

# Boston Symphony Orchestra Flutist Settles Equal Pay Lawsuit

Insights

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The first lawsuit filed under the Massachusetts Equal Pay Act (MEPA)—a claim against the Boston Symphony Orchestra (BSO)—was settled last week pursuant to the terms of a confidential agreement between the parties.

A full summary of the case can be found here. In sum: the BSO's top flutist brought a lawsuit in Suffolk Superior Court in early July 2018 accusing the organization of paying her substantially less than her closest male counterpart in the orchestra. The female flutist was seeking more than \$200,000 in unpaid wages, as well as other damages and costs. According to the female flutist, she was being paid approximately \$70,000 less than what the BSO's principal oboist is paid, despite the fact they both lead woodwind sections as endowed chairs. Under MEPA, businesses are required to pay men and women equally for "comparable work." The BSO denied the female flutist's claims and argued the flutist and oboist do not perform comparable work because the oboe is more difficult to play.

This case gained a tremendous amount of publicity in Massachusetts and beyond as it highlighted pay gaps in the classical music world. The case was also being closely watched by employers and attorneys on both sides of the debate who hoped to get more clarity on the meaning of the phrase "comparable work" beyond what the Attorney General's Office provided in its guidance concerning MEPA.

Unfortunately, no clarity will come from this case since the parties filed a stipulation of dismissal in Suffolk Superior Court on February 15. While details of the settlement remain confidential, the parties made a joint statement indicating that the female flutist will continue to work for the BSO in her current role.

Now that this case has resolved, employers and attorneys will need to turn their attention to other cases being brought under MEPA in the hopes they will be provided additional guidance and clarity surrounding the phrase "comparable work."

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