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Introduction: Presumed Incompetent: Continuing the Conversation (Part II)

Carmen G Gonzalez, *Seattle University*
Angela P Harris



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Introduction: Presumed Incompetent: Continuing the Conversation (Part II)

Carmen G. González^{*} & Angela P. Harris^{**}

On March 8, 2013, the Berkeley Journal of Gender, Law & Justice hosted an all-day symposium featuring more than forty speakers at the University of California, Berkeley School of Law to celebrate and invite responses to the book entitled, *Presumed Incompetent: The Intersections of Race and Class for Women in Academia*.¹ *Presumed Incompetent* is an anthology that explores the experiences of women of color in higher education from a variety of perspectives: from first person narratives to qualitative empirical studies; from the humanities to the sciences to the professions; and from graduate students to faculty members and administrators.

We edited *Presumed Incompetent* in order to name the obstacles that academic women of color encounter on the road to tenure and beyond and to offer strategies to these women and their allies for eliminating these obstacles. While each of the thirty essays in *Presumed Incompetent* is unique, one of the book's central insights is that the *culture* of academia

^{*} Professor of Law, Seattle University School of Law. Speaking openly about bias and abuse in academia is necessary to raise awareness and bring about change, but it is not without risk. I would like to thank the symposium participants and the editors of the Seattle Journal for Social Justice for their courage in publishing these powerful narratives, poems, and reviews. I would also like to thank Angela Harris, whose collaboration and creativity made the symposium possible.

^{**} Professor of Law, University of California, Davis School of Law. My thanks to all the amazing women and men who participated in the Berkeley symposium and shared their stories, research findings, and wisdom. Thanks also to the Seattle Journal for Social Justice for publishing these important pieces. Finally, special thanks to the co-author of this Introduction, Carmen, without whose energy, organization, and insight the symposium would never have taken place.

¹ PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA (Gabriella Gutiérrez y Muhs, Yolanda Flores Niemann, Carmen G. González & Angela P. Harris eds., 2012).

remains distinctly white, male, heterosexual, and middle- to upper-class despite decades of efforts to increase faculty, staff, and student diversity. Faculty members whose identities differ from this unspoken and largely uncontested norm find themselves, to a greater or lesser degree, presumed incompetent as scholars, teachers, and participants in university governance.

Presumed Incompetent presents gripping first-hand accounts of the harsh realities faced by female faculty of color, but the book's overriding message is of success: resilience, perseverance, and triumph in the face of daunting obstacles. The contributors to the book explain how to overcome the barriers discussed in their essays, offering examples of creative pedagogy, innovative scholarship, and empowering alliances within and across identity groups. The final chapter draws upon the collective wisdom of the book's four co-editors and more than forty contributors, to provide a series of specific recommendations for subverting the presumption of incompetence and creating a more equitable and inclusive campus environment. We hope that the book will be read by women of color in academia and their allies, by students, and especially by academic leaders, such as deans, provosts, and university presidents.

However, the volume proved to be only the tip of the iceberg of the *Presumed Incompetent* project. First, many women approached us during the solicitation process and told us their stories, but ultimately decided not to publish them for the nine distinct reasons that we discuss in the book's introduction, including fear—fear of retaliation for airing their home institution's dirty laundry, fear of professional ridicule for producing a personal narrative rather than a conventional academic essay, and fear of criticism for disclosing the complicity of certain colleagues of color in the subordination of others.² The fact that so many stories were, and remain,

² See Angela P. Harris & Carmen G. González, *Introduction*, in *PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA* 10-13 (Gabriella Gutiérrez y Muhs, Yolanda Flores Niemann, Carmen G. González &

untold only underscores the courage of the women who did come forward, and the contribution of these stories, surveys, and interviews to our knowledge about the current state of higher education.

Second, after the book was published, we were inundated with phone calls and e-mail messages from women of color in academia who sought our advice and assistance, invited us to present at conferences and workshops, and gave us new insights on the plight of female faculty of color in the nation's colleges and universities. Although *Presumed Incompetent* is nearly 600 pages long, there is much more that could and needs to be written.

