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WORKING LIFE

Is Wal-Mart Hostile to Women?

Female workers paint a picture of a harsh, sexist culture

Ocala, Fla., was no boomtown bursting with jobs in 1991. So when Wal-Mart Stores Inc. subsidiary Sam's Club came to town, hundreds of applicants dressed in suits sweated in the sun for hours to apply. Kim Miller was excited when she got the chance to join the late Sam Walton's team. Finally, she would have a great company to work for, an employer whose motto "respect for the individual" led her to believe she could build a career there.

It didn't turn out that way. Over the next nine years, Miller says, her job as a sales associate turned into a frat-house nightmare. She claims her male supervisors referred to her as "bitch" and talked about which female customers they would like to get into bed. The sexual talk allegedly turned her way, too, and included offers to get her pregnant. Once, when Miller was working in the tire-and-mounting unit, she claims she walked in on her male co-workers huddled over a porn video in the customer lounge. The worst of it, though, was that despite glowing performance reviews, an Employee-of-the-Year award, and many commendations from customers, Miller claims she was passed over time and again for pay raises and promotions. Instead, jobs like team leader in tire-and-mounting were given to men such as a forklift repairman who had never even worked in the department.

Miller, 36, says she complained more than a dozen times to bosses at all levels but was retaliated against for doing so. When she got pregnant, she alleges she was transferred to a greeter position and not allowed by her manager to sit down until she got a doctor's note. "I worked there longer than most people are married these days," says Miller, who is no longer with the company. "And I never got a promotion."

WIDE NET. Wal-Mart isn't commenting on the allegations lodged by Miller and the other five women who filed a sexual discrimination class action in U.S. District Court for Northern California on June 19. Yet the suit could turn out to be the largest such case ever against a private employer if plaintiffs' attorneys win nationwide class-action status. The Bentonville (Ark.)-based company employs 960,000 people nationwide.

But even if lawyers fail to sweep in the company's entire U.S. employee roster, the case casts a wide net among Wal-Mart's 46,000 workers in California. The plaintiffs paint a picture of a harsh, anti-woman culture in which complaints go unanswered and the women who make them are targeted for retaliation. Based on filings Wal-Mart made to the Equal Employment Opportunity Commission, the claim details how 72% of the company's sales staff are women but only one-third of them make it into management, despite Wal-Mart's promote-from-within policy. That means, according to EEOC data, that Wal-Mart doesn't just rank below its current retailing peers, which have an average of 56% women managers, but it also ranks below rivals' levels of 25 years ago.

Wal-Mart denies the allegations about a systematic practice of discrimination, noting it has explicit policies forbidding such behavior. The company says that because it is the nation's largest employer, it is an attractive target for lawsuits. Says spokesman Jay Allen: "When you have a million people, you're going to have a few people out there who don't do things right." Still, "there's no doubt we need to continue to do a better job of promoting and developing women and minorities."

The sexual discrimination suit is the latest in a string of recent legal problems at the company. Wal-Mart has taken an aggressive, no-holds-barred litigation stance for years that has drawn the ire of courts nationwide. Judges have sanctioned the company more than 130 times, in 40,000 cases in the past decade, for discovery abuses. Now its employment-related problems are growing, too. Last month, a U.S. District Court in Tucson slapped the company with a contempt motion for violating a court order in an EEOC disability bias case. The court ordered it to pay \$750,200 in fines for not following through on the terms of the settlement, which included creating training materials for hearing-impaired employees, providing disability training for managers, and allowing government disability and EEOC officials to visit stores to verify compliance.

Indeed, since 1994, the EEOC has filed 16 suits against Wal-Mart for disability discrimination. That is the most Americans with Disabilities Act-related EEOC suits of any U.S. company, according to the EEOC. "I have never seen this kind of blatant disregard for the law," says EEOC lawyer Mary Jo O'Neill. "You get the impression that Wal-Mart is an employer that, at the top, isn't committed to taking the [ADA] and federal employment laws seriously." Wal-Mart has asked for a rehearing but says it has instituted training. "Hopefully, our managers understand better now what kind of capabilities disabled people have," says spokesman Bill Wertz.

The company also has worker-related problems in Washington state, which last December issued an order revoking Wal-Mart's authority to administer its own workers' compensation claims because of mistreatment of injured workers and "repeated" and "unreasonable delays" in giving them benefits they were owed. Wal-Mart has since won a stay of that order, saying it has a "good and improving record" and has worked conscientiously with the state.

UNFAIR? The company says it has also worked on diversity issues by regularly tracking the number of women and minorities in management and that the numbers are improving, though it declined to detail what percentage of senior managers are women. What's more, comparisons with other retailers are unfair, notes Wertz, because they may classify their managerial jobs differently. If Wal-Mart included department managers--hourly employees who have several layers of supervision above them--among management positions, women would make up 60% of the managerial ranks, the company says.

But Wal-Mart employees involved in the suit, even those who have been promoted, such as former personnel manager Micki Earwood, say that number is misleading. In her job, Earwood says, she had access to promotion and pay records for her store in Urbana, Ohio. These revealed, she alleges, that male workers were given most of the promotions and raises and that men were sometimes paid higher than women who ranked above them.

For plaintiffs' lawyers, the next hurdle is convincing the U.S. District Court judge that a company so centralized that it can keep tabs on every last lightbulb in its more than 3,100 stores can't claim ignorance about its alleged problems with women. The court may be reluctant to grant nationwide class-action status because the suit involves a potentially unprecedented number of people. But if it does, this could turn into the No. 1 legal problem for the No. 1 retailer.

By Michelle Conlin in New York and Wendy Zellner in Dallas