

WHAT HAPPENS NOW? BIAS, RACE, AND TOLERANCE AT WORK, SCHOOL, & IN SOCIETY

By Bruce L. Adelson, Esq.

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What Do We Do Now?

Bruce L. Adelson, Esq. is CEO of Federal Compliance Consulting LLC. Bruce is a former U.S Department of Justice Civil Rights Division Senior Trial Attorney. During his Justice career, he had national law enforcement and policy responsibility.

Bruce is the testifying expert in federal and state lawsuits alleging violations of federal civil rights laws.

Bruce teaches cultural awareness, organizational culture, and implicit bias as a faculty member of Georgetown University School of Medicine and the University of Pittsburgh School of Law.

Bruce is an award-winning author and the Montgomery County (MD) PTA President of the Year (2018-19)

What Do We Do Now?

Instructions for the HUD-424-B Assurances and Certifications:

As part of your application for HUD funding, you, as the official authorized to sign on behalf of your organization or as an individual must provide the following assurances and certifications. By submitting this form, you are stating that to the best of your knowledge and belief, all assertions are true and correct

What Do We Do Now?

I certify that I....

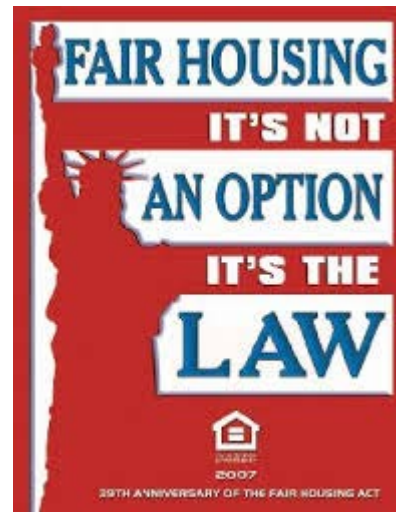
Will administer the grant in compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)) and implementing regulations (24 CFR Part 1), which provide that no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination

What Do We Do Now?

Will administer the grant in compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, regulations at 24 CFR Part 8, and the Age Discrimination Act of 1975 (42 U.S.C. 6101-07), as amended, and implementing regulations at 24 CFR Part 146 which together provide that no person in the United States shall, on the grounds of disability or age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance

What Do We Do Now?

Will comply with the Fair Housing Act (42 U.S.C. 3601-19), and the implementing regulations at 24 CFR Part 100, which prohibit discrimination in housing on the basis of race, color, religion, coverage. sex, disability, familial status, or national origin.



What Do We Do Now?

These certifications and assurances are material upon which HUD can rely when awarding a grant.

If it is later determined that the applicant, knowingly made an erroneous certification or assurance, I may be subject to criminal prosecution. HUD may also terminate the grant and take other available remedies.



Which are our biases?

Gender **Race**

Disability

Skin Tone

Appearance

Height

Religion

Accent

Age

Weight

Sexual Orientation

Name

What Do You Do?

It's not whether you have biases. It's about which one is your bias

Uhlman & Cohen (2007)



What Do You Do?

Law enforcement reported 7,175 hate crimes to FBI in 2017..... up from 6,121 in 2016. Hate crimes and incidents at a 20-Year high.

According to the report, the most common bias categories in single-bias incidents were race/ethnicity/ancestry (59.6) percent, religion (20.6 percent), and sexual orientation (15.8 percent). In addition to the 7,106 single-bias incidents reported last year, there were also 69 multiple-bias hate crimes reported.

FBI



What Do We Do Now?



What Do We Do Now?



St. Louis Cardinals 
@Cardinals



You love baseball, she loves jewelry. On May 17th, it's a win-win. atmlb.com/2pdT73K



What Do You Do?

Looking at [Montgomery County Public Schools](#) data, reported hate incidents have gone up significantly.

Does this mean they are happening more?

Or that students are more aware & empowered to say something? Fox 5 DC

What Do We Do Now?



POLITICS SHUTDOWN U.S. NEWS BUSINESS WORLD TECH & MEDIA THINK SPORTS

NBCBLK

Black sales exec was compared to 'Buckwheat,' told to dance for colleagues, lawsuit alleges

Daryl Robinson also claims that he worked out of a “cramped” storage closet that had no air conditioning, unlike his co-workers who had cubicles.

