



(L-R) Christopher Yannuzzi, Eric Isicoff, Teresa Ragatz, partners, Isicoff Ragatz. Courtesy photos

NEWS

Isicoff Ragatz Lawyers Secure Defense Verdict for University of Miami in Equal Pay Act Case

"Don't be intimidated by a claim brought by the government or a government agency; treat it like any other case and if your client has valid defense, be willing to stand up and defend," attorney Eric Isicoff said.

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What You Need to Know

- Isicoff Ragatz partners represented the University of Miami in a lawsuit brought by the Equal Employment Opportunity Commission and a professor.
- Eric Isicoff said there was no convincing the EEOC to come to a resolution.
- Following a five-day jury trial, the jury rejected the plaintiffs' claims and returned a complete verdict in favor of the university.

Isicoff Ragatz partners Eric D. Isicoff, Teresa Ragatz and Christopher M. Yannuzzi secured a defense verdict in an Equal Pay Act case against the University of Miami.

Plaintiffs alleged that the university violated the Equal Pay Act and Title VII by paying professor Louise Davidson-Schmich less than a male professor within her department.

Counsel defended the university using two main arguments: that the two professors did not perform the same job and the pay differential was not based on sex but, rather, was based on market forces, experience, reputation, impact in their respective fields and job performance.

Following a five-day jury trial, the jury rejected the plaintiffs' claims and returned a complete verdict in favor of the university.

"In many ways this was a frustrating case, the university was put in a position where it was forced to spend substantial amounts of money. In depositions, court and hearings this was a very expensive undertaking," Isicoff said. "This university's mission is to provide education and research opportunities in a healthy and positive academic environment. But when it has to deal with something like this it takes away from the resources that are available for all positive things it's trying to do."

Isicoff said his team's strategy was to demonstrate with as much detail as possible the differences between the people in this case by pointing out their respective accomplishments, and demonstrating why Kluger was entitled to more money.

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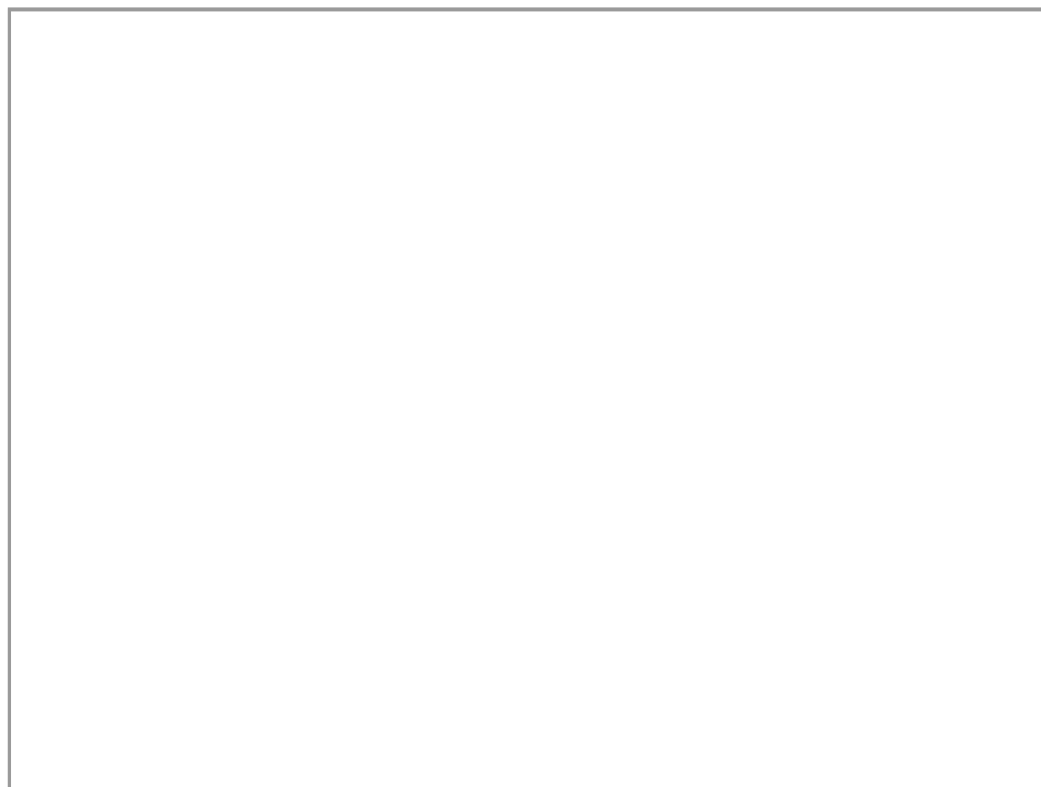
“For UM this case had potential implications far beyond this case. The [U.S. Equal Employment Opportunity Commission] was wanting to inform the university how it is to measure scholarships and evaluate the accomplishments of top-end scholars, and how they measure different kinds of publications,” Isicoff said. “As a university we could not just sit by and allow the EEOC to substitute its judgment for academic scholars at the University who are evaluating and paying people based on their academic achievements and their output. Our strategy was to be straight with the jury and point out all the things that go into evaluating scholarships, performance and academic achievement. We also made sure the jury understood that there are vast differences among scholars. So our strategy was to demonstrate with as much detail as possible the differences between the people in this case by pointing out their respective accomplishments, and achievements demonstrating why Kluger was entitled for more money for what he did.”