The symposium held at Berkeley continued the conversation begun in the book through a series of concurrent and plenary panels, poetry readings, and keynote addresses. Using *Presumed Incompetent* as a springboard, the symposium participants were invited to undertake three important inquiries. First, what themes of the book resonate (or do not resonate) within legal academia? Second, what is the relevance of the book's themes to public universities, especially those (such as the University of California, Berkeley) struggling with a "post-racial" mandate and with state disinvestment in higher education? Third, how should colleges and universities best address the "second generation" problems of diversity: not simply hiring, but retention, campus climate, and the full intellectual, social, and political inclusion of women of color? We were mindful of posing these questions at a time when academia is being pushed toward a neoliberal agenda of market-driven, corporate-friendly policies and practices, and when law schools are struggling with significant declines in student enrollment. Despite these challenges, the symposium participants responded with humor, insight, commitment, and ringing calls for change. We were all the more delighted by the willingness of the Berkeley Journal of Gender,

Angela P. Harris eds., 2012) (describing nine distinct reservations expressed by many women about contributing to *Presumed Incompetent*).

Law, and Justice and the Seattle Journal for Social Justice to publish a selection of these symposium presentations.

As joint editors of these companion symposium issues, we are struck once again by the urgency of telling these stories. For individual academic women of color who find themselves “presumed incompetent,” what is at stake is not only professional success, but also physical and mental health. Too many women develop serious physical ailments, become mentally ill, or drop out of academia as a consequence of battling bias in their academic careers. For example, several women who contacted us after *Presumed Incompetent* was published reported debilitating strokes, heart attacks, miscarriages, cancer, and psychological breakdowns triggered, at least in part, by workplace abuse.³ These stories are consistent with the voluminous literature on the ways in which exposure to racism increases the risks of mental and physical ailments such as hypertension, cardiovascular disease, heart disease, and depression.⁴ As epidemiologist Nancy Krieger explains, we “literally incorporate biologically . . . our social experiences and express this embodiment in population patterns of health, disease, and well-being.”⁵

³ In two of these cases, according to our informants, the universities in question refused to make reasonable workplace accommodations after the women became disabled; instead, initiating proceedings to terminate them. Sadly, these stories do not appear to be anomalies. Weeks after undergoing two severe strokes caused by complications from lupus, historian Chana Kai Lee, a tenured African-American professor at the University of Georgia, was forced to resume teaching large lecture classes even though she “was left with disabled speech and diminished physical capacities,” and despite letters from her physician explaining the severity of her disabilities. See MELISSA V. HARRIS-PERRY, *SISTER CITIZEN: SHAME, STEREOTYPES, AND BLACK WOMEN IN AMERICA* 43-44 (2011).

⁴ See, e.g., David R. Williams & Selina A. Mohammed, *Discrimination and Racial Disparities in Health: Evidence and Research Needed*, 32 J. BEHAVIORAL MEDICINE 20-47 (2009); Elizabeth Brondolo, et al., *Coping with Racism: A Selective Review of the Literature and a Theoretical and Methodological Critique*, 32 J. BEHAVIORAL MEDICINE 64-88 (2009); Beverly Y. Araujo & Luisa N. Borrell, *Understanding the Link between Discrimination, Mental Health Outcomes, and Life Chances Among Latinos*, 28 HISPANIC J. BEHAVIORAL SCIENCES 245-66 (2006).

⁵ Nancy Krieger, *Embodying Inequality: A Review of Concepts, Measures, and Methods for Studying Health Consequences of Discrimination*, 29 INT’L J. HEALTH SERVS. 295, 296 (1999).

For this reason alone, it is essential to share resistance and self-care strategies and share them again—mindful that each one could be a lifeline.

There is a second urgency in telling these stories. Women who are successful in academia are often subtly pressured to distance themselves from those who are having difficulties. Indeed, the advice that we sometimes give one another—“Never let them see you sweat,” “You need to be twice as good as they are”—encourages women to be silent about their difficulties, and leaves those in trouble feeling isolated, unworthy, and afraid. When we were editing *Presumed Incompetent*, several women would not contribute essays, section introductions, or even back-cover blurbs to the book for fear—to put it bluntly—of being associated with “losers.” However, one of the lessons of *Presumed Incompetent* and the symposium is that some extremely successful female academics of color faced formidable obstacles at earlier stages of their careers, including denigration of their abilities, student and faculty hostility, and tenure denial. Several women who contacted us after *Presumed Incompetent* was published summoned the courage to appeal their denials of tenure only after learning that luminaries in their field had faced and overcome similar challenges. It is therefore essential to let a new generation of women of color in academia know that they are not alone.