D.C. Sports Bog

Caps surprise Maryland hockey team that defended black teammate after racist taunts



What Do We Do Now?





By Michael Adelson, Chief Digital Officer

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What Do We Do Now?

Microaggressions = Bias = Hostile
Comments = Hostile Work and Learning
Environments = Illegal Discrimination

“Microaggressions are brief and everyday slights, insults, indignities and denigrating messages”

Psychology Today

What Do We Do Now?

“....a supervisor’s use of certain unambiguous racial epithets is likely to alter the conditions of employment and create a hostile working environment, weighing heavily in the severity factor....”



What Do We Do Now?

The Complaint alleges that the RCHSD staff discriminated against Kyler by continuously referring to him with female pronouns, despite knowing that he was a transgender boy and that it would cause him severe distress.

In fact, the Complaint alleges that one RCHSD employee told him, “Honey, I would call you ‘he,’ but you’re such a pretty girl.”

PRESCOTT v. RADY CHILDREN'S HOSPITAL SAN DIEGO
(S.D., Calif, 2017)

What Do We Do Now?

Every time Ms. Prescott observed staff calling Kyler "she," she reiterated that "it was essential to exclusively refer to Kyler with male gender pronouns, and that misgendering caused him serious harm." The Complaint alleges that in response, RCHSD blocked her number, leaving her unable to call the CAPS unit.

As a result of RCHSD staff's conduct, Kyler suffered severe emotional distress and harm, and Ms. Prescott was and continues to be traumatized by the experience.

Prescott v. Rady Children's Hosp.-San Diego,
265 F.Supp.3d 1090 (S.D. Cal. 2017)

What Do We Do Now?

Despite concerns over Kyler's continuing depression and suicidal thoughts, Kyler's medical providers concluded that he should be discharged early because of the staff's conduct.

Kyler was discharged on April 8.
On May 18, Kyler died by suicide.

Prescott v. Rady Children's Hosp.-San Diego,
265 F.Supp.3d 1090 (S.D. Cal. 2017)

What Do You Do?

“Perhaps no single act can more quicklycreate an abusive working environment than the use of an unambiguously racial epithet by a supervisor in the presence of subordinates....”

Chaney v. Plainfield Healthcare Ctr., 612 F.3d 908
(7th Cir. 2010)

What Do We Do Now?

NY Times, August 2020

For Doctors of Color, Microaggressions Are All Too Familiar, “They ask you if you’re coming in to take the trash out — stuff they wouldn’t ask a physician who was a white male, ” microaggressive behavior, bias, and discrimination remain significant issues in health care and medical education.

What Do We Do Now?

Leadership & Organizational Culture

Increased awareness and understanding that such behaviors and comments are inappropriate, disturbing, and may well be illegal under our civil rights laws.

Indeed, microaggressive behavior invariably is part of a macro organizational pattern and practice that enables hostile work and learning environments to exist and maintain themselves.

What Do We Do Now?

Muhammad, who is of Pakistani descent, works for Motors, a large automobile dealership. His coworkers regularly call him “camel jockey,” “the local terrorist,” and “the ayatollah,” and intentionally embarrass him in front of customers by claiming that he is incompetent.

The EEOC finds reasonable cause to believe that the constant ridicule has made it difficult for Muhammad to do his job and has created a hostile work environment in violation of Title VII.

What Do We Do Now?

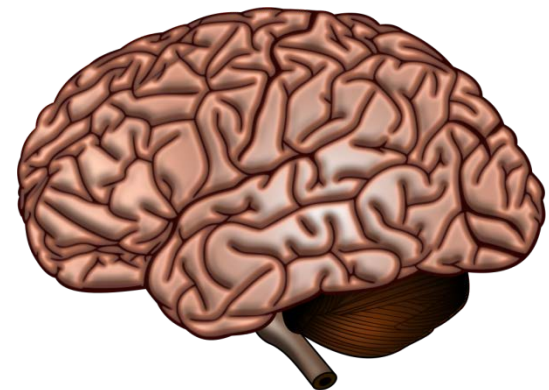
- Unconscious bias is measurable, widespread, disassociated from conscious bias, and is now cognitively and quantitatively validated. It is reflected in attitudes or stereotypes that affect one's understanding, decision-making, and behavior, without consciously realizing it in many instances.
- The first step in solving any problem is to recognize its existence. Understanding the science related to identifying and conceptualizing bias helps us to recognize and acknowledge bias and its possible effects. The following discussion reviews many of the scientific factors revealing bias.

