

AMERICAN BAR ASSOCIATION

HOUSE OF DELEGATES

ADOPTED AUGUST 12-13, 2019

RESOLUTION

RESOLVED, That the American Bar Association urges federal, state, local, territorial, and tribal governments to enact legislation that:

1. Requires equal pay rates for employees of a different sex (which includes sexual orientation, gender identity, and gender expression), race or ethnicity and for employees with disabilities who perform substantially similar work, when viewed as a composite of skill, effort, and responsibility, and performed under similar working conditions;
2. Requires that a “bona fide factor other than sex” relied upon by an employer for pay disparities be job-related and consistent with business necessity;
3. Requires that any reasonable legitimate factor(s) relied upon by an employer for pay disparities account for the entire pay differential;
4. Requires employers to supply pay scales upon the request of an applicant;
5. Prohibits employers from seeking or relying upon an applicant’s salary history information;
6. Ensures the right of employees to discuss or inquire about their own or their co-workers’ wages;
7. Prohibits retaliation against employees who are claimants of, or witnesses to, an equal pay violation.

REPORT

The ABA has a long history of supporting protections against unequal pay and other forms of discrimination in the workplace.¹ This Resolution builds upon longstanding ABA precedent, and proposes that all jurisdictions follow the trend among states to take stated practical legislative steps necessary to achieve gender, disability, and racial pay equity.

I. Persistence of The Gender and Race-Based Wage Gap

In enacting the Equal Pay Act (EPA), Congress recognized in 1963 that unjustified wage differentials between men and women “depress[] wages and living standards for employees necessary for their health and efficiency.”² More than 55 years later, women continue to earn less than their male counterparts in virtually every industry and occupation in this country.³ The pay gap persists across industries,⁴ occupations,⁵ and education levels.⁶ Women’s median earnings are lower than men’s in almost all occupations, whether they are predominantly performed by women, by men, or have an even mix of men and women.⁷ For women of color, disparities in earnings are greater.⁸

¹ In 1965 the ABA adopted a policy of not discriminating against someone on the basis of race, color, creed or national origin. In 1988, the Association recognized that the persistence of overt and subtle barriers denies women the opportunity to achieve full integration and equal participation in the work, responsibilities and rewards of the legal profession. In 2007, the House of Delegates adopted a resolution urging Congress to amend Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(e), and federal age or disability employment discrimination laws to ensure that in claims involving compensation discrimination, the statute of limitations runs from each payment reflecting the claimed unlawful disparity. A 2010 Resolution urged enactment of federal legislation to enhance remedies and procedures to better protect people against pay discrimination. Most recently, in 2019, the ABA officially supported the Paycheck Fairness Act (as introduced in February 2019), *H.R. 7*, which would strengthen the federal Equal Pay Act consistent with many provisions in the current resolution.

² Equal Pay Act of 1963, Pub. L. No. 88-38, 77 Stat. 56 (1963) (“EPA”).

³ A woman employed full time, year-round in the United States is typically paid 80 cents for every dollar paid to a man. This amounts to a typical loss of \$10,086 per year for a working woman or \$403,440 over a 40-year career. See NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES, *AMERICA’S WOMEN AND THE WAGE GAP* (APRIL 2019), [HTTP://WWW.NATIONALPARTNERSHIP.ORG/OUR-WORK/RESOURCES/WORKPLACE/FAIR-PAY/AMERICAS-WOMEN-AND-THE-WAGE-GAP.PDF](http://www.nationalpartnership.org/our-work/resources/workplace/fair-pay/americas-women-and-the-wage-gap.pdf)

⁴ *AMERICA’S WOMEN AND THE WAGE GAP*, *supra* note 10, at 2 (citing U.S. Census Bureau Survey).

⁵ *Id.*

⁶ *Id.*; Francine D. Blau & Lawrence M. Kahn, *The Gender Wage Gap: Extent, Trends, and Explanations*, NBER Working Paper No. 2193, National Bureau for Economic Research (2016), <http://www.nber.org/papers/w21913> (last visited May 16, 2017).

⁷ IWPR, *THE GENDER WAGE GAP BY OCCUPATION 2016 AND BY RACE AND ETHNICITY 1* (2017), <https://iwpr.org/wp-content/uploads/2017/04/C456.pdf>.