Third, it is urgent that administrators and policymakers hear these stories for their institutional import. “Diversity” has become a mantra in American universities. Yet, the addition of “diversity” to a university’s mission statement does not guarantee that students, faculty, and staff from different backgrounds will actually learn from each other, respect one another, or build a community. In order to make the promise of diversity real, those who shape faculty working conditions must learn from the individual and collective strategies that women of color have used to survive and thrive in the academic workplace.

Finally, telling these stories is urgent because the tribulations of women of color in academia are not solely their own. The traditional tenure track

itself is disappearing as American colleges and universities face pressure to provide academic credentials to more students at lower cost, and to adopt a corporate model under which education is the production of quantifiable “deliverables.” The vulnerability of faculty women of color may foreshadow the vulnerability of all but the most elite professors, as teaching is increasingly handed off to workers who lack job security, benefits, and a living wage—yet are held responsible for “adding value” to their students. In this sense, women academics of color may be the canaries in the academic mine, and all those who care about higher education should learn from their experiences.⁶

From the early 20th century to the present, education has been at the forefront of civil rights struggles in the United States. While these struggles have succeeded in increasing the number of students of color who have access to higher education, female faculty of color remain woefully under-represented.⁷ This under-representation impoverishes the education received by all students, by narrowing the variety of perspectives and experiences presented in the classroom. We hope that the publication of *Presumed Incompetent*, and of the papers from this symposium, will provide women of color and their allies, academic leaders, students, lawyers, judges, and social justice activists with the tools to begin to dismantle the structural barriers encountered by women of color in the academic workplace, and to develop a vision of college and university education appropriate for a multicultural, increasingly globalized twenty-first century—an education devoted to ending unjust hierarchies of all shapes and sizes.

The *Presumed Incompetent* symposium papers are being published in both the Berkeley Journal of Gender, Law & Justice and the Seattle Journal for Social Justice (SJSJ). The papers published in SJSJ deepen our

⁶ See generally LANI GUINIER & GERALD TORRES, *THE MINER’S CANARY* (2002) (explaining that the plight of people of color in American society often serves as a warning about toxic social conditions that affect all Americans).

⁷ See Harris & González, *supra* note 2, at 2-3.

understanding of the hierarchies of the academic workplace, offer additional tools to subvert these hierarchies, and break new ground by introducing a topic that was not explored in *Presumed Incompetent*, namely the intersection of disability with race, gender, and class subordination.

The symposium papers begin with a review of *Presumed Incompetent* by Robin Morris Collin that provides an overview and analysis of the personal narratives and empirical studies in the book. Morris Collin commences her review by recognizing the book's purpose: "to address the disinvestment in diversity and inclusion in a post-racial climate, to confront the culture of silence that shelters abusive relationships, to raise the flag of resilience, and to dispel the isolation, shame, and self-blame that have afflicted many women of color."⁸ She then proceeds to discuss each of the five sections of the book, and to highlight some of the book's key insights. Morris Collin summarizes her overall assessment of the book as follows:

At times gut-wrenching to read and at times joyful and transcendent, these stories offer insights and counsel that is truthful, useful and affirming to teachers, students, and administrators. These stories are also instructive for professionals, business people, politicians and public servants who can and will discern their own stories and strategies in these pages as these accounts cross the borders between higher education and the wider community.⁹

In *Microaggressions in the Context of Academic Communities*, Catharine Wells continues the conversation begun in *Presumed Incompetent* by explaining how microaggressions serve to perpetuate the outsider status of historically underrepresented groups in academia. "Microaggressions," she observes, "are not merely insensitive remarks. If that is all they were, it

⁸ Robin Morris Collin, *Book Review: Presumed Incompetent: The Intersections of Race and Class for Women in Academia*, 12 SEATTLE J. FOR SOC. JUST. 301-17 (2013).

