

## EEOC backs U.S. Women's Soccer Team in pay discrimination case

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Players for the U.S. Women's National Soccer Team (USWNT) have filed an appeal in their pay discrimination suit against the United States Soccer Federation (USSF). The appeal comes after a federal judge ruled against the USWNT players last year, holding they had not demonstrated that they received unequal pay. *Morgan v. United States Soccer Federation, Inc.*, 445 F. Supp. 3d 635 (C.D. Cal. 2020).

The Equal Employment Opportunity Commission (EEOC) recently filed a "friend of the court" [amicus curiae brief](#) supporting the team, making the federal agency one of five organizations to file a brief to bolster the players' case. An amicus brief is filed by an entity that is not a party to the case itself, and the brief is designed to provide additional arguments that may help the appellate court make its decision. The U.S. National Soccer Team Players Association, the labor organization that represents the U.S. Men's National Team, also filed [an amicus brief](#).

If the USWNT players win their appeal, then they would be allowed to move forward with their equal pay lawsuit.

### Background

In 2019, players from the USWNT filed a [complaint](#) in a California federal court claiming that the USSF violated the Equal Pay Act (EPA) and Title VII of the Civil Rights Act of 1964 by paying female players less than male players, as well as subjecting them to less favorable working conditions.

According to the complaint, female players were paid only \$15,000 for trying out and making the World Cup Team. At the same time, male players were paid \$55,000 if picked for the World Cup Team. Additionally, the Men's Team received bonuses more than three times greater for reaching the World Cup Round of 16 in 2014 than the Women's Team received for winning the World Cup in 2015.

The unequal pay allegedly occurred despite the fact that the USWNT's success far eclipsed that of their male counterparts. The USWNT had won three World Cups (now four), four Olympic Gold Medals, and was selected as the Olympic Committee's Team of the Year and *Sports Illustrated's* Athlete of the Year.

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Their success also helped drive USSF's financial growth. The USWNT argued that their victory in the 2015 World Cup turned USSF's projected \$429,929 loss in FY2016 to a net gain of \$17.7 million.

## District Court's Decision

The players' case was dealt a blow in May 2020 when the district court threw out the majority of their claims. The court held that the USWNT failed to establish that they received unequal pay.

In making its ruling, the Court looked to evidence from the defendants' expert witness, who stated that the Women's Team had earned \$24.5 million in 111 games played, averaging \$220,747 per game. By comparison, the Men's Team had played 87 total games and made \$18.5 million overall, averaging \$212,639 per game.

Additionally, the court held that although the USWNT received lower bonus pay for friendly matches, World Cup games, and in other tournaments, the pay disparity was offset by the Women's Team's union contract providing for "benefits the [Men's] players do not receive," including annual salaries and severance pay.

## The USWNT Players' Appeal

In April, the USWNT [announced](#) that they would appeal the district court's decision. The appeal comes after the parties reached a partial settlement [in December](#) to address the USWNT's complaints of unequal working conditions, including disparities in staffing, hotel accommodations, and match venues.

## The EEOC's Amicus Brief

In its 47-page amicus brief, the EEOC argued among other things that the District Court had made two key errors in granting summary judgment against the USWNT:

1. The District Court chose to credit the USSF's expert testimony over the testimony of the USWNT's expert. The USWNT's expert provided calculations showing that, had the USWNT been paid under the Men's Team's compensation structure, they would have earned an additional \$63,822,242 between 2015-2019.
2. The USSF's expert made analytical errors in their report that could lead a jury to find the calculations unreasonable. The EEOC's main critique is that the USSF's expert ignores the fact that players are paid more in high-stakes matches. By simply dividing the raw number of games played by money earned, the USSF's expert assumed all games, whether World Cup matches or friendlies, were equal, and thus "ignored the [US]WNT's greater success as a team and **the fact that the [US]WNT had to be significantly more successful than the [US]MNT for its players to be paid the same.**"

While the USWNT's fight for another Olympic medal will come to a close with its Bronze Medal match against Sweden this week, the team may still have a long road ahead in its battle for equal pay. But these players have shown they will continue to fight until the last whistle is blown.

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