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Women win right to sue retailer
Judge in S.F. allows largest bias class action ever to take on Wal-Mart
By Josh Richman, STAFF WRITER

A federal judge in San Francisco on Tuesday created the largest civil rights class-action lawsuit ever filed against a private employer by granting class status to women suing retail giant Wal-Mart for company-wide sex discrimination.

U.S. District Judge Martin Jenkins ruled six current and former workers can represent about 1.6 million women who have worked at Wal-Mart discount stores, super centers, neighborhood stores and Sam's Clubs since Dec. 26, 1998. The June 2001 lawsuit accuses the company of discriminating against female retail workers in pay and promotions.

"Up until now, Wal-Mart has never faced a trial like this," said Berkeley attorney Brad Seligman, executive director of the nonprofit civil rights group The Impact Fund, which is the women's lead counsel. "Lawsuits by individual women had no more effect than a pinprick. Now, however, the playing field has been leveled. Wal-Mart will face the combined power of 1.6 million women in court."

Mona Williams, chief spokeswoman for Arkansas-based Wal-Mart, issued a statement Tuesday noting Jenkins' ruling "has absolutely nothing to do with the merits of the case."

"Judge Jenkins is simply saying he thinks it meets the legal requirements necessary to move forward as a class action. We strongly disagree with his decision and will seek an appeal," she said, adding the company will "continue to evaluate our employment practices."

"For example, earlier this month, Wal-Mart announced a new job classification and pay structure for hourly associates. This new pay plan was developed with the assistance of third-party consultants and is designed to ensure internal equity and external competitiveness."

Jenkins wrote the plaintiffs "present largely uncontested descriptive statistics which show that women working at Wal-Mart stores are paid less than men in every region, that pay disparities exist in most job categories, that the salary gap widens over time, that women take longer to enter management positions, and that the higher one looks in the organization the lower the percentage of women."

This case comes on the heels of the 50th anniversary of the landmark Supreme Court ruling in *Brown v. Board of Education*, which ended public school segregation by striking down the "separate but equal" standard, Jenkins noted. "This anniversary serves as a reminder of the importance of the courts in addressing the denial of equal treatment under the law whenever and by whomever it occurs."

Among the original plaintiffs are Betty Dukes of Pittsburg and Patricia Surgeson of Vacaville.

Wal-Mart reported sales of \$256.3 billion in the fiscal year ending Jan. 31, 2004. It owns and operates 3,566 stores in the United States and employs more than 1.2 million people, about two-thirds of whom are women.

"This ruling brings Wal-Mart one giant step closer to being as vigilant in accounting for equal pay and promotional opportunities for women as it is in keeping track of its stock of toothpaste, tires and T-shirts," said plaintiffs' co-counsel Irma D. Herrera, executive director of San Francisco-based Equal Rights Advocates.

In addition to the Impact Fund and Equal Rights Advocates, the plaintiffs are represented by the Public Justice Center of Baltimore and by four private law firms, including San Francisco's Davis Cowell & Bowe.

Judge deals big blow to Wal-Mart
He grants class-action lawsuit charging sex discrimination.
By Dale Kasler -- Bee Staff Writer
Published 2:15 am PDT Wednesday, June 23, 2004

In a historic and potentially devastating setback for Wal-Mart Stores Inc., a federal judge in San Francisco granted class-action status Tuesday to a massive lawsuit accusing the retailing giant of sex discrimination against female employees.

The ruling means that a small group of women, all of whom are current or former Californians, can represent 1.6 million current and former Wal-Mart workers in an effort to show the company systematically pays women less for comparable work and promotes them less frequently. Without class-action status, the case would be limited to a few individual claims or probably would collapse.

Wal-Mart said it would appeal.

The ruling is so significant that one legal scholar, Lester Brickman, said Wal-Mart probably will try to negotiate an out-of-court settlement if it's unable to get the class-action status thrown out by the appeals court. That's because a case involving 1.6 million plaintiffs could generate a trial verdict so huge that even a company of Wal-Mart's size wouldn't run the risk, said Brickman, a law professor at Yeshiva University in New York.

