



JANUARY 18, 2024  
ADREVOLUTION  
ADR SERVICES, INC. 4TH ANNUAL  
COMPLIMENTARY MCLE DAY



# Getting Rid of Bright Lines

## Advancing Equity in the Legal Profession

PRESENTED BY :

Hon. Chester Horn (Ret.)  
Richard Segal, Esq.



# Agenda

- **DIVERSITY IN THE LEGAL PROFESSION**
- **THE HIRING PROCESS**
- **BENEFITS OF DIVERSITY IN THE COURTROOM & MEDIATION**

# Diversity in the legal profession Where are we now?



# RACE & ETHNICITY

**White people  
comprise 39 percent  
of the state's adult  
population, yet are  
66 percent of  
California's active  
licensed attorneys**

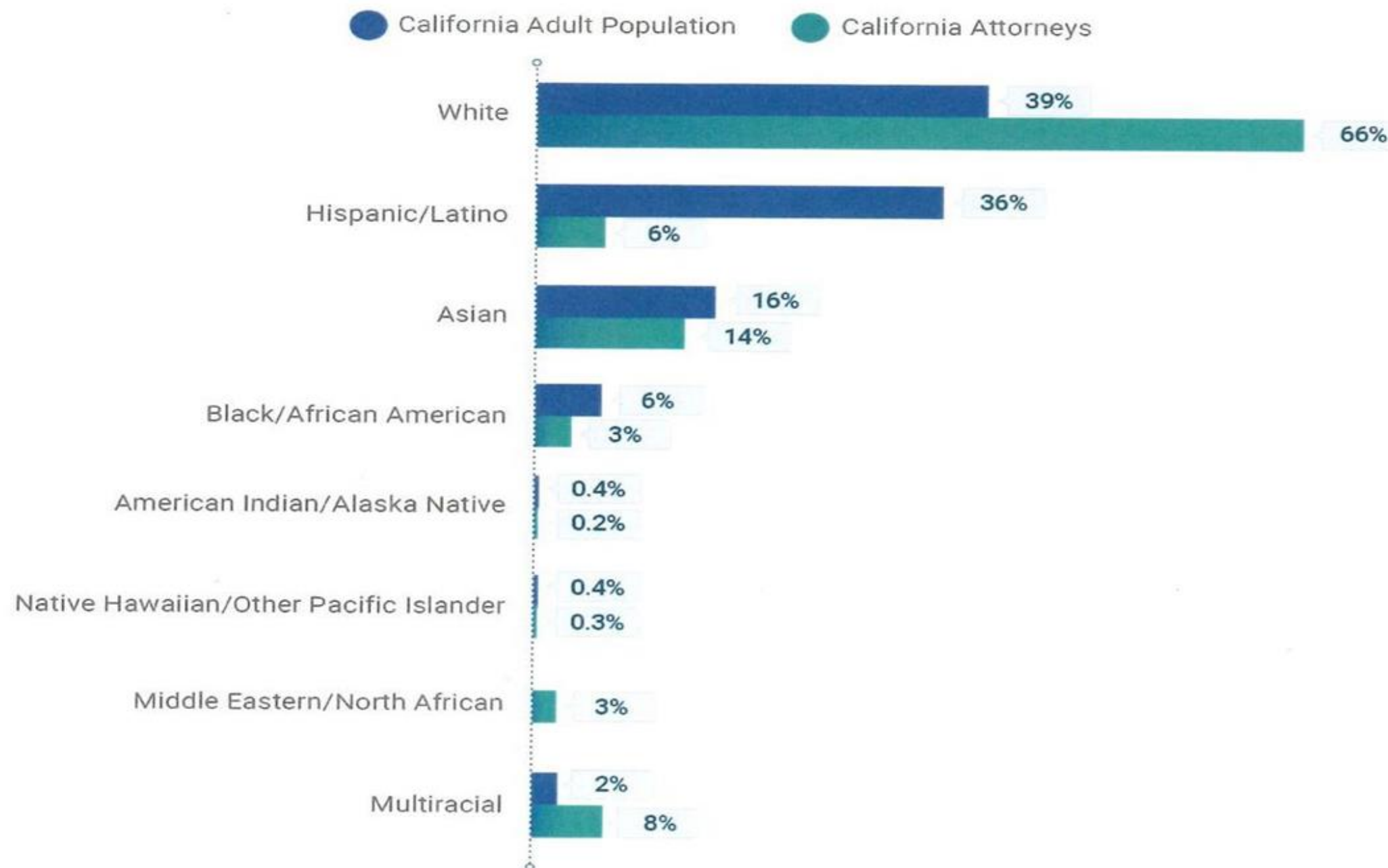
