NONPRECEDENTIAL DISPOSITION
To be cited only in accordance
with FED. R. APP. P. 32.1

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

Submitted December 13, 2022*
Decided December 15, 2022

Before

FRANK H. EASTERBROOK, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-2394

FARVA JAFRI,
Plaintiff-Appellant,

v.

SIGNAL FUNDING, LLC, et al.,
Defendants-Appellees.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

No. 1:19-cv-00645

Thomas M. Durkin, *Judge.*

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* We have agreed to decide this case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

ORDER

Farva Jafri sued her former employers under the Illinois Human Rights Act and both the federal and Illinois versions of the Equal Pay Act. The district court dismissed her Human Rights Act claims for failure to exhaust administrative remedies and later granted summary judgment on the Equal Pay Act claims. We affirm.

Jafri was hired as vice president of operations in 2016 by Signal Funding, a litigation-finance company. In this role, she says she was responsible for the "day-to-day" operations—overseeing technology, finance, accounting, servicing, funding, operations, regulatory issues, compliance, sales, case management, human resources, and administration—and acted as the chief executive officer's "number two." She resigned in 2017.

In early 2018, Jafri filed a charge of discrimination with the Equal Employment Opportunity Commission, alleging sex and religious discrimination by Signal Funding. She asserted that her employers treated her differently from her male colleagues, subjected her to a hostile work environment rife with sexual harassment, and treated her differently from her non-Muslim colleagues. She received a right-to-sue notice from the EEOC in July but did not submit it to the Illinois Department of Human Rights for another nine months—well beyond the 30-day limit for such filings. 775 ILCS 5/7A-102(A-1). Because of the untimely filing, the Department dismissed the claim for lack of jurisdiction

under state law. *Id.*; ILL. ADMIN. CODE tit. 56, § 2520.490(d).

She then turned to federal court and sued Signal Funding, its parent companies, and Joshua Wander (Signal Funding's co-founder) for (1) hostile work environment (based on sex) and discrimination (based on sex and religion), in violation of the Illinois Human Rights Act, 775 ILCS 5/2-102, and (2) unequal pay in violation of the Equal Pay Act, 29 U.S.C. § 206(d)(1), and the Illinois Equal Pay Act, 820 ILCS 112/10. With regard to the unequal pay claim, Jafri identified multiple male colleagues—including Gary Chodes (another co-founder of Signal Funding and its first chief executive officer) and David Hough (who replaced Chodes as chief executive officer)—as comparators who were paid more than her for the same work.

The district court dismissed Jafri's complaint in part. The court dismissed her claims under the Illinois Human Rights Act on exhaustion grounds, pointing out that she did not submit a copy of the EEOC's determination to the Illinois Department of Human Rights within the requisite 30 days. *See* 775 ILCS 5/7A-102(A-1)(1). But the court also determined that she stated claims for violations of the Equal Pay Acts, and allowed her to proceed on those claims.

The defendants later moved for summary judgment, arguing that Jafri failed to establish a prima facie case of wage discrimination under the federal and state versions of the Equal Pay Act because none of the identified comparators performed work similar to

Jafri. In opposing the motion, Jafri, for the first time, identified Adam Weiss, a man doing work for one of the corporate defendants, as another comparator.

The district court agreed with the defendants that Jafri failed to identify any comparable employees—adding that Weiss was not comparable because he made less money than Jafri—and entered summary judgment in their favor. The judgment, however, did not mention Joshua Wander or the Illinois Human Rights Act claims that the court had previously dismissed.

The defendants then asked the court to amend its judgment, FED. R. CIV. P. 59(e), to account for Wander and its prior rulings regarding the Illinois Human Rights Act claims. The court amended the judgment accordingly.

On appeal, Jafri first challenges the district court's ruling that she failed to administratively exhaust her Illinois Human Rights Act claims because she did not submit the EEOC's determination to the Illinois Department of Human Rights within 30 days of receiving it. In her view, there is no good reason to treat the 30-day deadline the same as other deadlines under the Act such as the 300-day deadline, *see* 775 ILCS 5/7A-102(A)(1) (deadline to file a charge after alleged violation of Act has occurred), and 90-day deadline, *see id.* at 5/7A-102(C)(4) (deadline to appeal after receiving dismissal from Department).

