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The panel was asked to consider 2 issues.

The first question is “What on-going perceived or real barriers exist which prevent some members of our profession from participating fully or which limit access to some members in respect to available professional opportunities?” The second question is “What actions, programs or policies could be utilized to address barriers which prevent diverse members of our profession from participating fully or limit access to professional opportunities?”

I think it is appropriate that this panel discussion follows after our Membership Report as the CBA and OBA have the potential to attract significant numbers of our profession who are not currently members; those being members of equity seeking groups. The panel members will be providing their recommendations as to how that can happen. I hope members of Council will participate in that discussion fully with their thoughts and proposals.

The issue of barriers to professional opportunities which diverse members of the law profession face is not new to the CBA or the OBA. Many of you are aware of the August 1993 CBA Report entitled “Touchstones for Change: Equality, Diversity and Accountability.” That Report was authored by the CBA Task Force on Gender Equality in the Legal Profession chaired by the late Hon. Bertha Wilson and which also included Judge Corrine Sparks, Daphne Dumont, Judge Sophie Bourque, among others. The Report clearly documented that women in the profession faced barriers to entry, and barriers after entry, into law and promoted a commitment to:

- (a) accepting gender equality as a “fundamental legal norm”;
- (b) seeing the issue as a matter of “ethics and justice”;
- (c) recognizing enlightened self-interest; and
- (d) focus on the public interest.

The Report made clear that it is in the interests of our profession and the public that the legal profession become more inclusive as women are a valuable asset to the practice of law.

Almost all of the recommendations from the Touchstone Report were adopted by Resolution of the CBA in 1995 and were the basis for the CBA establishing the Standing Committee on Equality which is now called the Standing Committee on Equity, which I had the opportunity to chair for 2 years. In February 1999, the CBA’s Working Group on Racial Equality in the Legal Profession authored a report entitled “The Challenges of Racial Equality: Putting Principles into Practice. As many of you know, Professor Joanne St. Lewis who teaches at the University of Ottawa, and until recently, was a Bencher at the Law Society, and Benjamin Trevino co-chaired this Task Force. The Task Force also included David Matas, Kadir Baksh and now Judge, Jean Whalen of Nova Scotia. Prof. St. Lewis also published a related report which included a dissent on some aspects of the main Report on some conceptual issues. However, the Report authors were consistent in recognizing that from entry into the profession through to practice and the judicial appointment process, there are barriers for racialized members of our profession. The Report concludes that systemic racism, sometimes known as institutional racism, exists within our legal institutions and organizations and in the legal profession, but also concluded that there

also exists intentional, direct discrimination and racial prejudice which cries out for redress as it denies many talented people the opportunity to contribute fully in our profession.

I suggest to you that the Report, although it was prepared in 1999, is true today. The Report makes a number of recommendations in respect to each stage of the legal profession from law school entry, to articling, to advancement in practice to judicial appointments and also discusses access to legal aid. It also includes a section, which I think is very important, on recommendations for the CBA to put as they call it “its own house in order” and this panel will be discussing, among other things, that issue today.

A number of the recommendations from the Racial Equality Report were adopted by the CBA by way of Resolution in 2000. So where have we gone from there? These two seminal Reports, which I invite you to review, are available on the CBA Standing Committee on Equity’s website on the green link. They led to a project which is near and dear to my heart, which the CBA Standing Committee engaged in. It is the Equity and Diversity Guide for Law Firms and Legal Organizations. I think many of you will be familiar with this document which was published in August 2007 and also a project called “It’s About Respect,” a CBA video project that included videos on disability issues, racial issues and gender issues within the legal profession. Those videos are also available through the CBA. Both of those projects were aimed at assisting law firms to promote equity and diversity as core business requirements. The basis of the Equity Guide is that diversity means business and that in our rapidly changing demographic market and given the opportunities for globalization, law firms of the future must include the increased diversity which represents their employees and their consumer base. Terrie-Lynne will be speaking more about that later.

The Crystal Clear Report of the CBA, which all of you are familiar with, was published in 2006 and it outlines the strategic directions of the CBA. Strategic Direction No. 3 was “to promote diversity within the CBA”. That strategic direction was overwhelmingly found by our membership to be a “do now” goal. The CBA had taken all of the strategic directives and basically put to our membership, firstly, which strategies they thought were important and when in terms of timing and that was a “do now” goal. The CBA was to play a leadership role on the equity front in order to ensure that our Association reflected the changing demographics in the legal profession. We were to find out more about the barriers to members of our profession who are from equity seeking groups and act to remove them; open the CBA to all ideas and perspectives; and create a welcoming environment for these members to join our Association. Our own OBA Strategic Plan as you know embraces this and this Council endorsed those recommendations. The promotion of equity is included in the OBA’s Strategic Plan as well.

In furtherance of the OBA’s Strategic Plan and the OBA’s commitment, in September 2007 this Council endorsed the work of the OBA Equal Opportunity Community and the formalization of a pilot program which the OBA had commenced which involved a number of diverse legal organizations who are affiliated with the OBA. The Diversity Program, which is now a permanent program with this Association, is designed to encourage diversity among OBA governance and membership and to encourage the growth, development and independence of equity seeking legal organizations by providing its support for such organizations through the administrative assistance which the OBA provides, including the use of our space here for their

meetings and programs without charge; and the opportunity for the Chairs of these organizations to participate in the OBA by being members of this Council. A number of diverse organizations have, in fact, taken up that challenge and attend our Council meetings and participate in that manner.

The OBA Equal Opportunity Committee and the Diversity Program participants have engaged in a number of projects. In January 2008, the Canadian Association of Black Lawyers, which is one of the program participants, of which I am on the Board, and the OBA held a joint session in this space which was called "Promoting Diversity in Legal Services." We invited a number of law firms, other legal organizations and members of government to attend and had a very interesting and exciting dialogue on recommendations to promote diversity in the provision of legal services. The Equal Opportunity Committee and these diversity program participants also held two town hall type meetings, one in 2008 and one recently in 2009, with the Judicial Advisory Committee. That was an endeavour in which we worked jointly with the JAC to encourage members of diverse groups within the legal profession to apply to the judiciary. Also, the OBA has co-sponsored CLE's organized by the Diversity Program participant organizations. Finally, in 2008, the OBA's Equal Opportunity Committee, with the active support and endorsement of the OBA Executive and as supported by some of our Diversity Program Participants, lobbied the Law Society of Upper Canada through letters and meeting to amend the Members Annual Report that we all complete to include the collection of self-identification demographic data on a voluntary basis so that we can finally obtain an accurate picture of how many members of our profession are from equity seeking groups; where they practice; track their disproportionate rates of attrition from our profession and provide support initiatives and assistance to address access to legal education and professional opportunities. I am happy to say that the Law Society published its Report to Convocation in May of this year approving the recommendation for the 2009 MAR Report, so that the next report that you will receive will ask these questions to be completed on a voluntary basis. It is extremely difficult for me to accept or understand why, up to this point in time, there is no organization in this province or in Canada that can tell us how many members of our profession come from these equity seeking groups. I find that extraordinary and I hope this is a significant step towards getting this type of information.

I truly hope that CBA proceeds with its commitment, which was called for in both the Touchstone Report and the Racial Equality Report, to include the same questions on a voluntary basis on its own membership forms so that we too can find out who our members are and how many come from equity seeking groups in order that we can address efforts to obtain and retain these members and so as to help members from these groups to advance and add to the tapestry of our organization and our governance. Those are my comments.