LITERALLY LEVELING UP

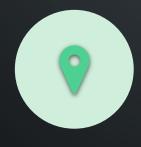
PAY EQUITY, PAY TRANSPARENCY, & WAGE DISCLOSURE



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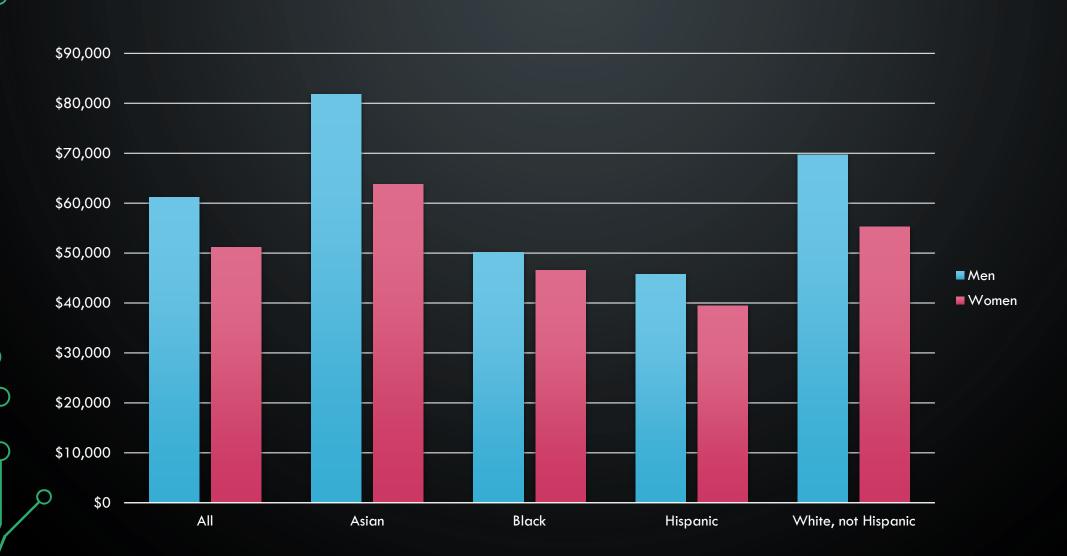




AGENDA

- Why pay equity is an issue
- Pay equity laws
- Salary history and pay transparency laws
- Basics of pay equity audits

MEDIAN EARNINGS BY SEX AND RACE



354

Pay Equity Laws

A patchwork quilt of federal and state laws

EQUAL PAY

EQUAL PAY ACT (EPA)

29 U.S.C. § 206(d) - 1963

- Men and women in the same workplace be given equal pay for equal work
- Prima facie case:
 - Lower wages paid to employees of the opposite sex in the same establishment
 - Employees perform substantially equal work
 - Jobs performed under similar working conditions

Key: No intent to discriminate required

EPA EXCEPTIONS FOR UNEQUAL PAY

- A seniority system
- A merit system
- A system which measures earnings by quantity or quality of production
- A differential based on <u>any other factor</u> other than sex



Key: These must be shown by employer.

EPA & PAY EQUITY LITIGATION TRENDS

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT, IN AND FOR LEON COUNTY, FLORIDA

STATE OF FLORIDA OFFICE OF THE ATTORNEY GENERAL DEPARTMENT OF LEGAL AFFAIRS.

Plaintiff

GENERAL JURISDICTION DIVISION

CASE NO: 02-CA-1296

WYNDHAM INTERNATIONAL, INC. and PATRIOT AMERICAN HOSPITALITY, INC WILLIAM McCLEAVE and

Defendants.

PLEASE REVIEW AS YOU MAY QUALIFY FOR SIGNIFICANT MONEY DAMAGES AND OTHER BENEFITS.

NOTICE OF SETTLEMENT AGREEMENT AND CLAIM FORM

go to www.nryfforidalegal.com

To: All persons who poid an imposed Automatic Hatel Charge Harboling, but not limited to, a "rocent fee," "watert service charge," "moregy fee or surcharge," "safe fee," waste warranty charge," "framspertation fee," or any other "automatic or held mandated nightly or per person fee or charge," however descentianted while registered on a part of any of the LLXE Properties or Wyndriane Felecia Hatels ("Participating Biodes") reflected in this Notice of Stationant Agreement and Chaim Form, anytime between May 29, 1998 and July 8, 1966.

BACKGROUND OF THE CASE

The State of Florida, Office of the Atterney General, Department of Legal Affain ("Atterney General"), consensed this action on May 39, 2000, assering various claims for renotately and injunctive relief against "Hyndrian International, Inc., ("Wyndrian") and other definition statistics from advertising and disclosure practices with respect to the charging of Automatic Board Charges, During all or part of the time period between May 29, 1996 and July 28, 2000, certain hostel properties ("Plentisphaging Boards") located at Bredia owned, Leuend on managed by