The Illinois Human Rights Act requires a complainant to exhaust administrative remedies before

filing a civil lawsuit. *See generally, Garcia v. Village of Mt. Prospect*, 360 F.3d 630, 640 (7th Cir. 2004). Under a workshare agreement between the EEOC and the Illinois Department of Human Rights, a charge filed with the EEOC is deemed to have been simultaneously filed with the Department. When the EEOC makes its determination (or upon the complainant's request), it will send either its determination or a right-to-sue letter to the complainant. The complainant then has 30 days upon receipt to forward the determination to the Department. 775 ILCS 5/7A-102(A-1)(1). Failure to do so may result in a dismissal by the Department for want of jurisdiction under state law. ILL. ADMIN. CODE tit. 56, § 2520.490(d). (This time limit decides the jurisdiction of the state agency, not the federal court). When the Department dismisses a complaint, a complainant may seek review before the Illinois Human Rights Commission or commence a civil action in Illinois state court. 775 ILCS 5/7A-102(C)(4).[1]

Upon receiving the Department's determination, Jafri received notice that she could either seek review before the Human Rights Commission or file a state-court civil action. She did neither. She instead filed this federal suit, bypassing the process afforded by the

[1] The Illinois Human Rights Act was amended in 2008 to expand access to the courts by allowing complainants to appeal to the state trial court upon 1) receiving a dismissal from the Department or 2) the Department failing to complete its investigation within 365 days. *See* 2007 Ill. Legis. Serv. P.A. 95-243 (H.B. 1509) (West). Before this amendment, exhaustion required that the complainant first receive a final order from the Illinois Commission of Human Rights.

state agency and the state courts. The purpose of the administrative-exhaustion requirement, however, is to enable the agency to develop the record, consider the facts, apply its expertise, and conserve resources by obviating the need for judicial review. *Poindexter v. State, ex rel. Dep't of Human Servs.*, 229 Ill.2d 194, 207 (Ill. 2008). By not complying with the statute's plain terms, Jafri failed to exhaust her administrative remedies, and she cites no relevant authority that suggests otherwise. These claims were properly dismissed.

Jafri also challenges the summary judgment entered on her claims under the federal and state Equal Pay Acts. She disputes the district court's conclusion that she hadn't identified an appropriate comparator, and insists that (1) her responsibilities and skills were equal to that of Chodes and Hough, and that (2) Adam Weiss was comparable in relevant regards.

To establish a prima facie case of wage discrimination under the Equal Pay Act Jafri had to show that her work as vice president of operations demanded the same (1) responsibilities and (2) skills as the work of higher-paid male employees. *See Jaburek v. Foxx*, 813 F.3d 626, 632 (7th Cir. 2016). (The parties do not dispute that both the federal and state versions of the Equal Pay Act impose the same requirements. *See* 29 U.S.C. § 206(d)(1); 820 ILCS 112/10.) A male employee, paid more for "equal work requiring substantially similar skill, effort and responsibilities" performed under similar working conditions, is a comparator under the Equal Pay Act. *Jaburek*, 813 F.3d at 632.

As the district court properly concluded, Jafri failed to establish that any of the three coworkers was an adequate comparator for purposes of the Equal Pay Act. Weiss, for instance, made less than Jafri. *See Warren v. Solo Cup Co.*, 516 F.3d 627, 629 (7th Cir. 2008). With regard to Chodes and Hough, the court found that both—in their roles as Signal Funding's chief executive officer—were responsible for strategic and high-level decision-making that was materially different from Jafri's responsibilities as vice president of operations. Both men also had litigation-finance-related skills and extensive experience that Jafri did not. *See Jaburek*, 813 F.3d at 632.

We have considered Jafri's other arguments, but none has merit.

AFFIRMED

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

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Chicago, Illinois 60604

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FINAL JUDGMENT

December 15, 2022

Before

FRANK H. EASTERBROOK, *Circuit Judge*
DIANE P. WOOD, *Circuit Judge*
THOMAS L. KIRSCH II, *Circuit Judge*

No. 22-2394	FARVA JAFRI, Plaintiff - Appellant v. SIGNAL FUNDING, LLC, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 1:19-cv-00645 Northern District of Illinois, Eastern Division District Judge Thomas M. Durkin	

The judgment of the District Court is **AFFIRMED,** with costs, in accordance with the decision of this court entered on this date.

/s/ [Illegible]
Clerk of Court

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FARVA JAFRI, Plaintiff, v. SIGNAL FUNDING LLC; SIGNAL FINANCIAL HOLDINGS LLC; and 777 PARTNERS LLC, Defendants.	No. 19 C 645 Judge Thomas M. Durkin

MEMORANDUM OPINION AND ORDER

(Filed Jul. 7, 2022)

Farva Jafri alleges that her former employer paid her less than her male colleagues in violation of the federal and Illinois Equal Pay Acts. Defendants have moved for summary judgment. R. 74. That motion is granted.

