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# Examining Pay Differentials in the Legal Field

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## Examining Pay Differentials in the Legal Field

Barbara Donn, Christine Cahill & Meghan Hennessy Mihal\*

### INTRODUCTION & OVERVIEW

Evidence of statistically significant earnings discrimination for lawyers based on gender is not surprising, due to the fact that many studies have recently shown that wage discrimination based on gender has not demised.<sup>1</sup> Vigorous debates have continued recently even in popular culture, such as the conversations by Sheryl Sandberg, Facebook's COO, who incited a new conversation on feminism in the workplace with her book, *Lean In: Women, Work and the Will to Lead*.<sup>2</sup> This reinvigoration of the women's movement was welcomed by us, as we wish to assist in keeping the movement alive for the foreseeable future. Though the topic of gender pay discrimination is ever present today, measuring the gender pay gap often proves difficult to calculate. It is generally suggested that the wage gap is due to a variety of causes, such as differences in the types of positions held by men and women, differences in work experience, differences in the pay of jobs men typically go into as opposed to women, and breaks in employment, often due to childbearing

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1. LAUREN STILLER RIKLEEN, ABA, CLOSING THE GAP: A ROADMAP FOR ACHIEVING GENDER PAY EQUITY IN LAW FIRM PARTNER COMPENSATION 9–11 (2013).

2. SHERYL SANDBERG, *LEAN IN: WOMEN, WORK, AND THE WILL TO LEAD* (2013).

and rearing.<sup>3</sup> Many researchers also show that the differences between the choices men and women make are actually a result of discrimination or social pressures, with women being discouraged from high paying fields, and men being discouraged from making choices such as prioritizing job satisfaction over pay.<sup>4</sup> Unfortunately, despite years of efforts and the recent movement, gender discrimination does exist and greatly impacts women's compensation, as well as opportunities for advancement in the legal field.<sup>5</sup>

Compensation is based on the employee's performance and is a significant driving force for the effort that he or she puts forth in his or her job. However, the reality is that earnings are not equally distributed. Ever present today, wages often rely on race and gender. For male professionals, compensation largely reflects experience, education, and merit-based performance. As a whole, women face not only traditional discriminatory obstacles implemented through historical stereotypes that are bound by the notional roles men and women are expected to play, but also a gender based salary differential. Despite the level of education or professional success, when compared to their male counterparts, women do not receive equal compensation for their professional efforts.

Gary S. Becker established the economic theory focusing on human capital explaining that workers who have a high productivity level in combination with an accumulation of human capital should receive a higher wage in return.<sup>6</sup> Many studies have indicated that these are not the lone determinants for wages; rather, wages depend on demographics of the worker as well, including gender and race.<sup>7</sup> These details have the ability to create institutional and social barriers to entry and upward mobility for many groups in society; here we examine those barriers for women.

It is the purpose of this research to examine salary discrimination in the legal profession. We examine the influence of gender on the individual's salary. We are able to show with statistical significance that pay differences exist on the basis of gender towards compensation, and have become more statistically significant as women progress in their careers.

Part I of this Article provides a summary of literature on salary discrimination in the legal profession, as well as the accounting profession, the medical profession, and high-level administrators in higher education, and different methodologies used to detect said discrimination. In Part II, we discuss the data that we used. In Part III, we explain our methodology, summarize descriptive statistics, and use traditional Ordinary Least Squares (OLS) regressions to examine the effects of the various

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3. See, e.g., GHAZALA AZMAT & ROSA FERRER, CTR. FOR ECON. PERFORMANCE, GENDER GAPS IN PERFORMANCE: EVIDENCE FROM YOUNG LAWYERS 2 (2012).

4. See, e.g., *id.* at 21–22; RIKLEEN, *supra* note 1, at 18–20.

5. RIKLEEN, *supra* note 1, at 9–11.

6. GARY S. BECKER, THE ECONOMICS OF DISCRIMINATION (2d ed. 1971).

7. RIKLEEN, *supra* note 1, at 3.

independent factors we employ. We finally conclude the analysis and explains how we wish to continue and expand our research.

## I. LITERATURE REVIEW

Discrimination in employment is a topic that has been examined many times by economists and others. It is usually measured by wage and is based on the worker's skin color, ethnicity, or religion, amongst other variables.<sup>8</sup> There has been much legislation passed demanding equality, regardless of any demographic differences.<sup>9</sup> Despite these regulations—even as women make significant strides in fields from law to business—society is not even close to achieving gender equality: a gender gap exists with respect to compensation while the pace of promotion to higher levels in the legal profession remains low for women.