⁸ Asian women overall are on average paid 87 cents for every dollar paid to white, non-Hispanic men, although some ethnic subgroups fare worse. National Women’s Law Center, *Equal Pay for Asian American and Pacific Islander Women* (March 2019), <https://nwlc.org/resources/equal-pay-for-asian-pacific-islander-women/>; black women are typically paid 63 cents, native women 58 cents and Latinas 54 cents to every dollar paid to white, non-Hispanic men. See NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES, *AMERICA’S WOMEN AND THE WAGE GAP* (APRIL 2019), [HTTP://WWW.NATIONALPARTNERSHIP.ORG/OUR-WORK/RESOURCES/WORKPLACE/FAIR-PAY/AMERICAS-WOMEN-AND-THE-WAGE-GAP.PDF](http://www.nationalpartnership.org/our-work/resources/workplace/fair-pay/americas-women-and-the-wage-gap.pdf)

115B

At the current rate, the gap between men and women's earnings will not close until 2106.⁹ Collectively, women nationwide will lose nearly \$900 billion to the wage gap in 2019.¹⁰ This lost income limits women's spending power¹¹ and their ability to support their families, who increasingly depend on women's wages.¹² Eliminating the gender wage gap would reduce the poverty rates of working women and their families by more than half.¹³ These income disparities (referred to as the *wage* gap) compound and widen over the course of a woman's lifetime, which impacts her Social Security and retirement, and contributes to the gender and racial *wealth* gap, which is even larger than the *wage* or *income* gap.¹⁴

The persistence of gender and race-based wage gaps affects women, families, and the overall economy and requires legislation that supplements existing law and addresses the factors that contribute to and perpetuate the pay gap.

II. Contributors to the Gender and Race-Based Pay Gap

Discrimination

Even when controlling for factors such as occupation, education, experience, and hours worked, 38 percent of the gender gap is left unexplained.¹⁵ Researchers attribute this unexplained portion to gender discrimination. Although research shows that the unexplained portion of the gender pay gap decreased dramatically in the 1980's, it has since remained at its 1989 level.¹⁶

Reliance on prior salary perpetuates wage discrimination

Research shows that women earn less than men starting just one year out of college,

⁹ See Kevin Miller & Deborah J. Vagins, The Simple Truth about the Gender Pay Gap, AMERICAN ASSOCIATION OF UNIVERSITY WOMEN (Fall 2018), at 5 <https://www.aauw.org/research/the-simple-truth-about-the-gender-pay-gap/>.

¹⁰ See NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES, AMERICA'S WOMEN AND THE WAGE GAP (APRIL 2019), [HTTP://WWW.NATIONALPARTNERSHIP.ORG/OUR-WORK/RESOURCES/WORKPLACE/FAIR-PAY/AMERICAS-WOMEN-AND-THE-WAGE-GAP.PDF](http://www.nationalpartnership.org/our-work/resources/workplace/fair-pay/americas-women-and-the-wage-gap.pdf)

¹¹ See NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES, AMERICA'S WOMEN AND THE WAGE GAP (APRIL 2019), [HTTP://WWW.NATIONALPARTNERSHIP.ORG/OUR-WORK/RESOURCES/WORKPLACE/FAIR-PAY/AMERICAS-WOMEN-AND-THE-WAGE-GAP.PDF](http://www.nationalpartnership.org/our-work/resources/workplace/fair-pay/americas-women-and-the-wage-gap.pdf)

¹² Today, more than 42 percent of mothers with children under the age of 18 are their families' primary or sole breadwinners. See CENTER FOR AMERICAN PROGRESS, BREADWINNING MOTHERS ARE INCREASINGLY THE U.S. NORM (DEC. 2016), <https://goo.gl/B7iKd6>.

¹³ IWPR, THE ECONOMIC IMPACT OF EQUAL PAY BY STATE 1 (2017), <https://goo.gl/u3wQcN>.

¹⁴ Heather McCulloch, CLOSING THE WOMEN'S WEALTH GAP: What It Is, Why It Matters, and What Can Be Done About It (2017), <https://womenswealthgap.org/wp-content/uploads/2017/06/Closing-the-Womens-Wealth-Gap-Report-Jan2017.pdf>

¹⁵ See NATIONAL PARTNERSHIP FOR WOMEN & FAMILIES, AMERICA'S WOMEN AND THE WAGE GAP 1 (2017), <https://goo.gl/SLEcd8>.

