



Federal Appeals Court Lowers Bar To Advance Pay Equity Claims

Insights

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A federal appeals court just ruled that workers don't need to clear a heightened legal standard in order to pursue pay equity claims, setting the stage for a possible increase in the number of lawsuits seeking recovery for alleged unfair wages in 2020 and beyond. The analysis applied by the 2nd Circuit Court of Appeals' December 6 decision in *Lenzi v. Systemax, Inc.* could be applied by other courts across the country, creating a new outlet for workers to claim pay bias.

The relevant facts of the case are fairly straightforward. Danielle Lenzi worked as a Risk Management executive at Systemax for several years, but soon had concerns that her salary was not where it should be. Despite receiving several pay raises, she was still paid significantly less than other department heads who were men. For example, her salary in 2013 as Vice President of Risk Management was \$191,000 even though three other male executives in V.P. roles were paid between \$262,000 and \$308,000. Each of the three male executives earned between \$13,000 and \$40,000 more than the "benchmark" salary for their positions (a figure established by examining salary data for Systemax employees in those departments), while Lenzi earned \$27,200 less than her benchmark. She frequently complained about her pay levels, she says, but her pay was never raised to an equivalent level with her male peers.

Systemax terminated her employment after it scrutinized an expense report she submitted and believed she violated corporate policies, and Lenzi brought a federal lawsuit against the company. The case included allegations of pregnancy discrimination, whistleblower retaliation, and related state claims, but for the purposes of this discussion, the relevant claim was a gender discrimination claim brought under Title VII.

Her Title VII claim was founded upon an allegation that she was paid less than her male peers because of her gender. The lower court dismissed this claim because it determined that she failed to produce sufficient evidence that the three male executives paid more than her were in positions that were "substantially equal" to her position, which the court said was a necessary element for her to succeed. But on appeal, the 2nd Circuit Court of Appeals set aside this principle as erroneous. "A Title VII plaintiff alleging a discriminatory compensation practice need not establish that she performed equal work for unequal pay," it said. "By its plain terms, Title VII makes actionable *any* form of sex-based compensation discrimination."

While a woman could certainly make a Title VII claim by showing she was paid less than male peers, the appeals court said that wasn't necessary. "All Title VII requires a plaintiff to prove," it said, "is

the appeals court said that wasn't necessary. All Title VII requires a plaintiff to prove, it said, is that her employer discriminated against her with respect to her compensation because of her sex." Thus, in the 2nd Circuit – an area including federal courts of New York, Connecticut, and Vermont – a claim for sex-based wage discrimination can be brought under Title VII even though no member of the opposite sex holds an equal but higher paying job, provided that the challenged wage rate is not based on seniority, merit, quantity or quality of production, or any other factor other than sex. With this ruling, Lenzi will now be able to proceed with her case towards a trial.

What does this mean for employers? Expect to see more plaintiffs latching onto this theory and bringing pay equity claims in the form of Title VII claims. In states where pay equity laws have not yet caught up with the modern movement of expanding the types of claims that workers can bring, Title VII claims might still serve as the best mechanism for advancing their concerns.

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