**39%**

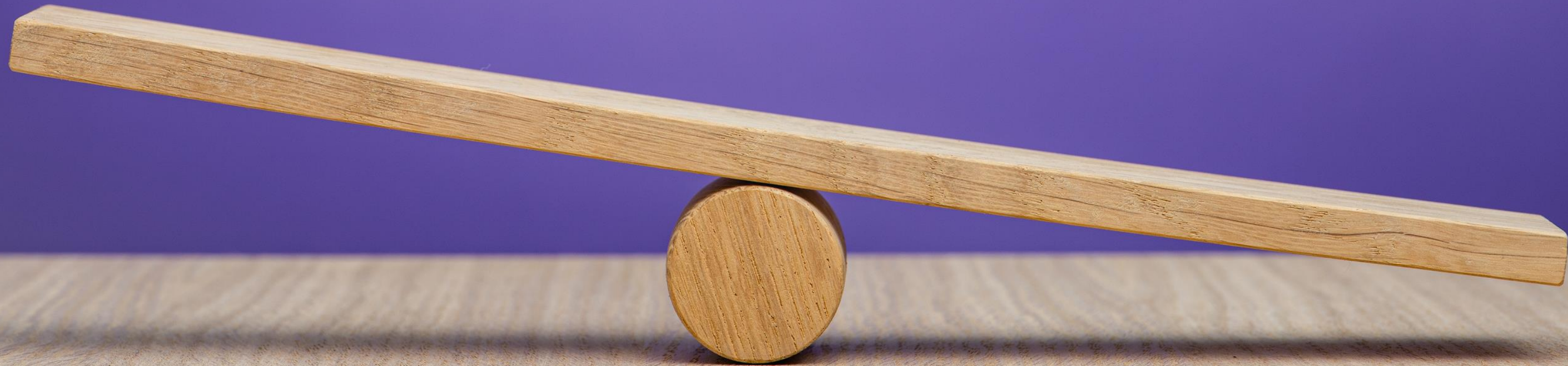
percent of adult population

**66%**

percent of CA active  
licensed attorneys

**Figure 1. Race/Ethnicity**  
California's Adult Population Compared with  
California's 2022 Attorney Population





# The Current Reality

**Nationally, the representation of women and ethnic minorities in the legal profession does not match their representation in the general population, and the more senior/career-advanced the examined attorney pool becomes, the more white and male it becomes.**

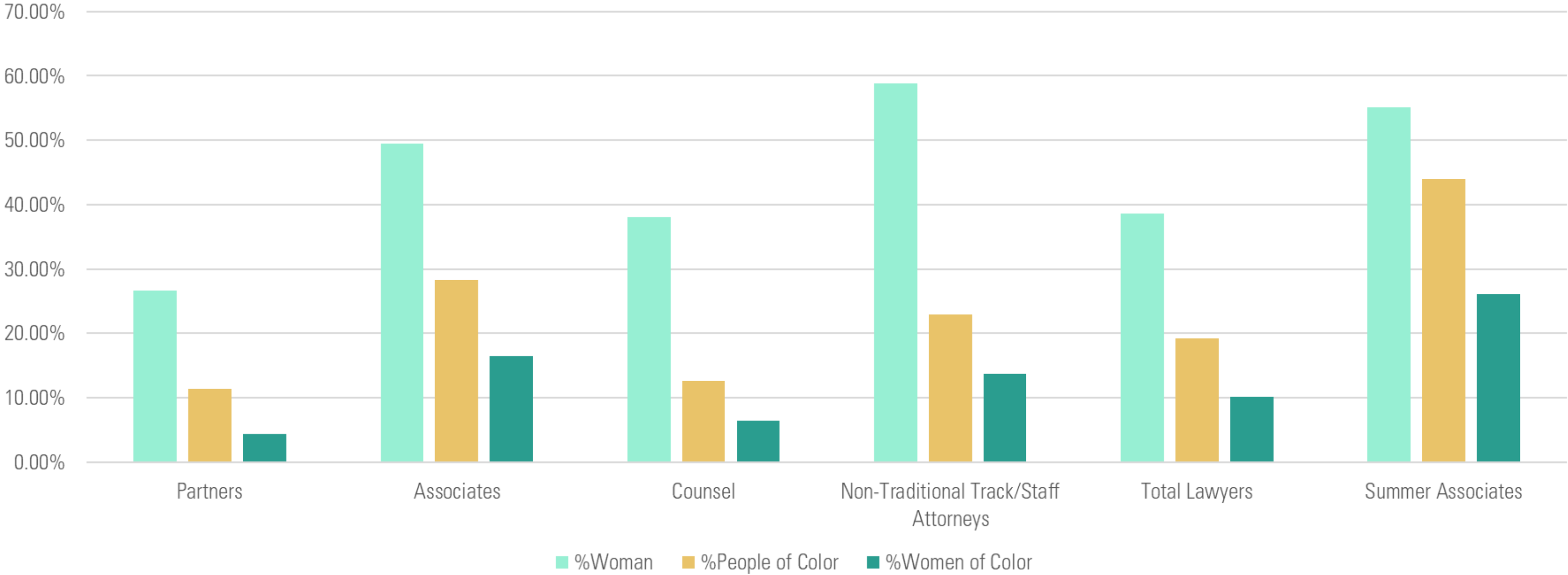
**Progress on these  
numbers has been  
very slow.**

