counsel doesn’t value your work because he neglected to invite you to the outing. It is, of course, entirely possible that the General Counsel just didn’t know enough about who was involved in the work and the fact that he overlooked you was completely inadvertent. Nevertheless, until you raise the issue with him, any conclusion you draw will be purely speculative. You don’t necessarily have to raise the issue with him (in some cases this may even be the best course of action) but what you should not do is think of this as an expression of your value to the team until you know more. You should have faith in the quality of your work and your incredible efforts over the past three months, and, if you still decide not to raise the issue, just try to focus on the overall success of the project.*

3. How might your reaction to the situation differ if you approached the situation with a fixed mindset versus a growth mindset?

*Someone with a fixed mindset would be likely to respond like this: “I guess I am not as valuable to the team as everyone else is. I did more than they did, but they still got an invitation to the outing, so I guess my contributions were not as significant as I thought. Maybe my performance was not as good as I thought it was…”*

*Someone with a growth mindset would be more likely to respond like this: “I can’t believe that they didn’t include me in the outing—what a joke. I am going to give the GC a hard time about this the next time I see him—I want to make sure he knows what I did on this project so that he knows how much I value his advice.”*

4. How might grit be helpful in this situation?

*Grit, like growth mindset, will be incredibly helpful to this in-house counsel. She will need passion (her strong desire to do well at the company and have a successful career as a lawyer) and perseverance (determination to figure out what it takes to get and stay on the GC’s radar) in order to get through this. Since hard work alone doesn’t necessarily translate to acknowledgement and invitations to outings, she may need to rethink her approach, and ultimately be*
more vocal, if she wants to get the recognition that she so deserves. This may not be easy, and she may need a lot of grit to pull it off.

Scenario 8
Heavily Marked Up Brief

You are an associate in the litigation section of a firm. In connection with the firm’s work for a litigation client, ABC, you have spent the past few months reading cases, law review articles, and treatises about X area of law. It is your role to become the litigation team’s expert on the legal arguments on both sides in order to advance your case. The senior associates and partners on the file have not been studying the law, but rather relying on your research to prepare the case for trial. Further, those individuals have been largely unavailable for consult while consumed with the final throes of discovery.

Because of your good work thus far, the lead partner on the case asked you to prepare the brief in support of your client’s motion for summary judgment. For this purpose, you’ve studied the local rules, read sample briefs before this court, and completed a thorough memo on the relevant law. In order to circulate a draft well in advance of the summary judgment deadline, you have worked late nights and weekends to craft the brief. Throughout that process, you circulated individual arguments for review and comment by your supervisors. The comments have been cursory, if received at all.

Two weeks before the dispositive motion deadline, you circulated your brief in polished form. Along with the brief, you provided an e-mail highlighting the key areas for focus by the partners on the case and requested comments as promptly as possible. The brief reads well, and you are looking forward to the team’s reaction to your creative and well executed brief.

Now, it is one week before the applicable deadline and you have just received an e-mail from the lead partner with his redline of the brief. Despite your reminders, this is the first set of comments you have received. When you open the brief, red strikethroughs and comment bubbles dominate the page. In questioning the fundamental structure of the brief, the partner challenges your judgment on the relative strength of the legal arguments. Further, he has changed the wording of even the simplest sentences. His cover e-mail stresses the need to expedite revisions to accommodate client review.

Discussion Questions
1. Have you ever faced a situation like this? If so, how did you handle it and what was the outcome?

There are obviously no correct responses here—this question is designed to get a group discussion started and to encourage participants to discuss their own personal experiences if they would like to do so. In advance of the session it would be helpful for facilitators to reflect on whether or not they have personally experienced something like this, and, if so, to offer to share their story with the group (this will be particularly useful as a way to get the conversation started in the event that you have a quiet group or that no one has ever experienced anything similar).

2. What should you say to the partner? Is it more important to defend your work product or mold the brief to meet the style of the partner?

There are a lot of options here, but the most important thing is not to take this personally and react in a defensive way. It is important to be able to separate your own self-worth from your work product, and not to conflate the two. You may disagree with the partner, and if you feel strongly about this, you should find a way to communicate this is a respectful and productive way.

