

Losing Your Female Talent

Introduction

Expert Testimony

The law

Gender Discrimination Lawsuit Overview

- Law firm Morton, Kelly & Eisenberg (MKE) sued for gender discrimination.
- Plaintiffs: Female associates who worked at MKE from 2012 to 2018.
- Allegations: Earning less than male colleagues, indicating systematic discrimination.
- Defendants: Deny discrimination, claim wage disparities unrelated to gender.

Legal Basis for Discrimination Cases

- Employment discrimination cases governed by **disparate impact** doctrine.
- Under Title VII of the Civil Rights Act (1964, amended 1991), plaintiffs must show discriminatory impact without proving intent.
- The burden of proof is shared between plaintiff and defendant.

Procedural Steps in Employment Discrimination Cases

- 1 Plaintiffs present *prima facie* evidence of disparate impact (e.g., wage disparities).
- 2 Defendants must demonstrate the business necessity of the contested practices.
- 3 Plaintiffs challenge the legitimacy of the defendants' business reasons as a pretext for discrimination.

The case

The company

- Morton, Kelly & Eisenberg is “white shoe” law firm.
- 970 attorneys plus support staff.
 - 1 associates
 - 2 partners
 - 3 equity partners
- Departments hire and pay independently

Departments

Department	Description
Bankruptcy	Corporate bankruptcy proceedings
Corporate	General non-litigation legal service for corporations, contracting, including M&As
Intellectual property	Representing clients in patent and IP proceedings, including infringement cases
Litigation	Representing clients during litigation
Real estate	Specialized legal services for real estate development
Securities	Legal work on issuing financial instruments
Tax	Tax advice and representation for high net-worth individuals

Business model

- Legal services charged to clients at a Time and Materials Basis.
- Mostly long-term clients

The case

- Eight female associates, who left in 2018, allege gender discrimination in pay.
- MKE denies, maintains non-discrimination policy.
- Lawsuit is in discovery phase.
 - internal company data (e.g. HR)
 - key variable: annual gross salary in 2016
 - actual pay practices
- Court limits what can be presented as evidence.

Plaintiffs

- 1 Show that women earned less than men
- 2 and this is discrimination.
- 3 Present evidence supporting your case to the Court.

Defendants

- 1 Show that there is no salary disparity
- 2 and/or no discrimination.
- 3 Present evidence supporting your case to the Court.

Experts

- 1 Provide expert testimony about statistics to all parties.
- 2 Can be challenged by all parties.

Gameplay

Gameplay

- Use the cards to find the result of the data operation.
- Team works together.
- Teams communicate only as allowed by Court.
- Organize your work!

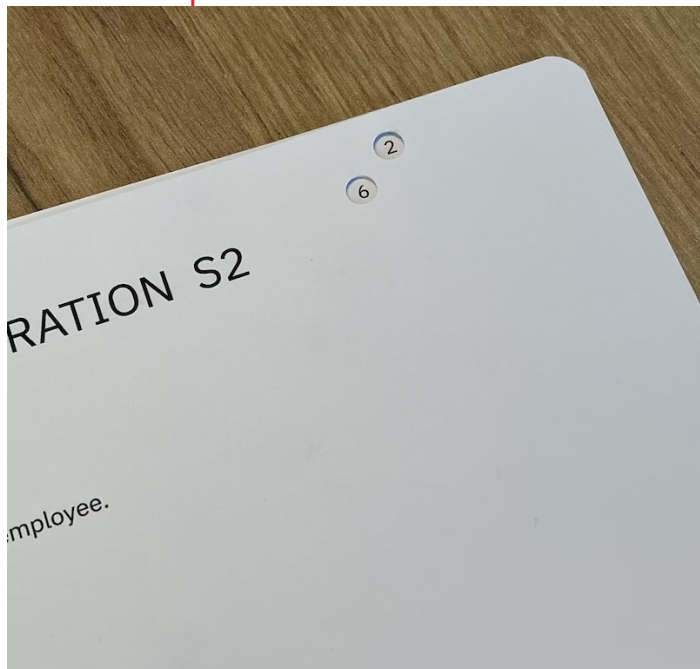
A DATA card



An OPERATION card



The result of the operation



An EXHIBIT card



Record your and the opponents arguments

VIENNA DISTRICT COURT

GROUP OF FORMER FEMALE ASSOCIATES (MORTON, KELLY & EISENBERG),
Plaintiff,

v.

MANAGING PARTNERS (MORTON, KELLY & EISENBERG),
Defendant.

Civil Action No. 1:25-cv-25318
Trial, February 7 - 14, 2024.

Stage 1: Prima facie evidence for disparate impact

Plaintiff

Exhibit	Arguments	Rebuttal

Figure 5: Record your and the opponents arguments