**Let's take a look**

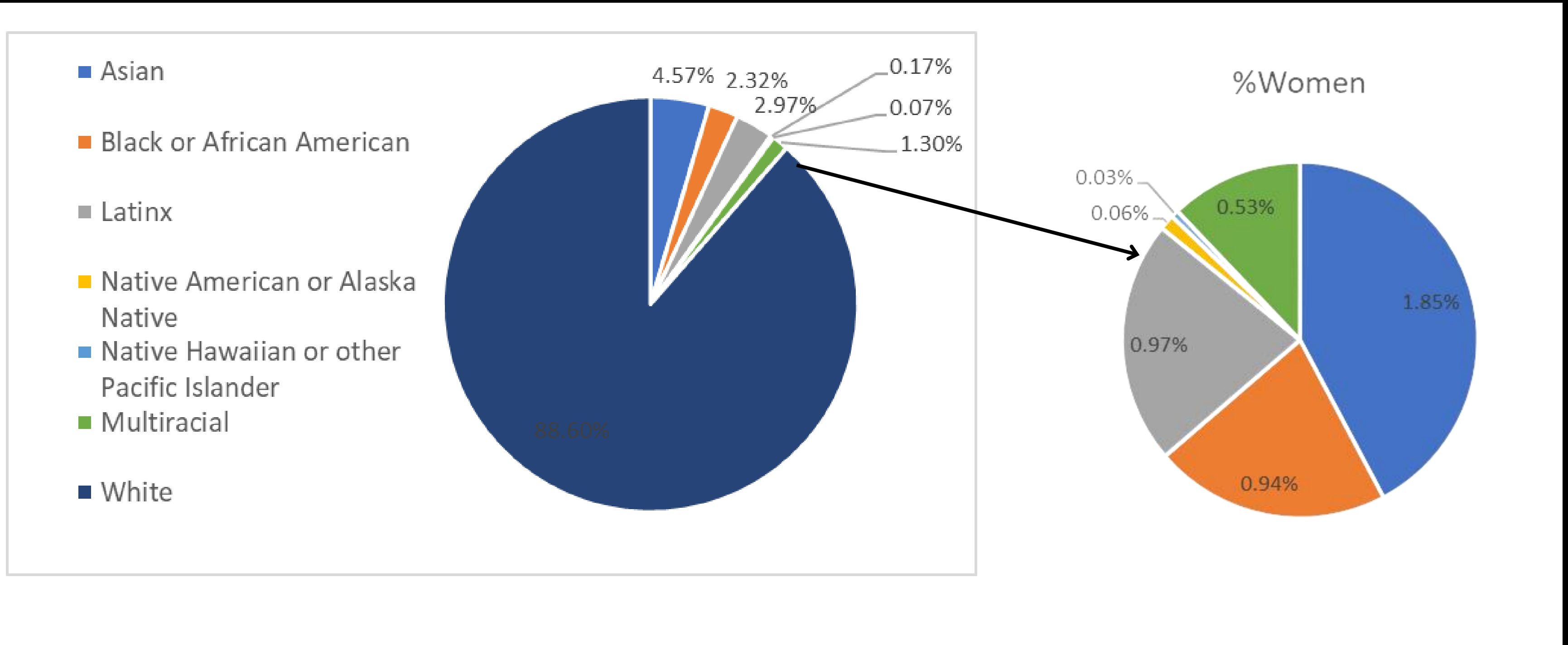
NALP Report on Diversity in US Law Firms 2022



