Using Grit and Growth Mindset to Advance Women in the Law
All Program Toolkit Scenarios

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?

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

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?

**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?

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

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

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?

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

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?

2. What should you say to Bill?

3. How would you handle the client?

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?

**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?

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

3. What factors would you consider in deciding how to successfully contribute/speak up?

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

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-
confident, 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?

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

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?

4. How might grit be helpful in this situation?

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?

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

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

4. How might grit be helpful in this situation?

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?

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

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

4. How might grit be helpful in this situation?

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?

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?

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

4. How might grit be helpful in this situation?

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,
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?

2. You have the choice to either keep going or to ask him to stop objecting, knowing that will change the tenor of your deposition. How do you identify a stopping point in which you can deal with the situation?

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

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?

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

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?

2. How would a gritty approach help Sue?

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?
4. How can she seek 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?