"You're looking at numbers potentially in the billions," he said. "Even one of the largest companies in the world finds that prospect quite threatening."

Judge Martin Jenkins' ruling had an epic feel to it. The judge invoked the 50th anniversary of the Supreme Court's *Brown v. Board of Education* ruling outlawing school segregation and wrote, "This anniversary serves as a reminder of the importance of the courts in addressing the denial of equal treatment under the law."

And in at least one respect, the decision broke new ground. It made the Wal-Mart case the largest class-action employment discrimination case in U.S. history, said Elizabeth Lawrence, one of a multitude of lawyers representing the women in the case.

"It's historic in size, it's the largest class ever," added Irma Herrera of Equal Rights Advocates, a San Francisco public-interest law firm that is representing the women. "And we are really excited about the possibilities of making wholesale changes at a very important commercial institution."

But Lawrence said the case is far from over, despite the enormity of the ruling. "Wal-Mart has a reputation for fighting to the bitter end," she said.

Wal-Mart, in a statement released by spokeswoman Mona Williams, said it would appeal the ruling and noted that the merits of the case haven't been decided.

"While we cannot comment on the specifics of the litigation, we can say we continue to evaluate our employment practices," the statement added. "For example, earlier this month Wal-Mart announced a new job classification and pay structure for hourly associates. This new pay plan was developed with the assistance of third-party consultants and is designed to ensure internal equity and external competitiveness."

Jenkins didn't rule on the substance of the case. But the judge said that the plaintiffs provided largely uncontested statistical evidence that "women working in Wal-Mart stores are paid less than men in every region, that pay disparities exist in most job categories, that the salary gap widens over time, that women take longer to enter into management positions, and that the higher one looks in the organization the lower the percentage of women."

Based on data gathered and analyzed by Richard Drogin, a Berkeley statistics consultant, the plaintiffs said the pay gap between men and women ranges from \$694 a year for cashiers to \$139,663 for regional vice presidents.

The judge also said there was anecdotal evidence supporting the women's case. One female employee, denied a transfer to a store's hardware department, testified that a supervisor told her, "You're a girl, why do you want to be in hardware?" Another quoted a supervisor as saying, "Men are here to make a career, and women aren't. Retail is for housewives who just need to earn extra money."

Christine Kwapnoski, an East Bay Wal-Mart employee who is one of the plaintiffs in the lawsuit, said she makes "a lot less than my male counterparts."

Kwapnoski, a 39-year-old single mother, has worked at the Sam's Club in Concord since 1986. She makes \$17 an hour managing the store's bakery and has stayed with the company as the lawsuit has made its way through the courts.

"It makes life a little rough going into work every day," she said.

Kwapnoski is one of seven named plaintiffs - that is, her name is on the lawsuit. All seven are current or former Californians, even though the suit accuses Wal-Mart of a nationwide pattern of behavior. The judge had ruled that the named plaintiffs should be Californians if the case was going to unfold here, according to Lawrence.

Wal-Mart argued that the lawsuit didn't deserve class-action treatment because each of its 3,578 stores is different, and store managers have considerable leeway in making promotions and giving raises.

But the judge said Wal-Mart's "strong, centralized corporate culture," as well as the statistical evidence on pay, showed the class-action status was justified.

He said the class will include women who've worked at a Wal-Mart store since Dec. 26, 1998. The date is tied to the filing of a discrimination claim filed with the federal Equal Employment Opportunity Commission.

The case adds to the political and legal controversies that have become a fact of life for Wal-Mart.

Despite its obvious popularity with shoppers, the nation's largest retailer has been attacked by labor leaders, Democratic elected officials and others for its relatively low pay and benefits, and non-union status. Its image further suffered when federal agents raided several stores and found undocumented immigrants hired by subcontractors were cleaning the stores.