# WOMEN AND PEOPLE OF COLOR AT LAW FIRMS, 2022

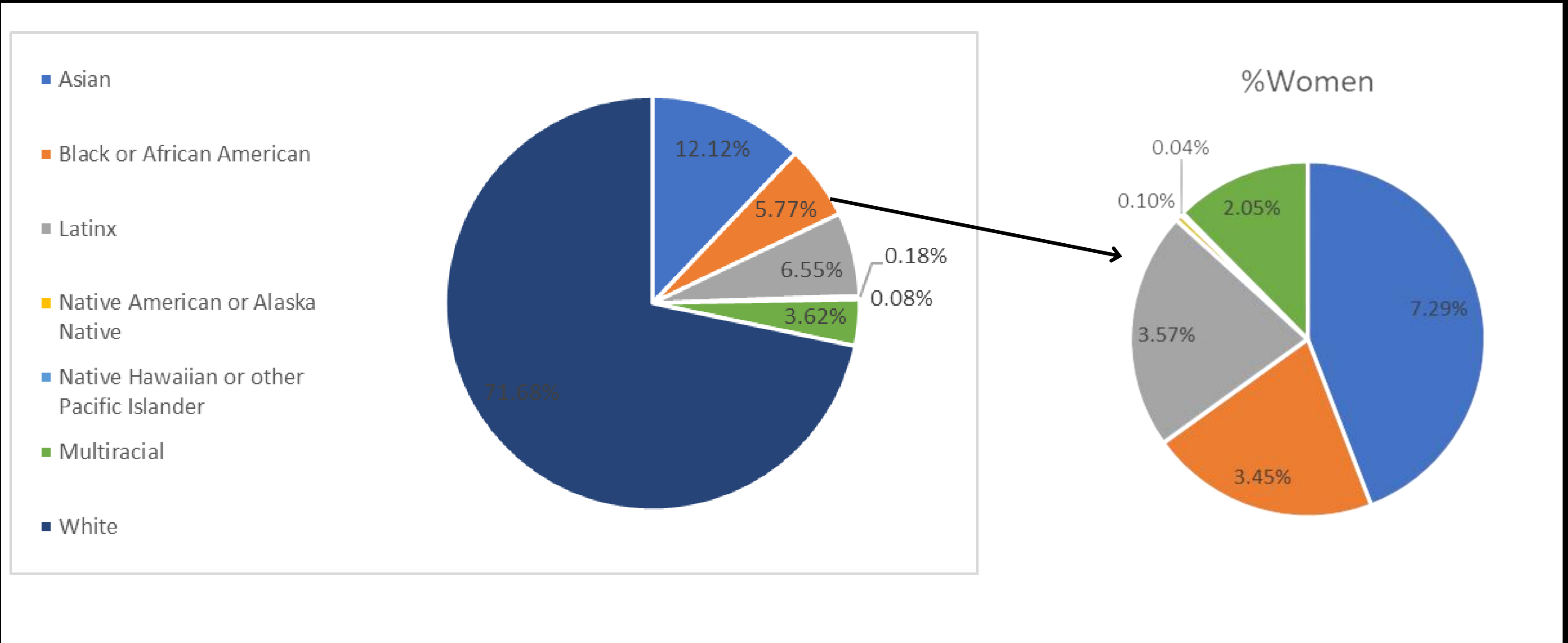


# PARTNERS AT LAW FIRMS BY RACE/ETHNICITY, 2022

