

# You've Come a Long Way, Baby

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“You’ve come a long way, baby.” That was the slogan of the 1970s ad campaign for Virginia Slims, a cigarette marketed only to women.

Women in the legal profession have come a long way too.

I pose the question that since we’ve come a long way, do we need to emphasize our differences as women in the profession instead of being part of a profession made up of women and men?

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## Demographic Changes

In 1960, women made up 3.5 percent of law students. Today, women comprise 56 percent of law school students. Nationwide, 82.91 percent of law schools have more female attendees than male attendees, according to a 2022 Florida Bar study.

I teach Litigation Skills at the University of Miami Law School, and in the past few years, often the eight-person class is seven women, one man.

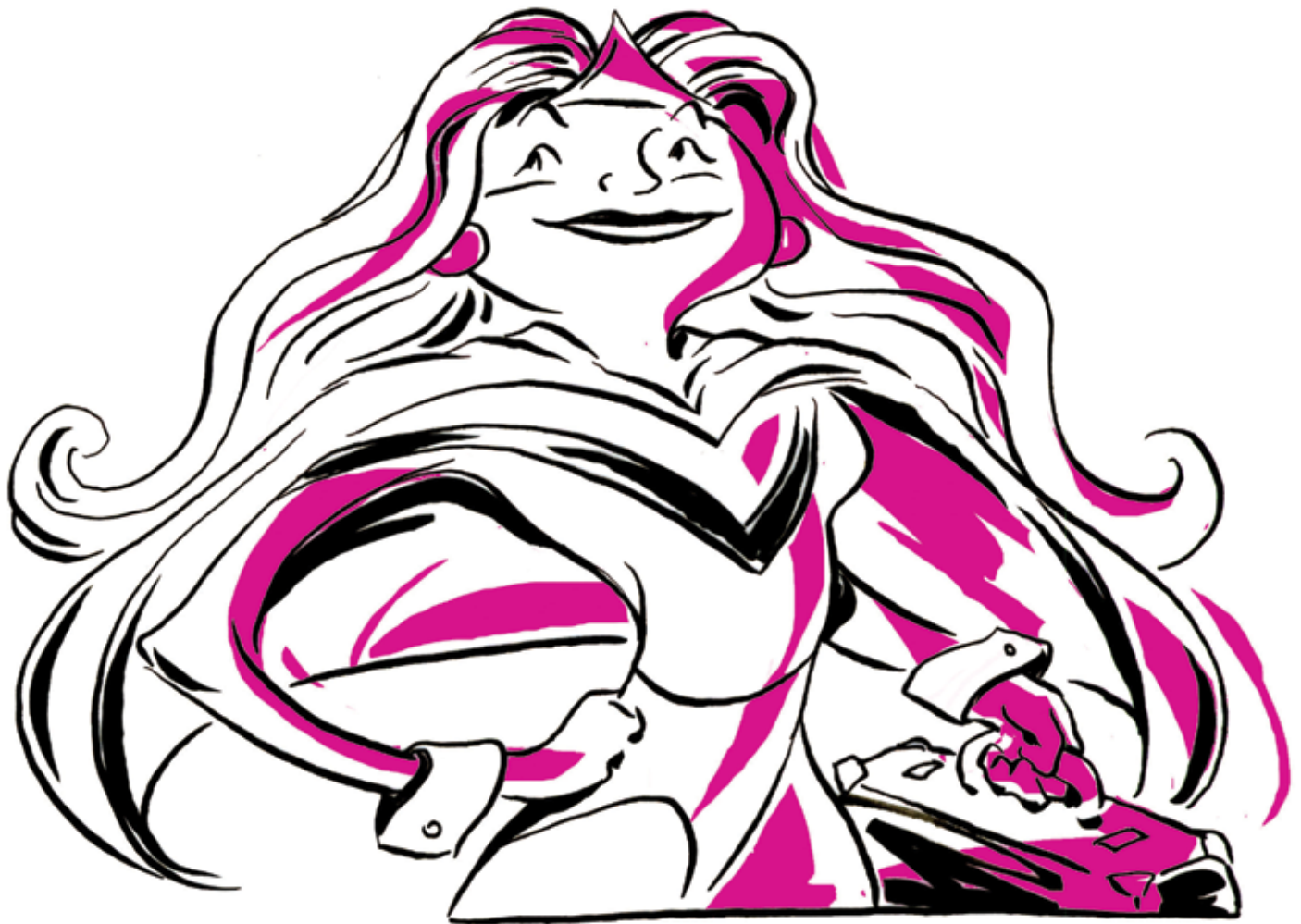
The fact that women comprise the majority of law students is no surprise, given that women graduate from college at a higher rate than men and there are more women in college now than men. It stands to reason that this greater number of female college graduates will create more women law students and eventually more women lawyers.