Legal Standard

Summary judgment is appropriate "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a); *see also Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986). To defeat summary judgment, a nonmovant must produce more than a "mere scintilla of evidence" and come forward

with "specific facts showing that there is a genuine issue for trial." *Johnson v. Advocate Health and Hosps. Corp.*, 892 F.3d 887, 894, 896 (7th Cir. 2018). The Court considers the entire evidentiary record and must view all of the evidence and draw all reasonable inferences from that evidence in the light most favorable to the nonmovant. *Horton v. Pobjecky*, 883 F.3d 941, 948 (7th Cir. 2018). The Court does not "weigh conflicting evidence, resolve swearing contests, determine credibility, or ponder which party's version of the facts is most likely to be true." *Stewart v. Wexford Health Sources, Inc.*, 2021 WL 4486445, at *1 (7th Cir. Oct. 1, 2021). Ultimately, summary judgment is warranted only if a reasonable jury could not return a verdict for the nonmovant. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

Jafri is pro se and so was entitled under Local Rule 56.2 to a notice from Defendants regarding her obligation under Local Rule 56.1 to respond to Defendants' statement of facts and to file her own statement of facts. Defendants did not file service of a 56.2 statement. However, Jafri is an attorney and filed the requisite statements of facts. Therefore, Defendants' failure to file proof of service of a 56.2 notice is inconsequential. *See Ohio Nat. Life Assur. Corp. v. Davis*, 803 F. 3d 904, 906 (7th Cir. 2015) (holding that the failure to provide 56.2 notice did not prejudice pro se party "because they'd eventually been able to submit the evidence they thought necessary for an effective defense").

Background

Jafri was hired by Defendant Signal Funding in September 2016. Signal Funding was founded by Gary Chodes and Joshua Wander. Wander's participation in Signal Funding was through his other businesses, Defendant 777 Partners LLC and Defendant Signal Financial Holdings LLC.

Before Signal Funding, Chodes established and ran a successful litigation funding business called Oasis from 2002 through 2013. Prior to running Oasis, Chodes worked as an investment banker and started and sold at least two other companies. That success attracted Wander, who invited Chodes to start Signal Funding, a new litigation funding business, when Chodes left Oasis. Chodes owned 25% of Signal Funding and 777 Partners owned 75%. The plan was for 777 Partners to provide the lion's share of the start-up funding for Signal Funding.

Chodes served as Signal Funding's CEO and later a partner of 777 Partners. Wander set Chodes's compensation at a base salary of $350,000 and a signing bonus of $100,000. Wander made this decision based on Chodes's experience and responsibility for managing and setting the business strategy for Signal Funding. Chodes believed this compensation was very low considering his experience but understood that it was necessary to get the company off the ground before increasing his compensation. *See* R. 80-2 ¶ 21.

Jafri was the first person Chodes hired for Signal Funding. Unlike Chodes's more than 30 years of

experience, Jafri finished college in 2010. She earned a master's degree in public health in 2012, and a joint JD/MBA in 2015. After finishing law school, Jafri worked for a health-data and analytics company for one year at a base salary of $125,000.

Despite her young career, Chodes felt Jafri would be a good fit for Signal Funding based on her breadth of education and her experience having "founded a non-profit, served as authoring, sales and regulatory lead at [the health-data company] and led a turn-around for a legal technology company in the Chicago Loop." R. 80-2 ¶ 18. Chodes hired Jafri to be his "number two" and paid her "starting rate of $105,000 with some guaranteed bonuses." *Id.* ¶ 20.

Jafri admits that Chodes based his determination of her compensation on the following factors:

> (i) Chodes' experience at Oasis in hiring and setting compensation for employees, especially those who, like Jafri, were his "number two;" (ii) Chodes' concern that he would have to pay Jafri's salary "out of my own pocket" if Signal Funding struggled during its first year of existence; (iii) Jafri's compensation at her prior job at Apervita; (iv) Chodes' concern about having enough money left to recruit and hire employees away from Oasis; (v) Chodes' concern that Signal Funding would need money to defend itself from a potential lawsuit by Oasis for hiring some Oasis employees; and (vi) Chodes' belief that Jafri would accept less money in the first year with the

> expectation that she would make more money after Signal Funding established itself.

See R. 81 at 5 (¶ 14).