What Do We Do Now?

Psychologists have identified implicit, unconscious biases. Some can be the result of repeated and pervasive messages that establish and perpetuate stereotypes.

We are all biased, whether we are conscious of our stereotypes or not, so we should acknowledge this and strive to understand biases in order to deal with them appropriately.

Psychology Today



What Do We Do Now?

The amygdala is the “emotional” center of the brain that reacts to fear and threat and other senses.

Scientists have found a measurable correlation between amygdala activity and implicit racial bias. The point again is that research shows a visual brain response, even though an individual may not be conscious of it.

Psychology Today

What Do We Do Now?

The amygdala isn't the only part of the brain involved in unconscious bias. The frontal cortex is also identified as important in forming impressions of others and in measuring empathy.

Memories, such as dates and facts, also subconsciously steer people toward choosing one option over another.

What Do We Do Now?

Medical research has revealed that implicit bias is found throughout the brain. There are useful aspects of implicit bias that pertain to instinctual behaviors of environmental adaptation and survival, such as being able to quickly assess and respond to dangerous stimuli.

However, automatic responses to facial stimuli, combined with social conditioning, can result in bias against individuals, often based on race. Acknowledging that we all have biases is the first step toward reducing our reliance on generalizations or stereotypes.

Georgetown University School of Medicine

Increased by...

- ✓ stress
- ✓ time pressure
- ✓ multi-tasking
- ✓ lack of clear criteria for decision-making
- ✓ ambiguous or incomplete information
- ✓ lack of familiarity with people from the group

Not decreased by...

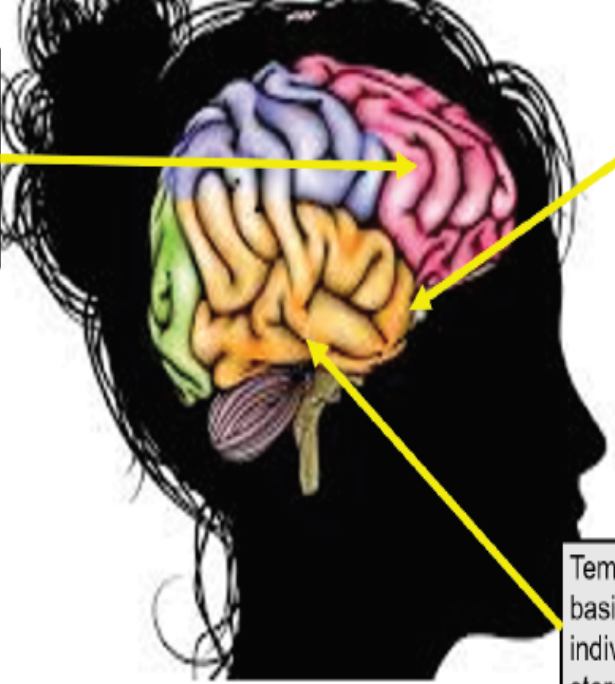
- X good intentions
- X someone else telling you to reduce your bias
- X suppressing bias
- X avoiding people from other groups
- X thinking you don't have bias

“PREJUDICE IS A GREAT TIME SAVER. YOU CAN FORM OPINIONS WITHOUT HAVING TO GET THE FACTS.”