From 1950 to 1970, women made up less than 5 percent of lawyers. Today women are 38 percent of the profession.

The change in my lifetime has been remarkable—stunning, really. When I entered University of Florida College of Law in the early 1980s, there were approximately 100 people in my class, 27 of whom were women. I recall that there were about 17 of us women in the graduating class, and it seems to me that more women dropped out than men.

There was a time at University of Florida that women law students were referred to as “black widows,” and when a woman law student walked into class, men would shuffle their feet. Why? Because these upstart cheeky women took the place of a man in the class, presumably denying some women the honor of being married to a lawyer. I personally would rather be a lawyer than be married to one, although I did give the lawyer husband thing a try. Maybe the male law students thought women were not cut out for what they perceived as the rough-and-tumble practice of law, not suited to the delicate sensibilities of a woman. Or maybe it was the opposite of that—the men thought that the practice of law was a gentlemanly pursuit.

When I was studying for the bar in the summer of 1982, I read in the *Miami Herald* about the Orange Bowl Committee, one of the premier civic organizations in South Florida. The Orange



Bowl Committee hosts and produces one of the top four post-college football bowl games in the country. The members of the organization do wonderful things for the community throughout the year. As I read the article, I didn't realize that there were no women members. The first woman, Sister Jeanne Laughlin, was elected in 1985.

Fast-forward to 2000—my friend Susan Potter Norton, the first woman president of the Orange Bowl Committee and a prominent Miami labor and employment attorney, sponsored me for membership in the Orange Bowl Committee, and I got in—I was one of the people chosen to wear the orange jacket. Jump ahead again to 2012. I ran for Orange Bowl president, and I won—I was elected, not selected, by members of an organization that not so long before didn't have women as members. I didn't run as a woman and I wasn't elected as a woman, although I happen to be one. I think that the wonderful, mostly male members thought I would do a good job as president, and so many of them voted for me.

That trajectory of Orange Bowl Committee events tracks my legal career as well. When I started at a big firm in Miami, there weren't many females. I was assigned a "Big Sister" (no one used the term "mentor"). It was unclear just what Denise Brody's role

as my Big Sister was—it was undefined and somewhat odd since I was a couple of years older than her. Denise did show me the ropes and gave me guidance on any number of topics, legal and otherwise. We became the best of friends, and when we weren't toiling in the vineyards of Big Law, we drank copious amounts of gin and tonic and ate many pieces of Popeye's fried chicken. Her parents, Sybil and Lee, were welcoming and warm to me. Essentially, the firm had assigned me a friend, and our friendship endures to this day.

As an aside, and perhaps the topic of another article, it has been my observation and experience that assigned mentors, regardless of gender, are mostly listless relationships. Firms feel good about assigning a mentor, but unless you luck out like Denise and I did, assigned mentors and mentees usually have a few lunches on the firm and that's the extent of the relationship. As in any relationship, there has to be chemistry.

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## Gender and Career

My gender played a role in my getting the job at the U.S. Attorney's Office. Walking down the hot streets of Miami one day at lunch,

I ran into Peter Kostopoulos, a/k/a “Peter the K.” He mentioned to me that Stanley Marcus, the then U.S. attorney and now judge on the Eleventh Circuit Court of Appeals, was looking to hire a couple of “smart girls from big firms.” Those were the words of “Peter the K,” not Judge Marcus. No doubt what “Peter the K” was saying was the man then known as “Stanley,” a brilliant guy, wanted some diversity in the office, although like the word “mentor,” “diversity” wasn’t used much nor was it much of a concept or ideology. There were only a handful of women assistant United States attorneys (AUSAs).

