

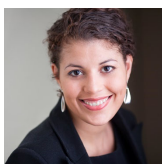
The Plight of Pluto: Same Planet, Different Pay?

Naomi Haslitt, Katie Loberstein, Christine A. Slattery

2021 Employment Law Seminar



Speaker Introductions



Naomi Haslitt
Bar Admission: Oregon



Katie Loberstein
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Bar Admissions: Oregon, Washington

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Today's Agenda

- What does it mean to provide equal pay?
 - The Federal Equal Pay Act
 - The Oregon Equal Pay Act
 - The Washington Equal Pay and Opportunities Act
- Hypotheticals to explore the details!



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An Overview of Equal Pay Laws





The Federal Equal Pay Act

- What is it?
 - The federal Equal Pay Act (EPA) requires employers to pay employees equally for doing the same work—in other words, equal pay for equal work
- Who is covered?
 - Virtually all workers and all employers are covered by the EPA
- What are the elements of a claim?
 - The plaintiff must show that they (and an employee of another sex) are doing equal work and receiving unequal pay
 - A pay differential is permissible if it is based on a factor other than sex

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The Oregon Equal Pay Act

- What is it?
 - The Oregon Equal Pay Act (OEPA) prohibits discriminatory wage rates based on statutorily protected characteristics
- Who is covered?
 - Virtually all workers and all employers are covered by the OEPA
- What are the elements of a claim?
 - The employer is discriminating against the employee on the basis of any protected class in the payment of wages for “work of comparable character” OR
 - The employer is paying *any* employee at a greater rate than it pays employees of a protected class for “work of comparable character”

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The Washington Equal Pay and Opportunities Act

- What is it?
 - The Washington Equal Pay and Opportunities Act (EPOA) prohibits gender pay discrimination and promotes fairness among workers by addressing business practices that contribute to income disparities between genders
- Who is covered?
 - Virtually all workers and all employers are covered by the EPOA
- What are the elements of a claim?
 - It is an unlawful employment practice for an employer to discriminate in any way in providing compensation based on gender between “similarly employed employees”
 - Discrimination does not include a differential in compensation based in “good faith on bona fide job-related factors”

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Hypotheticals to Explore the Details!





The Plight of the Paralegals

- Seth and Jessica both work as paralegals for Pluto Legal Services
- Seth makes \$75,000 annually, Jessica makes \$65,000 annually
- Their healthcare benefits, vacation time, and other forms of compensation are identical



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The Plight of the Paralegals

- Seth's title is Planetary Litigation Paralegal, and his work focuses primarily on supporting the attorneys who are working to restore Pluto's place in our solar system
- Jessica's title is Moon Merger Paralegal, and her work focuses primarily on the potential merger between three of the five moons of Pluto: Styx, Nix, and Hydra
- While they have different titles and distinct areas of focus, their roles require similar skill, effort, and responsibility

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The Plight of the Paralegals: Different Job Titles

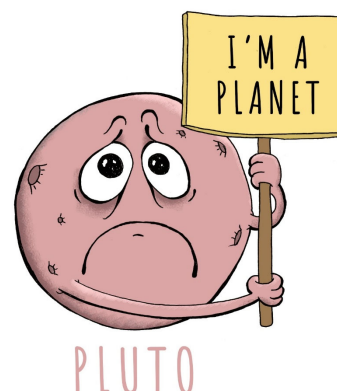
- Ethan, the Managing Partner at Pluto Legal Services, feels the disparity in Seth and Jessica's pay is justified for a number of reasons
- First, Ethan points out that Seth and Jessica have different job titles and areas of focus
- Are the different job titles and areas of focus enough?

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The Plight of the Paralegals: Education

- Next, Ethan points out that Seth has a master's degree, while Jessica does not
- Before he discovered his passion for Pluto, Seth was focused on Milky Way Marketing and obtained a related master's degree
- Is Seth's greater level of education enough?



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The Plight of the Paralegals: Experience

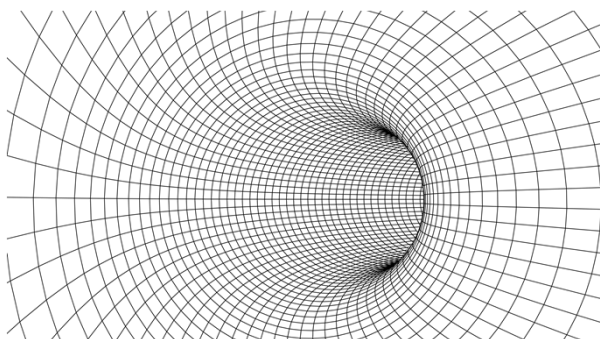
- After thinking more about Seth's master's degree and realizing it isn't relevant to his current work, Ethan remembers that Seth has more experience than Jessica
- Specifically, after obtaining his master's degree in Milky Way Marketing, Seth worked as an adjunct professor and published a number of academic articles
- Jessica has other work experience as well (she worked as a copy editor for a newspaper), but Ethan does not think this is nearly as prestigious
- Is Seth's additional experience enough?

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The Plight of the Paralegals: Black Holes

- At this point, Ethan understands that he may have difficulty justifying the pay disparity between Seth and Jessica and he wants to make sure he doesn't step into any black holes

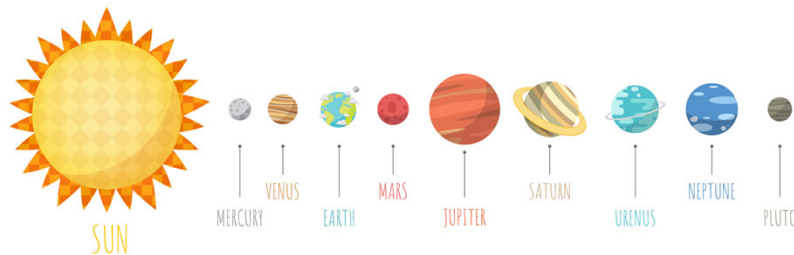


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The Plight of the Paralegals: Black Holes

- What if Seth had more experience as a paralegal than Jessica?
- What if Seth had better performance reviews?
- What if Seth and Jessica worked in different locations?
- What if Seth bills more hours than Jessica?



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The Plight of the Paralegals: The Fix

- Ethan is ready to level out the pay between Seth and Jessica
- Ethan figures it is safer not to bring the disparity to Jessica's attention, so he wants to reduce Seth's salary
- Will that work?

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The Plight of the Paralegals: The Fix

- Over coffee, Seth discovered that Jessica received a \$10,000 raise and now they are making the same amount
- Seth is upset and Ethan wants to give him additional vacation time to make him feel better
- Can he do that?



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The Plight of the Paralegals: New Moon

- Ethan wants to hire a new paralegal to manage the merger between the remaining moons of Pluto: Charon and Kerberos
- Can they give her a signing bonus?
- Can they give Seth and Jessica retention bonuses?

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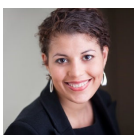
The Plight of the Paralegals: Damages

- After having coffee with Seth, Jessica realizes that she has been paid \$10,000 less than Seth for the past two years
- If she decides to sue Pluto Legal Services, what damages are available?



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Thank You!



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