E. B. WHITE



Frontal cortex:
Associated with reasoning, first impressions, and empathy



Amygdala: Associated with automatic responses to stimuli and fear/"fight or flight" response

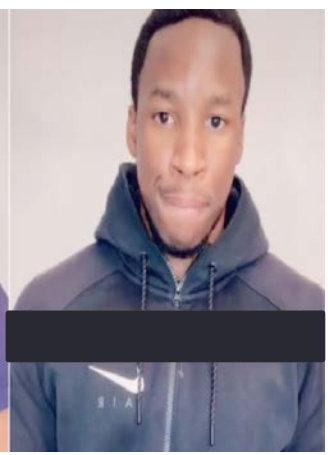
Temporal lobes: Store basic information about individuals and social stereotypes

FAST
And →
AUTOMATIC

Dalton S, Villagran M. Minimizing and addressing implicit bias in the workplace: be proactive, part one. *College & Research Libraries News*. 2018;79(9):478.



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How fast do our brains work?

“If you can read this paragraph, it’s because our minds are very good at putting together pieces of information in a way that is easy for us to make sense of. Our minds do this automatically, without our conscious control.”

***Microseconds pass when you’re deciding if you can trust someone or not
Georgetown University School of Medicine***

What Do We Do Now?

Even if it took you a little longer to read, your unconscious cognition automatically made sense of the paragraph based on your ability to associate it with words you already know.

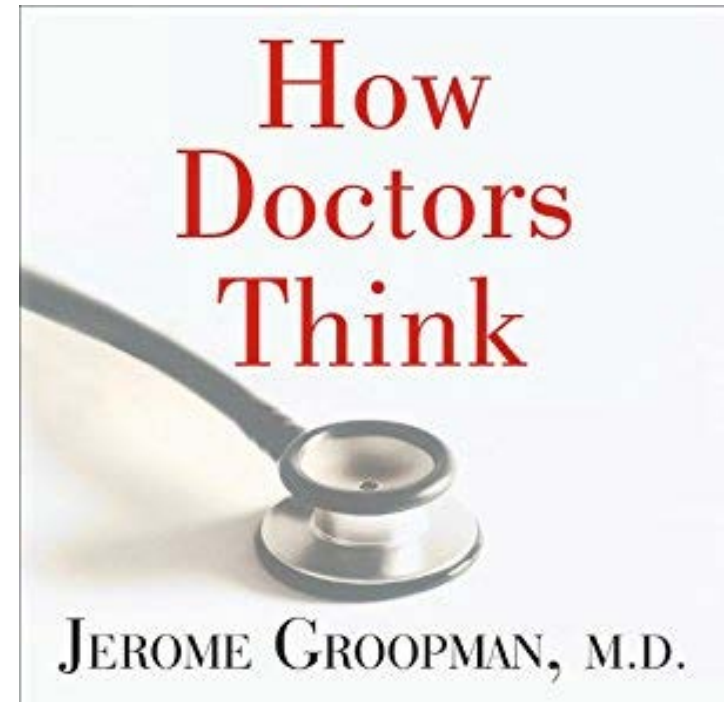


How People Think

Pattern Recognition

- Triage, time sensitive details being sorted out quickly
- Clinical conditions are sorted with overall “picture” stored in doctor’s memory.
- Drawing on stereotypes to make decisions, can miss some relevant information and fail to identify the right patterns.

Source: J. Groopman, MD. [How Doctors Think](#)



What Do We Do Now?

“**[Discriminatory intent]** is... the cumulative evidence of action and inaction which objectively manifests discriminatory intent.”

Dowdell v. City of Apopka, Florida, 698 F. 2d 1181 (11th Cir. 1983)

Plaintiffs claimed that Apopka intentionally maintained a racially and geographically segregated system of municipal services. The Court agreed.



What Do We Do Now?

Are Your Encounters Different Because of the Person's Race, Color, Language, Sex, Religion, Sexual Orientation, Sexual Identity, or National Origin?

“[Discriminatory intent] is ... the cumulative evidence of action and inaction which objectively manifests discriminatory intent.”

What Do We Do Now?

“Although none of these factors is necessarily independently conclusive, "the totality of the relevant facts," ... amply supports the finding that the City of Apopka has engaged in a systematic pattern of cognitive acts and omissions, selecting and reaffirming a particular course of municipal services expenditures that inescapably evidences discriminatory intent.”

What Do We Do Now?