Gender discrimination has been studied by a wide variety of researchers in various professions. Researchers have looked at differences in hiring, compensation, promotion rates, performance evaluations, task assignments, and job satisfaction. Many professional fields have been studied, such as medicine, accounting, science, engineering, academia, and healthcare. Gender discrimination in compensation has been a major topic for research. Laurie A. Arthur and Michelle M. Morgan looked at creating a statistical measure for the salary gap between men and women in certain professional specialty occupations and in the field of physicians.<sup>10</sup> They found that there is a significant pay gap that increases over time, especially for women physicians.<sup>11</sup>

In another study, Janet Smithson et al. studied chartered accountants working on a flexible schedule in Great Britain to determine whether there was a gender pay gap.<sup>12</sup> They based their findings on interviews they conducted that revealed how the accountants participated in flexible work situations and the impact it had on their compensation and advancement.<sup>13</sup> The study revealed that women work part-time early in their careers, whereas men typically might do this later in theirs.<sup>14</sup> The authors concluded that the timing of the flexible work schedules contributed significantly not only to lower compensation for the women accountants, but also to their reduced advancement opportunities.<sup>15</sup>

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8. Laurie A. Morgan & Michelle M. Arthur, *Methodological Considerations in Estimating the Gender Pay Gap for Employed Professionals*, 33 SOC. METHODS & RES. 383 (2005).

9. *See, e.g.*, 42 U.S.C. § 2000e-2 (2012); 42 U.S.C. § 1981 (2012); 29 U.S.C. 206(d) (2012).

10. Morgan & Arthur, *supra* note 8.

11. *Id.* at 399–400.

12. Janet Smithson, Suzan Lewis, Cary Cooper & Jackie Dyer, *Flexible Working and the Gender Pay Gap in the Accountancy Profession*, 18 WORK EMP. & SOC'Y 115, 119–20 (2004).

13. *Id.* at 123.

14. *Id.* at 116–18.

15. *Id.*

This seems to be echoed by Susan Waldoch Hinze's research, which used regression analysis to determine the effect of gender on the incomes of physicians married to each other.<sup>16</sup> The author also concluded that there was a gap between the incomes, with male physicians out-earning their female physician spouses.<sup>17</sup> Although some of the gap was attributable to other variables, some of it can be explained by women being more interested in family and by men concentrating on their careers; further study into these attitudes was recommended by the authors.<sup>18</sup>

Hugh Gravelle et al. used regression studies based on the 2008 National Primary Care Research and Development Centre's General Practitioner Worklife survey of English general practitioners.<sup>19</sup> They studied differences in compensation between male and female general practitioners in England. All doctors were basically at the same level and had similar qualifications. They found that the income of female general practitioners was 70% of their male counterparts and wages (income per hour) were 89% of those of their male counterparts.<sup>20</sup> However, the authors concluded that the major variable in the pay gap was the number of hours worked, rather than discrimination.<sup>21</sup> The female general practitioners worked significantly fewer hours than the male general practitioners and therefore earned less.<sup>22</sup> An additional factor was the tendency for women to be hired by less profitable practices, where both men and women earned less.<sup>23</sup> Along with regression analysis, the authors also looked at the portion of the survey, which included questions on job satisfaction, and concluded that the female general practitioners seemed quite satisfied with their careers and pay, which in turn supported the conclusion that direct gender discrimination did not play a role in the pay gap.<sup>24</sup>

Javier Gardeazabal and Arantza Ugidos broke down a gender gap in pay in Spain to determine if there was greater discrimination among high earners or low earners.<sup>25</sup> The authors used quantile regression applied to the Spanish sample of the Survey of Wage Structure, which was conducted in the European Union in

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16. Susan Waldoch Hinze, *Inside Medical Marriages: The Effect of Gender on Income*, 27 WORK & OCCUPATIONS 465, 476 (2000).

17. *Id.* at 483.

18. *Id.* at 491–92.

19. Hugh Gravelle, Arne Risa Hole & Rita Santos, *Measuring and Testing for Gender Discrimination in Physician Pay: English Family Doctors*, 30 J. HEALTH ECON. 660, 663 (2011).

20. *Id.* at 660.

21. *See id.* at 673.

22. *Id.* at 673.

23. *Id.* at 661, 664.

24. *Id.* at 661.

25. Javier Gardeazabal & Arantza Ugidos, *Gender Wage Discrimination at Quantiles*, 18 J. POPULATION ECON. 165 (2003).

October 1995.<sup>26</sup> The authors concluded that there were different results in different locations.<sup>27</sup> However, gender wage discrimination was lower at higher levels of pay and conversely higher at the lower ends of the pay scale.<sup>28</sup>

In another study of gender wage discrimination, Jeffery Pfeffer and Jerry Ross studied salaries among high-level administrators in colleges and universities.<sup>29</sup> They looked at factors such as institution, size, type, and resources, as well as the nature of the various jobs.<sup>30</sup> The authors applied cross-sectional regressions and longitudinal regression analysis to data from the College and University Personnel Association's Annual Administrative Compensation Survey for 1978–1979 and 1983–1984.<sup>31</sup> The results demonstrated wage discrimination based on gender and found that such discrimination was greater in private and larger institutions.<sup>32</sup> The authors suggest several other aspects to explore, such as the setting of salaries and individual wage negotiation.<sup>33</sup>

