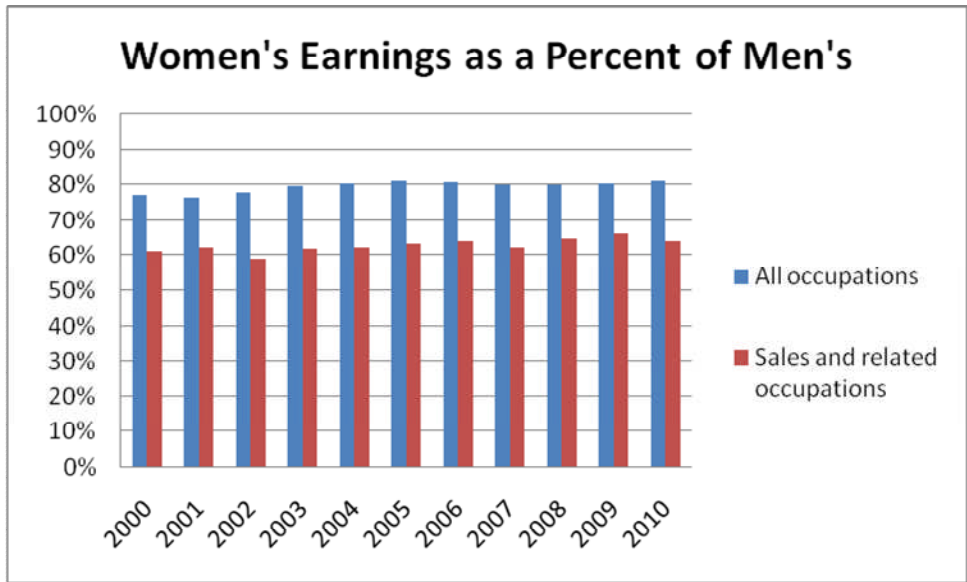


36 Cents Short - Wage Gap in Sales and Related Occupations Highest of Any Sector

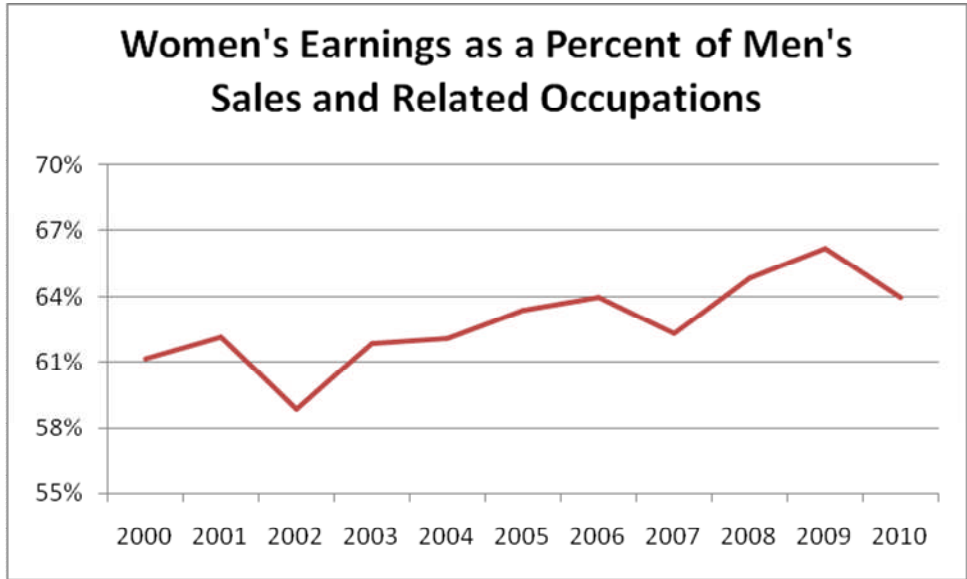
Women comprise roughly half (49.2 percent) of the 15.87 million workers employed in the retail sector.ⁱ And several detailed occupations within the retail trade industry have a majority of female workers, including drug stores, book stores, discount stores and department stores.ⁱⁱ In fact, cashiers and retail salespersons are listed as two of the top ten occupations in which women are concentrated, accounting for nearly 4 million women's jobs in 2009.ⁱⁱⁱ

Annual earnings data show that women working full time are paid 77 cents for each dollar paid to men.^{iv} But unfortunately for the 11.9 percent of women workers employed in the retail trade sector,^v the most recent Bureau of Labor Statistics data on weekly earnings from the fourth quarter of 2010 show that although women made up 44.0 percent of full-time workers in sales and related occupations, women earned far less than their male counterparts, particularly when compared to full time workers on the whole.^{vi}

- Full-time female workers in sales and related occupations are paid less than two-thirds – or 64.0 percent – of their male counterparts' median usual weekly wages. This gap in wages is the highest of any industry.^{vii}
- The last time women as a whole suffered from such a large gap was in 1981, when women in all sectors earned just 64.4 percent of men's earnings.^{viii} In other words, women in sales are approximately 30 years behind female workers on the whole in terms of the wage gap.
- This extreme gap in wages has been longstanding for sales and related occupations.^{ix} According to median usual weekly earnings since 2000, the wage gap for full-time sales and related workers has averaged 37.2 cents over the last 10 years (as compared to a 20.5 cent average gap over the same time period for full-time workers in all sectors).^x



Source: Bureau of Labor Statistics, Current Population Survey.



