



## CAMPUS COUNSEL

A legal blog written for administrators, HR professionals, in-house counsel, and deans at colleges and universities

### Case Closed – University and Professor Reach Settlement After Four Years of Litigation

BY LYNETTE PACZKOWSKI • AUGUST 31, 2021

In what might finally be the last chapter of a University of Oregon professor's pay equity battle, the University and the now-retired professor, Jennifer Freyd, have settled Freyd's case, with the University set to make a \$450,000.00 payment. The settlement reportedly includes a \$100,000.00 donation to the [Center for Institutional Courage](#), a foundation that Freyd founded.

Freyd filed her lawsuit in 2017. In 2019, the United States District Court for the District of Oregon [dismissed Freyd's lawsuit](#), which had alleged that although her own department chair identified a "glaring" pay gap between her and the men she worked 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.

Earlier this year, however, 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 did not guarantee victory for Freyd, it directly struck down the District Court's notion that no reasonable jury could conclude that she performed "a common core of tasks" and did "substantially equal work" as the better-paid men in her department. That is, the Ninth Circuit believed a reasonable jury could be persuaded that Freyd and her higher paid male colleagues "share[d] the same 'overall job,'" as they [we]re 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. The decision, particularly the revival of Freyd's disparate impact claim, served as a reminder to institutions to look critically at any pay gaps that emerge along gender lines.

In now reaching a settlement, the University and Professor Emerit Freyd issued a joint statement that reads, in part,

“Under the settlement, the University will pay Prof. Freyd and her attorneys \$350,000 to cover her claims for damages as well as attorney’s fees over the four years of litigation. In addition, the University will make a \$100,000 donation to the Center for Institutional Courage, the foundation founded by Prof. Freyd dedicated to scientific research and action promoting institutional courage. We are pleased to put this litigation behind us and together affirm our continued commitment to uncover, acknowledge, and address gender inequity and other forms of discrimination.”

## CLIENT TIP

This case is a reminder that litigating these claims can be costly and time-consuming. When the matter goes public, it can also have damaging effects on recruitment and retention. Regular compensation reviews and adjustments can help institutions identify potential problems and resolve them prior to protracted litigation.

For more information, please contact the alert author or your Bowditch attorney at 508-791-3511.

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