Practically everywhere it goes in California, Wal-Mart must fight at the ballot box or in court for the right to build a new store. Its move into the California grocery business was a major factor behind the Southern California supermarket strike, as labor fought against management's insistence on contract concessions in order to be competitive. The scenario could be repeated when Sacramento-area grocery contracts expire in July.

Wal-Mart suit gets OK
By Michele Chandler
Mercury News

In the largest private civil rights case in U.S. history, a San Francisco federal judge Tuesday approved a sex discrimination lawsuit against Wal-Mart involving as many as 1.6 million past and present women workers.

The ruling came in a suit filed in 2001 by six current and former California Wal-Mart employees who allege that the retail giant discriminates against its female workers in pay and promotions.

By granting class-action status to the case, U.S. District Judge Martin Jenkins' decision affects all women who worked at Wal-Mart's discount stores, Supercenters, Neighborhood Markets and Sam's Club warehouse stores after December 1998.

Wal-Mart is the nation's largest employer and owns 3,566 U.S. stores, including 10 Bay Area outlets.

The Arkansas-based retailer vowed to appeal the ruling and a spokeswoman downplayed its importance. "Let's keep in mind that today's ruling has nothing to do with the merits of the case," said Wal-Mart spokeswoman Mona Williams. "Judge Jenkins is simply saying he thinks it meets the legal requirements necessary to move forward as a class action."

Wal-Mart Chief Executive H. Lee Scott announced a new pay structure at the company's annual meeting earlier this month, saying some workers will receive pay raises and that company officers' bonuses would be tied to diversity goals.

Lawyers for the plaintiffs hailed Tuesday's ruling as leveling the playing field between female employees and Wal-Mart. "Lawsuits by individual women had no more effect than a pinprick," said Brad Seligman, executive director of The Impact Fund, the Berkeley-based lead counsel for the women. "Now . . . Wal-Mart will face the combined power of 1.6 million women in court."

Pay disparities

The lawsuit alleges significant salary disparities at Wal-Mart, with men making an average of \$1,400 more a year than women in the same jobs, said Jocelyn Larkin, an Impact Fund attorney.

"For a cashier, it was \$700, but when you make \$14,000 a year, \$700 is a big deal," Larkin said. She noted the salary differences occur all the way up the line to regional vice presidents, where the salary gap was \$150,000.

If the lawsuit succeeds, former and current Wal-Mart employees could be owed more than \$1 billion in back pay alone, said Joe Sellers, another lawyer for the employees. That figure covers the difference between what the women earned and what they should have been paid, he said.

Women account for about 70 percent of Wal-Mart's current workforce of 1.2 million, but only about one-third of the company's managers are female. Wal-Mart employs a lower percentage of women managers than other retailers, the plaintiffs' lawyers said.

Workers allege access to promotions also was unfair. Rather than posting notices about management positions, the company often kept information about new jobs quiet, simply tapping the shoulder of employees it wanted to promote, according to the lawsuit.

Posting jobs

About a year ago -- after the lawsuit was filed -- Wal-Mart began posting notices of open management jobs, said Irma Herrera, executive director of Equal Rights Advocates, a San Francisco lawyers group also involved in the case.

Judge Jenkins noted that statistics from the plaintiffs "show that women working at Wal-Mart stores are paid less than men in every region, that pay disparities exist in most job categories,

that the salary gap widens over time, that women take longer to enter management positions and that the higher one looks in the organization, the lower the percentage of women."

Industry experts expect the class action to have little impact on Wal-Mart's formidable bottom line.

"This has been talked about for a while, and I think everyone understands their financial cash strength right now," said Jon Schallert, president of The Schallert Group consulting firm. "They definitely have the ability to compensate any of the potential victims."

Wal-Mart shares fell 87 cents Tuesday, closing 54.06.

The Recorder
By Jahna Berry
June 23, 2004

A federal judge gave a green light to the historic Wal-Mart sex discrimination class action on Tuesday, a decision that could potentially funnel tens of millions of dollars in attorneys fees to the lean nonprofit law firms on the plaintiffs' legal team.