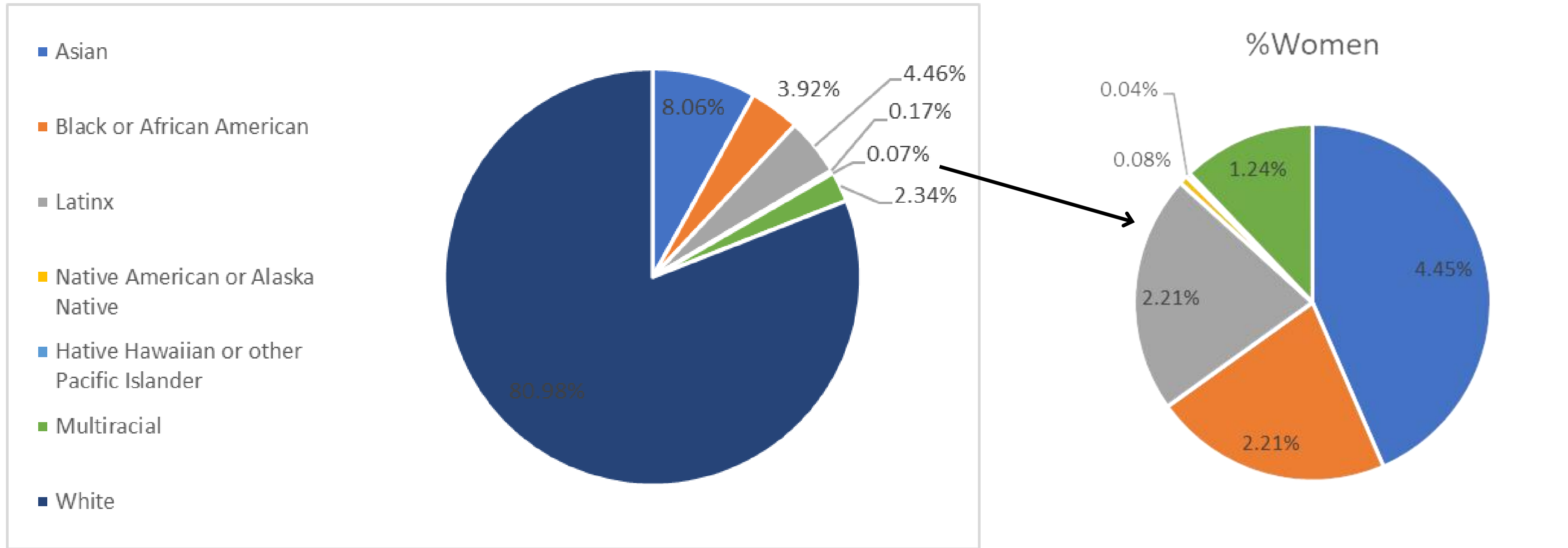




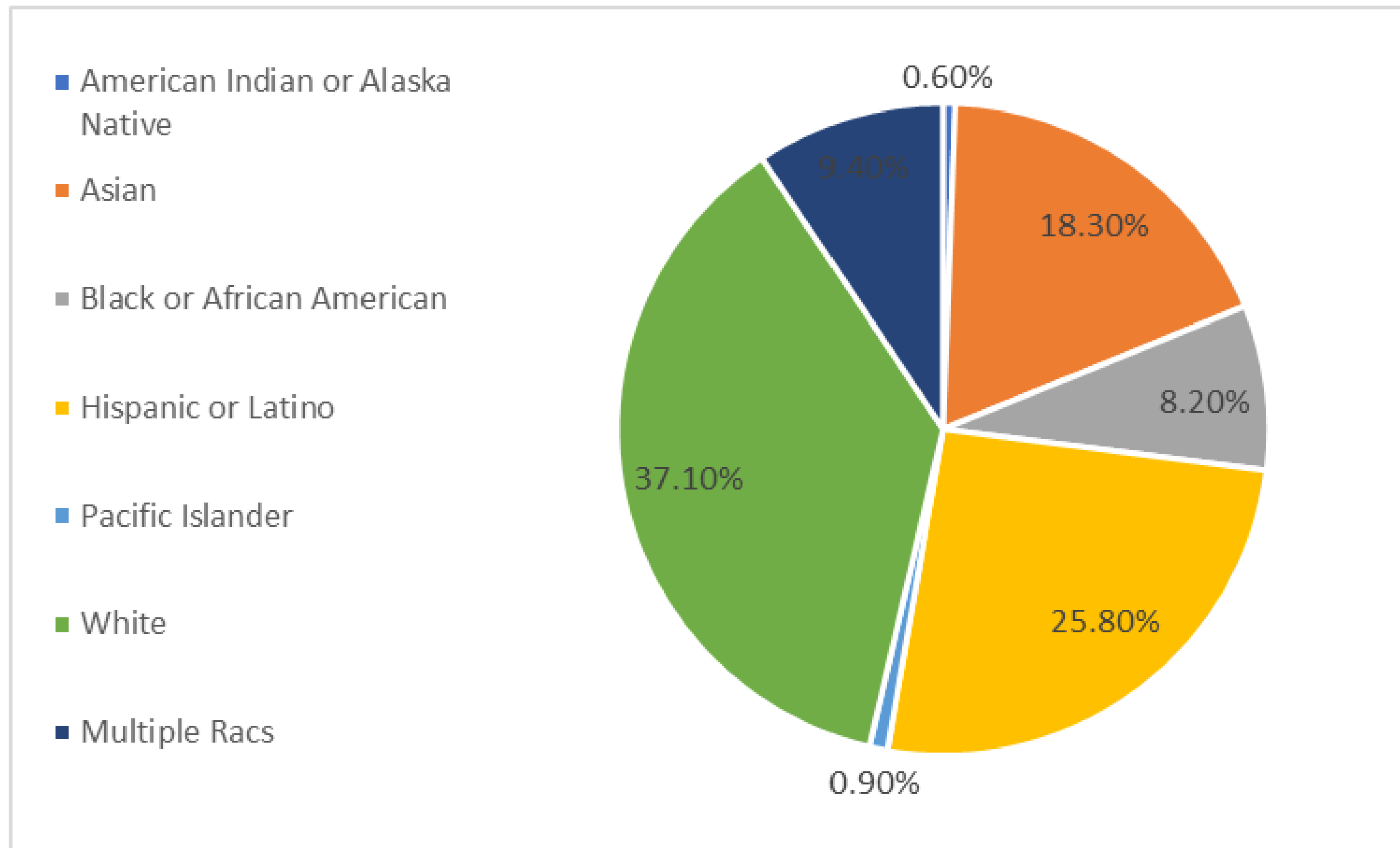
# ASSOCIATES AT LAW FIRMS BY RACE/ETHNICITY, 2022