I was hired with what I recall was ease (now it is almost impossible to get hired at the U.S. Attorney’s Office). The chief of the narcotics section, where I was assigned after a glorious stint in Major Crimes, apparently did not share Stanley Marcus’s view of having women in the office. He never assigned me cases, but I cared not a whit. There was so much work during the cocaine cowboy days that I built up my own clientele among the federal agents who knew me from Major Crimes. I had big cases and no need for whatever scraps the chief might have thrown my way. Federal agents were largely a fun bunch, hardworking and dedicated, and they didn’t care much about what gender an AUSA was; it was more important that you be able to crank out a search warrant and be able to try a case.

The other “smart girl” hired at the same time as me was Kathleen Williams, who became the federal public defender for the Southern District of Florida and now sits as a U.S. district court judge. We shared an office in the early days, and a fellow AUSA referred to us as the “Designer Section” since we both liked clothes.

The queen of all things stylish and one of the people I most admired and at some level wanted to be like was Lenore Nesbitt, the first woman on the federal bench in the Southern District of Florida. She wore blue robes and pearls and always had perfect makeup on. I loved that during a time when many females were sporting a “unisex” look so that they blended in, Judge Nesbitt was always feminine and looked like a million bucks. Even when I saw her on Sunday mornings at Publix supermarket (I made sure to have on a good shorts outfit and full makeup), she was perfectly coiffed and made up, always wearing a beautiful, full-length muumuu. In hindsight, she gave me permission, by the way she looked and acted, to be myself—someone who wants to look like a woman and to be a formidable litigator.

Under her feminine and stylish attire, she was an absolute killer, and she let me know that it’s OK to be a woman and be tough as nails. She once sentenced a narcotics trafficker to 40 years. He dropped to his knees in shock. She told him to “have a nice day” and then instructed the U.S. marshals to take the guy away.

The only discussion I recall having with her about gender involved shopping for food. While strolling through the aisles of Publix, she asked me why I did the grocery shopping and said

she thought my generation had moved past doing such pedestrian things. Her question surprised me, and my response was, “Who else would do it?”

As an aside, a wealthy Colombian client called me once when I was grocery shopping and asked where I was. I told him I was at the supermarket, and he said, “You are too important to be grocery shopping.” Apparently not too important then and not now. I love grocery shopping, and in no way does doing it take away from being a litigator.

I am constantly hearing, even now when there are many women on the state and federal bench, that there is gender bias in the courtroom. That has never been my experience. The judges of the Southern District of Florida could not have been kinder or more professional with me, even when I was a neophyte AUSA.

I will go one step further—I think it was an advantage to be a female AUSA. There were so few women in the courtroom in those days that jurors seemed fascinated with us. Did opposing counsel act like jerks at times? Absolutely, although it may have been as much because we were adversaries rather than because I was a female. Perhaps I view the past through the prism of rose-colored glasses, but the criminal bar then was relatively small, and it wasn’t a good idea for people to be unnecessarily quarrelsome, insulting, or sexist. You were going to see the same people with some frequency.

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## The Courtroom as Level Playing Field

To this day, I find the courtroom to be the most level of playing fields.

I recently tried a case in Los Angeles Superior Court. Opposing counsel were savage and ill-prepared to try a case. In the deposition period prior to trial, these lawyers were rude beyond words, so much so that I often thought of ending each of the depositions and asking for sanctions, but I soldiered on. It would not have served my client’s interest to make the case about the lawyers. I was not about to let them know how much they aggravated me. At the same time, I wondered how the spectacle was being viewed by the associates working on the case.

By now you have discerned that I do not ride the gender horse, but these lawyers, who no doubt considered themselves “evolved” California guys, were misogynist and filled with geographic prejudice. They assumed that because I am from Florida, I must mostly walk around barefoot with a piece of hay in my mouth and that I wrestle alligators as sport. The judge reigned over this circus with great skill and aplomb. I am happy to report that I won the case.