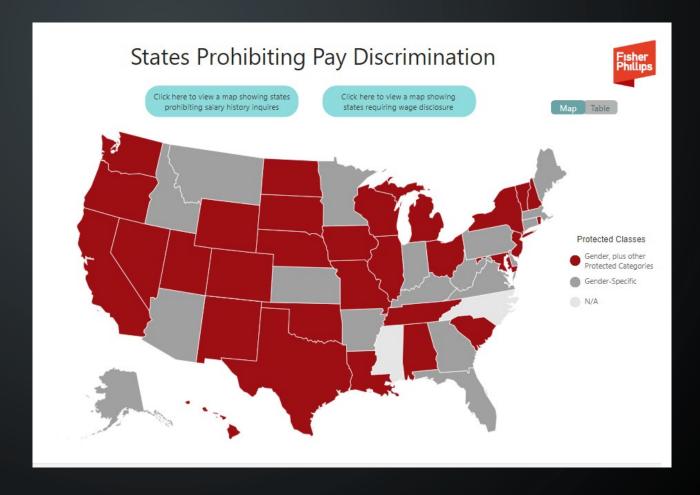
Smith v. Merck & Co., No. 13-2970 (D.N.J. April 27, 2016)

- Conditional certification granted in a lawsuit brought by 5 female sales representatives in a \$250 million gender bias suit
- 679 opt-ins
- \$6.2 million class settlement approved

EPA DAMAGES & LIMITATIONS

- Unpaid wages
- 100% liquidated damages
- Attorney's fees and costs
- 2 years (3 years, if willful)

FP INTERACTIVE PAY EQUITY MAP







Emerging trends in pay equity legislation



EVOLUTION OF PAY EQUITY LAWS

Equal Pay Act (1963)

Men and women must be given equal pay for substantially equal work; state laws provide additional protections (e.g., race, age)

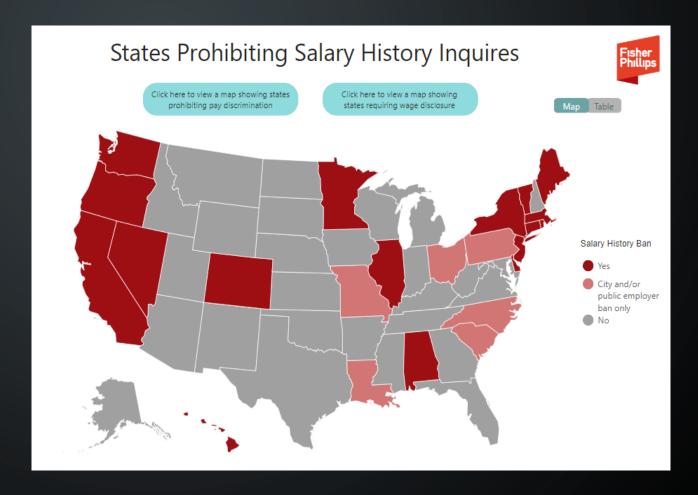
Salary History Bans (starting in 2016)

Employers cannot ask about past salary or use that information in setting compensation

Pay Transparency Laws (starting in 2021)

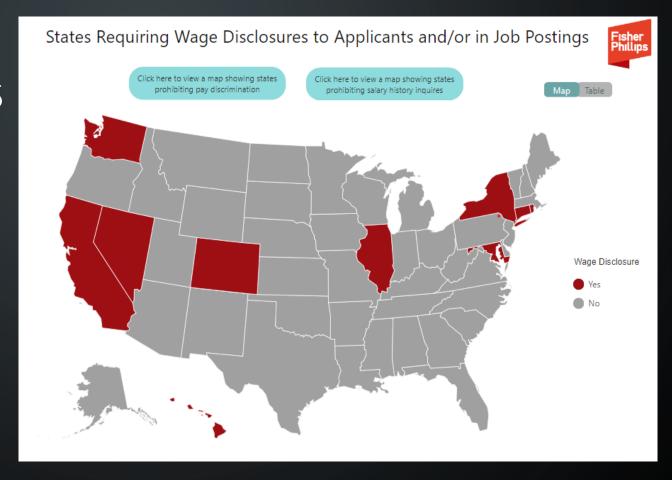
Employers must disclose salary information on job postings or other reporting mechanism

STATES WITH SALARY HISTORY BANS





STATES WITH PAY TRANSPARENCY LAWS



Note: Some cities and counties also require disclosure (e.g., New York, Ithaca, Westchester County, Jersey City, Toledo, Cincinnati)



MULTI-STATE JOB POSTING LANGUAGE

The anticipated salary range for candidates who will work in [location] is [range]. The final pay offered to a successful candidate will be dependent on several factors that may include . . .

Other things to describe:

- Benefits
- Bonuses or other compensation
- Hiring range v. total position range



PAY EQUITY AUDITS

- Goals:
 - Identify potential pay disparities among employees performing comparable work
 - Determine whether there are lawful explanations for those disparities
 - Take steps to correct disparities as appropriate
- Conducting a good-faith pay audit can provide a safe harbor under certain state laws, as well as a defense to lawsuits alleging pay inequality
- Consider attorney-client privilege

PAY EQUITY AUDITS

Step 1: Gather relevant data

Step 2: Identify comparable jobs

Step 3: Compare pay of employees in and outside various protected classes

Step 4: Assess whether pay differences are legally justified

Step 5: Address unjustified pay differentials (pay changes, promotions, etc.)

KEY TAKEAWAYS

- Goal is to eliminate pay disparities
- Multiple state and federal laws apply
- Need to evaluate job postings, applications, and hiring process
- Consider a pay equity audit



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