Jafri also admits that "[d]uring the first few months of Signal Funding, Chodes made all the 'initial key hires,' each of whom (with the exception of Jafri) had once worked for Chodes at Oasis," including: "(i) Mike Olsen to be the Chief Marketing Officer, and (ii) James Habel, Trevor Scott, and Tyson Beauchamp as Vice-Presidents of Sales." *Id.* at 6 (¶ 16). All of these employees were given initial compensation greater than Jafri's. Chodes testified that he determined their compensation in accordance with the compensation they received at their prior employer. *See* R. 75-1 at 35-36 (133:1–134:3); at 36-37 (137:6–139:23); 38-39 (145:11–150:2); 39-41 (150:12–157:5). Although these male employees made more money than Jafri, she does not argue that their compensation is evidence that she was paid unfairly. This is likely because these employees had responsibilities that were materially different from Jafri's.

Although Chodes was responsible for hiring Signal Funding's most significant employees, Wander soon directed Chodes to focus his efforts on the business of 777 Partners. For this reason, Chodes required Jafri to assume many of the CEO's responsibilities at Signal Funding. *See* R. 80-2 at 7 (¶ 24) ("All of the roles and responsibilities I had as CEO went to Ms. Jafri."). Chodes directed Signal Funding employees to report to Jafri, who would then report to Chodes. *See* R. 80-2 at

9 (¶ 29) ("I even told Michael Olsen eventually, the only other person who reported to me, that Ms. Jafri was in charge and he should run everything by her, rather than me."). Nevertheless, when Oasis sued Signal Funding for poaching employees, Chodes was responsible for hiring outside counsel to handle the case and monitoring the litigation.

Chodes testified that he later became disillusioned with the business of 777 Partners. This eventually caused him to leave Signal Funding and 777 Partners in March 2017, less than ten months after he hired Jafri.[1]

Wander then hired David Hough on an interim basis to replace Chodes as CEO of Signal Funding. Wander states in his declaration that he hired Hough and determined his compensation based on Hough's reputation and experience. *See* R. 75-14 ¶ 10. Jafri disputes that Hough had prior corporate management experience by citing to his LinkedIn resume. *See* R. 80-1 ¶ 10 (citing R. 80-3). But that document shows Hough has held multiple corporate officer positions and several times served in an interim CEO capacity. *See* R. 80-3. Jafri has no personal knowledge of Hough's professional experiences and offers no evidence to counter Defendants' characterization of his experience.

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[1] Chodes makes more specific allegations in his declaration that are not relevant to this case and the Court will not recount here. Defendants say that Chodes "left"; Chodes says he was fired. The truth is not relevant to Jafri's claims.

While an employee of Signal Funding, Jafri also worked for 777 Partners. She identifies Adam Weiss, an associate at 777 Partners, as her "clear comparator." This contradicts Jafri's deposition testimony that another associate Ed Lee was her comparator. Jafri did not mention Weiss during her deposition.

After 14 months, Jafri's employment with Defendants ended on September 28, 2017. Hough and Jafri worked together for only six months.

Analysis

The Equal Pay Act prohibits employers from paying employees different wages based on gender. 29 U.S.C. § 206(d); *Varner v. Ill. State Univ.*, 226 F.3d 927, 932 (7th Cir. 2000). "To establish a prima facie case of wage discrimination under the [Equal Pay Act]," a plaintiff must show, by a preponderance of the evidence, that: "(1) higher wages were paid to a male employee, (2) for equal work requiring substantially similar skill, effort and responsibilities, and (3) the work was performed under similar working conditions." *Stopka v. Alliance of Am. Insurers*, 141 F.3d 681, 685 (7th Cir. 1998). No proof of discriminatory intent is required. *Id.*; *see also Varner*, 226 F.3d at 932.

If the plaintiff establishes a prima facie case, the burden shifts to the defendant "to establish one of four statutory defenses." *Merillat v. Metal Spinners, Inc.*, 470 F.3d 685, 697 (7th Cir. 2006); *Fallon v. Illinois*, 882 F.2d 1206, 1211 (7th Cir. 1989) (citing *Corning Glass Works v. Brennan*, 417 U.S. 188, 196 (1974)). According

to the Seventh Circuit, the "statutory defenses kick in if the difference in pay is attributed to "(i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex." *Warren v. Solo Cup Co.*, 516 F.3d 627, 629-30 (7th Cir. 2008) (quoting 29 U.S.C. § 206(d)). The fourth exception is a "broad, 'catch-all' exception and embraces an almost limitless number of factors, so long as they do not involve sex." *Fallon*, 882 F.2d at 1211.[2]

The record contains facts about the compensation for a number of Jafri's former colleagues. However, her brief addresses only three as comparators for her claims: (1) Chodes; (2) Hough; and (3) Weiss.

