

The Lawyers Weekly

Mothers earn less than other lawyers: Study

By Donalee Moulton

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In the game of law, the playing field is not even. A new U.S. study has revealed – for the first time – that female lawyers with children earn less than their childless counterparts. The findings will surprise many lawyers in Canada. Others, however, say the situation in this country mirrors that below the 49th parallel. “In a study of over 700 graduates of the University of Michigan Law School who graduated between 1970 and 1996 my statistical tests indicated that fathers earn 15 to 20 percent more than lawyers without children (a ‘daddy bonus’) and that mothers earn 10 to 15 percent less than childless lawyers (a ‘mommy penalty’),” Neil Buchanan, the study’s author and an associate professor of law at The George Washington University Law School in Washington, D.C., told *The Lawyers Weekly*. While the “daddy bonus” has been identified in previous studies, Buchanan’s is the first to show the existence of a “mommy penalty.” He believes there are three possible reasons for this phenomenon. It may be that employers view fathers as better or more reliable workers. It may be that men wait to have children until their salaries are high enough to support dependents. Or it may be that men shirk household duties by spending more hours in the office, raising their income. “The explanations for the ‘mommy penalty’ usually revolve around the idea that mothers – even mothers with advanced legal training and high powered careers – are the ones who actually spend the most time taking care of their children,” Buchanan said. “These explanations for the mommy penalty – even though they suggest that there might be no discernible attempt to pay women less solely because they are women – show a troubling persistence of sexist attitudes about the division of labour in the home,” he added. “Thus, the ‘non-sexist’ explanation of pay differences isn’t really non-sexist at all. It is just a different kind of sexism.” Many lawyers believe this different kind of sexism is alive and well and living in law firms in Canada. “I think that if a similar study were conducted in Canada the outcome would be the same – we are not, contrary to the image-makers, that far removed from our American counterparts with respect to gender and other forms of inequality,” said Carol Aylward, an associate professor of law at Dalhousie Law School in Halifax. “We still live in a sexist society, and while inroads have been made with respect to pay equity, gender inequality has not been eradicated and we still have a long way to go.” In her book *Double Jeopardy: Motherwork and the Law*, Lorna

Turnbull, an assistant professor in the faculty of law at the University of Manitoba in Winnipeg, took a close and critical look at the positions of mothers in contemporary Canadian society. She found that many mothers in paid employment face the challenge of the double shift, the constraints on career imposed by family responsibilities, a reduction in earnings, and the restricted availability of childcare. Lawyers are not exempt from this reality. "Women (with children) work fewer hours (and) they don't get promoted as much, particularly in law, which is very much about having a presence and serving the client whenever the client needs," said Turnbull. "The time of law doesn't mesh with the time of family," she added. Reality, of course, can be altered. Indeed, it already has. "Things have changed over three decades. Men are participating much more in the family setting than they were 30 years ago," said Dawna Ring, a lawyer with the Nova Scotia Utility and Review Board in Halifax. "Generally in any private practice people are rewarded for the work they do. That is generally long hours," she added. "The formula does not distinguish between men and women any more." But law firms often do. More and more firms are actively working to attract and retain female associates. **LifeSpeak Inc., for example, works with many law firms across the country to support their working mothers. "By bringing expert speakers into the offices to provide information and strategies on topics of interest to working mothers, the firms are demonstrating their commitment to help women work, learn and thrive,"** said Aimee Israel, the company's chief executive officer, who is based in Toronto. **"Other programs that support women lawyers in their busy lives and ongoing quest for quality in both their work and their lives could include onsite daycare, employee assistance programs, catered meals, and generous maternity policies," she noted.** Other changes are also needed, said Buchanan. "Probably the most important thing is for law firms to re-examine their attitudes about mothers and fathers (and women and men more generally)," he noted. "Does the firm simply assume that fathers will be more available to the firm (and thus less likely to be contributing at home) and that mothers are more likely to be called away for short and long time periods? If so, is there a way to allow mothers to meet reasonable work demands without fighting the perception that they're less committed to their jobs?" Ultimately, said Turnbull, the inequity "comes from the fact that what women do in caring for children is not visible or valued."