

MarketWatch

More American men clamor for paternity leave: 'A father shouldn't have to be lucky to form a bond with his child'

By [Andrew Keshner](#)

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JPMorgan Chase recently agreed to a \$5 million settlement in a case related to the company's paternity-leave policy



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There's a new wave of dads and a workplace that's catching up.

Michael Jenks was ready for the ribbing from male co-workers as he prepared to take off three months in 2016, ahead of his son's birth.

'Why are you doing that? The baby just sits there.'

A co-worker's response to Michael Jenks when he said he was taking paternity leave

Older male bosses congratulated him. "They wished they could have taken more time. They have hindsight," the 40-year-old Anchorage, Alaska resident said. It was the childless co-worker in his late 20's who cracked, "Why are you doing that? The baby just sits there."

Chad R. MacDonald didn't get gentle teasing. His bosses laughed at his request for time off, days after his wife's March 2013 emergency C-section. "We're not f-----g doing that. You want to take time, work it out. But we're not f-----g paying you," MacDonald recalled them saying. That was a turning point and, months later, the New York City resident, 49, left his appraisal job at the New York City collectibles store.

For all the men like Jenks, there are also men like MacDonald, and even men like Derek Rotondo, who sued his employer, JPMorgan Chase [JPM, -0.11%](#), for its alleged refusal to give fathers like him 16 weeks of primary care-giver status because of their sex.

That case's [recent proposed \\$5 million class-action settlement](#) is thought to be the largest sum ever in a parental leave lawsuit. The firm will set up a compensation fund for approximately 5,000 fathers who did not receive adequate paternity leave in the past. An Ohio federal judge still needs to give final approval on the settlement. He gave preliminary approval in June. (A JPMorgan Chase spokesman declined to comment on the case.)

There is a long way to go: As of March 2018, 17% of all civilian workers, male and female, had access to paid leave, according to the [Bureau of Labor Statistics](#).



Michael Jenks, with his son.

The diverging stories highlight how fatherhood is changing for some men — with more involvement from the start — but the workplace is on a slow, uneven march to catch up.

There can be gaps between the leave policies that companies put on paper and the real-life expectations for male workers. Some new fathers can be ambivalent about taking time off — a reminder that [many women](#) still handle the lion's share of child-care duties.

40% of male employees used less than half of the paid parental/family leave they had available, compared with 13% of female employees.

In 2015, 25% of employers offered paid parental leave, according to a 2018 report from the human resources consulting firm Mercer. In 2018, 40% of employers did. During that time, the median amount of allowed leave stayed the same — six weeks for the birth parent and four weeks for the non-birth parent.

Though the U.S. is the only industrialized nation that doesn't require it by law, paid parental leave "has gone mainstream." That statement may be premature.

Men are still reluctant to take paternity leave: 66% of female employees had taken all their available paid maternity leave in 2016, but far fewer male employees (36%) had used all of their available paternity leave, according to a 2017 report by the Society for Human Resource Management.

"In fact, 40% of male employees used less than half of the paid parental/family leave they had available, compared with 13% of female employees, alluding to the gender divisions that persist in the caretaking of young children," the report noted.

Still, major U.S. corporations are leading the way. Target [TGT, -1.66%](#) recently [started offering paid family leave](#) to hourly workers, joining [major retailers](#) like Walmart [WMT, -1.14%](#), CVS [CVS, +0.42%](#) and Home Depot [HD, -0.73%](#). Blue-chip companies like Microsoft [MSFT, -0.85%](#), Facebook [FB, -1.21%](#), IBM [IBM, -2.83%](#), Netflix [NFLX, -2.21%](#) and American Express [AXP, +0.70%](#) have also [extended parental-leave](#) policies.

"There's bigger changes on the societal side that are slowly finding their way into company culture,"

—Rich Fuerstenberg, senior partner at Mercer

For all the publicized leave policies, there are many lesser-known companies starting small with modest leave amounts, said Rich Fuerstenberg, a senior partner at Mercer [MMC, -0.38%](#). The firm advises companies reviewing their leave policies to start small and expand later, versus the unpalatable option of reducing leave amounts at a future point.

Fierce company competition to find and keep workers in a tight job market, coupled with men's increasingly willingness and, in some cases, insistence to be allowed by their employers to be more involved at home are pushing more companies to introduce paternity leave, said Fuerstenberg.

Thirty years ago, fathers may not have been in the delivery room, he said. "It's a new generation of workers," Fuerstenberg added.

Only a handful of states have some paid family leave laws

There are a patchwork of state-level rules on parental leave.

Seven states and the District of Columbia have some form of paid family law on the books. But America has no federal paid-leave law. The Family Medical Leave Act (FMLA) of 1993 says workers can hold onto their job and insurance for up to three months of unpaid leave.

Meanwhile, millennial employees — poised to become three-quarters of the global workforce in six years — are putting a special premium on striking a balance between work and family.