¹⁶ ECONOMIC POLICY INSTITUTE, WHAT IS THE GENDER PAY GAP AND IS IT REAL? (2016), <https://www.epi.org/publication/what-is-the-gender-pay-gap-and-is-it-real/>.

even when controlling for factors such as college major, occupation, and hours worked.¹⁷ The same holds true for female graduates of business school, who start at lower salaries than men with MBAs despite having “similar career paths, performance and education.”¹⁸

Women who start with lower salaries continue to earn less than their male counterparts when employers set pay based on prior salaries.¹⁹ This is especially true for women who begin their careers in lower-paid, female-dominated occupations.²⁰ The U.S. Equal Employment Opportunities Commission (EEOC) therefore advises employers to avoid basing salary decisions on prior salary²¹ and recognizes that such a practice would perpetuate “inequality in compensation among genders.”²² Similarly, The Society for Human Resource Management (SHRM), the industry’s professional arm, advocates that “salary history should not be a factor in setting compensation. Compensation decisions should be based on the value of the position to the organization, competition in the market and other bona fide business factors.”²³

In recognition of the fact that employer inquiry into and reliance on prior salary perpetuates and compounds the wage gap, a growing number of states and localities have enacted legislation prohibiting employers from asking about or relying on applicants’ prior salary.²⁴ Many companies have announced the voluntary elimination of this practice, including Amazon, American Express, Bank of America, Cisco Systems, Facebook, Google, GoDaddy, Progressive, Starbucks, Wells Fargo, Salesforce and The Gap.²⁵ Research confirms that the wage gap is smaller in states where employers cannot inquire about salary history than in states where the practice is permissible.²⁶ For these reasons,

¹⁷ CHRISTIANNE CORBETT & CATHERINE HILL, GRADUATING TO A PAY GAP: THE EARNINGS OF WOMEN AND MEN ONE YEAR AFTER COLLEGE GRADUATION 2 (2012), <https://goo.gl/tijC4x>.

¹⁸ See Taylor H. Cox & Celia V. Harquail, *Career Paths and Career Success in the Early Career Stages of Male and Female MBAs*, 39 J. VOCATIONAL BEHAV. 54, 71 (1991).

¹⁹ Researchers have also found that, when requested in salary negotiations, the prior salary of a prospective employee often acts as an “anchor” on which new salary offers are based, thereby perpetuating, and exacerbating, the gender wage gap. See e.g., Todd J. Thorsteinson, *Initiating Salary Discussions With an Extreme Request: Anchoring Effects on Initial Salary Offers*, 41 J. APPLIED SOC. PSYCHOL. 1774, 1779-81 (2011); Hannah Riley Bowles, et al., *Social Incentives for Gender Differences in the Propensity to Initiate Negotiations: Sometimes it Does Hurt to Ask*, 103 ORG. BEHAV. & HUM. DECISION PROCESSES 84, 85 (2006).

²⁰ See NATIONAL WOMEN’S LAW CENTER, ASKING FOR SALARY HISTORY PERPETUATES PAY DISCRIMINATION FROM JOB TO JOB (2018), <https://nwlc-ci49tixgw5lbab.stackpathdns.com/wp-content/uploads/2018/12/Asking-for-Salary-History-Perpetuates-Discrimination.pdf>.

²¹ U.S. Equal Employment Opportunity Comm’n (EEOC), *Tips for Small Businesses*, <https://goo.gl/D1cgzO> (last visited May 18, 2017).

²² EEOC, Compliance Manual, *supra* note 5.

²³ Society for Human Resource Management, *Compensation Equity: Public Policy Issue Statement* (April 2018), https://www.shrm.org/hr-today/public-policy/hr-public-policy-issues/Documents/018CompPrincipleStatement.Final.04.10.18.pdf?_ga=2.117171662.976594671.1523285247-2009563368.1521131016

²⁴ See *infra*.

²⁵ See NATIONAL WOMEN’S LAW CENTER, ASKING FOR SALARY HISTORY PERPETUATES PAY DISCRIMINATION FROM JOB TO JOB (2018), <https://nwlc-ci49tixgw5lbab.stackpathdns.com/wp-content/uploads/2018/12/Asking-for-Salary-History-Perpetuates-Discrimination.pdf>.

²⁶ See Moshe Barach, *How Do Employers Use Compensation History?: Evidence From a Field Experiment* (2017), <http://john-joseph-horton.com/papers/WageHistory.pdf>; THE CENTURY FOUNDATION,

115B

legislative prohibitions on employer inquiry into and/or reliance on a prospective employee's wage history (unless it is voluntarily provided) are important. It is equally important to require employers to make available the salary ranges for a given position so that prospective and/or current employees are aware of this information in negotiating pay.

