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Constitutionality of Philadelphia's Salary History Ban Appealed to Third Circuit

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The constitutionality of the Philadelphia ordinance aimed at regulating employers' requests for and reliance on salary histories has been appealed to the U.S. Court of Appeals for the Third Circuit.

Both the City of Philadelphia and the Chamber of Commerce for Greater Philadelphia appealed U.S. District Judge Mitchell Goldberg's decision to grant in part and deny in part entry of a preliminary injunction, issued at the end of April. In the 54-page opinion, Judge Goldberg held that the ordinance's provision banning an employer's inquiry about an employee's prior salary violated the First Amendment, but he upheld the ordinance's prohibition against the use of that information to set rates of pay.

While Judge Goldberg applauded the intent behind the ordinance, he found the City had failed to present sufficient evidence to support its argument that discriminatory pay is perpetuated by an employee's disclosure of his or her prior wages to a subsequent employer.

The parties each filed their notices of appeal on May 25, 2018. For details of Judge Goldberg's Opinion and Order, see our article, [Philadelphia's Salary History Inquiry Ban Violates the First Amendment, Federal Court Rules](#).

This case potentially implicates the state and local salary history bans that have recently passed around the country.

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