

To the Jury? A Professor's Pay Equity Battle Soldiers On

BY LYNETTE PACZKOWSKI • MARCH 22, 2021

In 2019, the United States District Court for the District of Oregon dismissed a lawsuit brought by Jennifer Freyd, professor of psychology at the University of Oregon, against the University and two University officials. In the lawsuit, Freyd alleged that although her own department chair identified a "glaring" pay gap between her and the men she works with, nothing had been done to equalize her pay.

The lawsuit included claims under the Equal Pay Act, which provides that "every worker must get equal pay for equal work regardless of gender, race, age, or other protected characteristics." In dismissing the case, the District Court justified the pay gap by differentiating the kind of work the men in the psychology department perform and focusing on the retention raises they had secured over the years.

This past week, the United States Court of Appeals for the Ninth Circuit reversed some of the District Court's decision, sending the case back down for trial. While the appellate decision does not guarantee victory for Freyd, it does directly strike down the District Court's notion that no reasonable jury could conclude that Freyd performed "a common core of tasks" and did "substantially equal work" as the better-paid men in her department. That is, a reasonable jury could be persuaded that Freyd and her higher paid male colleagues "share the same 'overall job,'" as they are all full professors in the psychology department with responsibilities for research, teaching, advising students, and participating in University committees. The Ninth Circuit also reversed and remanded Freyd's related state law equal pay act claims and allegations of sex-based disparate impact in pay under Title VII. It affirmed on her disparate treatment, Title IX, and state equal rights act claims.

Notably, this decision comes as Freyd is set to retire.

CLIENT TIP

The decision, particularly the revival of Freyd's disparate impact claim, serves as a reminder to look critically at any pay gaps that emerge along gender lines. If they cannot be explained by genuine differences in the type of work performed, further analysis of compensation metrics and policies should be performed.

©2026 Bowditch & Dewey LLP. All Rights Reserved.

©2026 Bowditch & Dewey LLP. All Rights Reserved.