Pay Secrecy and Lack Of Transparency

According to the Institute for Women's Policy Research, approximately half of workers nationwide are prohibited or strongly discouraged from disclosing their wages to other employees.²⁷ When employees are unable to discuss their wages with their counterparts, it is difficult to determine if they are making less than their colleagues. Research shows that in states where pay secrecy is banned, the wages of both men and women are higher than those of their counterparts in states where pay secrecy is not banned.²⁸ Pay transparency also correlates with increased productivity of workers.²⁹

III. Emerging Efforts to Advance Pay Equity

Equal Pay Legislation in the States

California has set an example of legislation to more effectively combat the gender and race-based wage gap. In 2016, the state enacted SB 358, the California Fair Pay Act, which amended the California Equal Pay Act in several ways, including: requiring equal pay for employees performing "substantially similar" work; eliminating the "same establishment" requirement; narrowing the catch-all "bona fide factor other than sex" to ensure disparities in pay are justified by a business necessity that is related to the job; requiring employers to show that the factor(s) relied upon as a defense account for the entire pay differential; and prohibiting retaliation or discrimination against employees who disclose, discuss, or inquire about their own or co-workers' wages. In 2018, California enacted AB 168, which prohibits employers from inquiring about an applicant's prior salary and requires employers to provide the pay range for a given position upon reasonable request. In 2019, the state enacted AB 2282, which prohibits an employer from relying on prior salary at all to justify a wage differential under the CA Equal Pay Act.

Other states have also taken steps to pass or strengthen equal pay laws. To date, 19 states, including the District of Columbia, prohibit employers from retaliating against

STATES ARE THE NEW PROVING GROUND FOR EQUAL PAY POLICIES (2018), <https://tcf.org/content/commentary/states-new-proving-ground-equal-pay-policies/?session=1>.

²⁷ See IWPR, PAY SECRECY AND WAGE DISCRIMINATION (2014), [https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/Q016%20\(1\).pdf](https://iwpr.org/wp-content/uploads/wpallimport/files/iwpr-export/publications/Q016%20(1).pdf).

²⁸ Marlene Kim, *Pay Secrecy and the Gender Wage Gap in the United States*, INDUSTRIAL RELATIONS: A JOURNAL OF ECONOMY AND SOCIETY 54, 4 (2015), https://women.ca.gov/wp-content/uploads/sites/96/2017/12/pay_secrecy_IR_march_1_2015.pdf.

²⁹ See THE ATLANTIC, THE UNEXPECTED BENEFIT OF TELLING PEOPLE WHAT THEIR COWORKERS MAKE (2014), <https://www.theatlantic.com/business/archive/2014/04/the-unexpected-benefit-of-telling-people-what-their-coworkers-make/360301/>.

employees who discuss or disclose their wages.³⁰ Eight states prohibit the use of salary history when hiring and 22 states use the comparable work or substantially similar standard in their equal pay legislation.³¹ In 2018 alone, 10 states had passed at least four new equal pay laws and 38 states had considered new equal pay legislation.³² Yet, many states lack adequate equal pay policies and policy reforms are needed to combat the wage gap.³³

Pending Federal Legislation: The Paycheck Fairness Act (H.R. 7)

In recognition of the need to take a more comprehensive approach to advancing equal pay, on March 27, 2019, the U.S. House of Representatives passed the Paycheck Fairness Act, with the support of the ABA (See, Robert M. Carlson, ABA Support for H.R. 7, The Paycheck Fairness Act, (Feb. 12, 2019), available at <https://www.americanbar.org/content/dam/aba/uncategorized/GAO/PFA%20House%20hearing%2011%20Feb%202019.pdf?logActivity=true>). Among other things, that bill:

- prohibits retaliation against workers for discussing or disclosing wages.
- prohibits employers from relying on salary history in determining future pay, so that prior pay discrimination does not follow workers from job to job.
- ensures that pay disparities are justified by job related business necessity
- provides women with the same remedies for sex based pay discrimination as those available to victims of discrimination based on race and ethnicity.

This resolution is in keeping with the best trend in the law, and current ABA policy.

IV. Conclusion

The ABA has long recognized that gender-based and race-based wage gaps take a toll on women, families and the overall economy; that the wage gap persists, compounding the harm to women, particularly women of color, and their families; and that there should be more effective protections and remedies to eliminate pay discrimination.

