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**‘Being a Woman Is Not a Pre-Existing Condition’**

**Class Action Suit Challenges Systemic Gender Discrimination**

**In CA Workers’ Comp System**

***Statewide system relies on outdated stereotypes about women’s capacities and roles, contributing to the feminization of poverty in California, burdening women and families***

LOS ANGELES — Today a group of women workers and the SEIU California State Council filed a first-of-its-kind, statewide class action lawsuit challenging systemic gender discrimination in California’s workers’ compensation system.

The landmark lawsuit, filed by Public Counsel, Caldwell Leslie & Proctor, PC, Equal Rights Advocates, and Professor Catherine Fisk of the University of California, Irvine School of Law against the California state agencies and officials responsible for administering the workers’ compensation system, documents the denial of equal compensation to women workers in violation of the U.S. and California constitutions. The suit, filed in Los Angeles Superior Court, exposes overt gender bias and discrimination against working women injured on the job by revealing a shocking pattern of reduced permanent disability benefits to women workers solely on the basis of their gender. In contrast, men’s benefits are not reduced on the basis of gender. The suit also challenges the egregiously low workers’ compensation benefits afforded to women with work-induced breast cancer.

Describing the lawsuit, **Kathryn Eidmann,** staff attorney in Public Counsel’s Opportunity Under Law project said, “California’s workers’ compensation system treats gender as a preexisting condition, further penalizing women workers with injuries solely because they are women. California sides with insurance companies and employers, letting them off the hook for workplace injuries to female employees and contributing to the impoverishment of women workers and their families. Women workers in California neither receive equal pay for equal work, nor equal payouts when they’re injured on the job.”

For 17 years, plaintiff **Leticia Gonzalez** spent eight hours a day, five days a week, working on a computer in order to carry out her job duties as a telecommunications worker. After years of pain and numbness in her hands and wrists that affected her sleep, self-care and work, the workers’ compensation system confirmed that Leticia’s injuries were caused by the physical demands of her occupation. But the state’s Qualified Medical Examiner (QME) reduced the permanent disability benefits to which she was entitled by 20% because, “she has multiple ***risk factors*** for carpal tunnel syndrome, ***primarily age and gender***.”

“California’s system of workers’ compensation reduces the payouts due to women workers on the basis of impermissible stereotypes about gender, pregnancy, and menopause. This discrimination violates the promise of equal protection guaranteed by our Constitution and has no place in our state in 2016,” said **Robyn Crowther**, shareholder at Caldwell Leslie & Proctor, PC.

The complaint also documents the irrational undervaluation of breast cancer by the system. If a woman past child-bearing age undergoes a mastectomy due to work-induced breast cancer—an all-too-common occurrence for female firefighters and peace officers—the system presumes that she is entitled to **zero**permanent disability benefits for the loss of her breasts. This rating of zero ignores the concrete and medically-documented harms of breast cancer and the loss of a breast, including disfigurement, scar tissue, asymmetry, numbness, chronic pain, premature arthritis of the spine, impact on sexuality and psychology. In contrast, prostate cancer is assigned a substantially higher 16-20% disability rating.

“The loss of my breast has been devastating. I carry the same weight on my duty belt as my male colleagues, confront the same dangers, work just as hard, and it is not fair for me and my female peace officers to be penalized because of our gender,” said **Sgt. Janice Page**, a plaintiff in the case and a peace officer who received a zero percent disability rating for work-induced breast cancer. In her duties as a law enforcement officer, Sgt. Page was exposed to numerous carcinogenic toxins, including vehicle fires, ammunition, exhaust fumes, gasoline, diesel fuels, structure fires, and narcotics. She underwent five surgeries and the removal of her right breast, and continues to experience numbness on her right side.

“By permitting and condoning the distribution of workers’ compensation benefits on the basis of sex, the State is sending a clear message that women’s work is worth less,” said **Rebecca Peterson-Fisher**, Staff Attorney at Equal Rights Advocates. “This message denigrates the contributions of women to the workplace and perpetuates the unequal status of women.”

“This discrimination exacts a disproportionate toll on low-wage workers and women of color and reflects a national trend of decreasing employer liability for workplace injuries, at the expense of workers and their families,” said labor law expert **Catherine Fisk.**

Permanent disability benefits are the only compensation available to workers for losses to future earning capacity, physical integrity and personal wellbeing that result from most on-the-job injuries. The lawsuit asks the court to root out and eliminate gender discrimination in the workers’ compensation system, including by training employees and implementing a system of monitoring, accountability, and discipline.

“Gender discrimination in California’s workers’ compensation system is a systemic problem, not an isolated occurrence, said **Anne Hudson-Price**, staff attorney at Public Counsel. “The medical evaluators making these determinations are overwhelmingly male, yet the State provides no guidance or training to address and eliminate sex discrimination.”

The SEIU California State Council, which represents over 700,000 caregivers, healthcare workers, education workers, social workers, and public sector workers in California, is also a plaintiff in the suit on behalf of its members. SEIU California State Council represents more than 490,000 working women in California, many of whom work in fields which workplace injuries are frequent and commonplace.

“Securing equal compensation for women injured on the job is an essential step towards justice for workers in California,” said **Laphonza Butler**, President, SEIU California State Council. “Particularly among women who work in low-wage fields and are among the most vulnerable in our State, fair workers’ compensation benefits are vital to the economic security of workers and families.”

For more information on the case and to view the legal documents, visit workerscomppaygap.org.

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