In California:
- 57% minorities (Black, Asian, Hispanic)
- 45% women

Nationally:
- 37% minorities
- 48% women
- 56% 40 years or older

Workplaces have become more diverse

Source: EEOC: 2014 Job Patterns for Minorities and Women in Private Industry (EEO-1)
In California:
- 57% minorities
- 45% women

Nationally:
- 37% minorities
- 48% women
- 56% 40 years or older

Workplaces have become more diverse.
Times they are a-changing:

- Between 1951 and 1965, women made up 3% of law school classes.
- In 1980, only 8% of practicing attorneys were women.
- In 2005, women made up 30% of all practicing attorneys.
- In 2012-2013, 47% of law degrees were awarded to women and women made up 34% of all practicing attorneys.

Source: Martin, Doing Justice, Doing Gender, (SAGE Publications, Inc. 2007)
Types of Bias

Deliberate discrimination

- Adverse action based on
  - Almost always illegal
  - Almost always illegal
  - Almost always illegal

“Completely disregard gender when offering compensation. Unless you're the wrong gender.”

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Disparate impact discrimination

- Neutral policy or practice that adversely affects a protected class
- Does not require showing of unlawful motive
- Unlawful unless job related and justified by business necessity
"That's an excellent suggestion, Miss Triggs. Perhaps one of the men here would like to make it."
"Blind" Auditions on Female Musicians
(Goldin & Rouse. Orchestrating Inequality: The Impact of
Hired for orchestral Jobs
to 46% increase in number of women
Auditions behind a screen result in 25%
Publication (Quality, Perceptions and Collaboration Interest)
Particularly when topic is "male"
names score male authors higher,
from applicants with female or male
Subjects given identical science papers

Unconscious Bias - Gender

Women's Bar Association
Bullying

- Nasty, rude, and hostile behavior
- Yelling and screaming
- Vulgar language and cursing
- Throwing things
- Kicking cubicles or trash cans
- Criticizing employees in front of co-workers
- Excessive criticism
- Threats and intimidation
Continually mispronouncing one employee's name

Addressing some employees by chummy nicknames

Leaving someone off a group email

Dismissing the idea of one employee only to embrace it when offered by another

Negative facial expressions

Small gestures can be perceived as evidence of bias.
I. Issue

Although women account for almost 38 percent of The Florida Bar membership (members in good standing, February 2017) and 36 percent of the legal profession nationally (ABA, January 2017), they are not proportionately represented in law firm partnerships, judgeships or law school deans. The 2015 YLD Survey on Women in the Legal Profession by the Young Lawyers Division of The Florida Bar found that young female attorneys continue to say they are held back by gender stereotypes and harassment, are paid unequally and struggle to balance work and personal responsibilities.

II. The Florida Bar Position

The following amendment to the Rules Regulating The Florida Bar (48.4(d)) was approved by the Florida Supreme Court on July 1, 1993:

A lawyer shall not –
(d) engage in conduct in connection with the practice of law that is prejudicial to the administration of justice, including to knowingly, or through callous indifference, disparage, humiliate, or discriminate against litigants, jurors, witnesses, court personnel, or other lawyers on any basis, including, but not limited to, on account of race, ethnicity, gender, religion, national origin, disability, marital status, sexual orientation, age, socioeconomic status, employment, or physical characteristic.

In May 2010, The Florida Bar Board of Governors expressed its commitment to promoting diversity:

The Florida Bar is fully committed to the enhancement of diversity within the Bar, the legal profession, legal education, and in the justice system, and affirms its commitment toward a diverse and inclusive environment with equal access and equal opportunity for all.

Also in May 2010, The Florida Bar Board of Governors adopted the following definition of diversity:

The term “diversity” has a dynamic meaning that changes as the demographics of Floridians change. Apart from differences in race, color, gender, national origin, religion, age, sexual orientation, citizenship, and geography, to mention a few, the public and our profession will experience changes in thought, culture, and beliefs. These demographics are constantly in flux. Defining “diversity” based on current differences would limit its application to future changes, and likewise restrict or limit The Florida Bar’s consideration of and response to such changes.
III. Background

In 1970, women nationally made up only 3 percent of the legal profession, and gender bias as a recognized legal concept was unknown. Recent figures show women now make up 36 percent of the legal profession, and women now make up 49.3 percent of first-year law students (ABA, 2017). Yet women remain under-represented in policy-making and administrative positions.

A number of commissions and studies have undertaken to identify and remove barriers to women in the legal profession.

In 1987, the American Bar Association Commission on Women in the Profession was created with four primary objectives: assess the status of women in the legal profession; identify barriers that prevent female lawyers from full participation in the work, responsibilities and rewards of the profession; develop educational programs and materials to address discrimination against female lawyers; and make recommendations to the ABA for action to address problems identified by the commission.

In 1990, the Florida Supreme Court’s Gender Bias Study Commission completed a two-year investigation of gender bias within the legal system. The commission concluded that discrimination based solely on one’s gender was a reality that permeates Florida’s legal system.

In 1991, at the request of the Florida Supreme Court, The Florida Bar Special Committee for Gender Equality in the Profession was formed. The committee was given a four-year time period to implement recommendations.

In 1992, the Interim Report and Recommendations of the Special Committee for Gender Equality in the Profession presented recommendations to the Board of Governors in regard to Bar leadership goals; educating the membership and law students on gender fairness, sexual harassment and how to avoid biased behavior; how to increase participation of women in Florida Bar organizational activities; how to increase the numbers of female speakers on Florida Bar CLE programs; promoting Florida Bar written sexual harassment policies, family leave and alternative work schedule policies; and encouraging the creation of a judicial screening panel to determine if judicial nominees and/or candidates for judicial election are committed to equal justice for men and women.