This resolution supports the practical steps implemented by many jurisdictions, and passed by the House of Representatives, to actually narrow that gap. Truly requiring equal pay for equal work, limiting disparity justifications to jobrelated factors which support the gap, eliminating reliance upon past salary, and requiring employer pay transparency can help turn policy into reality.

³⁰ See AAUW, AAUW POLICY GUIDE TO EQUAL PAY IN THE STATES (2018), <https://www.aauw.org/resource/state-equal-pay-laws/>.

³¹ *Id.*

³² See THE CENTURY FOUNDATION, STATES ARE THE NEW PROVING GROUND FOR EQUAL PAY POLICIES (2018), <https://tcf.org/content/commentary/states-new-proving-ground-equal-pay-policies/?session=1>.

³³ See AAUW, AAUW POLICY GUIDE TO EQUAL PAY IN THE STATES (2018), <https://www.aauw.org/resource/state-equal-pay-laws/>.

115B

Respectfully submitted,

Wilson A. Schooley,
Chair, Section of Civil Rights and Social Justice
August 2019

GENERAL INFORMATION FORM

Submitting Entity: ABA Section of Civil Rights and Social Justice

Submitted By: Wilson A. Schooley, Chair, Section of Civil Rights and Social Justice

1. Summary of Resolution(s). This resolution urges the enactment of legislation that would provide greater protections to those subjected to pay discrimination on the basis of sex, race and ethnicity in order to overcome the obstacles that exist to achieving equal pay, which contribute to sex and race-based wage gaps.

2. Approval by Submitting Entity. Approved by the Section of Civil Rights and Social Justice on April 12, 2019.

The Commission on Women in the Profession approved support of this policy on May 28, 2019.

3. Has this or a similar resolution been submitted to the House or Board previously? A resolution related to equal pay was submitted to the House of Delegates in February 2010, urging enactment of federal legislation to enhance remedies and procedures under the federal Equal Pay Act to better protect people against pay discrimination. This current proposed resolution expands upon the 2010 resolution

4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption? The ABA has a long history of supporting policies that enforce stronger protection against discrimination. In 1965 the ABA adopted a policy of not discriminating against someone on the basis of race, color, creed or national origin. In 1988, the Association recognized that the persistence of overt and subtle barriers denies women the opportunity to achieve full integration and equal participation in the work, responsibilities and rewards of the legal profession. In 2007, the House of Delegates adopted a resolution urging Congress to amend Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(e), and federal age or disability employment discrimination laws to ensure that in claims involving discrimination in compensation, the statute of limitations runs from each payment reflecting the claimed unlawful disparity. Based on existing ABA Policy, in 2019, the ABA officially supported the Paycheck Fairness Act (as introduced in February 2019), which would strengthen the federal Equal Pay Act, which prohibits pay discrimination on the basis of sex. This Resolution is in line with, and builds upon, prior ABA policy, helping the ABA continue to support reforms necessary to achieve gender and racial pay equity (Dennis J. Drasco, Report and Resolution #104B: Federal Shield Law for Journalists, Am. Bar Assoc. (August 8–9, 2005), https://www.americanbar.org/content/dam/aba/directories/policy/2005_am_104b.authcheckdam.pdf).

5. If this is a late report, what urgency exists which requires action at this meeting of the House? N/A

115B

6. Status of Legislation. States nationwide have passed legislation to strengthen their equal protection laws. California was one of the first states do so in 2015 when they passed the Fair Pay Act (SB 358) which amended the California Equal Pay Act, requiring equal pay for employees performing “substantially similar” work; eliminating the “same establishment” requirement; narrowing the catch-all “bona fide factor other than sex” to ensure disparities in pay are justified by a business necessity that is related to the job; requiring employers show that the factor(s) relied upon as a defense account for the entire pay differential; and prohibiting retaliation or discrimination against employees who disclose, discuss, or inquire about their own or co-workers’ wage. Then in 2018, California enacted AB 168, which prohibits employers from inquiring about or relying on an applicant’s prior salary and requires employers to provide the pay range for a given position upon reasonable request. In 2019, the state enacted AB 2282, which prohibits an employer from relying on prior salary at all to justify a wage differential under the CA Equal Pay Act. In addition to California, 19 other states and the District of Columbia, have passed legislation to create greater protections against pay discrimination.³⁴ At the federal level, on March 27, 2019, the U.S. House of Representatives passed the Paycheck Fairness Act,³⁵ which contains many of the provisions reflected in this current Resolution (<https://www.congress.gov/bill/116th-congress/house-bill/7/text?q=%7B%22search%22%3A%5B%22hr+7%22%5D%7D&r=1&s=2>).