Race discrimination in employment has been examined at length as well. Like women, minorities continue to be severely underrepresented at the top levels of most occupations despite making gains in initial access to those jobs.<sup>34</sup> This fact is true in the legal profession, where blacks are well represented in each associate class, yet face significantly lower probabilities of making partner.<sup>35</sup> To explain this divergence in the career paths of blacks and whites, Jee-Yeon K. Lehmann developed a model of statistical discrimination in which firms diversify their workforce by lowering the hiring standard for blacks, yet task assignment and promotion decisions do not incorporate this affirmative action.<sup>36</sup> Under such an institutional setting, the model predicts that although blacks are more likely to be hired compared to similar whites, they are more likely to be placed in worse tasks and less likely to be promoted.<sup>37</sup> Lehmann tested the model's predictions using data from the *After the JD* study,<sup>38</sup> the same data set examined herein. Compared to whites of similar credentials, blacks are much more likely to be hired into the

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26. *Id.* at 167.

27. *Id.* at 176.

28. *Id.* at 174–75.

29. Jeffery Pfeffer & Jerry Ross, *Gender-Based Wage Differences: The Effects of Organizational Context*, 17 *WORK & OCCUPATIONS* 55, 58 (1990).

30. *Id.* at 58.

31. *Id.* at 62, 65.

32. *Id.* at 67, 71–72.

33. *See id.* at 74–76.

34. Jee-Yeon K. Lehmann, *Job Assignment and Promotion Under Statistical Discrimination: Evidence from the Early Careers of Lawyers 2* (Munich Pers. REPEC Archive, Paper No. 33466, 2011), available at <http://mpra.ub.uni-muenchen.de/33466/>.

35. *See id.*

36. *Id.*

37. *Id.* at 2–3.

38. *Id.* at 5, 19–22.

best law firms.<sup>39</sup> However, they are assigned to worse tasks and are less likely to become partner.<sup>40</sup> Lehmann attributes this black/white difference in promotion rates to quality differences in task assignments early in the associates' careers.<sup>41</sup> Simply put, race gets black lawyers in the door of large law firms, yet they get pushed out quickly due to poor task assignments.

Despite the nearly identical educational and professional achievements between male and female lawyers, women continue to lag in career advancement and compensation.<sup>42</sup> The existing literature on gender in the legal profession suggests that careers of women and men diverge over a period of years.<sup>43</sup> Young female attorneys are also more likely than their male counterparts to be single and childless.<sup>44</sup> In a study of American associate lawyers, Ghazala Azmat and Rosa Ferrer found a gap in performance as measured by hours billed and new client revenue.<sup>45</sup> Statistics showed that there was no evidence of discrimination against women.<sup>46</sup> The authors concluded that, like several other studies cited in this Article, women divided their time between career and family, and this affects not only their performance, but also their income and career outlook.<sup>47</sup>

## II. DATA DESCRIPTION

The data source for our paper comes from *After the JD*, which is a nationally representative longitudinal survey of more than 5,000 lawyers in the United States.<sup>48</sup> The survey includes a sample representative of lawyers who were first admitted to the bar in the year 2000.<sup>49</sup> This survey conducted by the American Bar Association in conjunction with the National Association for Law Placement focused on the career choices of lawyers during the first ten years of their legal careers.<sup>50</sup> The survey was first conducted in 2002, again in 2007, and the last wave of data was

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39. *Id.* at 5.

40. *Id.* at 31–34, 41–43.

41. *Id.* at 5.

42. *See* AZMAT & FERRER, *supra* note 3, at 4.

43. *See, e.g., id.* at 2.

44. *Id.* at 8.

45. *Id.*

46. *Id.* at 3.

47. *Id.* at 12.

48. RONIT DINOVIETZ, BRYANT G. GARTH, RICHARD SANDER, JOYCE STERLING & GITA Z. WILDER, NALP FOUND. & AM. BAR FOUND., *AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS 13* (Janet E. Smith, Abbie F. Willard & Paula A. Patton eds., 2004); GABRIELE PLICKERT & JEEYON PARK, AM. BAR FOUND., *AFTER THE JD: A LONGITUDINAL STUDY OF LEGAL CAREERS IN TRANSITION—WAVE II CODEBOOK FOR PUBLIC RELEASE DATABASE* (2010).