With more leave policies, laws and awareness, there are also more clashes between employers and employees.

Between 1996 and 2005, judges issued decisions in 14 paternity leave cases in the U.S. and, from 2006 to 2015, they issued 61 decisions.

Paternity leave lawsuits are on the rise, according to the Center for WorkLife Law at the University of California, Hastings. So are lawsuits for other alleged forms of family responsibility discrimination, like pregnancy and lactation accommodation or caring for an aging relative.

Between 1996 and 2005, judges issued decisions in 14 paternity leave cases in the U.S. and, from 2006 to 2015, they issued 61 decisions, the center said. Overall, there's been a 269% increase in all sorts of family responsibility discrimination cases.

"The cases are the tip of the iceberg," said Cynthia Calvert, senior advisor on family responsibilities discrimination at the center. Many lawsuits are resolved with confidential settlements and many complaints never even get into the court system, she noted.

Federal court statistics on Family and Medical Leave Act (FMLA) lawsuits give another view on litigation over work leave. Plaintiffs filed over 1,300 federal lawsuits last year alleging violations of the act. There were no federal lawsuits filed in 2010 alleging FMLA violations. FMLA covers various reasons for missing work, like a medical condition, and not just parental leave.

'Men are being more vocal about their needs and not trying to hide it.'

—Rebecca Pontikes, Boston-based employment lawyer

"Men are being more vocal about their needs and not trying to hide it," said Rebecca Pontikes, a Boston-based employment lawyer who's represented fathers suing their employer. She acknowledges clients only come to her when there's a problem.

"Unfortunately, I don't think I see a lot of progress," she said.

Pontikes said the workplace "tends to push" men and women into traditional child-care roles. In her experience, female workers start encountering problems once they become pregnant, with employers questioning if they'll be reliable workers once they also have a newborn to care for. With men, the questioning happens later.

Pontikes said the uptick in lawsuits where men allege they're being penalized for taking paternity leave don't surprise her. She sees similar patterns in the clients who come to her.

The JPMorgan Chase paternity leave case was a milestone

When his first son was born in 2015, Rotondo, who works as an associate an investigator in JPMorgan Chase's Global Security and Investigations, took one week of paid parental leave and one week of accrued time. A year later, JPMorgan expanded its policy, bumping primary care-giver leave from 12 to 16 weeks and non-primary care from one to two weeks.

A human resources representative told Rotondo that mothers were the presumptive primary care givers unless the father showed certain criteria.

'I think a lot of men didn't know of their right to equal parental leave.'

—Peter Romer-Friedman, counsel at Outten & Golden

Rotondo said he was missing the 16-week leave because of his sex. He filed an Equal Employment Opportunity Commission discrimination complaint, Rotondo received the 16-week leave and the sides announced the proposed settlement two years later.

JP Morgan isn't admitting liability and Rotondo's lawyers acknowledge 16 weeks is a generous amount.

Peter Romer-Friedman, one of Rotondo's lawyers, said his firm has received up to 70 calls from fathers since news of the settlement last May. A number of the men said they were being pressured not to take advantage of their leave or punished for taking time off, said Romer-Friedman, who is counsel at Outten & Golden, an employment law firm with offices in New York City, Chicago, San Francisco, Chicago and Washington, D.C.

His firm usually gets up to 10 calls a year from fathers with complaints about paternity leave, Romer-Friedman said.

"I'm heartened by all the people reaching out, wanting to learn more about their rights and enforce their rights," Romer-Friedman said. "But I'm not surprised. I think a lot of men didn't know of their right to equal parental leave."

JPMorgan's associate general counsel, Reid Broda, previously said, "We are pleased to have reached an agreement in this matter and look forward to more effectively communicating the policy so that all men and women employees are aware of their benefits. We thank Mr. Rotondo for bringing the matter to our attention."



Daniel Murphy, former Mets infielder, pictured in 2015 World Series.

A public conversation about paternity leave has begun

Some high-profile men are making paternity leave their cause, like Reddit co-founder Alexis Ohanian. He's partnering with the Unilever [UN, +0.12%](#) brand Dove Men+Care to promote a Pledge for Paternity Leave, an initiative offering \$1 million for fathers who otherwise cannot afford to take time off.

Years earlier, there was a very public dust-up on one man's decision to leave work for a little bit.

Back in April 2014, then-New York Mets slugger Daniel Murphy, 29, missed Opening Day so he could be with his wife for the birth of their son.

Some New York City radio hosts howled in disbelief. Boomer Esiason, a former National Football League quarterback and father of two, [said on the air](#), "I would have said 'C-section before the season starts. I need to be at Opening Day.' I'm sorry. This is what makes our money, this is how we're gonna live our life."

Esiason apologized and Murphy ended up speaking at a White House summit about working families.