⁹ *Id.* at 301-02.

would be bad enough: but they also operate in predictable ways to insure that the interests of insiders are protected from newcomers.”¹⁰

Wells begins her analysis of microaggressions by quoting one of the most frequently cited definitions of the term:

Microaggressions are subtle verbal and non-verbal insults directed toward non-Whites, often done automatically and unconsciously. They are layered insults based on one’s race, gender, class, sexuality, language, immigration status, phenotype, accent, or surname.¹¹

Drawing upon the voluminous literature on microaggressions, and on her own conversations with progressive legal scholars who were often oblivious to the harmful impacts of their ill-considered remarks, Wells enriches our understanding of the term, explains why microaggressions are so harmful, and offers several valuable suggestions on ways to avoid them. Her stated goal is to reach both the targets and the perpetrators of microaggressions because she recognizes that in a highly heterogeneous society the same individual may be a target in one context and a perpetrator in another. In addition, she notes that “[w]hite women, in particular, can play a constructive role but only if we recognize that our hard won places in the establishment create the risk of blindness. Unless we remain alert, a microaggressive climate may become as invisible to us as it has been to our male colleagues.”¹²

Danné Johnson’s article, *It’s a Scandal: Can Minority Women in the Legal Academy be Gladiators?*, begins by discussing the unofficial job description for minority women in academia that emerges from the academic literature but is rarely shared with aspiring law professors. As she

¹⁰ Catharine Wells, *Microaggressions in the Context of Academic Communities*, 12 SEATTLE J. FOR SOC. JUST. 319, 320 (2013).

¹¹ *Id.* at 326 (quoting Daniel Solorzano, Walter R. Allen & Grace Carroll, *Keeping Race in Place: Racial Microaggressions and Campus Racial Climate at the University of California, Berkeley*, 23 CHICANO-LATINO L. REV. 15, 17 (2002)).

¹² *Id.* at 320.

explains, “[m]inority women in the legal academy find themselves underpaid, overworked, undermined, and over critiqued within the institutions. Further still, they are under and over mentored, unsupported as women, subject to microaggressions and underappreciated both in and outside of their institutions.”¹³

Taking these observations as her point of departure, Johnson describes her own experiences as an African-American woman in academia, and offers practical advice to women of color in similar circumstances on ways to overcome pervasive race and gender bias. The first step, she argues, is open acknowledgement of the subordinated status of minority women in the nation’s law schools. She makes the following observation:

Unfortunately, class and comfort have made minority women in the legal academy view discrimination as something that happens to others. When we listen to, teach about, or speak on panels regarding pay inequality, we do not think of ourselves. We think of waitresses, secretaries, and low level managers. . . . When we think of harassing language and physical intimidation, we think of women in other places We are told that we are special, unique, and that we stand apart.¹⁴

Second, Johnson urges women of color to strive for excellence in all aspects of their job, to develop a variety of allies and mentors, to keenly observe the local law school and university politics, and to develop a group of wise and trustworthy advisors who will provide support and who have no reason to inflict harm. Finally, she points out that while every woman must decide for herself when and how she will challenge workplace bias (e.g., through grievance mechanisms, Equal Employment Opportunity Commission complaints, lawsuits, and/or binding arbitration), it is helpful to have a checklist of survival strategies when the relationship with one’s employer becomes openly adversarial. She advises women of color to

¹³ Danné Johnson, *It’s a Scandal: Can Minority Women in the Legal Academy Be Gladiators?*, 12 SEATTLE J. FOR SOC. JUST. 349, 350-52 (2013).

¹⁴ *Id.* at 357.

remain calm, keep in contact with members of their support group, adopt an affirming mantra, dutifully perform their jobs, carefully collect documentation (both hard and electronic copy) to support their claim of bias, and take care of their physical and mental health.

In *Fight the Tower: A Call for Action for Women of Color in Academia*, Kieu-Linh Caroline Valverde describes her two-year tenure battle at a prestigious public university, which culminated in the award of tenure, but nearly resulted in her death. Due to the stress provoked by her tenure denial and lengthy struggle to receive accommodation for a documented disability and for parenthood, and by the physically and emotionally exhausting campaign to reverse the university's tenure determination, Valverde suffered a miscarriage, severe hemorrhaging, and cardiac arrest. She fell into a coma, and was clinically dead for ninety minutes. Despite her near-fatal health crisis, Valverde recovered, regained her strength, demanded the accommodations necessary to enable her to return to work, and was victorious in her struggle for tenure. Valverde's article examines her transition from confident junior scholar to embattled faculty member to tireless scholar-activist working in solidarity with other women of color to demand justice in the academic workplace. The article concludes with a variety of practical strategies to overcome the isolation that women of color experience in academia and to engage in collective action for fair and just treatment.

