

News



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Sherry Culves on Federal Courts Split on Employers Asking Salary History Questions

Business Insurance

In an article published on March 5 in *Business Insurance*, Sherry Culves discusses the U.S. Supreme Court's decision on February 25 to remand the *Aileen Rizo v. Jim Yovino*, Fresno County Superintendent of Schools decision issued by the 9th U.S. Circuit Court of Appeals last year.

"The immediate implication here is that [the Rizo ruling] is not currently binding precedent in the 9th Circuit," said Culves.

Last year's 9th Circuit ruling disagrees with several other federal appeals court decisions concerning the Equal Pay Act. In a frequently cited 2005 decision, for instance, the 7th U.S. Circuit Court of Appeals in Chicago held in *Wernsing v. Department of Human Services* that, providing they avoid relying on criteria such as race and sex, employers are free to set their own standards of acceptable business practices.

While state courts and other entities have addressed the topic, there is no definitive answer on the issue at the federal level. Referring to the 9th Circuit ruling, Culves explains, "The difference here is that this is the federal Equal Pay Act, with nationwide influence."

Culves emphasizes that equal opportunity in the workplace has to include not only the opportunity to perform the job, but also to be paid equally for the job.

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