49. DINOVIETZ ET AL., *supra* note 48, at 14.

50. *Id.* at 13.

collected in 2012.<sup>51</sup> The survey asks respondents a number of questions focusing on six specific areas: current employment; professional employment history; first job after law school; the respondent's social, political, and community participation; educational background; and demographical information.<sup>52</sup>

This Article focuses on the inequitable pay between men and women. Specifically, the investigation stems from the pay scale and structure in large private law firms. We have focused our study to include those lawyers who work full-time for large law firms (those employing 150 or more lawyers). The dependent variable in our investigation is the lawyers' wages. We measured wages by including both the respondent's annual salary and bonus for our estimation.<sup>53</sup> We take the natural logarithm of this value to act as a smoothing agent, to be consistent with the literature, and to account for heteroskedasticity.

Included in the analysis are variables that encompass their current employment, educational experiences, and other personal background information. Focusing on the determinants of pay for lawyers, the standard response is that it depends on the quantity of billable hours the associate has charged his or her clients. There are several factors that can affect the number of hours an employee has the opportunity to bill versus the number of hours that an employee is expected to bill. We steer away from the number of hours billed because the survey simply asks the respondents to state how many hours they are expected to bill. This number tends to be standard across associates and not reflective of their work opportunities, so it will not demonstrate what we are most interested in showing: women are not given the same opportunities in billable hours. To capture this difference, we used the number of hours that the employee actually worked last week, excluding those employees who were on vacation. This will best reflect the amount of hours that each person is actually working, which we hypothesize reflects the opportunities presented to employees. Additionally, we include the region where the lawyer's main office is located and the lawyer's tenure with his or her current place of employment.

Included in the respondent's educational background is his or her grade point average (GPA) from law school and law school ranking. GPAs have been

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51. *AJD Data Access*, AM. BAR FOUND., [http://www.americanbarfoundation.org/publications/AftertheJD/AJD\\_Data\\_Access.html](http://www.americanbarfoundation.org/publications/AftertheJD/AJD_Data_Access.html) (Jan. 5, 2015).

52. DINOVIETZ ET AL., *supra* note 48; PLICKERT & PARK, *supra* note 48.

53. In 2002, the survey requested respondents to report their wages and estimate their bonuses in one value. AM. BAR FOUND., *AFTER THE JD: THE FIRST TEN YEARS 5* (2002) (Wave 1 Survey). In 2007, this number was broken out to include both salary and bonus. AM. BAR FOUND., *AFTER THE JD: A LONGITUDINAL STUDY OF CAREERS IN TRANSITION 21* (2007) (Wave 2 Survey). For consistency, and to show the true "value" to the employer, we included both their annual salaries and bonuses.



bracketed<sup>54</sup> and have been reordered such that the higher the GPA, the higher the value. For law school rankings, *After the JD* uses the *U.S. News and World Reports* rankings<sup>55</sup> from 2003 in brackets,<sup>56</sup> which has been reordered where a higher number represents a higher ranking. During the first wave we also noted if the lawyer earned a graduate degree besides their JD.<sup>57</sup>

For the personal demographics variables of interest, we include age, gender, race (white or non-white), marital status,<sup>58</sup> and the number of children.

### III. DATA ANALYSIS

#### A. Overview

First, we present the descriptive statistics for the findings from Wave 1 (the data collected during 2002) and then the findings from Wave 2 (the data collected during 2007). Additionally, for each wave, we break out the data by gender and present the overall finding. Following the descriptive statistics, we report on the ordinary least squares regression analysis.

Specifically, OLS solves the following optimization problem:

$$\min_{\mu \in \mathbb{R}} \sum_{i=1}^n (y_i - \mu)^2 \quad (1)$$

which finds the sample mean as an estimate of the unconditional population mean. Specifically, we seek to evaluate the expected values of both male and female wages.

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54. GPAs have been organized into the following categories: 3.75–4.00, 3.50–3.74, 3.25–3.49, 3.00–3.24, 2.75–2.99, 2.50–2.74, 2.25–2.49, and under 2.25. DINOVITZER ET AL., *supra* note 48, at 44 tbl.5.3, AFTER THE JD 2: A LONGITUDINAL STUDY OF CAREERS IN TRANSITION, 2007–2008, UNITED STATES—VARIABLE DESCRIPTION AND FREQUENCIES 285 [hereinafter VARIABLE DESCRIPTION AND FREQUENCIES], available at <http://doi.org/10.3886/ICPSR33584.v1>.

55. DINOVITZER ET AL., *supra* note 48, at 42 & n.12.

56. Law school rankings have been organized into the following categories: Top 10, Top 11–20, Top 21–100, Tier 3, and Tier 4. *E.g., id.* at 44 tbls.5.2 & 5.3; GABRIELE PLICKERT & RONIT DINOVITZER, AFTER THE JD: FIRST RESULTS REPORT: TECHNICAL ADDENDUM JUNE 2007, at 28 tbl.10.3 (2007); VARIABLE DESCRIPTION AND FREQUENCIES, *supra* note 54, at 285.

