

# Equal Pay: Empowering Women to Get Paid What They're Worth

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# The Early Fight for Equal Pay

- ▶ **1869:** A letter to the editor of the New York Times questioned why female government employees were not paid the same as the male employees.
- ▶ That year a resolution to ensure equal pay to federal employees passed the House of Representatives by almost 100 votes.
- ▶ But the victory was short-lived.
  - ▶ By the time the bill passed the Senate in 1870, it was watered down to only apply to new employees.
  - ▶ Enforcement of the law was virtually non-existent.

# The Early Fight for Equal Pay (Cont'd)

- ▶ **1883:** Communications across the country ground to a halt when the majority of the workers of the Western Union Telegraph Company went on strike.
- ▶ Among other demands, striking workers sought “equal pay for equal work” for male and female employees.
  
- ▶ **1891:** After a long and contentious battle with the state Board of Education, New York teachers were granted pay equal to that of their male counterparts.

# Early 20<sup>th</sup> Century

- ▶ During both World War I and World War II, the U.S. Employment Service began encouraging women to fill the jobs vacated by men who were called to service in Europe and the Pacific.
- ▶ During the war effort, equal pay was championed by both unions and male workers.
- ▶ The National War Labor Board decided women would be paid the same. “If it shall become necessary to employ women for jobs ordinarily performed by men, they must be allowed equal pay for equal work.”
- ▶ Although their support for equal pay was not entirely altruistic, as they were concerned that if women were paid less for the same work, it could dilute male workers’ wages after they returned from the war.

# Equal Pay becomes the Law of the Land

- ▶ **1947:** The Secretary of Labor introduced the Women's Equal Pay Act.
- ▶ **1963:** President John F. Kennedy signed the Equal Pay Act and made it illegal for employers to pay women less than men make for doing “substantially equal” work.
  - ▶ A combination of activism from the Department of Labor's Women's Bureau and the President's Commission on the Status of Women helped push the plight of women workers into the spotlight.

# Equal Pay Becomes the Law of the Land (Cont'd)

- ▶ **1964:** President Lyndon B. Johnson signed the Civil Rights Act of 1964, which includes the Title VII ban on discrimination in employment “because of” sex.
- ▶ This is the first time in U.S. history that public and private sector employers were prohibited from discriminating on the basis of sex.
- ▶ As a federal law, Title VII invalidated “protective” state laws that kept women in low-wage work by limiting the kinds of jobs women were allowed to hold (e.g. a Georgia law that barred women from jobs that required lifting 30 pounds or more.)

# Federal Laws Strengthen Equal Pay Protections

- ▶ **1978:** President Jimmy Carter signed the Pregnancy Discrimination Act which amended the Civil Rights Act to explicitly prohibit workplace discrimination on the basis of pregnancy, childbirth or related medical conditions, including discrimination in pay and benefits.
- ▶ **2009:** As the first piece of legislation of his administration, President Barack Obama signed the Lilly Ledbetter Fair Pay Act which established that each discriminatory paycheck resets the 180-day deadline to file a wage discrimination claim. Unfortunately, it was not made retroactive and did not help Ms. Ledbetter get the justice she deserved.

# Illinois Passes Equal Pay Legislation

- ▶ The Equal Pay Act of 2003:
  - ▶ Makes it unlawful to pay employees less on the basis of sex for performing the same or substantially similar work.
  - ▶ Makes it unlawful to pay African American employees less for performing the same or substantially similar work.
  - ▶ Makes it unlawful to discharge or otherwise discriminate against an individual for inquiring about, disclosing, comparing, or otherwise discussing their own or another employee's wages (exception for HR or management, without the employee's written consent).
  - ▶ Makes it unlawful to discharge or otherwise discriminate against any individual who aids or encourages another employee to exercise their rights under this Act.

# Illinois Passes Equal Pay Legislation (Cont'd.)

- ▶ On July 31, 2019, Governor J.B. Pritzker signs into law an amendment to the Equal Pay Act of 2003 which prohibits employers from inquiring into a job applicant's salary history or using this information to determine compensation.
- ▶ The law became effective on September 29, 2019.
- ▶ The law also broadens the types of jobs for which employers cannot pay less from “work on jobs the performance of which requires *equal* skill, effort or responsibility” to “jobs requiring *substantially similar* skill, effort or responsibility.”