# TOTAL LAWYERS AT LAW FIRMS BY RACE/ETHNICITY, 2022



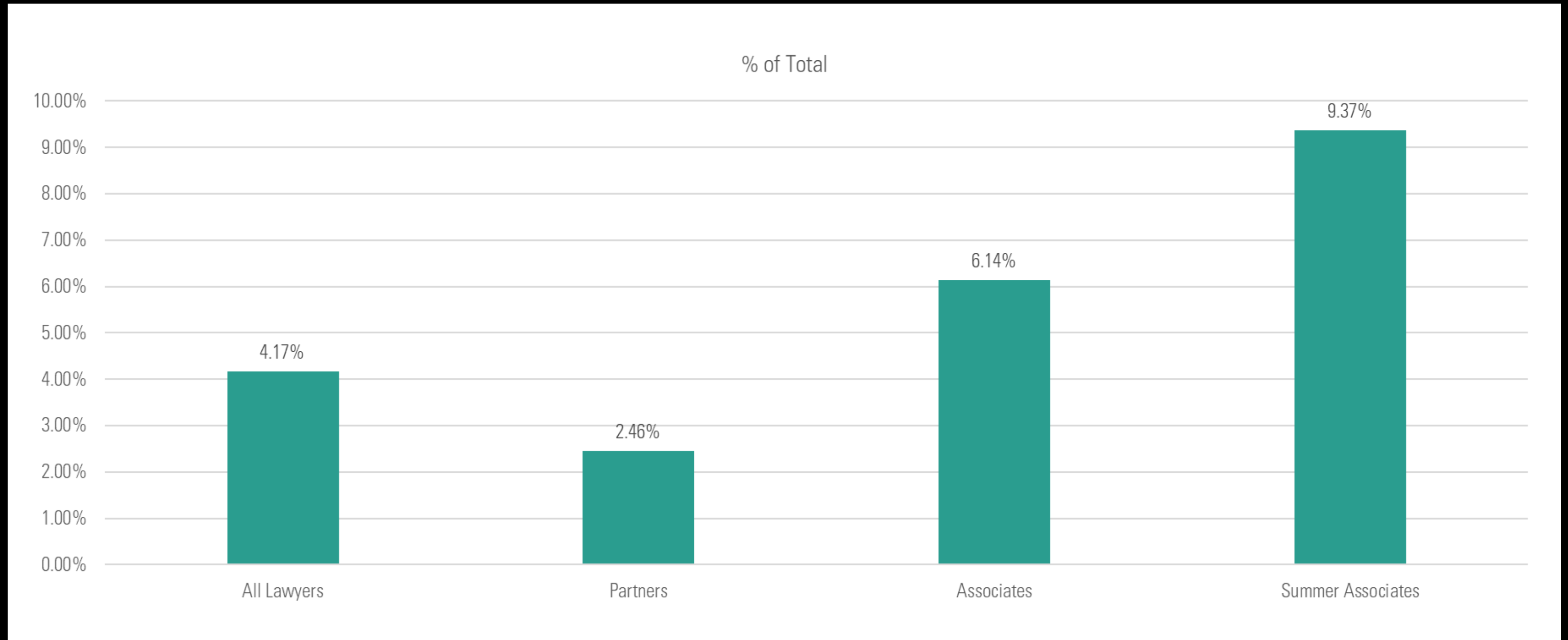
# CALIFORNIA STATE EMPLOYEES



**45.6%**  
Female

**54.4%**  
Male

# LGBTQ LAWYERS AT LAW FIRMS, 2022





# The Supreme Court

- Diversity in the court system is shown by statistical data collected at every level of the court system by the Judicial Council of California for the years 2014 through 2023. The data shows that **women have constituted a majority of our Supreme Court in most years** from 2014 to 2023. The only exceptions were 2020 and 2021 when women held 43% or 3 out of the 7 seats. As for racial disparities, the data shows that white men exceeded their percent of the population in only two years, 2014 and 2015. **In every other year their percentage of the Supreme Court seats fell below their percentage of the population.**
- Justices of Asian descent have held either 1 or 2 seats on the Court and **exceeded their percentage of the population** in every year from 2014 to 2023. Justices of Black or African American descent have also held 1 or 2 seats on the Court **exceeding their percentage of the population** in every year from 2016 to 2023. Justices of Latinx descent have held only one seat on the Court in 7 of the 10 year period studied, so they have **never met their percentage of the population**.



# The Courts of Appeal

The data is much different for the Courts of Appeal. **Women have slowly improved their percentage** of seats held on the Courts of Appeal from 30.5% in 2014 to 42% in 2023. As for racial differences however, **white men have held more than 70% of the seats on the Courts of Appeal**, declining from a high of 78.9% in 2014 to a low of 70% in 2023. **Latinx and Asian Justices have never held a percentage of seats equal to their percent of the population**, while Black/African American Justices have held a **higher percentage** than their percent of the population in every year except 2014.

# The Trial Courts



At the trial court level, women have improved their percent of seats held from 32.2 % in 2014 to 39.7 percent in 2023. This percentage **still lags well behind** women’s percentage of the population. As for racial disparities, white judges held 70.2% of the trial court seats in 2014 and that percentage was reduced every year until 2023 when it reached 61.1 percent, **still much higher than their percentage of the population.** Judges of Black/African American descent **exceeded** their percent of the population every year from 2014 (6.3%) to 2023 (8.5%). Judges of Asian or Latinx descent **never reached** their percent of the population over this entire period.

# 2022 JNE study

## Qualifications of the groups, or bias in the evaluation of candidates?

[Commission on Judicial Nominees 2022 Statewide Demographics Report](#)