57. The number of respondents who earned a degree beyond their JD for Wave 2 was not large enough to warrant it to be part of the study for the second wave. *See* PLICKERT & PARK, *supra* note 48, at 229.

58. Married is classified as those who were married a first time, remarried, or in a domestic partnership.

### B. Descriptive Statistics

Table 1 below presents the descriptive statistics from Wave 1 from the *After the JD* survey. We find that our sample is represented by approximately 45.8% females. Additionally, we can see that women and men are working, on average, the same number of hours for a given week, are relatively the same age, come from similar schools, are employed in similar regions, and have the same length of tenure at their current places of employment. Women have slightly higher GPAs than their male counterparts ( $5.9108 > 5.828$ ). Additionally, we can see that approximately 64% of men are married and only 55% of women are married.

**Table 1.**  
Descriptive Statistics for Wave 1

Variable	Overall		Females		Males	
	Mean (Std. Dev.)	Median	Mean (Std. Dev.)	Median	Mean (Std. Dev.)	Median
Female	0.4580 (0.4988)	0				
Hours	47.3467 (9.7686)	47	47.3376 (9.7224)	46.5	47.3532 (9.8129)	48
GPA	5.8627 (1.2492)	6	5.9108 (1.2506)	6	5.8280 (1.2485)	6
Kids	0.46 (0.9246)	0	0.3376 (0.8156)	0	0.5482 (0.9873)	0
Married	0.6013 (0.49)	1	0.5478 (0.4985)	1	0.6399 (0.4806)	1
Rank	3.04 (1.1314)	3	2.9522 (1.1252)	3	3.1032 (1.1330)	3
Region	0.3853 (0.4870)	0	0.4108 (0.4928)	0	0.3670 (0.4825)	0
Tenure	2.9013 (0.9850)	3	2.8981 (1.0403)	3	2.9037 (0.9444)	3
White	0.7560 (0.4298)	1	0.6911 (0.4628)	1	0.8028 (0.3984)	1
Additional Degree	0.5093 (0.5029)	1	0.5732 (0.5018)	1	0.4633 (0.4992)	0
Age	30.8893 (4.3054)	30	31.0732 (5.0231)	29	30.7569 (3.7041)	30
LN(Wages)	11.4569 (0.4460)	11.5129	11.4163 (0.4486)	11.4510	11.4861 (0.4424)	11.5179
	<b>Overall N = 750</b>		<b>Female N = 314</b>		<b>Male N = 436</b>	

Moving onto Wave 2 in Table 2, below, we find that women are now representing a smaller portion of the workforce (only 38.7%, whereas in Wave 1, they represented 45.8%) in large private law firms. Further, we see that many of the variables have either become closer together for men and women, or further apart. For the variables that were similar before, including their GPA, their law school's ranking, the region where they are presently working, the time they have been with their place of employment (tenure), and their age, all still have averages that are nearly identical for men and women.

However, we find there to be some divergence in the number of hours worked. The average man is working approximately 58.5 hours and the average woman is working 54 hours. Further, we find there to still be a difference in number of children. The average female now has approximately one child (both represented by the mean and the median), whereas males, on average, are measuring less than one child. There appeared to be a larger differential between men and women being married in Wave 1; however, it appears that this has converged and we find that approximately 79% of females and 81% of males are married as of the second wave of data collection.

**Table 2.**  
Descriptive Statistics for Wave 2

Variable	Overall		Females		Males	
	Mean (Std. Dev.)	Median	Mean (Std. Dev.)	Median	Mean (Std. Dev.)	Median
Female	0.3868 (0.4879)	0				
Hours	56.7840 (12.0759)	55	54.0811 (11.3218)	53	58.4886 (12.2554)	57
GPA	6.0871 (1.2043)	6	6.0180 (1.2503)	6	6.1307 (1.1759)	6
Kids	1.0105 (1.1234)	1	1.1081 (1.1229)	1	0.9489 (1.1226)	0.5
Married	0.8049 (0.3970)	1	0.7928 (0.4071)	1	0.8125 (0.3914)	1
Rank	3.3449 (0.9803)	3	3.4144 (1.0133)	3	3.3011 (0.9593)	3
Region	0.4251 (0.4952)	0	0.4234 (0.4963)	0	0.4261 (0.4959)	0
Tenure	5.3101 (2.6664)	6	5.2973 (2.6167)	6	5.3182 (2.7047)	6
White	0.8063 (0.3959)	1	0.7455 (0.4376)	1	0.8448 (0.3631)	1
Additional Degree	0.0348 (0.1837)	0	0.0090 (0.0949)	0	0.0511 (0.2209)	0
Age	35.2091 (3.8319)	34	34.9730 (4.2586)	33	35.3580 (3.5411)	34
LN (Wages)	12.0893 (0.3873)	12.1159	11.9883 (0.4071)	11.9954	12.1529 (0.3612)	12.1998
	<b>Overall N = 287</b>		<b>Female N = 111</b>		<b>Male N = 176</b>	