# Sex Discrimination Cases Decided by the U.S. Supreme Court

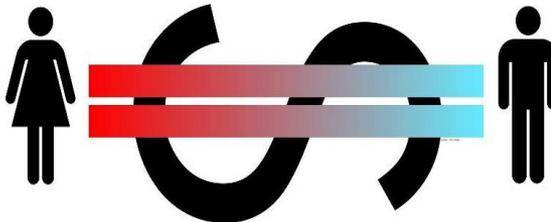
- ▶ *Reed v. Reed*, 404 U.S. 71 (1971), extended the Equal Protection Clause to invalidate disparate treatment of women. [Mom allowed to act as executor of deceased son's estate.]
- ▶ *Moritz v. Commissioner of the IRS*, 469 F.2d 466 (10<sup>th</sup> Cir. 1972), Cert. denied, 412 U.S. 906 (1973), is the case featured in the movie, "On the Basis of Sex" about Ruth Bader Ginsberg. [Enabled son to receive a tax deduction for taking care of his aging mother.]
- ▶ *Frontiero v. Richardson*, 411 U.S. 677 (1973), Landmark case which decided that benefits given by the U.S. Military to the family of service members cannot be given out differently because of sex.
- ▶ *Weinberger v. Wiesenfeld*, 420 U.S. 636 (1975). The Supreme Court unanimously held that the gender-based discrimination under the Social Security Act, which permitted widows, but not widowers, to collect special benefits while caring for minor children violated the right to equal protection secured by the Due Process Clause of the Fifth Amendment to the U.S. Constitution.

# Supreme Court Cases (Cont'd)

- ▶ *Craig v. Boren*, 429 U.S. 190 (1976), struck down different minimum drinking ages for men vs. women based on outdated stereotypes (18 vs. 21).
- ▶ *Duren v. Missouri*, 439 U.S. 357 (1979), decided the voluntary exemption of women from jury service which resulted in having less than 15% of women on juries violated the “right to be tried by a jury of your peers” requirement of the 6<sup>th</sup> Amendment.
- ▶ *U.S. v. Virginia*, 518 U.S. 515 (1996), struck down the long-standing male-only admission policy of the Virginia Military Institute (VMI) in a 7-1 decision. Clarence Thomas, whose son was attending VMI at the time, recused himself.
- ▶ *Ledbetter v. Goodyear*, 550 U.S. 618 (2007), found Ledbetter’s claim of discrimination under Title VII of the Civil Rights Act of 1964 was time-barred.

# *What you need to know about the wage gap.*

- ▶ Despite the Federal Equal Pay Act of 1963, the Illinois Equal Pay Act of 2003 and the Lilly Ledbetter Fair Pay Act of 2009, making it illegal to pay employees less for equal work on account of their gender, race, age or national origin, women continue to get paid less than men.
- ▶ In total, women get paid \$500 billion less per year. That is billion with a B.
- ▶ On average, women are paid 80 cents for every dollar earned by men.



# The Wage Gap (Cont'd.)

- ▶ The wage gap grows larger as women age. Women aged 20 to 24 years get paid 90% compared to their male peers; women aged 25 to 54 years earn 78-89%; and women aged 55 to 65 years only receive 78% or less.
- ▶ The gap is even larger for women of color: African American women are paid 61%; Native American women are paid 58%; Latinas are paid 53%.
- ▶ There is a wage gap for men, too. White men vs. men of color and other nationalities.



# The Wage Gap (Cont'd.)

- ▶ The wage gap makes it harder for women to pay student loans. Women hold 2/3 of \$1.4 trillion of student debt.
- ▶ And finally, the wage gap impacts Social Security - white men over 65 have annual income of \$44,200; white women \$23,100; black women \$21,900; Latinas \$14,800.
- ▶ Equal pay is good for business. Employees are happier and more productive, resulting in higher retention and lower absenteeism.



# *What I thought. . .*

- ▶ Up until 10 years ago I naively thought the wage gap was the result of men taking advantage of women, and women choosing to work in lower paying jobs and taking time off to raise their children.
- ▶ And unless we all raised all of our sons to be more enlightened, or our male bosses all had daughters who joined the work force and faced the same obstacles we did, I didn't think there was much hope of eliminating the wage gap.



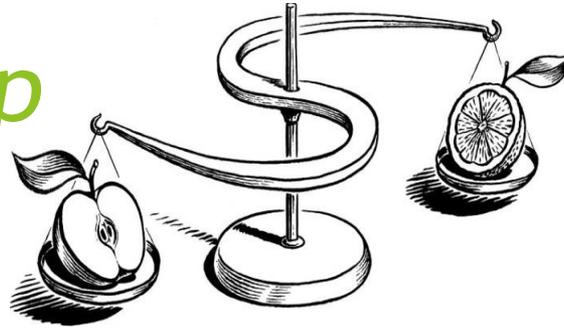
# My mentor.



- ▶ But 10 years ago, I met Evelyn Murphy.
  - ▶ Former Lieutenant Governor of Massachusetts and economist.
- ▶ Author of *Getting Even: Why Women Don't Get Paid Like Men.*
- ▶ She figured out that over a woman's lifetime, she loses \$10 Million due to the wage gap.
- ▶ And concluded that one of the primary causes of the wage gap is that WOMEN DON'T NEGOTIATE.



# How the Wage Gap Happens.



- ▶ Evelyn also explained how the wage gap happens.
- ▶ Two employees, one man and one woman, hired at the same time and offered the same salary.
- ▶ The woman says thank you and accepts the offer.
- ▶ The man negotiates. He gets paid \$5,000 more.
- ▶ A year later, both rock stars, each offered a 10% raise.
- ▶ Again, the woman is thrilled and says “thank you”.
- ▶ Man uses the review as an opportunity to negotiate for more. Comes in prepared to tell his supervisor all the things he has accomplished during the year and why he deserves more. And he will most likely get more.
- ▶ You can see, how year after year, the gap continues to grow.