But while the plaintiffs' lawyers celebrated U.S. District Judge Martin Jenkins' class certification ruling, they and other experts noted that it would likely face an almost immediate challenge. In a statement, Wal-Mart spokeswoman Mona Williams said the retailer plans to appeal.

On Tuesday, Jenkins issued an 84-page order that made *Dukes v. Wal-Mart Stores*, 01-02252, the largest gender discrimination class action case in history. The case alleges that the nation's largest employer paid women less and promoted them less often than male workers. The class may include up to 1.6 million former and current employees who worked at Wal-Mart after December 1998.

Jenkins' order didn't weigh the case's merits. However, the judge noted that *Dukes*' record-breaking scope doesn't give Wal-Mart a free pass when it comes to the 1964 Civil Rights Act.

"This act forbids gender- and race-based discrimination in the American workplace ... Insulating our nation's largest employers from allegations that they have engaged in a pattern and practice of gender or racial discrimination -- simply because they are large -- would seriously undermine these imperatives," Jenkins wrote, noting that his ruling comes during the 50th anniversary of *Brown v. Board of Education*.

Wal-Mart downplayed the importance of Jenkins' decision. "Let's keep in mind that today's ruling has absolutely nothing to do with the merits of the case. Judge Jenkins is simply saying he thinks it meets the legal requirements necessary to move forward as a class action," spokeswoman Williams said.

The plaintiffs however, were jubilant about the ruling and cautiously optimistic about the future of the case.

"The court said that there is no exception to Title VII for employers," said Jocelyn Larkin, who is litigation counsel for the Impact Fund, one of the nonprofit law firms working on the case.

The legal skirmishes aren't over yet. Under a relatively new rule, Wal-Mart can appeal the certification within 10 days to the Ninth Circuit U.S. Court of Appeals. The court then would have discretion over whether to take up the case.

The publicity about the case may prompt the Ninth Circuit to take it up, mused Barry Goldstein, a class action expert at Goldstein, Demchak, Baller, Borgen & Dardarian in Oakland. Any decision made by the Ninth Circuit would probably be appealed to the U.S. Supreme Court, he added.

An eventual victory could fund years of public interest litigation. The nonprofits on the legal team are Impact Fund, an 11-year-old Berkeley-based nonprofit started by ex-Saperstein, Mayeda & Goldstein partner Brad Seligman; Equal Rights Advocates, a 30-year-old San Francisco firm focused on gender discrimination; and Baltimore-based Public Justice Center, a 19-year-old public interest law firm.

The private firm roster includes San Francisco's Davis, Cowell & Bowe; Santa Fe, N.M., firms Merrit Bennett and Tinkler & Firth; and Cohen, Milstein, Hausfeld & Toll, the Washington, D.C., firm that sued Swiss banks on behalf of Holocaust survivors.

While many experts stressed that the plaintiffs still face a long, hard road, that road probably doesn't end in a trial.

Most class actions settle after the class certification. Employers do so because the cost of litigating and the risk of losing are too great, said civil defense attorney Gilmore Diekmann Jr. of Seyfarth Shaw in San Francisco.

Todd Roberts, a Ropers, Majeski, Kohn & Bentley partner who defends employers and has represented carriers who defend employment class action cases, agreed. "There is a substantial amount of money that is invested by both sides," said Roberts. "The cases are extremely costly to get from the pleading stage to the trial stage."

While several experts declined to speculate about the size of potential attorneys fees or any settlement award, the plaintiffs' legal team could be poised to reap a huge windfall in attorneys fees.

Certainly a big cash infusion from the Wal-Mart case would have a major impact on the nonprofits, one observer said.

"I think it would be extraordinary," said Goldstein, a former colleague of Impact Fund founder Seligman and Larkin. He compared the prospective Wal-Mart fee award to when pharmaceutical heiress Ruth Lilly unexpectedly bequeathed \$100 million to Poetry Magazine.