### C. Regression Analysis

$$\ln(\text{wages}) = \beta_0 + \beta_1 SP + \beta_2 WE + \beta_3 HOURS + \beta_4 GENDER + \epsilon$$

Using the least squares regression, we use the standard log-linear form above, where *SP* represents the schooling and personal demographic information including a respondent's GPA from law school, the ranking of the law school the respondent attended, if he or she earned an additional degree, his or her number

of children, if the respondent is married, and if the lawyer is white; *WE* represents the lawyer's work environment, including the region where the lawyer is presently practicing and the length that the lawyer has been with his or her firm; *HOURS* represents the number of hours that the lawyer worked over the past week;<sup>59</sup> and, lastly, *GENDER* identifies the respondents as female (using males as our baseline comparison for the overall data), which allows us to measure for wage differentiation. If  $\beta_4$  does not equal to zero, then we would say that there is a wage differentiation.

We use the regression mentioned above as the "overall" measure of our data set. We then remove the *GENDER* variable and run the regression for our two subsets: males and females. The "overall" measure allows us to have a general picture of the outcomes, and then we can further interpret the findings by comparing the estimated equation for men and women separately.

For convenience, we present the findings from the OLS Regressions first with Wave 1 followed by Wave 2. Each wave looks at the overall data, and then the data broken down for both males and females. This allows for a snapshot analysis for the specific wave, and below we break apart the years for the explanation of the analysis.

#### i. Wave 1

Below, Table 3 presents the OLS regressions for Wave 1. In the linear regression model, we focus our analysis on the issue of gender, as that is the most important variable associated with our research. We can see that females earn less than their male counterparts by the negative coefficient. Specifically, females have the coefficient of -0.07286, which can be interpreted as females are paid  $100(\exp(-0.07286) - 1)\% = 7.03\%$  less than males with similar qualifications. With a p-value of 0.0023, this finding is statistically significant.

Focusing on the statistically significant results, we see that for the data including both men and women, the following variables are statistically significant at the 1% level: their hours spent working, their grade point average from law school, the rank of their law school, the region where they are located, their race, and if they have earned an additional degree. It may be surprising that if the lawyer is white, this will negatively impact their salary; however, there has been a recent movement towards recruiting non-whites into law firms, and this could, in part, explain why being white might have a negative impact on an attorney's salary. Additionally, for respondents with additional graduate degrees, at this time we have not noted the type of the graduate degree. It is arguable that some graduate degrees would add value to the lawyer; however, this is not always the case. Here we can see that to be true.

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59. If the lawyers worked an atypical work week for the week prior to the survey (which is the week they were asked to reflect on), the survey did request for them to reflect on a typical workweek to exclude any outliers.

**Table 3.**  
Ordinary Least Squares Regressions Wave 1

Variable	Overall (Std. Dev.)	*	Female (Std. Dev.)	*	Male (Std. Dev.)	*
Intercept	10.28883 (0.138721)		10.22441 (0.202547)		10.21756 (0.193748)	
FEMALE	-0.07286 (0.02563)	**		**		
HOURS	0.004776 (0.001275)	**	0.00821 (0.001994)		0.002413 (0.001668)	**
GPA	0.093043 (0.010112)	**	0.079718 (0.015522)	**	0.100897 (0.013625)	
KIDS	0.011314 (0.015521)		0.003911 (0.027052)		0.013787 (0.019226)	
MARRIED	0.003716 (0.026966)		0.022257 (0.039486)		-0.014446 (0.036828)	
RANK	0.128615 (0.011846)	**	0.125725 (0.018351)	***	0.126444 (0.015639)	***
REGION	0.288624 (0.028103)	**	0.32669 (0.043069)	***	0.25737 (0.037221)	***
TENURE	-0.013576 (0.012565)		-0.002797 (0.018464)		-0.025778 (0.017234)	
WHITE	-0.11121 (0.030469)	**	-0.126409 (0.043501)	***	-0.102614 (0.042651)	**
AGE (2002)	0.002582 (0.003164)		-0.001977 (0.004259)		0.009044 (0.004833)	*
ADDDEG	-0.076533 (0.024764)	**	-0.052189 (0.038085)		-0.085902 (0.032753)	**

\*\*\* Significance at 1% level

\*\* Significance at 5% level

\* Significance at 10% level

## ii. Wave 2

Below, Table 4 presents the OLS regressions for Wave 2. In the linear regression model, we focus our analysis on the issue of gender, as that is the most important variable associated with our research. We can see that females earn less than their male counterparts by the negative coefficient. Specifically, females have the coefficient of -0.12366, which can be interpreted as females are paid  $100(\exp(0.12366)-1)\% = 11.63\%$  less than males with similar qualifications. With a p-value of 0.0049, this finding is statistically significant.