- “Chinasa, an experienced retail professional who works for National Retailer, speaks English with a Nigerian accent. National Retailer selects Chinasa for a Regional Loss Prevention Manager position.
- An executive who will oversee Chinasa's work approaches her immediately after the promotion and comments, "I bet this is a great achievement considering where you came from. As an African, you must be the first to achieve this much success in your family given your accent."
- The executive tells Chinasa to "try to speak more like an American" and also to be careful about her demeanor because, in his opinion, "Africans are known to be brash and aggressive." The executive repeats these comments on several occasions during Chinasa's first several months on the job.

What Do We Do Now?

- There is no evidence, however, that staff members misinterpret or do not understand Chinasa's spoken English. In fact, the evidence shows that staff members respond promptly to Chinasa's directions without seeking clarification and provide information that is responsive to her requests. Nonetheless, after nine months, the executive terminates Chinasa's employment, telling her that she is a "poor fit" and laments that she did not speak "more like an American."
- Based on these facts, the EEOC finds reasonable cause to believe that National Retailer discriminated against Chinasa because of her national origin." *Albert-Aluya v. Burlington Coat Factory Warehouse Corp.*, 470 F. App'x 847 (11th Cir. 2012)

What Do We Do Now?



What Do We Do Now?

- 1) “examining and understanding attitudes, such as mistrust, subconscious bias, and stereotyping, which practitioners and patients may bring to clinical encounters;
- 2) acquiring the skills to effectively communicate and negotiate across cultures, languages, and literacy levels, including the use of key tools to improve communication. “

Recommendations for Teaching about Racial and Ethnic Disparities in Health and Health Care - Annals of Internal Medicine, 2007

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What Do We Do Now?

- “Most managers accept that employers benefit from a diverse workforce, but the notion can be hard to prove or quantify, especially when it comes to measuring how diversity affects a firm’s ability to innovate.
- But new research provides compelling evidence that diversity unlocks innovation and drives market growth—a finding that should intensify efforts to ensure that executive ranks both embody and embrace the power of differences.”



Harvard Business Review

What Do We Do Now?

- “The report found higher financial performance for companies with higher representation of women board directors in three important measures:
 - Return on Equity: On average, companies with the highest percentages of women board directors outperformed those with the least by 53 percent.
 - Return on Sales: On average, companies with the highest percentages of women board directors outperformed those with the least by 42 percent.
 - Return on Invested Capital: On average, companies with the highest percentages of women board directors outperformed those with the least by 66 percent.”

Catalyst & The Chubb Corporation

What Do We Do Now?

“The correlation between gender diversity on boards and corporate performance can also be found across most industries—from consumer discretionary to information technology.”

Catalyst & The Chubb Corporation

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What Do We Do Now?

“We seek to help solve the puzzle of why top-level leaders are disproportionately White men.

We suggest that this race- and sex-based status and power gap persists, in part, because ethnic minority and female leaders are discouraged from engaging in diversity-valuing behavior. “

Does Diversity-Valuing Behavior Result in Diminished Performance Ratings for Non-White and Female Leaders? 2017

What Do We Do Now?

“We hypothesize, and test in both field and laboratory samples, that ethnic minority or female leaders who engage in diversity-valuing behavior are penalized with worse performance ratings, whereas White or male leaders who engage in diversity-valuing behavior are not penalized for doing so.

We find that this divergent effect results from traditional negative race and sex stereotypes (i.e., lower competence judgments) placed upon diversity-valuing ethnic minority and female leaders.”

Does Diversity-Valuing Behavior Result in Diminished Performance Ratings for Non-White and Female Leaders? 2017

What Do We Do Now?

Addressing Gender and Racial Bias Among Clinicians

Harvard Business Review 9/13/18

It's an all-too-familiar problem:

Throughout the work world, women are often perceived as lower status or somehow less capable than their male counterparts.

That's no less true in health care than in other fields.

Every female doctor has experienced some version of the [story](#) Loren Rabinowitz recently recounted in the *New England Journal of Medicine*. The senior resident in an ICU, she had just finished a difficult discussion with a patient's family. As she sat down to document the conversation, the unit's telephone rang. It was the patient's wife, with whom she'd just spoken, asking to "talk with his doctor"—Dr. Rabinowitz's male intern.

What Do We Do Now?

