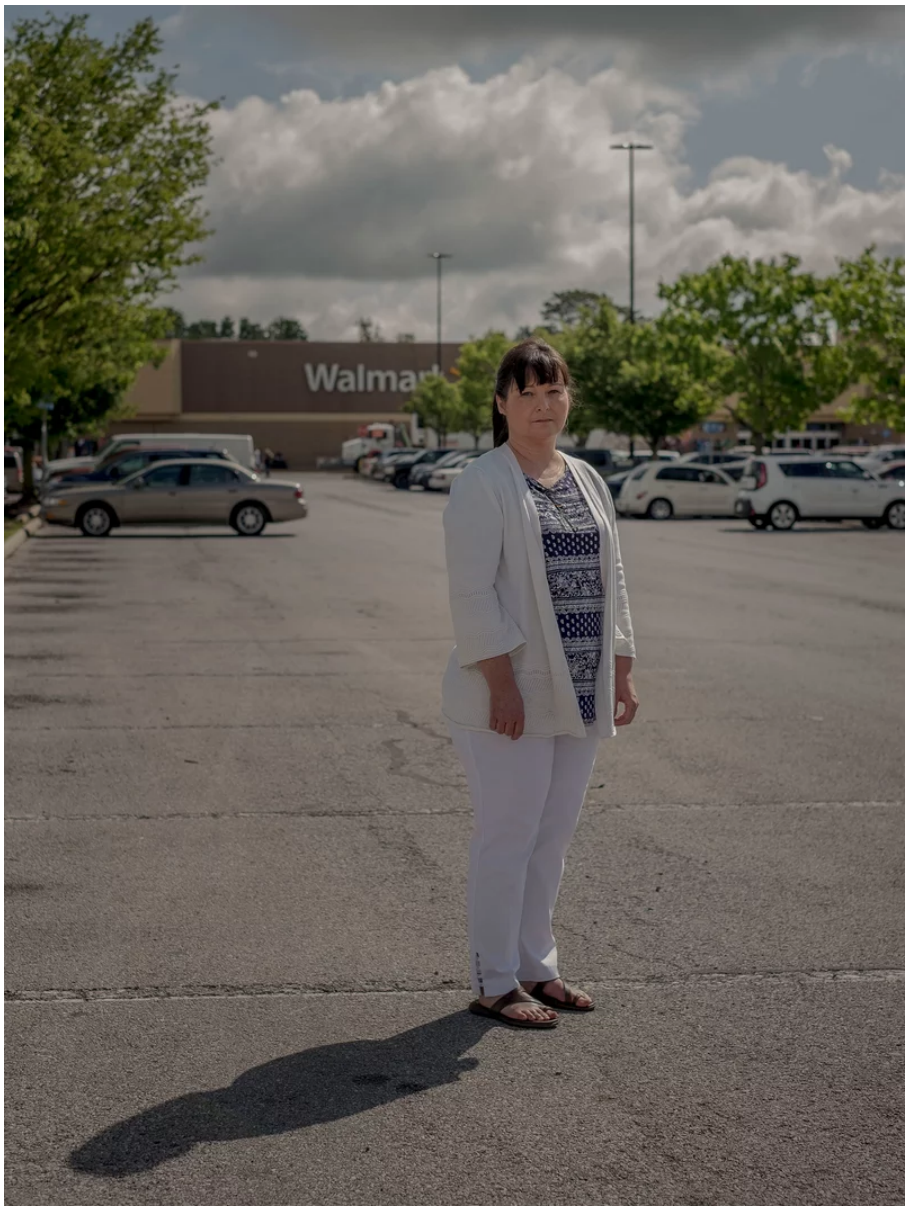
TIME

Nearly Two Decades Ago, Women Across the Country Sued Walmart for Discrimination. They're Not Done Fighting



In a lawsuit filed against Walmart this month, Stephanie Chapman alleges that she was paid less than men in similar positions Gabriella Demczuk for TIME

BY BRYCE COVERT MAY 9, 2019

From the time she got her job at Pace Membership Warehouse in Roseville, Calif., in 1993, Claudia Renati was determined to advance. Her husband had

been injured and couldn't work, and the housing market plummeted in the early '90s, hitting them hard. "I needed steady income to keep our house," she recalls.

