

Women's Bar Association of the District of Columbia (WBADC) **"Protection of Women's Constitutional Reproductive Rights Advocacy"**

About the Program

At a time of great threats to reproductive rights in the Supreme Court, the WBADC aggressively advocated -- through the drafting of an amicus brief and a subsequent Reproductive Rights Series -- for the protection of almost 50 years of jurisprudence on women's constitutional reproductive health decisions.

The mission of the WBADC is to advance and protect the interests of women lawyers and promote their mutual improvement. Women's constitutional reproductive rights impact successful careers and the lives of women generally. Considering its mission, when the WBADC learned about the Mississippi law banning abortions after 15 weeks and pending litigation in other states that threatened women's right to make health decisions, the WBADC felt that it should be a leading voice in this area. Facing the facts that: women lawyers will not achieve gender parity until 2181; (note 1) women make up about 40% of associates in law firms, but less than 24% of equity partners; (note 2) women occupy, on average, about 1/3 of state and federal benches; (note 3) in 2019, women received only one out of every five Fortune 500 General Counsel positions; (note 4) women law firm partners earn less than their male counterparts, regardless of how much they originate for the firm; (note 5) and male General Counsel are paid, on average, 39% more than their women counterparts, (note 6) the WBADC believed that termination of or further restrictions on reproductive rights that women have relied on for almost 50 years would negatively impact parity even more. Thus, the WBADC had to act.

In September 2021, a Texas law went into effect that has resulted in a near total ban on abortion in the state. Despite the ban being clearly unconstitutional, the Supreme Court declined to step in on three separate occasions. Hence, before *Dobbs v. Jackson Women's Health Organization* (a case about a Mississippi law banning abortion after 15 weeks of gestational age), which has the potential of overruling *Roe v. Wade* and *Planned Parenthood v. Casey* was heard, the WBADC joined two other organizations to draft an amicus brief.

In its co-lead role, the WBADC urged the Supreme Court of the United States to recognize the role *Roe* and *Casey* have played in the daily lives of millions of women across the nation and how these precedents have served as monumental building blocks to achieving gender parity in our country. The WBADC put together a *Dobbs* Amicus Brief Committee that consisted of approximately 10 WBADC Board of Directors, Advocacy Committee Co-Chairs, and Amicus Committee Co-Chairs. This committee brainstormed arguments and collaborated with other interested organizations. Over the course of just a few weeks, the committee worked with pro bono counsel to draft and revise the brief. The committee reviewed and edited multiple draft briefs, met numerous times, discussed substantive changes proposed by other organizations to ensure they were in line with WBADC's mission, and suggested changes to make our arguments more useful and accessible to the Court.

After the brief was filed, the WBADC joined the amicus brief co-lead organizations and rallied in support of women's constitutional reproductive rights at the Supreme Court when the *Dobbs* case was argued. The WBADC also planned a Reproductive Rights Series to help educate lawyers on proactive efforts to protect this constitutional right. The series consisted of programs on federal legislation, state legislation, and on how lawyers can get involved. The three-part series was presented as three virtual one-on-one lunchtime conversations with experts in the field.

Part I: Federal Legislation

- What is the Women's Health Protection Act, the federal legislation that recently passed the House?
- A conversation with Leila Abolfazli, Director of Federal Reproductive Rights at the National Women's Law Center
- January 11, 12:00-12:30pm EST followed by Q&A

The first part of the series focused on federal legislation, including the Women's Health Protection Act, which would provide federal statutory protection for reproductive rights even if the Supreme Court overrules *Roe v. Wade* and *Planned Parenthood v. Casey*.

