

Court Holds New Jersey's Equal Pay Act Will Not Be Applied Retroactively

Thursday, February 21, 2019

The Diane B. Allen Equal Pay Act (NJEPA) does not apply retroactively to conduct occurring before its effective date, July 1, 2018, a federal district court has ruled. *Perrotto v. Morgan Advanced Materials*, 2:18-cv-13825-WJM-MF (D. N.J. Jan. 14, 2019). The court granted the employer's motion to dismiss.

The NJEPA provides enhanced equal pay protections for New Jersey employees. It is considered one of the most expansive and aggressive pay equity bills [enacted](#) to date, providing a six-year statute of limitations, treble damages for violators of the Act, and renewed violations for each paycheck in which an employee is paid less than someone who performs substantially similar work.

The plaintiff's employment was terminated prior to the NJEPA becoming law. She asserted gender-based pay discrimination and retaliation under the law.

The court noted that there is a presumption that statutes will be applied prospectively, rather than retroactively. This presumption can be overcome in three situations: i) express or implied legislative intent; ii) the amendment is curative; or iii) when the expectations of the parties so warrant. The court found that none of the exceptions warranted retroactive application of the NJEPA.

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Article By [Cashida N. Okeke](#)
[James M. McDonnell](#) Jackson Lewis P.C.
Pay Equity Advisor

[Labor & Employment](#)
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[New Jersey](#)