# *My own failure to negotiate.*

- ▶ Looking back on my own career, I realized Evelyn was right.
- ▶ I never once asked for more during any of my job interviews.
- ▶ I even offered to give money back. One partners' meeting . . . I know, shocking.



# *My first hand experience as an employer.*



- ▶ I have witnessed first-hand the fact that women do not negotiate when I had the opportunity to hire associates for my law firm.
- ▶ More often than not, the male associates negotiate salaries and benefits. One male associate even asked if he would get a company car.
- ▶ Female associates don't negotiate. But, they do now.

# *The steps to negotiating salary and benefits.*



- ▶ Step 1: Find out what you are worth. Research websites like Salary.com. Reach out to others in your field.
- ▶ Step 2: Practice. With a partner, take turns being the applicant and the employer. The more you practice asking “is the salary negotiable” or “I appreciate the offer, but I am looking for a little bit more,” it will get easier. Be prepared to explain why you deserve more.
- ▶ Step 3: Negotiate benefits, too. Insurance, transportation costs, PTO, working remotely, 401(k)s, medical coverage, equipment like laptops, phones, stand up desks, and child care.
- ▶ Step 4: Use reviews as another opportunity to negotiate. Be prepared with a list of accomplishments and goals.

# *The Equal Pay Day Rally!*



- ▶ And, before I conclude, I'd like to talk about Equal Pay Day!
- ▶ Ten years ago, after being inspired by Evelyn Murphy, I got the idea to create a rally in downtown Chicago on Equal Pay Day.
- ▶ What is equal pay day? It is symbolic of the day in early April, which shows how far into the next year women need to work to come even with what men earned in the past calendar year based on women earning 80% of what men earn.
- ▶ There is also an African American Equal Pay Day in August and a Latina Equal Pay Day in November.



# *Our first Rally - 2011*



- ▶ Invited all of the women's organizations who recognize Equal Pay Day to come together to hold a rally in the Daley Center Plaza during the noon hour.
- ▶ Brought in inspirational speakers to bring greater awareness to the wage gap and offer advice on how we can eliminate it.
- ▶ Started with 12 supporting organizations including BPW, AAUW, LWV, Women Employed, the YWCA and several government agencies, including the EEOC, the IDOL, Cook County and the City of Chicago.
- ▶ Brought in Evelyn Murphy to be our first key note speaker.

# *Became an Annual Event*



- ▶ We have continued to hold rallies every year since then on Equal Pay Day.
- ▶ Our coalition of supporting organizations has grown to over 50. The only thing we ask from our supporting organizations is that they promote our event and encourage their members to come. We also have several generous sponsors who offer funding.
- ▶ And, over the years we've had amazing speakers including Governor Quinn, two different Lieutenant Governors, Congress woman Jan Schakowski, the CEOs of the YWCA, Women Employed and Latinas Mujeres en Accion. We've even had rappers, singers, and comedians from Second City.
- ▶ Last year, we held a panel presentation via Zoom to coincide with Latina Equal Pay Day on Thursday October 29, 2020.



# *Be empowered and empower other women.*

- ▶ Don't accept less than what you are worth.
- ▶ Be prepared to negotiate when you interview for a new job and during review time.
- ▶ Practice negotiating with others. It does get easier.
- ▶ Talk to other women about the wage gap and encourage them to negotiate.
- ▶ I am happy to stick around and answer questions.
- ▶ And I will leave you with one of my favorite quotes.

***Never doubt that a small group of thoughtful committed citizens can change the world. Indeed, it is the only thing that ever has.***

***~~ Margaret Mead***



## Bio...

Barbara L. Yong has been a practicing attorney for over 35 years. She is a partner at the downtown Chicago law firm of Golan|Christie|Taglia LLP where she practices in the areas of bankruptcy, business law and commercial litigation. She has tried cases in both state and federal court and argued before the Illinois Appellate Court, the Illinois Supreme Court and the 7<sup>th</sup> Circuit Court of Appeals.

Barbara has been named a Super Lawyer by Chicago Magazine and is a Leading Lawyer in the areas of bankruptcy and restructuring. Barbara graduated from Loyola University School of Law and received her undergraduate degree in Political Science from the University of Illinois at Urbana-Champaign, where she was elected Phi Beta Kappa.

Barbara is a powerful advocate for women's rights generally and for pay equity specifically. She is a frequent speaker on the Wage Gap and she single-handedly initiated the *Equal Pay Day Rally* held annually in Chicago. Barbara is a Past State President of the Illinois Federation of Business Women's Clubs, and an active member of several women's rights organizations including Zonta, the American Association of University Women, the League of Women Voters, Women Employed, the WAGE Project, the Exclusive Professional Women's Networking Group (EPWNG) and the Professional Women's Club of Chicago (PWCC).

She received the 2012 Person of Impact Award from the LaGrange Area League of Women Voters for her work on the Wage Gap.