When Sam's Club, a warehouse retailer owned by Walmart, bought Pace in 1993, Renati was optimistic. The orientation materials described how high-performing employees could take part in the manager-in-training (MIT) program, a prerequisite for shifting from hourly roles to salaried management. She dreamed of running her own store.

"I worked my butt off year after year with excellent reviews," she says. Renati kept asking for promotions. Instead, other people–"the white-boy frat," she says–were put in the positions she sought, and she had to train them. Many didn't have Renati's experience; one was a microbiologist.

At one point, Renati says, a district manager told her that to get into the MIT program, she would have to move to Alaska. She pointed out that she had trained plenty of men who had gotten promotions without uprooting to Alaska and that she was willing to move to other Sam's Clubs in their area to do her training. But this boss wouldn't budge.

Eventually she watched more than a dozen men get promoted over her. She developed depression, anxiety and high blood pressure, all of which she attributes to the stress of what she went through. "A part of you is torn out every time you applied and they never gave you a chance," she says. Each time, she'd come home and cry. "And then I'd get up the next day and go to work."

Renati is hardly the only woman who believes she's been mistreated by Walmart. Women across the country are lodging complaints against the company. From a former employee at a Kentucky store to a current one who has worked at four different locations in Virginia, the allegations are remarkably similar: the women earned less than men in similar roles, were told that the men needed the money to support their families, were less likely to be promoted, had to train the men who became their supervisors and had their

advancement restricted by policies that didn't seem to apply to their male co-workers.

Renati, who left Sam's Club in 2002, says she plans to file suit later this month in California accusing the retail giant of gender discrimination. When she does, she will join several hundred women in at least a dozen states who have filed complaints since the end of last year or will be doing so soon, according to Joseph M. Sellers, an attorney at the law firm Cohen Milstein who has worked on these cases since the 2000s and is coordinating among local counsels.

Walmart says it treats women fairly. "The allegations from these plaintiffs are more than 15 years old and are not representative of the positive experiences millions of women have had working at Walmart," company spokesperson Randy Hargrove wrote in an email. "We've said that if one of these plaintiffs believes they have been treated unfairly, they deserve to have their timely, individual claims heard in court."

That women might earn less than their male counterparts is unsurprising considering that American women still make 20% less than men, with the gap widening for women of color. But the discrepancies in retail are particularly bad: female salespeople made just 74% of what men did in 2017, and female supervisors made 72%, according to the U.S. Bureau of Labor Statistics.

As the world's largest private-sector employer, Walmart "is kind of a billboard for what employment practices should or shouldn't be," says Ariane Hegewisch, program director of employment and earnings at the Institute for Women's Policy Research. But while it matters that it's Walmart, "also what matters is really the in-your-face discrimination."

The current political landscape may also heighten interest. After the election of President Trump, the confirmation of Justice Brett Kavanaugh, the cascade of #MeToo accusations and other events that, for many women, highlighted the injustices they have faced for far too long, there's a widespread desire to fight back in the name of a more equitable society.

"If these women are successful in bringing their claims and having their rights vindicated, it's another thing that continues to push us forward at this time that feels in some ways so difficult," says Sarah Fleisch Fink, general counsel and director of workplace policy at the National Partnership for Women & Families.

Even if they aren't, they're likely to add "fuel to the fire," she says. "And I think it's a bigger deal because it's Walmart."

These claims against the world's largest retailer do indeed stretch back two decades. In 2001, a Walmart greeter in Pittsburg, Calif., named Betty Dukes filed a class action, calling the company "an industry leader not only in size, but also in its failure to advance its female employees." Renati was among the first women to join and submitted a declaration to the court detailing her claims.

