

COMMITTEE FOR EQUITY IN WOMEN'S SURFING

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Jennifer Lucchesi
Executive Officer
State Lands Commission
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The Mavericks Challenge: Stop Discriminating Against Women Athletes, It's Against the Law.

Dear Jennifer,

In Nov 2016, Paige Alms made history as the first Woman Big Wave Champion at the Pe'ahi Challenge and in Oct 2017 Alms successfully defended her title. The WSL paid Alms \$15,000 in prize money per event. Her counterpart in the men's division received \$25,000 per event. The female winner earned 40% less than the male winner at the past two Pe'ahi competitions.

This summer, the Puerto Escondido Cup first place winner, Bianca Valenti earned \$1,750 while her counterpart in the men's division took home \$7,000. We've done the math. Valenti earned 75% less than her male counterpart surfing the same wave.

The World Surf League (WSL) has a history of gender-based discrimination.

On June 26, 2018, the San Francisco Chronicle published an article on the Puerto Escondido Cup that included an interview with WSL Big Wave Tour Organizer Gary Linden and remarks by women competitors:

"This is the best event that's ever happened for women...Even better than the two events we had at Pe'ahi" Hawaii in 2016 and '17. The women really stepped it up. The surfing level was so good, we didn't have to change the criteria; we judged them equally as the men. The winner (Valenti) surfed well enough to have gotten through a men's heat. This is a huge step in the right direction."

—Gary Linden, WSL Big Wave Tour Organizer

"The risks are the same so why aren't the prizes the same? I think we deserve it."

—Emily Erickson, Professional Surfer

"All the athletes, male and female crushed it and put on a great show. It was rad! The entire town was stoked, the men, the women, the boys, the girls, everyone! We're all in this together. Women-up!"

—Bianca Valenti, Professional Surfer

“The chicks showed up and blowed up. So how about that equal pay?”

—Keala Kennelly, Professional Surfer

It’s difficult and sometimes impossible for women professional athletes to compete internationally without an opportunity to earn equal money. The lack of parity must be addressed.

Unfair business practices prevent women professional surfers from utilizing public resources and coastal access. **Please take action to prohibit gender-based discrimination.**

As a condition of the Lease Agreement please require the following from the WSL:

- Equal Prize Money for the Female Division and the Male Division. Female Competition Winner receives the exact same prize amount as the Male Competition Winner. No total purse formula applied.
- A Female Division comprised of 10 women athletes.
- Multiple Heats for the Female Division: including two semi-finals and a final.
- Equal Media Access for the Male Division and the Female Division. Including media access for Elizabeth Pepin Silva, Dayla Soul, Sachi Cunningham, Nico Sell, Sarah Makarewicz, Katie Zacarian, Kathleen Egan, Margaret Seelie, and Molly Lockwood.
- Equal Logistics for the Female Division and the Male Division (includes travel related expenses; airfare, hotel, etc).
- Equal Equipment for the Female Division and the Male Division.

Women athletes should have an opportunity to compete for equal prize money in a multi-heat women’s division. It will be good for women, for the Mavericks legacy, and it will ensure fair and equal access to coastal waters.

Please provide the oversight necessary to stop decades of gender-based discrimination.

Please read our attached paper on California civil rights law and see the attached photos that depict gender-based discrimination.

Thank you,

Paige Alms, Keala Kennelly, Andrea Moller & Bianca Valenti

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July 9, 2018

The World Surf League's Discrimination Against Women Athletes Violates Civil Rights Law

California's Unruh Civil Rights Act provides harsh penalties, including attorney's fees, for any California business that discriminates against individuals based on a broad list of protected categories including gender. California Civil Code Sections 51 through 52.1 provide broad protections and severe penalties for those businesses that discriminate in the accommodations, advantages, facilities, privileges, or services of the business establishment.

Below is a compendium of important California civil rights cases:

- The Department of Alcoholic Beverage Control properly determined to revoke the license of a business establishment licensed to sell liquor on public premises based on a finding that the licensee had engaged in a sexually discriminatory admittance policy. Apart from testimony of the licensee's own personnel which chronicled their conceded attempts to dissuade potential male customers, the testimony of the department investigators and the licensee's advertisements placed in a newspaper clearly constituted substantial evidence upon which to base a finding of a sexually discriminatory admittance policy. Such discrimination having been established, the department's authority to revoke the liquor license was clear. The apposite public policy is set forth in CC §51 (the Unruh Civil Rights Act), which provides that "all persons within the jurisdiction of this state are free and equal, and no matter what their sex ... are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever." *Easebe Enterprises, Inc. v. Alcoholic Bev. etc. Appeals Bd.* (Cal. App. 2d Dist. Apr. 18, 1983), 141 Cal. App. 3d 981.
- "Ladies Day" and "Ladies Night" discounts offered by various car wash facilities and nightclubs violate the provisions of the Unruh Civil Rights Act (CC §§51, 51.5). The Legislature established that arbitrary sex discrimination by business is per se injurious and that differential pricing based on sex may be generally detrimental to both men and women, because it reinforces harmful stereotypes. *Reese v. Wal-Mart Stores, Inc.* (Cal. App. 3d Dist. Aug. 3, 1999), 73 Cal. App. 4th 1225.
- Text of the Unruh Civil Rights Act, CC §51 et seq., does not support the assertion that, in order to recover under the Act, plaintiffs who are discriminated against when they present themselves at a business establishment and pay the price of admission also must demand equal treatment and be refused. It is not consistent with the policy of the Act, or with California case law, to read such a requirement into the language of the Act. *Angelucci v. Century Supper Club* (Cal. May 31, 2007), 41 Cal. 4th 160.