"Obviously ERA and the Impact fund have done a lot on a shoestring," Goldstein said.

The nonprofits themselves said it was too early to talk about settlements -- key legal battles have not been fought yet. Any money from a settlement or judgment would be plowed back into the organization to fund more litigation and outreach projects.

"That's what public interests groups do," said Irma Herrera, executive director of the Equal Rights Advocates, which has a budget of \$1.6 million. "We take attorneys fees and invest them in future cases."

Like Impact Fund and the Public Justice Center, ERA is funded through a combination of attorneys fees, contributions, grants and donations.

The Public Justice Center has a budget of "just over \$1 million," says legal director Debra Gardner. The Impact Fund's 2003 annual report shows it had \$1.6 million in revenue.

One prominent public interest attorney who declined to speak on the record noted that even if the plaintiffs reaped huge fees from the Wal-Mart case, the money might not trickle down to the nonprofits.

When nonprofit law firms staff large legal cases, their work is usually funded by well-heeled firms, foundations or loans. If the nonprofit law firms involved in the Wal-Mart case have to pay back their benefactors first, they may not see much of any fee award, the lawyer said. The lawyer also noted that while most class actions settle, Wal-Mart is known for not settling cases.

[Fair for all](#)

[Wal-Mart is just the latest battle for Irma Herrera and nonprofit firm ERA in fight for women's rights](#)

- [Dave Ford, Chronicle Staff Writer](#)

Friday, July 9, 2004



The walls of the Mission Street offices of Equal Rights Advocates, a San Francisco nonprofit that provides legal aid and advocacy to girls and women who cannot afford them, are painted a fresh, clean white. Muted lime accents lend soft cheer, and tall windows let in daylight, heightening the airy feel of the high-

ceilinged, 4,000-square-foot space. The central floor area is divided into cubicles, and small offices line the walls.

One of those belongs to a compact, good-natured woman named Irma D. Herrera. For the past nine years, she has served the group as executive director. The walls of her small, tidy office are a deep and peaceful blue, and are hung with two paintings steeped in oranges and yellows. Both show women - some gossiping, some at the market - happy to be in a community of equals.

Not all women are as fortunate as those in the paintings, and that is why the advocacy group exists, Herrera says. "When the founders talked about ERA, they always imagined they would be out of business in a few years, because they would have achieved equality for women," she says. "But we're still far away from that."

Among its other current cases, ERA is one of three public interest nonprofit groups and four law firms representing plaintiffs in *Dukes vs. Wal-Mart Stores Inc.*, a class-action lawsuit alleging gender discrimination in pay and promotion at the national discount chain. Two weeks ago, a U.S. District Court judge in San Francisco certified the case as a national class action suit, opening it to the 1.6 million female Wal-Mart employees, who have worked at any of the chain's U.S. outlets since Dec. 26, 1998.

The case is one of many that ERA has tackled since being hammered into existence on the anvil of the women's movement 30 years ago. (Its current staff is female, although men have worked there.) It provides legal counseling and representation in cases of sexual harassment; family and medical leave conflicts; pregnancy discrimination; safe workplace issues and discriminatory hiring; advancement and compensation, as those issues apply to women in low-wage service sector jobs; nontraditional occupations; sweatshops; and academia.

Its successes have included helping establish girls' rights to play in competitive soccer leagues, in 1975, and attaining rights for female San Francisco Fire Department firefighters, in 1987, according to information on the group's Web site. Now, it is helping to take on the retail giant Wal-Mart.

Since its single-store inception in 1962 by founder Samuel Walton, Wal-Mart, which has its headquarters in Bentonville, Ark., has grown nationally to more than 3,500 stores employing 1.2 million people. Last year, it reported sales of nearly \$260 billion.

Debra A. Smith, ERA's lead attorney handling the case, says an anachronistic corporate sensibility allegedly extended to a sort of old-boy hiring network. According to Smith and to court documents, some female Wal-Mart managers

were required to attend strip club outings and others had to go to business lunches at Hooters, the chain restaurant known less for its cuisine than for its barely-dressed female servers.

