

Press Release



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In Major WLF Victory, Federal Court Strikes Down Philadelphia Law Barring Wage-History Inquiries

(Chamber of Comm. for Greater Philadelphia v. City of Philadelphia)

“The First Amendment protects the rights of everyone—both individuals and businesses—to speak truthfully. The district court properly struck down Philadelphia’s efforts to ban employers’ wage-history inquiries. Such speech restrictions are particularly pernicious because they ban speech based on its content; they should be upheld only in the most compelling of circumstances.”

—Richard Samp, WLF Chief Counsel

WASHINGTON, DC— In a victory for Washington Legal Foundation (WLF), the U.S. District Court for the Eastern District of Pennsylvania today enjoined enforcement of a Philadelphia ordinance that prohibited employers from asking job applicants how much they were paid in prior jobs. The court ruled in *Chamber of Commerce for Greater Philadelphia v. City of Philadelphia* that the First Amendment prohibited the speech restriction in the absence of substantial evidence from Philadelphia that wage-history inquiries perpetuate salary discrimination against women and racial minorities. WLF submitted a brief in the case, urging the court to strike down the ordinance as an unwarranted content-based restriction on truthful speech.

In a portion of the lawsuit in which WLF was not involved, the district court denied a challenge to Philadelphia’s prohibition on the *use* of wage-history information in setting salaries for new employees. The court concluded that the prohibition against using this information regulated conduct and not speech and thus was not subject to First Amendment constraints. But the court agreed with WLF that simply because Philadelphia is entitled to regulate use of wage information does not mean that the City is entitled to bar its collection. The court noted that employers have other, legitimate uses for wage information—for example, in deciding whom to hire. The court agreed with WLF that a job applicant’s history of, for example, regular salary increases makes him/her a stronger applicant—and employers thus have a legitimate interest in discovering that information.

Whether the First Amendment prohibits restrictions on wage-history inquiries is likely to be litigated in courts throughout the country in the near future. Massachusetts has adopted a law prohibiting such inquiries by employers within the State, and Philadelphia is one of an increasing number of cities that have either adopted or are contemplating a ban. Advocates of such speech restrictions argue that they will assist in eliminating the gap in average salaries for men and women; however, no studies have substantiated the effectiveness of speech restrictions as a means of eliminating that gap.

Celebrating its 41st year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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