- By passing the Unruh Civil Rights Act (CC §§51, 52) the Legislature established that arbitrary sex discrimination by businesses is per se injurious: §51 provides that all patrons are entitled to equal treatment, and § 52 provides for minimum statutory damages of \$250 for every violation of §51, regardless of the plaintiff's actual damages. *Koire v. Metro Car Wash (Cal. Oct. 17, 1985), 40 Cal. 3d 24, 219.*
- The Unruh Civil Rights Act (CC §51, prohibiting arbitrary discrimination by business establishments) proscribed not only the direct discrimination against women by an international organization of local professional and businessmen's clubs but also discrimination by the organization against a local member club on account of its having admitted women to its membership. *Rotary Club of Duarte v. Board of Directors (Cal. App. 2d Dist. Mar. 17, 1986), 178 Cal. App. 3d 1035.*
- In an action by a woman who was in the business of procuring and selling scrap metal to scrap metal processing and distribution centers against the owners and operators of a scrap metal processing and distribution facility, in which plaintiff alleged defendants retaliated against her by denying her access to their property due to her previous gender discrimination lawsuit against them (which was settled), the trial court erred in sustaining defendants' general demurrer to her cause of action for violation of the Unruh Civil Rights Act (CC §§51 et seq.). The act is not restricted to persons who have been identified as members of a particular class; an individual has the right to be free from discrimination by business establishments. The act must be liberally construed with a view to effecting its object and to promote justice, and allowing defendants to discriminate against plaintiff because of her gender discrimination suit would be contrary to the primary purpose of the act, which is to compel recognition of the equality of all persons and the right to the particular service offered by an organization or entity covered by the act. Further, permitting defendants to discriminate against plaintiff in retaliation for exercising a statutory right would be contrary to public policy. *Vaughn v. Hugo Neu Proler International (Cal. App. 2d Dist. Sept. 25, 1990), 223 Cal. App. 3d 1612.*
- Defendants' motion to dismiss plaintiff student's claim under Civ C §§51, 51.5, and 52(a) was denied, in an action against the school district, superintendent, and principal for sex discrimination after plaintiff, a female junior high school student, was harassed by male students. Public schools are business establishments under the Unruh Act. Allegations of inadequate action on the part of a school district and its officials can rise to the level of intentional discrimination. *Nicole M. v. Martinez Unified Sch. Dist. (N.D. Cal. Apr. 14, 1997), 964 F. Supp. 1369.*
- In a case alleging sexual orientation discrimination in violation of the Unruh Civil Rights Act, physicians at a medical clinic who refused to perform an intra-uterine insemination for a lesbian patient could not assert affirmative defense based on the free exercise of religion and free speech. *North Coast Women's Care Medical Group, Inc. v. Superior Court (Cal. Aug. 18, 2008), 44 Cal. 4th 1145.*

Puerto Escondido Cup first place winner, Bianca Valenti earned \$1,750 while her counterpart in the men's division took home \$7,000.



Bianca Valenti earned 75% less than Lucas (Chumbo) Chianca.



Meet the 2018 Billabong Junior Series Ballito Pro Junior winners, Rio Waida (Indonesia) and Zoe Steyn (East London, SA) who claimed their victory on June 24, 2018 in medium sized onshore conditions at Willard Beach, Ballito.

Zoe Steyn earned 50% less than Rio Waida. The WSL paid the top male athlete double what they paid the top female athlete. This is gender-based discrimination.



SURFER | The WSL's Gender Prize Money Gap Sparks Controversy and Donations

The event organizers and sponsor, Billabong, were quick to realize the public relations issue they had on their hands-and they were equally quick to toss that hot potato squarely into the WSL's hands.

"Billabong has always been actively invested in and supportive of women's surfing in South Africa," wrote Chad D Arcy, event license holder of the Billabong Junior Series in a statement. "We've proudly watched women's surfing grow over the years, in part thanks to the host of women's events we've run. For many years, we've sponsored a team of female athletes, nurturing their careers in surfing from an early age....In order for any professional surf event to be internationally accredited, it has to be sanctioned by the WSL. The WSL also determines the allocation of prize money and points for each event."