### Total Candidates

**53.8%**

Women

**45.1%**

Men

### Candidates rated as Extremely Well Qualified

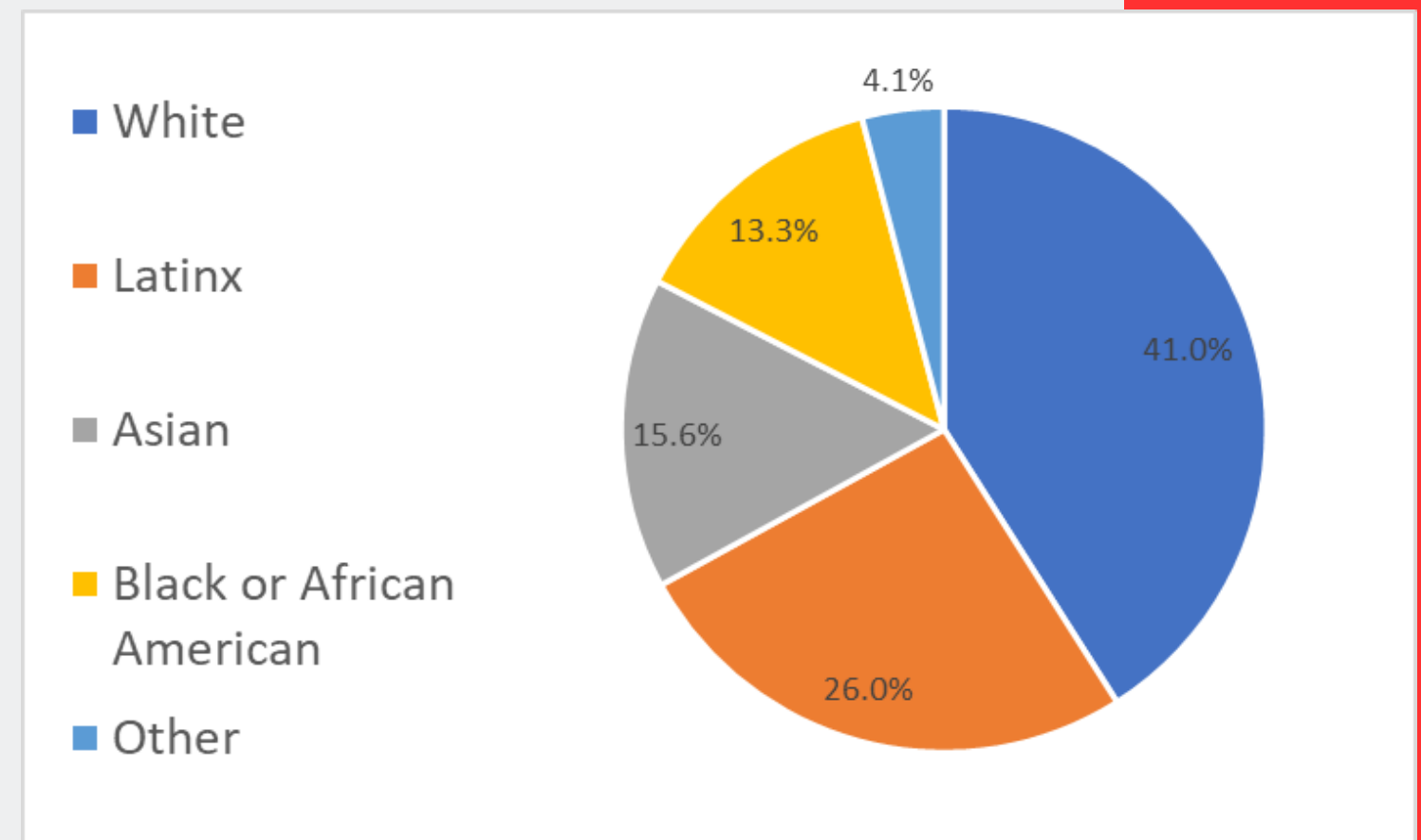
**60.7%**

Women

**37.7%**

Men

### Candidates by Race





# How can we, as lawyers, make progress on solving these disparities between what our country, and even our profession, look like and what our legal workplaces look like?

## Step 1

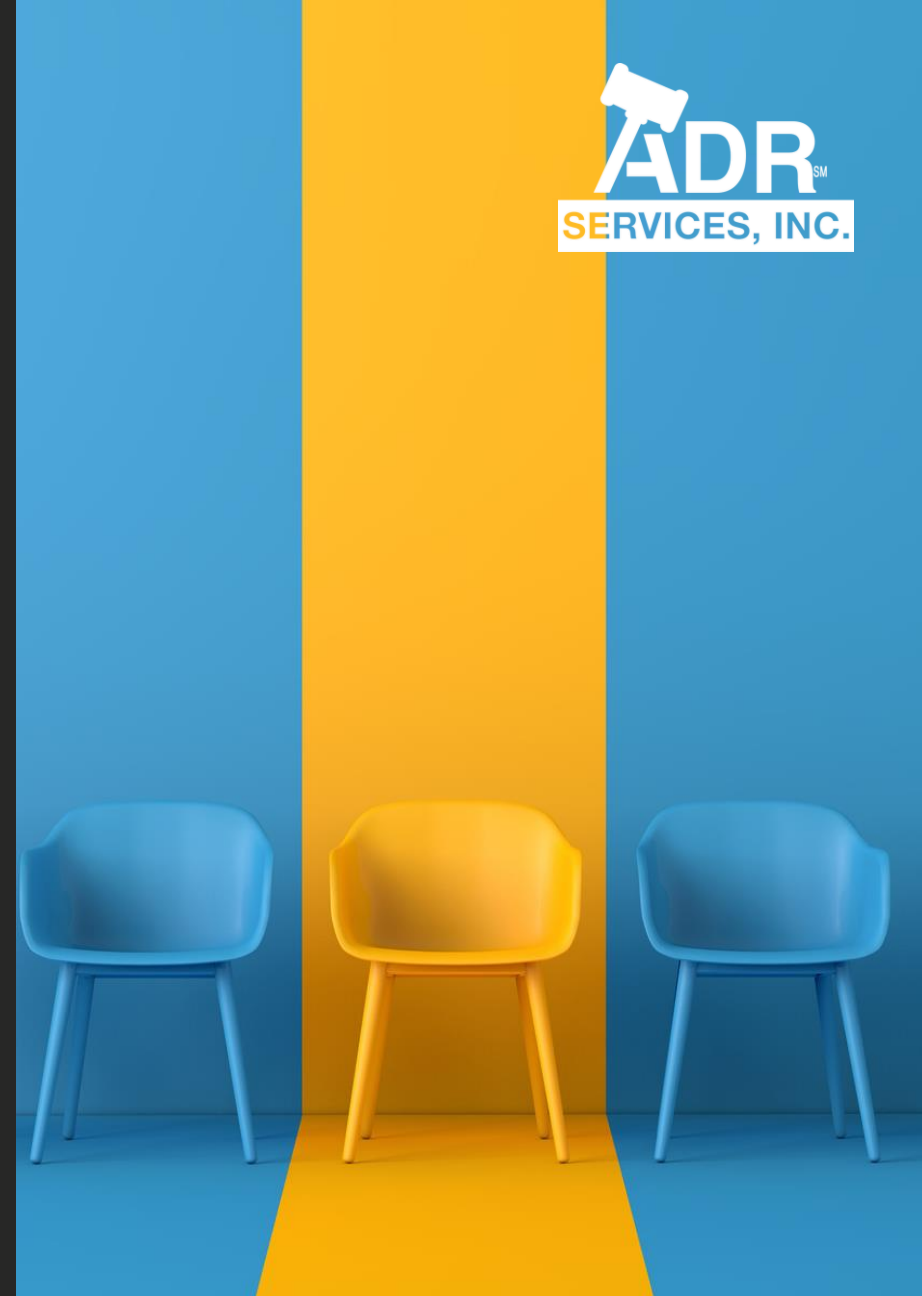
Recognize that “This is a thing.” If you don’t recognize it, you won’t solve it.

