



FCRA WAGE PROJECT
CHAPTER 9: WRONGFULLY DENIED PROMOTION
[ALL-IN-ONE DOCUMENT]

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CHAPTER: 9 WRONGFULLY DENIED PROMOTION

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ITEMS: A through D



9-0 | CHAPTER INTRO - WRONGFULLY DENIED PROMOTION

I think I was denied a promotion because I'm a woman.

- a. I think I did not get the promotion because I'm a woman, how do I prove it?
- b. Must I show that I was qualified?
- c. Must I show that my employer sought a replacement with similar qualifications?
- d. What could my employer do to deny my allegations, and how do I respond to its denials?
- e. Does it matter when the discrimination occurred?
- f. What options do I have if I my employer has fewer than fifteen employees?
- g. If I prove my wrongful denial of promotion claim, what kind of remedies am I entitled to?

(unknown authors)

9-A | I THINK I DID NOT GET THE PROMOTION BECAUSE I'M A WOMAN, HOW DO I PROVE IT?

To demonstrate that you have been wrongfully denied promotion based on sex, you must show that:

- 1) You are a member of a protected class (as a woman, you are);
- 2) You were qualified and applied for the promotion;
- 3) You were rejected despite your qualifications; and
- 4) The person who received the promotion was a man, not a member of the protected class and had lesser or equal qualifications.⁶⁰

(unknown authors)

Footnotes

⁶⁰ King, 21 F. Supp. 2d. at 1381.



9-B | MUST I SHOW THAT I WAS QUALIFIED?

An employer's statement that you are qualified suffices to demonstrate that you are qualified for the promotion.⁶¹

(unknown authors)

Footnotes

⁶¹ See Wilson v. B/E Aerospace, Inc., 376 F.3d 1079 (11th Cir.2004)



9-C | MUST I SHOW THAT MY EMPLOYER SOUGHT A REPLACEMENT WITH SIMILAR QUALIFICATIONS?

If the replacement your employer sought was not of your protected class and was less qualified than you, you have a claim.⁶² Additionally, you must show that there was a great disparity between your qualifications and those of the man who replaced you.⁶³

(unknown authors)

Footnotes

⁶²Id.

⁶³Id. at 1090.



9-D | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO ITS DENIALS?

Once you establish your case, your employer must give a legitimate, non-discriminatory reason for its actions. You must then show that the reasons your employer has provided are false.⁶⁴ However, if you provide direct evidence of a discriminatory policy (for example, if your employer has stated directly that he would not promote a woman to the position you seek), it is unnecessary to show that any other reason your employer has stated are false.⁶⁵

(unknown authors)

Footnotes

⁶⁴ Id. at 1087-1088.

⁶⁵ *King*, 21 F. Supp. 2d. at 1381-1382.



APPENDIX



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