Valverde's article also underscores the unique plight of women of color with disabilities and the destructive impact of the growing corporatization of US colleges and universities. Buffeted by budget cuts and pressure to streamline and downsize operations, universities are embracing corporate business models, including reliance on graduate students and contingent or adjunct faculty for the bulk of teaching and proposals to abolish tenure.¹⁵ These changes may render academic employment increasingly precarious

¹⁵ See Harris & Gonzalez, *supra* note 2, at 5-6.

for all faculty, but especially for those from historically under-represented groups, who are disproportionately concentrated in less prestigious academic institutions and in non-tenure-track positions.¹⁶ Among the most vulnerable are women of color with disabilities—even if they are tenured and even if these disabilities were caused or aggravated by workplace abuse. Faculty members with disabilities may be asked to return to work before they have healed from their injuries, and may be threatened with termination if they are unwilling or unable to comply.¹⁷ Universities may require faculty members to produce scholarship during medical leave, and may penalize them for failing to do so. As Valverde explains,

What this may mean is, even after the institution subjects you to unspeakable harm to achieve tenure, tenure is not secure if you are unable to fulfill your work duties or are asked to prematurely do so because of the work-related health issues the institution caused in the first place.¹⁸

In *De-Tenured: A Latina Endures More Than Four Decades in the Educational Industrial Complex*, Ramona Fernandez elaborates upon the twin themes of corporatization and disability and their intersection with the race, gender, and class hierarchies of US higher education. Despite her early scholarly promise (including prestigious fellowships and early scholarly recognition), Fernandez explains that her career was soon derailed by a hostile work environment that aggravated pre-existing health conditions; caused her to develop debilitating chronic fatigue syndrome, hypertension, and depression; and put a brake on her scholarly productivity. Indeed, as the corporatization of academia increasingly favored profit-generating disciplines over those that seek to foster social justice, and as debt-ridden students demanded credentials that would guarantee well-paying jobs,

¹⁶ See *id.* at 2-3, 6.

¹⁷ See Kieu-Linh Caroline Valverde, *Fight the Tower: A Call to Action for Women of Color in Academia*, 12 SEATTLE J. FOR SOC. JUST. 367 (2013).

¹⁸ *Id.* at 401.

Fernandez found herself under fire for producing critical scholarship in an interdisciplinary academic program and teaching challenging courses on racially-charged subjects. She encountered microaggressions from students and faculty, upward ratcheting of tenure standards, lack of recognition for her accomplishments, dismissal of her points of view in faculty meetings, inadequate mentoring, allegations that her highly regarded book had been written by someone else, and two unsuccessful bids for tenure. Nevertheless, she persevered, used the university's grievance procedures, and was successful in her third bid for tenure.

As the microaggressions persisted, Fernandez's health continued to deteriorate, requiring hospitalization and additional medical leave. Her department became increasingly critical of her teaching and scholarship, and commenced efforts to de-tenure her after four decades in academia. As she struggles to retain her tenure, Fernandez observes that it is generally impossible for those with complex multi-dimensional identities to pinpoint which aspect of their identity provoked the ire of students and colleagues at any particular time.

Combine a natural oppositional consciousness as a woman, a Latina, a leftist, a child of the working poor post-World War II era, an invisibly handicapped and aging body, and an academic with roots in the community college system with an intellectually trained oppositional consciousness, and I find it impossible to sort out which 'ism' is in play at any given moment when I encounter an irrational response.¹⁹

Fernandez concludes with a call for faculty as a whole to unionize and for women of color to become a force in their own right. She reminds us that academics are wage earners who must use the power of their numbers to resist the commodification of education and the corporatization of the university.

¹⁹ Ramona Fernandez, *Detenured: A Latina Endures More than Four Decades in the Educational Industrial Complex*, 12 SEATTLE J. FOR SOC. JUST. 421, 438 (2013).