Isicoff said there was no convincing the EEOC to come to a resolution.

“No matter what we showed or explained to them, they were set on taking this case to trial. Usually a matter like this can be resolved. Another challenge was going into trial and the government is on the other side claiming to be doing ‘God’s work’, standing up for the employees and protecting the rights and interest,” Isicoff said. “It can be very persuasive to a jury and it’s dangerous to go to trial when the people on the other side are viewed as “neutral” by the jury. The jury questionnaires that were filed by the jurors the vast majority of them said that they viewed the EEOC as a neutral agency and that could not be further from the truth. They are biased and aggressive as hell. So we had to overcome that false narrative that there is some kind of neutral agency that is looking out for the little guy, when that is simply not the case.”

U.S. District Judge Robert N. Scola Jr. for the Southern District of Florida was the presiding judge.

Read the complaint



According to the complaint, March 5, 2019, the EEOC issued to UM a letter of determination finding stating that Equal Pay Act and Title VII were violated. The commission later issued to UM a Notice of Failure of Conciliation advising the defendant that it was unable to secure an acceptable conciliation agreement.

UM hired Davidson-Schmich in August 2000 as a first-year assistant professor in the department of political science. Davidson-Schmich’s salary was \$50,000, according to the complaint. In the spring and summer of 2007, she had six years of experience.

The university awarded her tenure and a promotion to associate professor, which boosted her salary to \$72,500.

The complaint stated that when UM hired Gregory Koger, who had four years of experience in the same position, his salary was \$81,000.

In December 2016, Davidson-Schmich and Koger were both reviewed for promotion to full professor at the same time. Both were promoted.

In early 2017, the Ad Hoc Committee on Women Faculty released a memorandum suggesting the CAS leadership pay equity issues stating women make \$32,889 less than men on average.

Davidson-Schmich and a group of female faculty members met with the CAS Dean to discuss concerns they had about unequal treatment of female faculty members compared to male faculty members, according to the complaint. However the dean allegedly did not do anything to address the concerns raised at their meeting.

Davidson-Schmich made a request to UM's Title IX Coordinator to anonymously investigate whether she was receiving unequal pay compared to male counterparts, but Louise Davidson-Schmich never received a response.

In email sent unintentionally to Davidson-Schmich, she learned that UM paid her \$112,400 for the academic year, while Koger was received \$137,366 for similar work, the complaint stated.

She filed a charge of discrimination with the EEOC the following month on June 4, 2018.

Isicoff's advice to attorneys: "Don't be intimidated by a claim brought by the government or a government agency; treat it like any other case and if your client has valid defense, be willing to stand up and defend."

Robert E. Weisberg, Beatriz B. Andre and Carmen M. Cartaya of the EEOC, and Karen C. Amlong of Amlong & Amlong, did not respond to requests for comment. Patricia L. Willis, who represented Davidson-Schmich, did not respond to requests for comment.

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