In a motion for class certification filed in 2003, the plaintiffs' attorneys laid out a pattern of discrimination. "What is striking about their stories," they wrote, "is that, even though they worked in different stores, in different states, and in different departments, they experienced the same discriminatory policies and suffered the same adverse effects." They cited an analysis conducted on behalf of the plaintiffs finding that in 2001, women made up 67% of the company's hourly workers but only about 14% of store managers; their ranks thinned at every step up the company's hierarchy.

According to the motion, there was no official system for applying for promotions and open positions weren't posted anywhere; instead, people were promoted by getting tapped on the shoulder, allowing managers' preferences to outweigh experience. Managers likewise had broad discretion about pay, which meant women kept finding out that men in the same jobs were making more. Walmart also had a policy that employees had to be willing to relocate in order to train for a management role–a deal breaker for many women with families. And, the motion says, women were consistently placed in so-called "soft line" departments like cosmetics or clothing, while men oversaw "hard lines" like sporting goods, electronics and gardening, which were higher-

grossing and better positioned them to move up. A later analysis would find that similarly qualified men were three to four times as likely to be promoted as women and that women were paid less than men across stores, even when controlling for experience, performance and position.

Discriminating against female employees has been illegal since the 1960s, when the Equal Pay Act barred unequal pay for equal work and Title VII of the Civil Rights Act banned discrimination on the basis of race, color, religion, sex or national origin. Under these laws, women still have to file lawsuits and prove they've been mistreated. Former Goodyear employee Lilly Ledbetter, for example, didn't find out she was being underpaid until she had worked at a tire plant for almost 20 years. The Supreme Court ruled in 2007 that she had run out of time to file her lawsuit under Title VII. But the Lilly Ledbetter Fair Pay Act, signed by President Obama in 2009, gave women more time to file claims. Democrats in Congress have also repeatedly introduced the Paycheck Fairness Act, which they say would close loopholes in the Equal Pay Act and promote pay transparency but opponents argue would be a gift to trial lawyers.

In the Walmart case, the women claimed the company had violated their rights under Title VII. Lower courts certified the Dukes class, but in 2011 the Supreme Court ruled that the plaintiffs–as many as 1.5 million female employees–did not have enough in common to be considered a class.

"That was just a blow," Renati says. "It was just overwhelming sadness that nothing happened for me, that I didn't get my day in court ... It left an open wound that's never healed."

Originally the plan was to regroup the claims into regional classes. Then in 2018, the Supreme Court ruled in an unrelated case that after a class action is struck down, the subsequent lawsuits have to be brought individually, not as smaller classes, to be considered timely.

It was yet another setback but not one that would cause the women to abandon their complaints. After all, attorneys for the plaintiffs point out, the courts haven't ruled on the actual claims. So far, their hurdles have been procedural.

While they can no longer band together in a single lawsuit, the women believe there's still value in coordinating with one another. A united front delivers both moral support and more visibility to their ongoing battle with a behemoth that generates more than $500 billion in annual revenue.

"The cumulative nature of many cases being filed across the country at the same time can still be helpful in shedding a bigger light on what's happened at Walmart," says Fink, the general counsel for the National Partnership for Women & Families, which, like the Institute for Women's Policy Research, filed amicus briefs in the original case but is not involved in the current cases.

Some women have moved on. Others are determined to be a part of what they hope is the final wave of litigation. "I'll keep fighting," says Renati, "until I'm not here anymore."

In October, Lissa Medeiros will mark her 20-year anniversary as a Walmart employee. She started out on the overnight shift in Fredericksburg, Va. Then, several years in, a man from outside the company was hired onto her team. Although it was against company rules to discuss pay–another policy that women believe held them back–"he was kind of a cocky guy," she says, "bragging about what his pay rate was." It was $2 an hour more than hers.

She asked the assistant managers about it, but according to a charge of discrimination filed with the Equal Employment Opportunity Commission (EEOC), they would "just shake their heads and change the subject." She worried about pushing too much.

"When you have mouths to feed, when you have a roof over your head you have to pay for, you limit yourself on how much further you want to go," she says.