In *What Doesn't Kill You: Existential Luck, Postracial Racism, and the Subtle and Not So Subtle Ways the Academy Keeps Women of Color Out*, Jennifer Lisa Vest enhances our understanding of the intersections of race, class, gender, sexual orientation, and disability in academia by describing a harrowing traffic stop by campus police at her university that nearly proved fatal. As a consequence of her brown skin, androgynous gender presentation, and disability, she was profiled as a violent and dangerous drug dealer despite the fact that she was a philosophy professor. Verbally abused, threatened, and manhandled, she experienced a cardiac event and was denied access to the life-saving heart medication that she kept in her vehicle. She survived the ordeal through the intervention of a Latina paramedic, only to endure “six months of grievances, complaints, lawyers, cardiac rehabilitation, and trauma therapy” as well as flashbacks and night terrors.²⁰

Vest uses the traffic stop as a metaphor for the pervasive microaggressions that keep women of color out of academia. She describes several distinct forms of microaggressive exclusion that women of color routinely encounter in the academic workplace, including constant questioning of their ability, intellect, character, and work; lack of mentoring; sabotage by false allies; challenges to their veracity and credibility; punishment for excellence; denigration as “affirmative action hires” or “diversity appointments”; and the presumption that they are outsiders, interlopers, and trespassers who do not belong in the hallowed halls of academe. Vest was granted tenure, but the stress she endured in academia left her with a disabling heart condition, hearing loss, and impaired mobility, which her university was unwilling to comprehend or accommodate. Frustrated by her university’s failure to address the

²⁰ Jennifer Lisa Vest, *What Doesn't Kill You: Existential Luck, Postracial Racism, and the Subtle and Not So Subtle Ways the Academy Keeps Women of Color Out*, 12 SEATTLE J. FOR SOC. JUST. 471, 473 (2013).

misconduct of campus police, she ultimately decided to leave academia. As she explains in her conclusion:

My story is important not because of what happened to me but because of what happens to so many. If my story could be explained simply by the bad choices and rogue behaviors of a few poorly trained police officers, or a few racist/sexist colleagues, my story would not matter. Nor would it be worth telling. My story only matters because it is similar to so many other stories; It is emblematic of a larger structural defect. It matters because it provides a textbook example of why and how so many women of color are stereotyped, suspected, and harassed into states of physical disability, and pushed out of the Academy or out of powerful positions within it.²¹

The symposium papers conclude with *Of Mice and Men*²² (a poem by Ping Wang), *Trayvon Martin*²³ (a poem by Jennifer Lisa Vest), and with the *Fight the Tower Manifesto—a call to action for women of color in academia*. Inspired by *Presumed Incompetent*, the authors of the Manifesto have created a website to share information, resources, and testimonials in order to assist women of color with their struggles in the academic workplace.²⁴ The Manifesto declares:

We are often abused, bullied, humiliated, subordinated, silenced, isolated, and made to feel inferior. The constant macro- and micro-aggressions serve to sabotage our work and deplete our much-needed time and energies. These types of violent assaults almost always result in mental, emotional, and physical harm. They sometimes even kill us . . .

We defy the stereotypes and bravely use our voices for truth-telling, give our *testimonios*, scream of the injustices we endure,

²¹ *Id.* at 517-18.

²² Wang Ping, *Of Mice and Men*, 12 SEATTLE J. FOR SOC. JUST. 519-20 (2013).

²³ Jennifer Lisa Vest, *Trayvon Martin*, 12 SEATTLE J. FOR SOC. JUST. 521-22 (2013).

²⁴ See *Fight the Tower: Origin Story*, FIGHT THE TOWER <http://fighttower.com/about.html> (last visited Dec. 8, 2013).

broadcast our achievements, and vow to never, ever remain silent...

In solidarity and unity for justice, join us to Fight the Tower.²⁵

As editors of *Presumed Incompetent*, we would like to thank the Berkeley Journal of Gender, Law and Justice, the Seattle Journal for Social Justice, and the participants in the March 8, 2013, *Presumed Incompetent* symposium for joining with us to continue this important conversation.

²⁵ *Fight the Tower Manifesto*, 12 SEATTLE J. FOR SOC. JUST. 523-25 (2013).