3. How might your reaction to the situation differ if you approached the situation with a fixed mindset versus a growth mindset?

Someone with a fixed mindset might react like this: “I guess I am just not good at this—it seems like to comes to easily to everyone else, but I obviously don’t get it. I completely missed the mark here, so there must be something wrong with me. I may not have what it takes to be a good lawyer, especially if I can’t even write a decent brief. Maybe I should think twice about whether or not this is the right career for me.”

Someone with a growth mindset, on the other hand, might react more like this: “People warned me that he was going to ignore this brief until the 11th hour, and they weren’t kidding! I cannot believe how much work still needs to be done. I missed a lot, but I guess that also means I’m going to learn a lot, too. This week is going to be painful, but I’m all in.”

4. How might grit be helpful in this situation?

Grit, like growth mindset, will be incredibly helpful in this situation. She will need passion (her strong desire to be a great brief-writer and to have a successful career as a lawyer) and perseverance (determination to figure out what it takes to meet the partner’s expectations, even if she doesn’t necessarily agree with his approach. This may not be easy, and she may need a lot of grit to pull it off and survive some late nights!
Scenario 9
Bullying in a Deposition (also available as a video)

You are a third year associate at a medium-sized commercial litigation firm. You have defended depositions in the past, and you have sat in with your senior partners as they take depositions. However, this is your first lead alone for your client, and you have traveled to another city. You have prepped your questions for the fact witness on a very detailed outline. You walk into the room and introduce yourself to the defense counsel. They are very friendly and take their places at the table. You start with small talk, discussing last weekend’s baseball game, how long you have been practicing law, etc.

Once all seated, the witness is sworn in, and you begin asking questions. To a very preliminary question an older male attorney voices, “Object to form, can you please restate and rephrase in a slightly different way.” You pause, collect yourself, and continue. Three questions later he speaks up again, seemingly politely, “Dear, I really think you need to think about these questions. I again object to form. Have you thought about Rule 26?” You take a breath and re-ask the question. A third time he stops you and says, “We are having a real hard time following you, honey, can you please slow down.”

You realize the attorney is engaging in long objections that sound helpful and instructive at first, but after the third time, you realize he is trying to throw you off your outline. And you realize he is trying to mix you up because you are young, a woman, and not from this jurisdiction. What do you do?

Discussion Questions

1. Have you ever been in a similar situation? If so, how did you handle and what was the outcome?

There are obviously no correct responses here—this question is designed to get a group discussion started and to encourage participants to discuss their own personal experiences if they would like to do so. In advance of the session it would be helpful for facilitators to reflect on whether or not they have personally experienced something like this, and, if so, to offer to share their story with the group (this will be particularly useful as a way to get the conversation started in the event that you have a quiet group or that no one has ever experienced anything similar).
2. You have the choice - either you can keep going, or you can stop and ask him to stop objecting, knowing that will change the tenor of your deposition. How do you identify a stopping point in which you could deal with the situation?

_There are no correct responses here, but the point is that while this may be a stressful situation, you are still in control of your own response to it, and ultimately, to the outcome. The key is not to panic, and to think of this as an opportunity to learn and to practice thinking on your feet and dealing with uncertainty._

3. How do you conduct yourself as you ask to go off the record?

_Again, the key is not to panic. You want to appear calm, cool, collected, and professional, even if you don’t feel that way. In situations like these, it is fine to “fake it” and act as if you are cool as a cucumber, even if the opposite is true. You can dig deep into your reserves of grit to get through this!_

4. How do you handle the situation in a way that helps you move forward in the deposition without unnecessarily dampening your relationship with the rest of the room?