Some female Wal-Mart employees claim they've been told by male managers that they are a "rib out of Adam," don't have the "right equipment" to be managers, should get "dolled up" to get promoted, and have to be "bitches" to compete in Wal-Mart management. It seems an odd attitude in a chain in which 70 percent of the employees are female -- or, as senior management in one store allegedly referred to them, "Janie Qs" and "girls."

"You have this overt machismo that's prevalent among people who haven't had many economic opportunities or traveled widely," Smith says. She adds that the law firms representing the women hope the suit, filed in 2001, will shift store policy. Indeed, that may be happening: Last year, Wal-Mart created an office of diversity, promised to promote women and added sexual orientation to its workplace anti-discrimination statement. Press reports have included talk that Wal-Mart might see settling the class action suit out of court as a prudent damage-control strategy. (A Wal-Mart press officer declined to comment for this story "because of the pending litigation.")

On Tuesday, Wal-Mart appealed the recent federal district court decision. But ERA and the other firms plan to press to have the case tried next year, all but ensuring a national media profile for the nonprofit legal aid group.

If the 15-member ERA staff is frenzied about the case, it doesn't show in the organization's serene office. Bowls of individually wrapped candies stand sentry at the receptionist's desk. Across from them stand long shelves stocked with rows of law texts. Document-stuffed cardboard boxes crowd floor-to-ceiling columns, and the smell of coffee wafts from a small kitchen.

Herrera, who lives in El Cerrito with her husband, Mark Levine, and their son, Antonio Levine, 11, sits behind a simple desk in her office and tells the story of how a girl raised poor in South Texas wound up a successful public interest lawyer. The tale likely resonates for many in her generation whose values were formed and lives were shaped by the 1970s women's movement.

Herrera grew up in what she describes as a "low-income, working-class family" in Alice, a town then of 17,000 south of San Antonio. Her father was a barber, her mom a homemaker. She has a brother and two sisters. The family spoke Spanish in the home, which was in the town's heavily Mexican-American area.

It was in Alice that Herrera had her first taste of the apartness that would one day drive her to consider public interest law. She recalls being 7 or 8 years old and

shopping with her mother at a department store. She overheard two white girls her age mocking her mother's accented English. "I remember telling them that 'at least my mother can speak two languages,' " she says, adding, "I remember being so infuriated that here were these little girls who thought they had the right to mock a grown-up. That was so insulting. "

Her community had no sidewalks, while the "Anglo" side of town boasted a public swimming pool and the town's nicest park. Parochial schools were segregated: Herrera and her Hispanic classmates saw the "Anglo kids" once a year, during an intramural volleyball game. "When I was a child I could see in the world around me that things weren't fair," she says.

For some, that might have set off a cycle of despair. But Herrera says watching her parents aid relatives in dire straits -- even when her family had few resources -- taught her the value of lifting those in trouble. "I grew up in a home where it was expected that you always helped people in worse situations than you were," she says.

At 16, Herrera, something of a prodigy, entered Texas A&M University at Kingsville. In her junior year, she transferred to St. Mary's University, in San Antonio. Both experiences challenged her perceptions of race. "I guess I expected that people who were not like me were really, really different, and (I had) the realization that people all have the same issues." She graduated in 1971 with a degree in political science, and then dropped out of a graduate urban studies program at Trinity University, also in San Antonio, to work for a New Orleans architecture firm.

"But I was always interested in doing something directly related to serving my community and fighting discrimination," she says, so she decided to attend law school at Notre Dame University, in South Bend, Ind. To her surprise, she discovered Mexican-American communities there and in Michigan composed of migrant workers who had drifted north to pick cranberries -- from South Texas, her home.

While at Notre Dame, Herrera worked for the nonprofit Michigan Migrant Legal Services. After graduating, she moved to eastern Washington to work for another legal services group. She represented Spanish-speaking migrant farm workers in cases involving benefits conflicts, work injury compensation and labor camp raids.