By 1996, the special committee had accomplished: approving ethics credit for CLE programs that include discussion or instruction on avoiding biased behavior; adding gender amendments to the CLE manual; approving and distributing a sexual harassment consumer pamphlet to each Florida Bar member, all court personnel and support staff in the office of state attorneys, public defenders, city and county attorneys and the attorney general; obtaining funding to produce and distribute the ‘Court Conduct Handbook’ to promote gender equality in Florida’s courts; and promoting educational courses
geared specifically to female lawyers on rainmaking, trial and negotiation skills, income disparity and other gender-related issues.

In 1999-2000, the Special Committee for Gender Equality merged with the Equal Opportunities in the Profession committee, and was called the Equal Opportunities Law Section. This section was active in sponsoring seminars and educating attorneys and the public on diversity, civil rights, discrimination law, women’s issues and disabilities issues.

In 2008, the Florida Supreme Court’s Standing Committee on Fairness and Diversity issued its ‘Final Report: Perceptions of Fairness and Diversity in the Florida Courts.’ An administrative order from the chief justice issued June 30, 2016, laid out new goals as the committee continues its work to help advance efforts to eliminate biases from court operations based on race, gender, ethnicity, age, disability, financial status or any characteristic that is without legal relevance.

In 2010, following recommendations from The Florida Bar Program Evaluation Committee, the Bar’s Board of Governors adopted a definition of diversity and created a Florida Bar diversity grant program for local bars.

In 2013, the Equal Opportunities Law Section merged with the Special Committee on Diversity & Inclusion, which in turn became a Bar standing committee under recommendations approved by the Bar’s Board of Governors. The mission of the Standing Committee on Diversity & Inclusion is to increase diversity and inclusion in The Florida Bar so that the Bar will reflect the demographics of the state, to develop opportunities for community involvement, and to make leadership roles within the profession and The Florida Bar accessible to all attorneys, including those who are racially, ethnically and culturally diverse, women, members of the LGBT community and people with disabilities.

In February 2014, Florida Bar President Eugene Pettis appointed an 11-member task force to determine why diverse candidates were not applying for Judicial Nominating Commission appointment or for judgeships. The task force issued a report in May 2014.

In 2016, the Young Lawyers Division of The Florida Bar released findings from its 2015 YLD Survey on Women in the Legal Profession, suggesting that young female attorneys continue to feel held back by gender stereotypes. The survey, which was emailed to a random sample of more than 3,000 female members of the YLD, found that 43 percent of respondents reported experiencing gender bias during their legal career. Many of the more than 400 respondents indicated they had experienced one or more serious issues, such as gender bias and harassment from opposing counsel, an employer or the court; more than one-quarter reported resigning from a position because of a lack of advancement opportunities, a lack of work-life balance and/or employer/supervisor insensitivity; 21 percent felt that
they were not paid comparatively to their male counterparts; and 42 percent cited difficulties in balancing work/life responsibilities as a challenge or concern they face as practicing attorneys.

The Voluntary Bar Association 2016-2017 Diversity Leadership Grant program was created to support initiatives and programs that encourage diversity, diversity training and dialogue among lawyers in Florida through financial support of conferences, seminars, summits and symposiums planned and hosted by local and specialty bar associations.

Also in 2016, Florida Bar President-elect Michael J. Higer was appointed by then-President William J. Schifino, Jr. to lead a special committee studying gender and diversity issues, with the goal of making concrete recommendations to the Board of Governors. The Florida Bar Special Committee on Gender Bias’ final report was received by the Board of Governors in May 2017. The report outlined 12 recommendations to address gender inequalities. They included having the Bar’s Diversity and Inclusion Committee create a Women in the Profession Subcommittee to oversee gender-related issues, including carrying out the report’s recommendations.

IV. Facts and Statistics

- 38 percent of Florida’s attorneys are women. (TFB Roster Report, February 2017)
- 15 percent of Florida’s female attorneys are managing partners or partners/shareholders. 27 percent of Florida’s male attorneys are managing partners or partners/shareholders. (2014 Florida Bar Economics and Law Office Management Survey)
- 21 percent of Florida’s female attorneys are employed as government attorneys, compared with fewer than 9 percent of Florida’s male attorneys. (2014 Florida Bar Economics and Law Office Management Survey)
- Women represent 39 percent of Florida judges (up from 28.8 percent in 2007). They make up 25 percent of appeals court judges and justices, 38 percent of circuit court judges and 44 percent of county court judges in Florida. (Office of the State Courts Administrator, February 2017).
- Women hold 27.1 percent of all federal and state judgeships in the United States. (University at Albany-SUNY, 2012).
- The median net income from all legal work for female attorneys in Florida is $70,000. For male attorneys it is $120,000. (2014 Florida Bar Economics and Law Office Management Survey)
- 36 percent of U.S. lawyers are women. In 1970, women made up only 3 percent of the profession. (ABA Market Research department, 2016)
- 48.7 percent of U.S. law students are women, compared with 47 percent in 2006 and 3 percent in 1947. (ABA, 2014-15 academic year)
- The median weekly earnings of female lawyers (full-time) in 2015 were 89.7 percent of those of male lawyers. In 2005, it was 77.5 percent. (Bureau of Labor Statistics)
- For more information on Diversity in the Legal Profession, go to http://www.floridabar.org/Diversity or to the ABA’s website on Women in the Profession. Prepared by The Florida Bar’s Public Information & Bar Services Department.