The results regarding statistical significance for Wave 2 are vastly different than what we found for Wave 1. There could be a number of explanations for why this is true. The first is that many of the educational traits that we counted for in Wave 1 proved not to be a good measure of how likely the lawyer was to stay in private practice or how likely they would be retained. From the data set, we noted that there was a migration from large private law firms to public service and private non-law firms.

**Table 4.**  
Ordinary Least Squares Regressions Wave 2

Variable	Overall (Std. Dev.)	*	Female (Std. Dev.)	*	Male (Std. Dev.)	*
Intercept	12.3505 (0.28)		11.89066 (0.451948)		12.46602 (0.361898)	
FEMALE	-0.12366 0.043566	***		*		
HOURS	0.002771 (0.001745)		0.005556 (0.003341)		0.001894 (0.00207)	
GPA	-0.003537 (0.017298)		0.011815 (0.030401)		-0.009655 (0.021739)	
KIDS	-0.052693 (0.020694)	**	-0.089675 (0.035947)	**	-0.028351 (0.026007)	
MARRIED	0.036088 (0.058789)		0.151744 (0.106113)		-0.027878 (0.070852)	***
RANK	-0.123444 (0.02487)		-0.091966 (0.044078)	**	-0.148955 (0.030482)	
REGION	0.004221 (0.042941)		-0.026355 (0.075997)		0.030531 (0.053012)	
TENURE	-0.00913 (0.008052)		-0.000344 (0.014822)		-0.01494 (0.009618)	
WHITE	0.053716 (0.05266)		0.040685 (0.088486)		0.075112 (0.068202)	
AGE (2007)	0.002605 (0.005499)		6.01E -05 (0.008847)		0.005099 (0.007275)	

\*\*\* Significance at 1% level

\*\* Significance at 5% level

\* Significance at 10% level

As we suspected, children had a negative impact on the salaries of women associates, which is shown by the negative coefficient on the variable “kids” above. We find that for each child that a woman associate has, her salary would decrease

by approximately  $100(\exp(0.089675) - 1)\% = 8.58\%$ . With a p-value of 0.0142, this finding is statistically significant.

## CONCLUSION

When we set out to complete this research project, we expected to find statistically significant earnings differences for lawyers based on gender. This was due to the fact that many recent studies have shown that wage discrimination based on gender has not disappeared, and vigorous debates have continued recently—even in popular culture. Our findings unfortunately support these conclusions. Further, we are able to show that these differences in pay are exacerbated as women continue in their careers.

We were also able to show that, as expected, children play a larger role in the careers of women than those of men. We note that men and women are working nearly the same number of hours; however, having children reduces the salaries that women have the potential to earn (reduction of 8.6%), more so than having children does for men (reduction of 2.8%).<sup>60</sup>

We used data from *After the JD* to help us understand the earnings for law firm associates. Using this thorough data set, we were able to show that in recent years, wage discrimination against women has increased: salary differences are greater in 2007 than in 2002. Whether through implicit bias or intentional discrimination, the data shows that women associates in law firms across the country are not being paid equitably, and that this discrimination is a possible explanation of the significant rates of attrition for women compared to men. Despite years of efforts, gender discrimination does exist, and it greatly impacts women's compensation, as well as opportunities for advancement in the legal field.

### A. *Relevant Recommendations for the Legal Profession*

We would like to find recommendations for female attorneys in recent success stories and policy positions in and out of the profession, as well as contribute to future examination and progress. The changes in the profession and in the status of working women during the last twenty years, although incremental, can be seen as a solid start and can be encouraging to female law students who will be breaking into this profession in the near future.

In August 2012, a blue-ribbon Task Force on Gender Equity was created by the ABA to recommend solutions for some of the issues we discuss herein.<sup>61</sup> Recently, the ABA released recommendations focusing on eliminating inequities at

60. This finding is only statistically significant for women, with a p-value of 0.0142. The p-value for men is 0.2772, which is not statistically significant.

61. *Gender Equity Task Force Publications*, ABA (Nov. 13, 2014), [http://www.american-bar.org/groups/women/gender\\_equity\\_task\\_force/task\\_force\\_publications.html](http://www.american-bar.org/groups/women/gender_equity_task_force/task_force_publications.html).



the partner level as an approach to closing gender gaps in general, including gaps in compensation.<sup>62</sup> The New York State Bar Association, along with other state bars, are also tackling the issue.<sup>63</sup> Some of the more practical policy recommendations have included changing compensation systems to build transparency into the system, such as providing written communications and guidelines and communicating to all partners the elements of the system, including a formal appeal process to a diverse compensation committee.<sup>64</sup>