7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates. Passing this resolution will allow the ABA to support more federal and state initiatives to be more comprehensive in pursuing greater protections against pay discrimination on the basis of sex, race and ethnicity.

8. Cost to the Association. (Both direct and indirect costs) Adoption of this proposed resolution would result in only minor indirect costs associated with staff time devoted to the policy subject matter as part of the staff members’ overall substantive responsibilities.

9. Disclosure of Interest. (If applicable) None.

10. Referrals.

- Section of Labor and Employment Law
- Coalition on Racial and Ethnic Justice
- Commission on Sexual Orientation and Gender Identity
- Commission on Women in the Profession
- Section of State and Local Government Law
- Commission on Domestic & Sexual Violence

³⁴ See AAUW, AAUW POLICY GUIDE TO EQUAL PAY IN THE STATES (2018), <https://www.aauw.org/resource/state-equal-pay-laws/>.

³⁵ The Paycheck Fairness Act (H.R. 7).

- Center for Human Rights
- Government and Public Sector Lawyers Division
- Law Student Division
- Coalition on Racial and Ethnic Justice
- Commission on Racial and Ethnic Diversity in the Profession
- Commission on Hispanic Legal Rights and Responsibilities
- Senior Lawyers Division
- Young Lawyers Division
- Commission on Disability Rights

11. Contact Name and Address Information. (Prior to the meeting. Please include name, address, telephone number and e-mail address)

Jessica Stender, Co-Chair, Rights of Women Committee
Equal Rights Advocates
1170 Market Street, Suite 700
San Francisco, CA 94102
Tel.: (415) 575-2394
E-mail: jstender@equalrights.org

Pamelya Herndon, Co-Chair, Rights of Women Committee
South West Women's Law Center
1410 Coal Avenue SW
Albuquerque, NM 87104
Tel.: (505) 385- 4518
E-mail: PamelyaHerndon@gmail.com

Erica Smock, Vice Chair, Rights of Women Committee
Center For Reproductive Rights
199 Water Street, FI 22
New York, NY 10038
Tel.: (646) 872-5904
E-mail: els13@columbia.edu

Mark I. Schickman, CRSJ Section Delegate
Freeland Cooper & Foreman LLP
150 Spear Street, Suite 1800
San Francisco, CA
Tel.: (415) 541-0200
E-mail: schickman@freelandlaw.com

Paula Shapiro, Acting Section Director
Section of Civil Rights and Social Justice
Tel.: (202) 662-1029
E-mail: Paula.Shapiro@americanbar.org

115B

12. Contact Name and Address Information. (Who will present the Resolution with Report to the House? Please include best contact information to use when on-site at the meeting. *Be aware that this information will be available to anyone who views the House of Delegates agenda online.*)

Estelle H. Rogers, CRSJ Section Delegate
111 Marigold Lane
Forestville, CA 95436-9321
Tel.: (202) 337-3332
E-mail: 1estellerogers@gmail.com

Mark I. Schickman, CRSJ Section Delegate
Freeland Cooper & Foreman LLP
150 Spear Street, Suite 1800
San Francisco, CA
Tel.: (415) 541-0200
E-mail: schickman@freelandlaw.com

EXECUTIVE SUMMARY1. Summary of the Resolution

The Resolution urges Congress, the states, and territories to enact legislation that would provide stronger remedies and protections against pay discrimination on the basis of sex (including gender, gender identity, and gender expression), race and ethnicity to help overcome the persistent barriers that continue to impede the achievement of pay equity.

2. Summary of the Issue that the Resolution Addresses

Despite the fact that the federal Equal Pay Act (and many state equal pay laws) have been on the books for over 50 years, pay discrimination and the overall gender wage gap continue to persist, taking a tremendous toll on women, families, and communities as a whole. For women of color, who experience intersecting forms of discrimination, the pay gap is even worse. The lost income from the *pay gap* means that women and people of color are less able to build assets, which contributes to the equally dismal gender and racial *wealth gap* and higher rates of poverty. It is therefore critical that legislation be passed, and existing laws strengthened, to better address the many contributors to the gender and race wage gaps that continue to persist.

3. Please Explain How the Proposed Policy Position Will Address the Issue

As set forth in the companion report, the proposed policy urges enactment of laws which provides important protections that go beyond existing federal and, in many cases, state equal pay laws.

4. Summary of Minority Views or Opposition Internal and/or External to the ABA Which Have Been Identified

None identified.