

Corporate America's Glass Ceiling

Discrimination with Regard to Pay and Promotions

Affects An Entire Family

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Equal pay for women has been the law since 1963, but today, 42 years later, women in corporate America are still suffering from a huge gap in pay and promotions. This is true even though women are doing similar work and have similar education, skills, and experience as their male counterparts.

Title VII of the Civil Rights Act and the Equal Pay Act of 1963 are federal laws that are supposed to protect women from discrimination in the workplace. Title VII prohibits compensation discrimination on the basis of sex, and the Equal Pay Act requires that men and women be given equal pay for equal work in the same establishment. The jobs do not need to be identical between men and women, but they must be substantially equal in content including skill, effort, and responsibility to afford equal pay. The average American woman earns about 74 cents for every dollar that their male counterpart earns. Additionally, women compose about only 11% of corporate officers in the Fortune 500 companies in America.

Even though these laws have assisted women during the last few decades, the truth is that equal pay between the sexes is still a problem for all working women. Here are some surprising statistics:

- Women attorneys earn nearly \$375 per week less than male attorneys;
- Women doctors earn nearly \$680 per week less than male doctors;
- Women professors earn \$245 per week less than male professors; and
- Women school teachers earn \$86 per week less than male teachers.

Equal pay and discrimination in the workplace is not only a woman's issue; it is an issue for the entire family as well. Because women are getting paid less in the workplace for comparable work, they have less money to spend on their immediate family's needs, less money to save for their children's educational expenses, and less money to save for their own retirement. Studies show that America's working families lose a staggering \$200 billion of income because of the wage gap between men and women on an annual basis. This is an average loss of more than \$4,000 each year for each working family.

Women get paid less today because employers still discriminate in several ways. Jobs that are usually held by women pay less than jobs traditionally held by men, even though they require the same education, skills, and responsibilities. Additionally, women simply do not have equal job opportunities. Typically, a newly hired woman gets a lower paying assignment than a man starting at the same time with the same employer. That first job starts a career path and can lead to a lifetime of lower pay.

Other theories have been set forth as to why there is the continuing wage gap. Here are some of them:

1. **Secrecy in the Workplace:** Part of the problem is that the wage data is largely kept secret in America and employers frequently have policies that forbid their workers from discussing their salaries with one another; it is often taboo to discuss salary even amongst trusted coworkers. Women often do not know what a job truly pays and they frequently undervalue themselves when

negotiating a new salary.

2. **Suing an Employer is Not Easy:** In order to pursue a claim for sex discrimination, an employee needs to file a discrimination charge with a federal or state anti-discrimination agency. It is difficult to find an attorney who will take a case for sex discrimination because it is often difficult to prove. It can also wreak havoc on one's personal life, and retaliation amongst women in the workplace who file claims is common. Discrimination is almost never found in the form of a 'smoking gun,' but is more subtle in the workplace. Oftentimes women are not offered 'career shaping assignments' or spots on important committees, and the phrases 'old boys network' and 'glass ceiling' are still in use.

Even though the Equal Pay Act and Title VII are important laws, they are difficult to enforce, and legal cases are extremely difficult to prove and win. However, there have been a number of high-profile cases that have truly demonstrated that discrimination in the workplace against women is in fact taking place today in Corporate America.

- In Los Angeles County, the county had started a non-profit organization and provided a two-tier pay system, one for men and one for female attorneys. The female lawyers were paid 20% less than the county counsel male attorneys;
- Boeing Company, the second largest federal contractor, agreed to pay as much as \$72.5 million to settle a class-action lawsuit brought by its female employees for sex discrimination based on wages and advancement opportunities;

- Morgan Stanley recently agreed to a \$54 million settlement in a class action suit brought by female employees asserting that they were paid less than men and were not promoted as quickly as their male counterparts;
- Currently, there is a class action suit against Wal-Mart covering 500,000 women, which could become the largest sex discrimination case in U.S. history.

If a woman decides to sue for sex discrimination on the basis of unequal pay and promotions, and is successful, she can be entitled to following damages:

- **Back Pay:** This is the most common form of relief, which includes the wages, salary and fringe benefits that she would have received during the period of discrimination, from the date of termination or failure to promote to the day of trial. An employee does have the duty, however, to mitigate her damages by taking reasonable efforts to find comparable employment after termination.
- **Compensatory Damages:** This is an award for future loss, emotional distress, pain and suffering, inconvenience, mental anguish and loss of enjoyment in life;
- **Attorney's Fees:** The court can award attorney's fees to the prevailing or winning party;
- **Punitive Damages:** Punitive damages are limited to cases in which the employer's discrimination is intentional and is done with malice or reckless indifference to the individual's rights;
- **Injunctive Relief:** Common examples of injunctive relief include reinstating a terminated employee or an order to the

employer to prevent future discrimination.

3. Women are Often Staying Home Instead of Being Paid Less: Because women are earning lower wages than men, it is the woman who usually will stay home to raise the family. That means that they are out of the workforce for a number of years, which lowers their earning capacity when they attempt to return to work.

4. Current Laws are Not

Adequate: Current laws prohibiting wage discrimination need to be strengthened.

Today, there are two pieces of national legislation that have been winding their way through Congress, and supporters hope they will pass in the near future. The first is the Fair Pay Act, which would allow women to bring suit based on the concept of "equal pay for equal work." Employees within a single company could sue if they believe they are being paid less than someone

with an equivalent job and equivalent training.

The second proposed measure is the Paycheck Fairness Act, which provides for higher damages in these types of lawsuits and protects employees who share salary information. The Paycheck Fairness Act will also require the secretary of Labor to develop voluntary guidelines to enable employers to compare wages for different jobs and to determine if their pay scales are fair. Additionally, the act will create an annual award to be pre-

resented to a business that has made substantial efforts to eliminate disparities between men and women in the workplace. This additional legislation can make all the difference for working families struggling to make ends meet in their everyday lives.

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