Part II: State Legislation

- What are pro-reproductive healthcare state legislatures doing to protect and expand access to reproductive healthcare in their states?
- A conversation with Bethany Sousa, Director of State Policy, Planned Parenthood Federation of America
- February 9, 12:00-12:30pm EST followed by Q&A

The second part of the series addressed proactive state legislation with Bethany Sousa, Director of State Policy, Planned Parenthood Federation of America. The conversation focused on two areas: 1.) how states that are friendly to reproductive healthcare are increasing protections and reducing barriers; and 2.) how the overturning of *Roe* will result in an influx to supportive states of patients from states that restrict access.

Part III: How as a Lawyer You Can Get Involved

- What can we as individual lawyers do to get involved in the fight to protect and expand access to reproductive healthcare?
- A conversation with Aracely Muñoz, Director of the Lawyers Network and the Washington DC Office of the Center for Reproductive Rights
- March 30, 12:00-12:30pm EST followed by Q&A

The final part of the series will provide guidance on how lawyers can get involved with the fight, regardless of their day-to-day practice area.

In total, the series has had over 100 registrants and over 50 participants. The recordings are available to members on WBADC's website. The total impact and reach of WBADC's *Dobbs* amicus brief are unknown, but inevitably substantial.

NOTES

- 1 American Bar Association, *In Their Own Words*, (2021) at 3.
- 2 Law360, *These Firms Have the Most Women In Equity Partnerships* (Sept. 14, 2021).
- 3 See Democracy and Government Reform Team, *Examining the Demographic Compositions of U.S. Circuit and District Courts*, CTR. FOR AM. PROGRESS at 4 (2020); 2019 Representation of United States State Court Women Judges, NATIONAL ASSOCIATION OF WOMEN JUDGES (2019).
- 4 Ass'n of Corporate Counsel, *The General Counsel Landscape* at 18 (2019).
- 5 Joan C. Williams et al., *You Can't Change What You Can't See* at 18 (2018).
- 6 *The 2019 General Counsel Landscape* at 16 (2019)

Advice for Replicating the Program

For the brief

- Identify a timely issue that falls within your mission that is under attack
- Select individuals with experience and assemble a committee to execute and implement the advocacy initiative. We identified and solicited the assistance of several WBADC members who have appellate and litigation experience
 - Independently consider themes and arguments in accordance with the organization's mission. If collaborating, each organization and member will bring something different to the table to make stronger and more helpful arguments to the Court.
 - Collaborate with other participants to finalize the brief and foster relationships with groups that are equally committed to your organization's initiative. Different perspectives will be provided by different individuals
 - Start with an outline, share ideas, and come to a consensus on the arguments in the brief. The outline provides a roadmap for the final brief.

- Build in time for revisions because the first draft will never be the final draft. In many instances, the arguments and/or the order of the arguments will change.
- Build in time to solicit other groups to sign on to the brief, prepare a press release, and disseminate the press release. [Click here to read the press release.](#)

For the Reproductive Rights Series

- Identify a timely issue that falls within the organization's mission that is under attack. This type of programming serves as a real benefit to members who are passionate about the issue.
- Select individuals with experience in the field for panelists and moderators. Where appropriate, consider selecting speakers from organizations that can provide additional resources and offer advocacy opportunities.
- Choose an angle to the issue that does not get as much attention as other aspects of the matter. In reproductive rights, proactive legislative efforts are receiving less attention than state abortion bans. Members appreciate information on different twists on the issue.
- Seek cosponsors internally and externally. The Reproductive Rights Series expanded its reach by obtaining co-sponsors from two WBADC committee/forums and an outside organization.
- Make it convenient for potential participants. Consider the busy schedules of the participants. Lunchtime virtual programs work well, and posting the recordings after the program makes the information accessible to all members.
- Consider permitting non-members to participate. Advertising to non-members will expand the program's reach and may generate new members, as it did for the Reproductive Rights Series.
- Prioritize affordability by making the program free when possible. Securing a sponsor can help with any costs associated with the program. Free programming further extends accessibility and reach.
- Save time for Q&A to maximize the experience of participants. The Q&A in the Reproductive Rights Series generated robust conversations and led to new collaborations to advance WBADC's initiative.