Source: Bureau of Labor Statistics, Current Population Survey.

Addressing the Wage Gap for Retail Workers – What’s at Stake in Dukes v. Wal-Mart.

Because the 36 percent wage gap in the retail sector is the highest in any industry, ensuring protections against wage discrimination are especially important for retail workers. The evidence the plaintiffs have assembled in the *Dukes v. Wal-Mart* case—which the trial and appellate courts found squarely supported class certification^{xi}—sheds further light on how discrimination affects female retail employees. In 2001, a group of women who worked at Wal-Mart stores brought a lawsuit against the mega-retailer, challenging alleged corporate-wide policies and practices of discrimination in pay and promotion. In allowing the women to proceed as a class, the courts relied on the uniformity of policies, training and culture across Wal-Mart that fostered discrimination. They also considered a statistical analysis of Wal-Mart’s own payroll and other data that that showed that women employed

in Wal-Mart stores were paid less than male employees in comparable positions, received fewer promotions to management positions than men, and had to wait longer to be promoted than their male counterparts. The courts further considered evidence of specific examples that Wal-Mart managers justified paying women less than men based on stereotypes about women in the workplace.^{xii} For example, some male managers expressed the view that men need to be paid more because they have families to support.^{xiii}

Ten years later, the case has made its way to the Supreme Court, where the stakes could not be higher. Wal-Mart is asking the Court to decertify the class of current and former female employees who have joined together to bring claims of company-wide discrimination in pay and promotions. That is, Wal-Mart argues that as the nation's largest private employer, the class of female employees is too large to bring their claims of discrimination together. But there is no size exception to the federal civil rights laws, and relief for the hundreds of thousands of female employees at Wal-Mart will not be achieved piecemeal. Class actions, in contrast to individual lawsuits, have much greater power to change corporate culture, address the root causes of workplace discrimination, and provide a company-wide solution to a company-wide problem.

In these tough economic times, closing the gender wage gap is an important means of providing much needed economic support for women and their families. If the Supreme Court rules against Wal-Mart's female employees, siding with powerful corporate interests over ordinary women, the decision will significantly diminish the ability of workers in retail and other industries to challenge pay discrimination.

ⁱ U.S. Dep't of Labor, "Women in the Labor Force: A Databook," December 2010, Table 14, at 43-49, available at <http://www.bls.gov/cps/wlf-databook2010.htm>.

ⁱⁱ Ibid.

ⁱⁱⁱ U.S. Dep't of Labor, "20 Leading Occupations of Employed Women, 2009 Annual Averages," available at <http://www.dol.gov/wb/factsheets/20lead2009.htm>.

^{iv} NWLC calculations from U.S. Census Bureau, Annual Social and Economic Supplement, Table PINC-05: Work Experience in 2009-People 15 Years Old and Over by Total Money Earnings in 2009, Age, Race, Hispanic Origin, and Sex, available at <http://www.census.gov/hhes/www/cpstables/032010/perinc/toc.htm> (last visited Jan. 19, 2011).

^v U.S. Dep't of Labor, "Women in the Labor Force: A Databook," December 2010, Table 13, at 41, available at <http://www.bls.gov/cps/wlf-databook2010.htm>.

^{vi} NWLC calculations from U.S. Dep't of Labor, Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey, "Table 1: Median usual weekly earnings of full-time wage and salary workers by sex, quarterly averages, seasonally adjusted," and "Table 4: Median usual weekly earnings of full-time wage and salary workers by occupation and sex, quarterly averages, not seasonally adjusted," available at <http://www.bls.gov/cps/cpswktabs.htm> (last visited Jan. 20, 2011).

^{vii} Id. Based on annual averages of quarterly median usual weekly earnings data.

^{viii} Id. Based on annual averages of quarterly median usual weekly earnings data.

^{ix} NWLC calculations from U.S. Dep't of Labor, Bureau of Labor Statistics, Labor Force Statistics from the Current Population Survey, "Table 1: Median usual weekly earnings of full-time wage and salary workers by sex, quarterly averages, seasonally adjusted," and "Table 4: Median usual weekly earnings of full-time wage and salary workers by occupation and sex, quarterly averages, not seasonally adjusted," available at <http://www.bls.gov/cps/cpswktabs.htm> (last visited Jan. 20, 2011).

^x Ibid.

^{xi} Dukes v. Wal-Mart Stores, Inc., 603 F.3d 571 (9th Cir. 2010) (en banc); Dukes v. Wal-Mart Stores, Inc., 222 F.R.D. 137 (N.D. Cal. 2004).

^{xii} Dukes, 603 F.3d at 600; Dukes, 222 F.R.D. at 166.

^{xiii} Dukes, 22 F.R.D. at 166.