There have most certainly been times when I know I have been treated differently, indeed poorly, because I am a woman. It has been my experience that many of those weasels were not particularly good or successful lawyers and they attributed whatever success I have achieved to me being a woman, perhaps to

justify their lack of success. I also harbor a suspicion that some men think that it makes them less manly conquerors if they are doing something that women do equally as well.

However, what matters to me in the law firm context is that clients like what I do and respect and hire me as a lawyer. Their opinion matters. I have reflected on whether a client has ever hired me just because I am a woman, to fill out a team and make it look demographically correct. I don't think so. Perhaps I haven't been hired because I'm a woman, but I don't think that either. For the most part, I get hired because of my ability to solve a client's problems. If I don't get hired, it's because the client doesn't think I am the right fit for the client's issue.

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## Not every action, critique, or comment is due to gender bias. I have reminded myself of that very thing.

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I was a partner at an international law firm for many years. At the partner's annual meeting, usually held in an exotic locale, there was always a women partners' lunch. The segregation of women partners, no matter how well-intentioned, had a Saudi Arabia feel to it. (I once attended a lunch at the home of a Saudi Arabian prince. The women sat together at a separate table from the men.) I sat with the male partners at lunch.

Practicing law is a tough business, whether you are a woman or a man.

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### Focusing on Commonality

This brings me to the point of this piece. Yes, there is gender discrimination, but a lot less of it than there was 30 or 40 years ago. There are now more women law students and eventually more or at least roughly equal numbers of lawyers of each sex.

It seems to me that the time has come to stop focusing on gender and our differences and to focus more on our commonality, our craft, and our profession.

There was a time when women bar associations were an important force for equality and opportunity for women in the legal profession, in the same way that NOW, the National Organization of Women, was a great organization. (I loved my Kelly-green

NOW T-shirt and wore it frequently in grad school.) But when was the last time you heard of NOW? Maybe then, but not now.

Our collective eyebrows would be raised if there were all-male bar associations; indeed, there would be outrage.

An argument can be made that there are issues that are unique to women and that women-specific organizations offer support and a forum. The gender-specific organizations may also present an opportunity to network. But much of that support can happen informally without being an organization that appears to segregate by gender.

For whatever reason—maybe because I was a newspaper reporter before law school, and in those days, reporters were supposed to be neutral and fair—I did not have an affinity for organizations. I never joined any women's bar organization because I wanted to be judged as a lawyer, not as a woman lawyer.

Not every action, critique, or comment is due to gender bias. I have reminded myself of that very thing. If someone has a criticism of me, maybe it's not because I am a woman but because I did or did not do something and it warrants a comment or criticism.

Some of the issues raised by these organizations seem antiquated. A few years ago, I was asked to be on a panel by a women's bar organization, and I politely told them that I doubted very much they would want to hear what I have to say. But someone insisted, and I capitulated. The topic of the panel was "What to do when a man calls you 'honey'?" Seriously????

I remarked during the panel discussion that, most of the time, if someone calls me "honey" I think they are trying to be nice, and if I feel otherwise, I either ignore the person or find a way to poke back. We needed a panel on this?

When the inevitable complaining about bias in the courtroom began, I said I disagreed. There are now so many women lawyers in the courtroom and many women judges that I thought this was sort of a cliché and it was time to find other things to discuss.

When I received my "thank-you" note from the person who put me on the panel, I was thanked for my "interesting point of view."

I am part of a robust "good old girls" network. We refer each other business, and we lend a hand to one another both personally and professionally. But there is nothing formal about my gal pal organization. We have guy pals too.

Yes, there are fewer women equity partners than men, and there are fewer women judges than men, and women must grapple with family and children issues that don't affect men in the same way. But it seems as though organizations that separate us by gender are ultimately not good things for women lawyers. We are part of a glorious profession, and we are increasingly well-represented in the areas that matter.

I've come a long way, baby, and so have you. ■

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