A few weeks ago, I went to the Superior Court in Martinez to argue a summary judgment motion. As I checked in with the clerk and sat down to wait for the judge to call us to order, I noticed something. Aside from the clerk and the court reporter, I was the only woman in the room.

Now, it is no surprise that the law, and particularly personal injury litigation, is a male-dominated field. But what was surprising was that, though I graduated from law school just over five years ago in a class where the numbers of women and men were nearly equal, there were literally no other women among that group of about 25 attorneys actually arguing motions or appearing for case management conferences.

Like others that grew up a “millennial,” I had come to believe that I (and my generation in general) could do anything, regardless of gender or any other factor. It had seemed for a long time that conversations about “feminism” and equal rights for men and women had become stale. In fact, recently, several female public figures, some of whom I greatly admire, have made comments in the media wholly denying that they are feminists, suggesting that maybe there was no longer a need for the movement.

This experience made me wonder – have things really changed? Should we still be having the conversation about the struggles that women attorneys face? Or have those battles already been fought and won?

The statistics

To answer this question, I wanted to look first at the cold, hard facts.

Over the past several decades, the number of women entering the legal profession has gone up exponentially. For example, between 1970 and 1980, women went from making up just 4% of the total pool of American lawyers to making up 12.4%, representing a huge gain in such a short amount of time. By 2002, women attorneys made up 40.3% of attorneys in large law firms, though there is generally a higher proportion of female and minority attorneys at large national law firms than other firms.

However, from 2009 to 2012, the number of female associates across the country actually decreased. This year, nearly half of all J.D.s in 2014 were awarded to women. While 44.8% of associates are women, female attorneys as a whole make up only 34% of the practicing legal profession. In state courts across the nation, 27% of the judges are women, and 1/3 of the United States Supreme Court Justices are female. However, even after all of these gains, only 17% of equity partners nationally are women. And the pay gap still exists – in 2013, women made only 78.9% of their male colleagues’ salaries.

Based on the numbers alone, it appears that things are improving for women in the legal field, but clearly, there are some gains yet to be made.

Real-life experiences

For the next phase of my investigation, I wanted to look at the real-life experiences of female attorneys, and judges, of varying levels of experience to get their perspectives on the issue. I asked them what challenges they had faced over their careers, whether they felt things had changed, and what advice they had for the next generation of women trial lawyers.

While there have been some changes over the course of their careers, other things have moved much more slowly. According to San Francisco employment attorney Kathleen “Kay” Lucas, who started her own employment law firm in 1984, “I think there are an awful lot of women-led smaller firms now. I think that it is widely accepted that women are as good as men at litigating, that women are as capable, and that the historic bias that somehow women are lacking in aggression has disappeared.” Lucas goes on to say that “the problem is that the way women litigators are described hasn’t changed. So you have very derogatory terms that are used to describe women litigators, whereas men are respected for their aggression. And you hear it with some frequency. So that part hasn’t changed and I think has gotten more explicit.”

“When I started out in 1979 it was rare to find female attorneys in many if not most firms, particularly in the area of personal
against female attorneys still exists, “not only among lawyers but society at large, and importantly among clients.”

One of the biggest challenges that female plaintiffs’ attorneys face, according to Ingrid Evans, who has been practicing for almost twenty years, is that of not being treated as an equal. According to Evans, who opened her own firm due in part due the discrimination she faced as a female litigator, “women have to work twice as hard to get recognition” in our field.

A lot of that comes down to facing challenges head on. “As females, we have to be more aware of skepticism and deal with it,” says Judge Sabraw.

When asked her thoughts on the low numbers of female senior partners and female-owned firms, as compared to the number of female law school graduates, Evans explained, “Some women drop out because of family, but the main reason is that women aren’t being promoted or reaching female partner status as much as they should.”

Fish feels that the disparity may have a different cause. “There are still a lot of relationships where the responsibility for dealing with kids and families often falls on the woman instead of the man. So a woman can go to law school and be a lawyer, but she might not be able to add on top of that the extra responsibilities of owning a law firm or being a senior partner.”

And while “[t]here are options today that you can use to be able to balance career and family, you need to know your long-term goals,” says Judge Sabraw. Job sharing, working decreased hours and other options are available now that can give women litigators a better work-life balance, but, she says, “some of those decisions may impact your career.”

Yanni agrees that subconscious bias against female attorneys still exists, “not only among lawyers but society at large, and importantly among clients.”

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The wide variety of comments I received also makes clear that a woman’s age, the time she set out on her journey as a lawyer, and other factors can color her perception of gender bias in the legal field and how that has changed over time. In general, after looking at the data and speaking with so many well respected female litigators at varying stages in their careers, it seems that overt bias against women in our field is decreasing (though not entirely a thing of the past).

So what should we do to deal with the subconscious bias against female litigators that still hangs around like the elephant in the room?

“We should have really strong women’s caucuses,” says Stebner. “Women need to band together more” to focus on “how to best move forward and eliminate bias. We need to have serious conversations amongst ourselves, and then have conversations with men who are willing to talk about it. It is just like homophobia – nobody wants to talk about it, and it doesn’t get addressed. Most middle aged and younger male lawyers do want to do the right thing, and I think they just need to be educated.” According to Stebner, “with sexism, the only way we are going to make a change is to point things out in a non-confrontational way. It has to be this very organic thing to bring up things that bother [women] and explain why in a non-confrontational way. Women should do that, over and over again, with people that they trust. That’s the only way to make a difference – it is a super slow process.”

“Women lawyers need to be supported by their male and female partners to show clients that they are just as talented as their male colleagues,” agrees Yanni. “As the saying goes, Ginger Rogers did everything Fred Astaire did, except backwards and in high heels.”

Several of the women I interviewed agreed that it is important for more experienced attorneys to take an active role in advancing the next generation of female plaintiffs’ lawyers. “More experienced attorneys – women and men – should be inclusive and promote younger women in order to afford them career opportunities,” says Yanni.

The Next Generation of Female Litigators

So what should the next generation of female plaintiffs’ attorneys (myself included) do to make it in what can seem at times like an old-boys’ club?

“Be mentored by someone who is ethical, well-regarded and very capable,” says Lucas, who also urges younger attorneys to “join an organization that is in your field and just see who you connect with and ask them if they would mind if you called them when you had issues. And then call them.”

“Being involved with your local TLA is really important, because this job is all about who you know. If you are at a firm, ask your boss for more opportunities and push yourself. Keep telling your boss that you want to do more and prove that you can do it,” says Stebner. “You need to take chances, and chances are scary, for both men and women.”

According to Judge Sabraw, “When I went into practice in 1979, everyone was talking about there being too many lawyers — similar to today. Someone gave me some very valuable advice: There is always room for good lawyers. Even when the attorney population seems over-crowded, you can stand out. Find your niche … If you have the passion for the practice of law, you will very likely be successful at it. If that comes through, people will seek you out.”

Evans’ advice on the subject is simple — “Try cases!”

While it may be tough for female plaintiffs’ lawyers just starting out to even think about getting to the point where we will have opportunities to try cases on our own, after speaking with this group of inspiring women, I, for one, am up for the challenge, and am motivated to stick with it, stay the course and keep doing what I love. Now who’s with me?

If you are interested in continuing this discussion and working to make change, there are several things you can do. Join CAOC’s Women’s Caucus, and start thinking about these issues and bring them up (when relevant) in conversation with your colleagues, your superiors and your associates. There is no time like the present to effect change, and even small steps toward awareness of these issues can make a big difference.

5 Id. Women were awarded 47.3% of J.D.s in 2014.
7 Id.
8 Id.
9 Id.