



Google Wins California Pay Equity Class Action Lawsuit – But More To Come?

Insights

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A California Superior Court judge in San Francisco handed Google a win in its defense of a putative class action brought by three former employees, dismissing the pay equity Complaint as to all three plaintiffs. While Google will likely face an amended Complaint that could revive the pay disparity lawsuit, this order may limit such claims by forcing would-be plaintiffs to allege something more than just citing to company policy or practice that allegedly resulted in women being less than men.

The claims against Google were pled as a putative class action on behalf of “all women employed by Google in California.” Generally, in order to allege claims on a class basis, a plaintiff must plead facts showing that there is an ascertainable class and a well-defined community of interest among the class members. More simply, a plaintiff must allege facts showing that there is a specific group of people who have claims against the defendant that are similar to theirs and that there are common questions of law or fact such that the defendant’s liability can be determined by issues common to all members of the group.

In its December 6 order, the court agreed with Google that the plaintiffs’ Complaint failed to sufficiently allege facts demonstrating an ascertainable class. Plaintiffs relied on allegations that Google implemented a uniform policy of paying all female employees less than male employees for substantially equal or similar work. Plaintiffs also relied on testimony by an OFCCP Regional Director in an administrative hearing that systemic compensation disparities against women existed across the company’s workforce.

The court ruled that the plaintiffs’ allegations were conclusory and that they failed to allege sufficient facts to establish who in the putative class of all women in California had claims and who did not. The court stated that the class was overbroad, and agreed with Google that there were no factual allegations related to a common state-wide policy or practice that applied to every women in every position – from the lowest-level hourly positions to high-ranking executives in all its locations across the state. The three plaintiffs worked as an engineer, business manager, and in sales at Google’s Mountain View location, and the court found that plaintiffs failed to allege facts to suggest that there was a common issue that predominated over all their pay.

As to the OFCCP allegations, the court found these allegations both conclusory and vague because the Complaint did not specify the job classifications it pertained to or whether the comparison was

the complaint did not specify the job classifications it pertained to or whether the comparison was made against men who perform substantially similar work under similar working conditions.

Finally, the court also sustained Google's demurrer as to two of the plaintiffs who left Google's employ prior to California's enactment of the Fair Pay Act in 2016. Google argued, and the court agreed, that the "substantially similar" legal standard is not applicable to those individuals who must state a claim under the prior standard by alleging that they performed "equal work" as their male counterparts in order to proceed with their claims.

Google's win is tempered, however, because the court granted plaintiffs leave to amend their Complaint and correct the defects identified by the court. The plaintiffs have 30 days to file the amended Complaint; we will provide an update on further legal developments.

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