1. Chodes

Jafri's work was not comparable to Chodes's. Chodes had responsibility for the strategic direction of Signal Funding and Jafri did not. Chodes was a partner with 777 Partners and Jafri was not. In general, Chodes maintained responsibility for the highest-level decision-making such as when the company was sued. Although Jafri shared responsibility for much of Signal Funding's administration and was eventually delegated all of it for a time, her lack of responsibility for

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[2] The federal and Illinois Equal Pay Acts impose the same requirements and are applied according to the same standards. *See, e.g.*, *Hubers v. Gannett, Inc.*, 2019 WL 1112259, at *4 n.8 (N.D. Ill. Mar. 11, 2019); *Lancaster-Williams v. Pods Enters., Inc.*, 2010 WL 2382402, at *13 (N.D. Ill. June 10, 2010).

the company's strategy and other higher level decision-making shows that her responsibilities were materially different from Chodes's. Thus, her lower compensation does not establish a prima facie case of an Equal Pay Act violation.

Even if Chodes was an adequate comparator, the evidence shows that his higher initial compensation was based on a reason other than sex, i.e., his higher former compensation and greater experience. Jafri was only a year out of school when Chodes hired her, whereas he had more than 30 years of experiences starting and managing companies. Both Chodes and Jafri were compensated by Defendants in accordance with their prior compensation and experience. *See Lauderdale v. Illinois Dep't of Hum. Servs.*, 876 F.3d 904, 908-09 (7th Cir. 2017) ("[T]his court has repeatedly held that a difference in pay based on the difference in what employees were previously paid is a legitimate 'factor other than sex.'") (citing cases). This does not constitute a violation of the Equal Pay Act.

2. Hough

Jafri argues that she performed the same work as Hough. Perhaps this is true, because it is not clear that Hough was given responsibility for strategy and higher-level decision-making like Chodes.

But even assuming that Hough was paid more for the same work, Hough had vastly more experience than Jafri when he was hired. No reasonable jury could find that Hough's compensation was set relative to

Jafri's based on sex, because the only evidence is that Hough's compensation was set based on his prior experience and compensation.

In any event, Jafri left Defendants about six months after Hough was hired, and Jafri does not allege that in the interim Hough's compensation was increased to an extent that was unequal with any changes in her compensation. In other words, any disparity between Hough's initial compensation and Jafri's is explained by the disparity in their experience and Jafri did not remain with Defendants long enough for that disparity to be rectified based on their actual duties with the companies to the extent that would have been appropriate. This evidence is insufficient to survive summary judgment.

3. Weiss

Jafri did not identify Weiss as a comparator until her brief in opposition to summary judgment. This is reason for the Court to disregard the argument and evidence. But in any event, Weiss made less money than Jafri, *see* R. 85-4 at 2, so his compensation is not evidence that Jafri's pay violated the Equal Pay Act.

Conclusion

Therefore, Defendants' motion for summary judgment [74] is granted.

ENTERED:

/s/ Thomas M. Durkin
Honorable Thomas M. Durkin
United States District Judge

Dated: July 7, 2022

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS

Farva Jafri, Plaintiff(s), v. Signal Funding LLC et al, Defendant(s).	Case No. 1:19-cv-00645 Judge Thomas M. Durkin

AMENDED JUDGMENT IN A CIVIL CASE

(Filed Jul. 21, 2022)

Judgment is hereby entered (check appropriate box):

☐ in favor of plaintiff(s)
and against defendant(s)
in the amount of $

which ☐ includes pre-judgment interest.
☐ does not include pre-judgment interest.

Post-judgment interest accrues on that amount at the rate provided by law from the date of this judgment.

Plaintiff(s) shall recover costs from defendant(s).

☐ in favor of defendant(s) and against plaintiff(s)

Defendant(s) shall recover costs from plaintiff(s).

☒ other: This action came before the Court for decision on a Motion for Summary Judgment on Counts I and II of Plaintiff's Amended Complaint and for decision on a Motion to Dismiss Counts III and IV of Plaintiff's Amended Complaint. These are the only claims in Plaintiff's Amended Complaint. After due consideration of all the issues, the Court rendered decision on each motion. Judgment is hereby entered in this action in favor of Defendants Signal Funding LLC, Signal Financial Holdings LLC, 777 Partners LLC, and Joshua Wander and against Plaintiff Farva Jafri. Defendant[s] shall recover costs from Plaintiff.

This action was *(check one)*:

☐ tried by a jury with Judge presiding, and the jury has rendered a verdict.
☐ tried by Judge without a jury and the above decision was reached.
☒ decided by Judge Thomas M. Durkin on a motion for summary judgment, motion to dismiss.