Firms in the United States have adopted either a lockstep compensation system or a merit-based bonus system to allocate pay to partners and associates. The merit pay system is becoming increasingly popular among firms because of its flexibility and individually-based measures of success.<sup>65</sup> Because it is assumed that a high number of billable hours accumulated equates to high productivity and achievement, lawyers that spend long days and full weeks working must be more successful, and therefore deserve to be promoted and highly compensated for their efforts. A recent recommendation has been to move away from a billable-hour-based compensation system and encourage allocation of credit on a team-based system, so that lawyers that are serving in key roles of developing client loyalty (which often are women and minorities) will be compensated for those efforts.<sup>66</sup> Prior to the influx of female law graduates, women feared questioning the system due to risk of job loss. Today, the number of women graduating top law schools and having successful legal careers indicates that women belong in law, not only as lawyers, but as leaders that can advocate for change within a firm. As women continue to gain confidence in higher-level positions, their desire to assert their rights has led to discrimination lawsuits against their own firms.<sup>67</sup> These lawsuits are yet another method of bringing the issue of gender discrimination to light and changing the firms' internal processes. While the data presented here will be of limited use in gender discrimination lawsuits because the data shows an overall effect rather than specific discriminatory treatment of an individual claimant as required for a disparate-treatment discrimination lawsuit to succeed, it may be helpful in encouraging firms to look at their compensation systems and avoid costly lawsuits.

Finally, we wish to note that ten of the thirteen panelists at the *Indiana Journal of Law and Social Equality's* 2014 Symposium are strong female leaders in the legal profession, academe, and business that are working to encourage others in power to

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62. RIKLEEN, *supra* note 1, at 31–45.

63. COMM. ON WOMEN IN THE LAW, N.Y. STATE BAR ASS'N, GENDER EQUITY IN THE LEGAL PROFESSION: A SURVEY, OBSERVATIONS AND RECOMMENDATIONS 1 (2002), <https://www.nysba.org/WorkArea/DownloadAsset.aspx?id=26706>.

64. RIKLEEN, *supra* note 1, at 31–32.

65. Stephanie B. Goldberg, *Merit-Based Compensation as an Alternative to Lockstep: Firms Test the Waters*, 18 PERSP. 4, 5 (2010).

66. RIKLEEN, *supra* note 1, at 33–34.

67. See, e.g., Douglas R. Richmond, *Changing Times and the Changing Landscape of Law Firm Disputes*, 2009 J. PROF. L. 73, 73–75 (2009).

examine the system and make changes.<sup>68</sup> Women who have dedicated a significant portion of their time and talent to legal careers and gender equity have and continue to make strides in all professions and now have the numbers to effect significant change. Women are now speaking up, asking for what they want and deserve, and have the power to drive the conversation. Media coverage of the success stories of women asking for the partner office they have earned, achieving CEO status, and negotiating higher salaries, or the female administrator that drives a different compensation structure within the law firm without sacrificing client needs, can serve to encourage young female lawyers to strive for more. Success of women in the associate and partner ranks, the rising number of women general counsels, and clients seeking to fulfill diversity initiatives will continue to be a motivating factor for media publicizing the issue. Women taking control of their careers through planning, professional development, and compensation can only have a positive effect on future generations.

The economic evidence presented here can be used by these female professionals, law schools, bar associations, and professional organizations to continue conversations in this area, encourage creative solutions to this evolving field of study, and stimulate significant advances towards the goal of gender equity.

#### *B. Future Research Plans and Extensions*

Our research is in its early stages. We have found statistically significant evidence demonstrating that women continue to be paid less than their male counterparts, even early in their careers. To further investigate this conclusion, we will continue to analyze the data and incorporate the third wave of data that was partially released by the *After the JD* study in January 2015, just prior to this Article's publication. We also aim to further explain the gender gap by incorporating further econometric testing. This includes, but is not limited to, data envelopment analysis and the Oaxaca-Blinder Test. We will also test other variables to see if they can help to better explain the pay differences, including quadratic terms and interaction terms, and creating categories to clearly identify the type of law each lawyer is practicing.

Additionally, we plan to use the existing data to help us understand why women are leaving the industry. Specifically, this is a problem that we did not anticipate to be so significant in the short time span analyzed. The *After the JD* data set allows us to take a closer look at the different opportunities that each associate is offered—time with partners, time spent networking, etc.—all of which can (and likely do) contribute to the wage discrepancy that we have shown. We seek to identify these factors to make women more aware of what they can do to ensure that they can push back against what history has shown, and to begin a new trend for female lawyers.

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68. See 2014 IJLSE Symposium, IND. UNIV. MAURER SCH. L., [http://www.repository.law.indiana.edu/ijlse/2014\\_Symposium\\_Schedule.pdf](http://www.repository.law.indiana.edu/ijlse/2014_Symposium_Schedule.pdf) (Jan. 5, 2015).