Like Renati, Medeiros recalls being repeatedly passed over for promotions and then having to train the men who got the jobs. "When there was an opportunity to make more money, I went for it," she says. And yet she never made it into management, despite performing many of the duties. "I was good enough to

show a male associate how to do the job, but I wasn't good enough to get promoted in that position."

This month, Medeiros filed a lawsuit in Virginia, claiming that the retailer discriminated against her and other women on the basis of their gender. One of her co-plaintiffs is Stephanie Chapman, who, according to the complaint, learned she was making $2,000 less than men who held similar positions. The lawsuit also states that when one of Chapman's co-workers asked for an explanation of her pay discrepancy, she was told that the men "have families to support." At the time, Chapman says, she was the breadwinner for her family of four. Choking up, she explains that they made ends meet only because of her ailing father's financial support. Like other women interviewed for this story, she describes a "good ol' boy" system. The men went to ballgames and drank together; she was never invited.

Chapman had loved working for Walmart at first but eventually left for another retailer. At her new company, Chapman's spirits quickly lifted. "It was like coming out of the clouds," she says. "You felt appreciated."

Walmart offered a steady paycheck to Paulette Owens, a single mother of four in Kentucky, who had been relying on commissions as a car salesperson. But one day over lunch, two fellow male managers volunteered what they were paid. According to a lawsuit she filed with two other former employees in April, the men's hourly wages were "significantly" higher. "They hadn't been there any longer than we had," she says. "They were doing the same job we were doing."

Owens too decided to go against policy and ask her store manager why the men were making more. "He said, 'Well, they're heads of their families,'" she recalls. When she responded that she was the provider for her family too, he walked away. She says that reaction "let me know right then and there that there was no conversation, there was no debate, there was nothing else to talk about." Her lower pay meant she and her family couldn't go out to eat, take vacations or afford a new car. "When I clocked in every day, I came in and I did

the best job that I could do," Owens says. "It's hard to go in [and] do your job when you feel like they don't know your worth."

It's been a long slog over the past 18 years. Betty Dukes died in 2017. Many of the original plaintiffs are now not just parents but grandparents. Yet the women involved in this round of litigation, like Medeiros, have no intention of backing down.

Walmart, says Medeiros, "has to change." She'll soon start her third decade at the company and insists that gender discrimination "totally continues to happen."

According to Hargrove, the Walmart spokesperson, the company has "had a strong policy against discrimination in place for many years and it continues to be a great place for women to work and advance." In 2004, the company instituted pay bands intended to take some subjective bias out of compensation. In 2005, it put in effect a system that would give new hires "credits" for previous work experience. But a 2018 motion for class certification states that women were still paid less; the changes "may have changed the mechanism through which it caused the pay disparity, but not the existence of the pay disparity," it says.

According to the company's latest report to the EEOC, women made up nearly 60% of its workforce in 2017 but 70% of its sales workers; on the other hand, they represented 43% of store management and less than a third of senior executives.

Walmart has made other changes in the intervening years. Hargrove says the company launched a Women's Resource Council 12 years ago for employee networking, as well as Walmart Academies in 2016 to provide training for workers who want to move up the ranks. Sixty percent of those trained have been women, he said. He also said that in the latest fiscal year women accounted for 57% of its U.S. hourly promotions and 43% of management promotions and that in 2016 the company began using a culture, diversity and inclusion scorecard that helps provide biannual reports to senior management.

"Our compensation plans and practices are designed to comply with all laws. Our salary and wage ranges are based on objective factors regardless of gender or race," he said. "We're continually reviewing these practices to make sure we as a company are living up to our commitment."

But the plaintiffs say women continue to be held back. "There are still holes in those policies, still holes in those structures," says Medeiros.

As the women move forward with their individual lawsuits, they're not just concerned about their own treatment, Medeiros explains. They also want to make sure that other women don't go through what they went through.

"I will be there at the finish line," she says. "I don't want to run halfway and decide, 'Nah, I'm too tired now.'"

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