Date: 7/21/2022 Thomas G. Bruton, Clerk of Court

E. Wall, Deputy Clerk

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FARVA JAFRI, Plaintiff, v. SIGNAL FUNDING LLC; 777 PARTNERS LLC; SIGNAL FINANCIAL HOLDINGS LLC; and JOSHUA CRAIG WANDER, Defendants.	No. 19 C 645 Judge Thomas M. Durkin

ORDER

(Filed Jul. 20, 2020)

Farva Jafri alleges that her former employer discriminated against her and sexually harassed her in violation of the Illinois Human Rights Act ("IHRA"), and paid her less than male employees in violation of the federal and Illinois Equal Pay Acts. Defendants have moved to dismiss the IHRA claims for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). R. 39. That motion is granted.

Legal Standard

A Rule 12(b)(6) motion challenges the "sufficiency of the complaint." *Berger v. Nat. Collegiate Athletic Assoc.*, 843 F.3d 285, 289 (7th Cir. 2016). A complaint

must provide "a short and plain statement of the claim showing that the pleader is entitled to relief," Fed. R. Civ. P. 8(a)(2), sufficient to provide defendant with "fair notice" of the claim and the basis for it. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). This standard "demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). While "detailed factual allegations" are not required, "labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Twombly*, 550 U.S. at 555. The complaint must "contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 570). "'A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.'" *Boucher v. Fin. Sys. of Green Bay, Inc.*, 880 F.3d 362, 366 (7th Cir. 2018) (quoting *Iqbal*, 556 U.S. at 678). In applying this standard, the Court accepts all well-pleaded facts as true and draws all reasonable inferences in favor of the non-moving party. *Tobey v. Chibucos*, 890 F.3d 634, 646 (7th Cir. 2018).

Background

In a previous opinion and order, the Court denied Defendants' motion to dismiss Jafri's Equal Pay Act claims but granted their motion to dismiss her IHRA claims for failure to exhaust. *See* R. 27 (*Jafri v. Signal Funding LLC*, 2019 WL 4824883 (N.D. Ill. Oct. 1,

2019)). The Court dismissed the IHRA claims based on the Illinois Department of Human Rights ("IDHR") investigative report attached to Defendants' motion to dismiss. That report stated that the IDHR dismissed Jafri's claims for failure to file with the IDHR within 30 days of receiving the EEOC determination. R. 17-2. The Court granted Jafri leave to file an amended complaint if she wanted "to challenge the authenticity or accuracy of the investigation report document." R. 27 at 4.

Analysis

Jafri filed an amended complaint re-asserting her IHRA claims. But instead of challenging the authenticity of the IHRA report stating that her claim was untimely, she expressly referenced it in her complaint. *See* R. 38 ¶ 16 ("The IDHR issued a Notice of Dismissal for Lack of Jurisdiction on December 13, 2018."). As the Court found in its previous order, this document belies any allegation that Jafri complied with the 30-day deadline for submitting her EEOC right to sue letter to the IDHR. So her IHRA claims must be dismissed.

Jafri now argues that "failure to exhaust administrative remedies is an affirmative defense, not a ground[] for dismissal of claims." R 47 at 1. As Defendants point out, this is half right. Failure to exhaust is an affirmative defense. But the Seventh Circuit has held that an affirmative defense can be a ground for dismissal under Rule 12(b)(6) if the complaint "sets out all of the elements" of the defense. *See Indep. Tr. Corp.*

v. Stewart Info. Services Corp., 665 F.3d 930, 935 (7th Cir. 2012). Jafri cites a number of cases where the Seventh Circuit reversed district courts that dismissed cases for failure to exhaust (or related reasons). *See* R. 47. But in none of those cases had the plaintiffs pled themselves out of court as Jafri has done here.

Jafri also argues that "once [she] received the right to sue letter from the EEOC, all administrative remedies were exhausted," because the "IDHR would have simply adopted the EEOC's findings." R. 47 at 4-5. But in the sentence immediately prior, Jafri admits that for the IDHR to have the ability to adopt the EEOC's findings, the IDHR has to be "notified of the EEOC's determination." *Id.* at 4. And the case Jafri cites explained that the notification must be "timely." *See Fuller v. Belleville Area Cmty. Coll. Dist. No. 522*, 2020 WL 1287743, at *3 (S.D. Ill. Mar. 18, 2020) ("when the IDHR is timely notified of the EEOC's determination, it will adopt the EEOC's findings"). Contrary to her argument, Jafri cites no authority that the IDHR adopts EEOC findings automatically upon issuance. Rather, the complainant must comply with the administrative deadlines. Jafri's amended complaint shows that she failed to do that, so her IHRA claims are dismissed.

