

Ninth Circuit Says No To Salary History Under The Equal Pay Act

This week, the Ninth Circuit overturned its own ruling on the use of past salary as a “factor other than sex” in Equal Pay Act disputes. The ruling expanded the already substantial circuit split for this issue.

Read the Ninth Circuit opinion and expert analysis for this issue below:

**Rizo v. Yovino, 2018 U.S. App.
LEXIS 8882**

**Kouba v. Allstate Ins. Co.,
691 F.2d 873**

**Expert Analysis: Why Asking About
Salary History Is Risky Anywhere**



Inconceivable

The court agreed Monday, saying it’s “inconceivable” that Congress meant for the “factor other than sex” exception to include salary history. Because Congress meant for the act to correct the “serious and endemic problem” of women being paid less than men for the same work, it can’t have meant to let businesses justify new gaps based on existing gaps, the court said. [*Salary History Can’t Shield Equal Pay Claims, 9th Circ. Says, Law360, April 9, 2018.*](#)