

## Talbert, Lilly

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**From:** Talbert, Lilly  
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FOR IMMEDIATE RELEASE

Press Release

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### **Equal Pay Act Case Decision**

(MONTPELIER, June 13, 2013) – Federal District Court Judge William Sessions has issued a decision in *Dreves v. Hudson News* late yesterday, the first case implicating Vermont's Equal Pay law.

The Vermont Commission on Women is delighted that the Court took such a strong stance against the enduring wage gap. The decision holds that simply because a man is able to negotiate a higher salary than a woman does not justify a pay differential, especially given that women are often at a disadvantage in salary negotiations. Nor does paying a man more as inducement to move his wife and children justify a pay differential. The court made clear that there must be a bona fide business reason for the pay differential, even if there was no intent to discriminate.

The court concludes: "The convergence of wages has slowed in recent years and in 2012, the wage gap actually increased slightly. Any gap in the pay of men and women, whether forty or ten or one percent, is an implicit statement to our children that we value the work of our daughters less than that of our sons. It sends a message that Congress, the Vermont General Assembly, and this Court reject."

The court reflected on the wage gap: "The unequivocal promise of equal pay for equal work continues to go unrealized. In the fifty years since the passage of the Equal Pay Act, we have taken significant strides towards parity. In 1963, the female to male earnings ratio was 60 percent and many of the country's leading colleges and universities were admitting their first female students. Today, the gap is markedly smaller, and women outnumber and outperform men in higher education. That progress justifies confidence but not complacency."

The Court affirmed that any pay disparities must be justified by bona fide, business-related reasons. "An employer can demonstrate that a pay gap is based on seniority, merit, or the quality or quantity of an employee's work. An employer can also explain that a pay gap was caused by "any factor other than sex." This final defense is a broad one, but it is not a license to assert any factor under the sun."

The decision is likely to have significant implications both in Vermont and nationally, particularly in its holding that employers can not rely on salary negotiations or the argument that the male had to move a family to justify paying a man more than a woman for substantially similar work.

"It is my hope that that decision encourages employers to undertake a pay equity audit to ensure that they are in compliance with the law," said Vermont Law School Professor Cheryl Hanna, who authored an amicus brief along with her students. "It is a fundamental principle of the American legal

system that people should be treated equally under the law, regardless of their gender. I am delighted that Judge Sessions applied the law as it was intended and, in doing so, reaffirmed the importance of equity as a bedrock of democracy." Professor Hanna expects that the decision may spur women who believe that they are victims of wage discrimination to come forward and seek remedy.

John Franco, the lawyer for Ms. Dreves observed, "We are extremely gratified by this decision which resoundingly vindicates equal pay for women and which was rendered just a few days following the 50th anniversary of President Kennedy signing the Federal Equal Pay Act on June 10, 1963." Franco continues, "With the double damages and prejudgment interest available under the Vermont statute, Ms. Dreves stands to at least recover nearly a year's worth of pay, plus all of her legal expenses."

Cary Brown, Executive Director of the Vermont Commission on Women, said, "The decision in this case reinforces the intent of the Vermont legislature which, with the passage of Act 31 this year, codified the requirement that pay disparities are justified only by bona fide business reasons. The causes for the wage gap are complex and numerous, and eliminating it requires similarly complex approaches. Judge Sessions has given us another tool to help ensure that women will have protection from discrimination, and move us towards a day in which women earn a dollar for every dollar men earn."

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About the Commission: The Vermont Commission on Women (VCW) is a non-partisan state agency dedicated to legislative, economic, social, and political fairness. Launched in 1964 by a call to action from President Kennedy, VCW is charged with reducing discrimination and encouraging opportunities for women. Sixteen volunteer commissioners and representatives from organizations concerned with women's issues guide the VCW's public education, coalition building, and advocacy efforts. VCW offers many services to the public, including a toll-free information and referral service at 800-881-156 and many publications, including the latest: [The Legal Rights of Women in Vermont](#). For more information, visit [www.women.vermont.gov](http://www.women.vermont.gov).