Conclusion

Therefore, Defendants' motion to dismiss [39] is granted and Jafri's Illinois Human Rights Act claims (Counts III and IV) are dismissed without prejudice.

See Barnes v. Briley, 420 F.3d 673, 676 (7th Cir. 2005) ("[d]ismissal for failure to exhaust is without prejudice"). The parties should file a joint status report on July 27, 2020.

ENTERED:

/s/ Thomas M. Durkin
Honorable Thomas M. Durkin
United States District Judge

Dated: July 20, 2020

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FARVA JAFRI, Plaintiff, v. SIGNAL FUNDING LLC; 777 PARTNERS LLC; SIGNAL FINANCIAL HOLDINGS LLC; and JOSHUA CRAIG WANDER, Defendants.	No. 19 C 645 Judge Thomas M. Durkin

MEMORANDUM OPINION AND ORDER

(Filed Oct. 1, 2019)

Farva Jafri alleges that her former employer discriminated against her and sexually harassed her in violation of the Illinois Human Rights Act, and paid her less than male employees in violation of the federal and Illinois Equal Pay Acts. Defendants have moved to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). R. 17. That motion is granted in part and denied in part.

Legal Standard

A Rule 12(b)(6) motion challenges the "sufficiency of the complaint." *Berger v. Nat. Collegiate Athletic Assoc.*, 843 F.3d 285, 289 (7th Cir. 2016). A complaint must provide "a short and plain statement of the claim

showing that the pleader is entitled to relief," Fed. R. Civ. P. 8(a)(2), sufficient to provide defendant with "fair notice" of the claim and the basis for it. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). This standard "demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). While "detailed factual allegations" are not required, "labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Twombly*, 550 U.S. at 555. The complaint must "contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 570). "'A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.'" *Boucher v. Fin. Sys. of Green Bay, Inc.*, 880 F.3d 362, 366 (7th Cir. 2018) (quoting *Iqbal*, 556 U.S. at 678). In applying this standard, the Court accepts all well-pleaded facts as true and draws all reasonable inferences in favor of the non-moving party. *Tobey v. Chibucos*, 890 F.3d 634, 646 (7th Cir. 2018).

Background

Jafri alleges that "she was employed as Chief Operating Officer of [defendant] Signal Funding, Chief Operating Officer of [defendant] Signal Financial, and as an Associate at Defendant 777 Partners." R. 1 ¶ 19. The fourth defendant, Joshua Wander, "is a Founder and Managing Partner of 777 Partners, the parent

company of the other named corporate defendants." *Id.* ¶ 6. Both Signal entities operated out of an office in Highland Park, Illinois. *Id.* ¶¶ 2-3. The 777 Partners office is in Miami, Florida. *Id.* ¶ 4. Jafri initially worked out of the Highland Park office. *Id.* ¶ 20.

Jafri alleges that her salary was $105,000 with a bonus of $25,000. *Id.* ¶ 24. Signal's male CEO made $325,000 plus $175,000 in bonus. *Id.* ¶ 25. Jafri also alleges that five of her male subordinates received greater compensation than she did. *Id.* ¶¶ 28-30. Based on these allegations about her pay relative to male colleagues, Jafri brings claims for violation of the federal and Illinois Equal Pay Acts.

In 2017, defendant Wander transferred Jafri to 777's office in Miami, R. 1 ¶ 33, where Jafri alleges male colleagues made a number of sexually demeaning comments to her, *see id.* ¶¶ 46-60. Based on these allegations of conduct in the Miami office, Jafri brings claims for violations of the Illinois Human Rights Act.

Analysis

I. Illinois Human Rights Act Claims

A. Administrative Exhaustion

Defendants argue that Jafri failed to administratively exhaust her IHRA claims, because she failed to "submit a copy of the EEOC's determination [to the Illinois Department of Human Rights ("IDHR")] within 30 days after service of the determination by the EEOC on complainant." 775 ILCS 5/7A-102(A-1)(1)(iv); *see*

also 775 ILCS 5/7A-102(A-1)(2) (providing that the IDHR will only take substantive action on the EEOC determination if it "is timely notified of the EEOC's findings by complainant"); 775 ILCS 5/7A-102(A-1)(3) ("if the Department is timely notified of the EEOC's determination by complainant"). Defendants attach to their motion the IDHR investigation report showing that Jafri submitted the EEOC's determination to the IDHR 119 days after the EEOC issued its determination, *see* R. 17-2 at 5, more than the 30 days permitted by the statute.