## Step 2

Start at the beginning – your attorney hiring process.

## Step 3

Search out, acknowledge and modify points where gender and racial/ethnic biases might get injected into the hiring process, **ESPECIALLY** inadvertently.

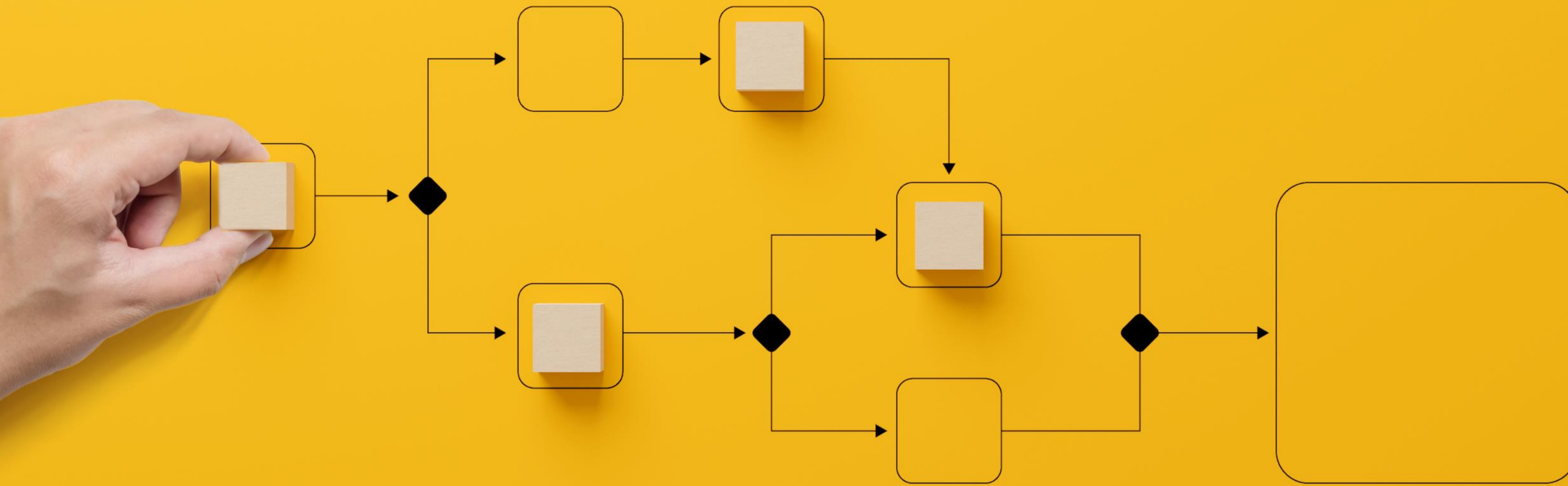


# The Hiring Process





# A Recruitment Scenario



# My Lesson

In subsequent years, I started the process by taking stock of my applicant pool **before** making my interview choices.

# Designing a Recruiting Process that Minimizes Inadvertent Bias

- ➔ Recognize that this is a real issue – it happens, even when we’re not intending to be biased, and indeed even when we’re affirmatively trying NOT to be biased.
- ➔ Acknowledge that the ostensibly objective criteria we use for screening and making hiring decisions are not as objective as we think they are.
- ➔ Go back to first principles for what you’re seeking in recruits – Who is going to be a good lawyer? To help me in my practice? To add value to my clients? – and find proxies in applicants’ backgrounds that implicate those factors, even if they’re not “traditional” hiring criteria.
- ➔ Eliminate “bright line” criteria – be more flexible and holistic in your evaluation of applicants.
- ➔ Remember: TALENT is distributed equally among all groups, but OPPORTUNITY is not.

# Let's Go Through the Hiring Process from Start to Finish to Identify Possible Bias Injection



# Candidate Pool



- **Where to interview – How do you choose your law schools?**
- **Is the student body sufficiently representative?**



# How to choose your candidates to interview?

- **Academic criteria – How are students graded? What grades do you consider?**
- **Law Review/Moot Court/Trial Team/Etc.**
- **Job experience**
- **Day vs. night programs**
- **Who is making the choices?**



# What qualifies as a successful/high quality interview?



- How well do interview criteria match first principles for hiring/practice at your firm?
- How much does “fitting in” count?

# How are post-interview hiring decisions made?



- **Committee vs. individual decision-maker**
- **Centralized hiring/hiring a class vs. dispersed hiring authority for individual positions**

# Long- Term Effects of Hiring Practices

- How you start people in their careers will define their career trajectory
- Hiring in law firms creates the pool of candidates for the judiciary – long-term effects on the hiring process will impact the judicial diversity down the line

# Why does it matter? Benefits to a Diverse Team in the Court & in Mediation



# Benefits in the Courtroom

**Trial Team**

**Jury**

**Courtroom Dynamics**

# Benefits to a Diverse Team in Mediation



Resolving a dispute is partly rational and partly emotional – both needs have to be addressed to be successful.



Having a team that understands their clients - and the opposing clients - helps to build the credibility, connection and trust necessary to a successful negotiation.



Part of that understanding, credibility, connection and trust often derives from common experiences, backgrounds and frames of reference. It's about relating as human beings.



Having people from different backgrounds on your team will allow you to put the right people in the room to get the benefits of that understanding and connection with a wider range of clients and opposing parties.

# Thank You



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