_There are a lot of creative responses here. If you have ever experienced something similar, you can draw from your own experiences to lead the group discussion. Sometimes humor can be helpful in a situation like this—you may be able to turn the tables by calling him out for his behavior in a non-aggressive way, which will help to diffuse the situation._

5. How might someone with grit and a growth mindset respond?

_A gritty person with a growth mindset might respond like this: “This guy clearly has an agenda, but this is my first deposition and I refuse to let him get to me. I don’t care if he stops me every ten seconds and this is the longest deposition in history. I am going to get the information I need and stick to my outline—I know I can pull this off, and I know I’ll be a better lawyer when all is said and done. Bring it on, buddy.”_

**Scenario 10**

**Losing a Pitch**

Sue is an environmental litigator who was recently promoted to income partner. She has always been anxious about public speaking and has avoided it as much as possible. However, she knows that it is essential that she increase her business development efforts. Her mentor has advised her that public speaking will be necessary.
in order to successfully build business. Even if she avoids speaking to large audiences, she'll still have to be involved in pitches to clients.

As a result, Sue has made a commitment to push herself beyond her comfort zone and take some risks. She asked to participate in a forthcoming pitch to a client and was surprised that the team of senior male partners agreed. She wondered if she was included as the "diversity representative" but decided to make the best of the opportunity. In advance of the pitch, Sue did extensive research on the client, including legal department leadership, the company’s environmental issues, and its business strategy.

Sue had studied enough about business development to know that a pitch needed to focus on the client. However, when she attended the pitch, she was surprised to find the senior partners on the team focused on their marketing materials and the firm’s strengths. Although she was very concerned that this approach would make the pitch fail, Sue lacked the confidence to change the direction of the team’s approach. After all, these partners had far more experience than she. How could she think that she knew what was the best approach?

The General Counsel, a woman, brought Sue into the conversation with a question. Sue tried to follow her partners’ lead and, despite her intuition to the contrary, did not direct her answer to the client’s specific challenge at hand. As the team left the client’s offices, her partners expressed disappointment with her weak response.

When Sue hears that indeed they lost the pitch she is very concerned. The parting words of her partners make her think she is likely to be blamed for the loss. She fears never getting another invitation to a pitch from these partners and gaining a reputation that will make other partners wary of including her in their business development efforts. She also had hoped to develop a relationship with the General Counsel of this client and fears the relationship is also beyond repair. Furthermore, this client relationship was originated years ago by one of the senior men on the team. She has no idea how to negotiate the political issues if she were to try to grow her relationship with this GC.

Discussion Questions

1. How would a growth mindset help Sue?

She could remind herself that this was her first pitch and that she has little training and experience in business development. She could craft a plan to get training and/or coaching, to work with the firm’s marketing department, to ask her mentor to assist her, to get communications skills or public speaking training.
2. How would a gritty approach help Sue?

*She could be gritty and decide that even if she is blamed, she will not let this stop her. She can remind herself of how determined she is to succeed in building her practice and work on her own business development plan. She can decide that she will work on building mutually beneficial internal relationships to overcome any reputational effects of the blame. And she will use her grit to act courageously and continue to ask for opportunities to participate on future pitches.*

3. Should she seek out the partners who attended the pitch with her and solicit more direct feedback about how to improve her means of communication and otherwise develop her business development skills? Should she seek out her mentor and the marketing department for tips on how to remedy this scenario and avoid these circumstances in the future?

*Yes and yes. Sue should use all of the resources available to her to learn from this experience and make sure that she converts a tough loss into an opportunity to improve her skills.*

4. How about seeking out the General Counsel without further jeopardizing her law firm relationships – is there a way for her to navigate that politically and potentially repair the damage done?

*This may be challenging, and it may take some patience to find the right opportunity, but eventually it will present itself. Sue needs to stay the course here and do whatever it takes to work on her pitching skills, drawing on the resources of the firm and even outside resources that be available to her (such as hiring a good coach). Moreover, she should do what she needs to do to trust her own instinct in these situations, and not feel compelled to follow someone’s lead if she thinks they may be headed in the wrong direction. What Sue should not do is throw in the towel and assume that she doesn’t have what it takes to get business for the firm, or that somehow this is further confirmation that she’s just not good enough. She should not take this personally and should double-down on her efforts to do what she needs to do to develop competence and confidence in this area.*