We had both sat through medical school lectures on implicit biases as they relate to patients and health disparities. Until that day in the ICU, it hadn't occurred to either of us to apply the lessons we learned from bias training to our peers and other hospital personnel, or that it might be our obligation to educate patients about their unconscious biases regarding their health care providers.

That moment of mutual acknowledgment that we all have blind spots and wrestle with how we perceive and are perceived by others will remain among the most important of my residency training. As physicians, we strive to treat all our patients equally. It is imperative that we do the same for our colleagues.

How Can We Solve This Problem?

1. Understand

- Bias is *normal* and reducing implicit bias is like *breaking a habit*

2. Be aware of your biases


- Assess what makes you make *snap judgements*

3. Realize the impact of your biases

- A person's *merit and character* should be above all else
-

4. Replace those biases

- Think more broadly
- Counter stereotypical examples
- Perspective taking



PAUSE...

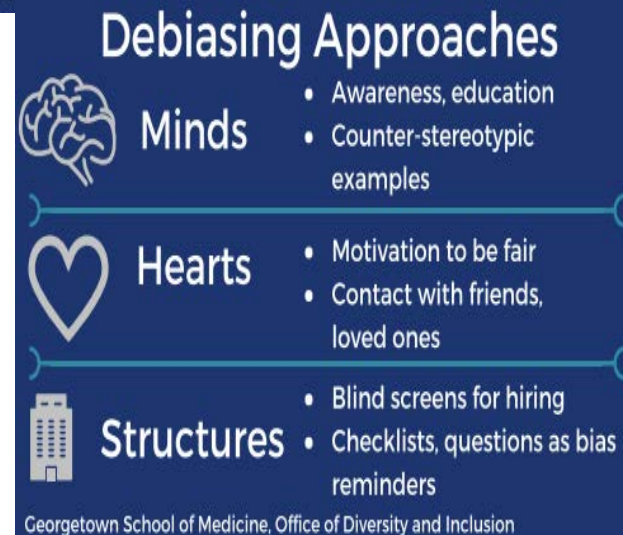
CONSIDER THE EFFECT UNCONSCIOUS BIAS HAS ON YOU

Pay attention to the reality **S**earch for a solution




Acknowledge your reaction **E**valuate your actions

Understand other possibilities

Ross, H. J. (2014). *Everyday bias: Identifying and navigating unconscious judgments in our daily lives*. London: Rowman and Littlefield.



Debiasing Approaches

-  **Minds**
 - Awareness, education
 - Counter-stereotypic examples
-  **Hearts**
 - Motivation to be fair
 - Contact with friends, loved ones
-  **Structures**
 - Blind screens for hiring
 - Checklists, questions as bias reminders

Georgetown School of Medicine, Office of Diversity and Inclusion

Devine, P. G., Forscher, P. S., Austin, A. J., & Cox, W. T. L. (2012). Long-term reduction in implicit race bias: A prejudice habit-breaking intervention. *Journal of Experimental Social Psychology*, 48, 1267-1278

Preventing and Intervening on Implicit Bias/Microaggressions

*Setting
the Stage*

1. Establish culture of openness and respect from the start

Senior attending or resident on first day: "I believe that to learn and care for patients to the best of our abilities, we all need to feel comfortable and supported in our work environments. Patients and families may say things that reveal their biases, and sometimes I myself may be the source. I want to know when you are not feeling comfortable or supported. I hope you will teach me as I teach you."

2. Monitor and be prepared to recognize implicit bias/microaggressions

Implicit bias/microaggressions can disproportionately affect those in the minority for race, gender, sexual orientation, disability, and ability
Senior attending or resident: "I felt uncomfortable when Mr. J spoke only to the men on our team. I wonder if anyone else noticed that."

3. Recognize your own biases: P.A.U.S.E.

Pay attention to reality, Acknowledge your reaction, Understand other perspectives and have compassion, Search for a solution, Evaluate your actions and have the moral courage not to be a bystander

What Do We Do Now?

Are Your Encounters Different Because of the Person's Race, Color, Language, Sex, Religion, Sexual Orientation, Sexual Identity, or National Origin?

“Discriminatory intent is the cumulative evidence of action and inaction that objectively manifests discriminat[ion].”

What Do We Do Now?

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