Equal Rights Advocates addresses some of the same challenges today. "If you don't keep doing it again and again, you'll roll backwards," Herrera says. "You have to keep moving forward. I guess the point is not to lose heart."

The very thing that made her stand out in eastern Washington -- she was the only Mexican-American in the area -- also isolated her, she says. In 1980, she moved

to San Francisco to become a staff attorney at the local office of the Los Angeles-based Mexican-American Legal Defense and Education Fund, commonly known as MALDEF, a nonprofit Latino rights group.

Despite some successes, Herrera felt frustrated that the work might not be doing any long-term good. "You could win the lawsuits, but if you didn't change public perception, those decisions wouldn't be as effective as they could be," she says. She left MALDEF in 1983 to travel, write and teach.

She returned to law practice three years later at two San Francisco commercial firms. To her surprise, she enjoyed the work and her colleagues. Still, subtle forms of discrimination sometimes popped up. At one firm, a receptionist asked Herrera to have her friends who called "pronounce their names in English." Herrera set about educating her colleagues. "Many activists do that," she says. "You work in institutions and become a thorn in their side. "

The lure of public interest law once again drew her, and she went to the San Francisco offices of the Boston-based legal group Multicultural Educational Training and Advocacy, which specializes in the educational rights of Hispanics and migrant children. In 1995, she took the executive director post at Equal Rights Advocates.

The group had been formed more than 20 years previously, in 1974, by four women. One was Barbara Babcock, who is soon to retire as Crown Professor of Law at the Stanford University law school. In a telephone interview, she says that some in the 1970s women's movement saw law as a way to better things for their peers; between 1968 and 1974, law school attendance by women shot up from 2 to 20 percent. Unprepared for the flood, the schools cast about for female professors, and Babcock wound up at Stanford, the first woman on the university's law school staff.

Around that time, three graduates of the Boalt Hall School of Law at UC Berkeley -- Nancy Davis, Mary Dunlap and Wendy Williams -- had formed Davis, Dunlap and Williams, one of the first women's law firms in the country. Working with them, Babcock devised a clinical course at Stanford in which students would work on cases at DD&W for a full semester while taking classes. The project was funded by a grant prohibiting use by a for-profit firm, so DD&W was reconfigured as a nonprofit and renamed Equal Rights Advocates.

These days, Babcock notes, women comprise half the students at elite law schools. Some of them make their way to ERA as law clerks for the same kinds of hands-on experience their forebears received.

Sumayyah Waheed, who has just finished her second year at Boalt, is 23 and possessed of soulful brown eyes and a ready laugh. An Ohio native, she is the daughter of parents who came to America from Pakistan.

Her ERA work includes a project involving tradeswomen in construction, and regular shifts on the ERA advice and counseling hot line, where, occasionally, she encounters women in sometimes desperate personal and legal straits. "It's nice to be able to help people day by day," Waheeb says. Waheeb wears a traditional Muslim hijab, or head scarf, and observes other faith rituals. But she considers her work and faith to be separate. Nonetheless, she says she may concentrate on the challenges faced by Muslim females, including physical abuse, when she begins practicing law. "As a woman, I feel doubly obligated to help my community fight that in America," she says.

Law students such as Waheeb benefit from the mentoring offered by the ERA staff, including Herrera, whom Waheeb describes as setting a down-to-earth tone in the office. Herrera says that's an outgrowth of her natural affinity for people, which carries her across class, race and gender lines. "When you get to know people on a personal level, a lot of those prejudices that you've picked up might go away," she says.

Hobbies such as gardening, cooking and reading help Herrera maintain balance in the face of potentially draining advocacy work, but she says it's the positive responses to what she does that really fuels her engines. She mentions once speaking to a middle school class of girls who had never seen a Latina lawyer.

"I feel that they see a possibility in me that they haven't thought of," Herrera says, at peace in her office with the deep blue walls. "And that's very important to me."