Contrast the dust-up with 35-year-old actor Chris Hemsworth's [announcement](#) last month that he was taking off the rest of the year off to be with his wife and three kids. The news came and went.

If the Murphy episode happened today, there would likely be "a lot less blow-back," Fuerstenberg said.

Don't miss: [P&G's Gillette ad asks men to shave their 'toxic masculinity' and a big backlash ensues](#)

The slow evolution of paternity leave



Lance Somerfeld, with his son and daughter.

“How much time you taking off?” has become a common question for expecting fathers to hear, according to Lance Somerfeld, a co-founder of the City Dads Group, a web-based community group for new dads that also hosts real-life meet-ups and workshops. “It’s a question you wouldn’t think you have to hide anymore.”

In his seven years running workshops, Somerfeld’s seen the slow evolution of paternity leave, both for the companies that offer it and the men who take it. “The answer used to be, ‘I’m taking a day or two, or I get a week.’”

Only 20% of Lance Somerfeld’s City Dads Group tell him they’ll take every last day of their leave.

Now, it’s usually four to six weeks of leave. By Somerfeld’s count. Still, only 20% of workshop participants tell him they’ll be taking every last day of their leave.

The 45-year-old father of two always starts the sessions asking expecting fathers about their biggest concern. The No. 1 answer is always a fear that “I’m going to break the baby.” The No. 2 worry relates to being a successful dad and a successful worker.

Somerfeld encourages new dads to use up all their leave during the rare and critical moment of early parenthood. Dads typically respond with the same refrains: They feel like they’ll get behind at work, or they worry they’ll be seen as expendable. They say, “I think I’m too valuable to miss the time and the people at work, they don’t understand.”

Some studies have found that men who choose *not* to take paternity leave get rewarded: Their earnings have a steeper upward trajectory up to 10 years post-child birth than those fathers who chose to take paternity leave. That’s according to a Norwegian [study released this month](#) by the National Bureau of Economic Research. It was because men who stayed in the office had fewer competitors to try surpassing, at least temporarily, the researchers said.

Men tend to spend less time than women on their child’s physical care

It may also be difficult to change generations of habits. For all the [talk of co-parenting](#), many American homes are not exactly egalitarian.

On average, men living in a house with a child under age six devote 26 minutes to the child’s physical care, according to the Bureau of Labor Statistics’ [yearly time use study](#). Women spend 1.1 hour on the task. Those numbers are basically unchanged from the agency’s 2014 study.

For all of men’s hand-wringing, they are grappling with the family-career dilemma that women have been facing for generations.

Men are grappling with the same family-career dilemma that women have long been facing for generations.

Meanwhile, things worked out for MacDonald. He became a writer and stay-at-home father in New York City. He considers himself lucky, but added, “A father shouldn’t have to be lucky to form a bond with his child and raise him.”

In Alaska, Jenks’ three months with his son, Franklin, had a greater effect on him than expected. “Bonding through adversity,” the Marine Corps veteran explained.

Other friends told Jenks they took just a couple weeks or several months and were bored by the end. Not Jenks, though.

Jenks returned to his administrative job at a hospital for several months, but realized he couldn’t stand the idea of sending Franklin to day care.

Jenks is now a stay-at-home dad with his three-year-old son. He has no regrets about the decision; his wife, a psychiatrist, first dropped the hints it could be a good idea.

Jenks was ready for the jokes as he prepared to leave work. He didn't get it from the older men. The same young co-worker joked he'd be turning his briefcase into a diaper bag and female co-workers chided him for the decision, saying he'd lose his benefits and seniority.

Jenks blurted out the idea of being a stay-at-home father for the first time when talking to an old friend in the aisle of a Target.

His friend replied, "Dude, that's my dream job."

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Andrew Keshner

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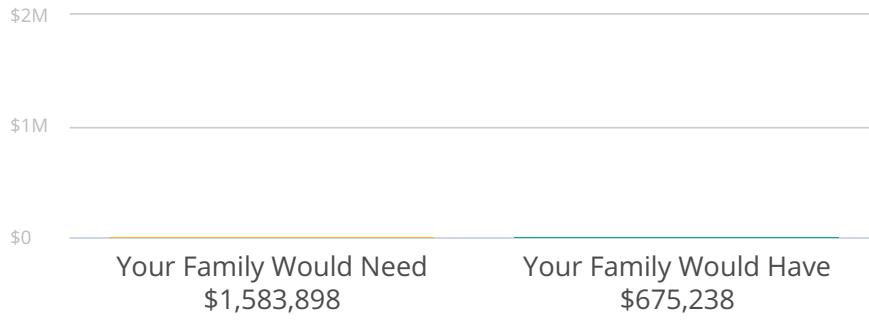
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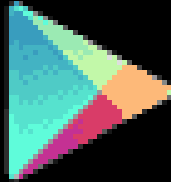
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