Jafri argues that this document is outside the pleadings. Maybe so, although it is referenced in the IDHR's notice of dismissal, which Jafri attached to her complaint. *See Harrison v. Deere & Co.*, 533 Fed. App'x 644, 647 n.3 (7th Cir. 2013) ("we have ruled that the district court may take into consideration documents incorporated by reference to the pleadings"). But in any case, whether Jafri complied with the Illinois statute is a question easily answered. If Jafri wants to challenge the authenticity or accuracy of the investigation report document Defendants attach to their motion, the Court will grant her that opportunity. Otherwise, the Court finds that Jafri failed to administratively exhaust her IHRA claims.

Jafri also argues that even if she was late in informing the IDHR of the EEOC's determination, this failure of administrative process does not require dismissal. *See* R. 21 at 4-5 (citing *Laurie v. BeDell*, 2017 WL 1076940, at *4 (S.D. Ill. Mar. 22, 2017); and *Goldberg v. Chi. Sch. for Piano Tech., NFP*, 2015 WL 468792,

at *4 (N.D. Ill. Feb. 3, 2015)). But the two cases she cites do not support this argument. In *Laurie*, the court mentioned in passing that the plaintiff had transmitted her EEOC charge to the IDHR late. But *Laurie* focused on the impact of the plaintiff's decision to file a federal action before receiving a right to sue letter from the IDHR. The court did not address the impact of the plaintiff's late delivery of the EEOC determination to the IDHR. Neither did *Goldberg* address the 30-day deadline at issue here. The court in *Goldberg* held that the IDHR's determination that it lacked jurisdiction did not prevent review of that decision in federal court. There is no indication in the opinion that the timeliness of the complaint was at issue.

Lastly, Jafri argues that there is "literally" no case law supporting Defendants' interpretation of the statute. R. 21 at 3. This is likely because Title VII claims take precedence for most plaintiffs. But in any event, the statute unambiguously states that a complainant must timely submit an EEOC determination to the IDHR. This requirement in contained in the same section of the statute requiring that administrative complaints be filed with the EEOC or the IDHR within 300 days of a violation's occurrence, and that a civil action must be filed within 90 days of the administrative determination. It is uncontroversial that failure to comply with the 300-day and 90-day deadlines requires dismissal. *See Mayle v. Chi. Park Dist.*, 2019 WL 2773681, at *5 (N.D. Ill. July 2, 2019) ("Failing to comply with the IHRA's exhaustion requirements results in dismissal of an IHRA claim." (citing *Garcia v. Village*

of Mt. Prospect, 360 F.3d 630, 640 (7th Cir. 2004))). The Court sees no reason why the interim 30-day deadline for filing with the IDHR should be any different. Because Jafri failed to comply with the statute's plain terms, her IHRA claims were not properly administratively exhausted and must be dismissed.

B. Named Parties

Additionally, Jafri named only defendant Signal Funding LLC in her EEOC and IDHR complaints. Thus, she failed to administratively exhaust claims against the other defendants—777 Partners LLC, Signal Financial Holdings LLC, and Joshua Wander. This serves as an alternative basis for dismissal of those three defendants.

Jafri argues that "a minor error in stating the name of the employer" is not a basis for dismissal. *See Trujillo v. Rockledge Furniture LLC*, 926 F.3d 395, 400 (7th Cir. 2019). But the Seventh Circuit distinguishes "minor errors" from "a failure to name a party at all." *Id.* Even then, a plaintiff can avoid dismissal by alleging that subsidiaries or parents of the respondent in the administrative complaints had notice of the claims. But Jafri does not contend that she alleged such notice and the Court sees no such allegation in her complaint.

C. "Employee" Under the IHRA

To the extent Jafri is able to demonstrate that she exhausted her IHRA claims and she pled that all

defendants received notice of her administrative claims, the Court addresses Defendants' argument that Jafri does not meet the definition of "employee" under the IHRA. Under the IHRA, an "employee" is "any individual performing services for remuneration within [Illinois] for an employer." 775 ILCS 5/2-101(A)(1)(a). Defendants argue that Jafri's harassment claims are based on alleged actions that occurred in Florida after she was relocated there by Defendants. *See* R. 17 at 9. The problem with this argument is that the IHRA does not limit its reach to conduct that occurs in Illinois. The section that defines "civil rights violations" for purposes of the statute does not include a geographic limitation. *See* 775 ILCS 5/2-102. Rather, the geographic limitation Defendants cite is within the definition of "employee." In other words, the statute reaches anyone who performs work in Illinois, for a qualifying employer, regardless of where the civil rights violation occurred.[1] Although she alleges that she "moved to Miami," *see* R. 1 ¶ 34, Jafri alleges that she "continued to serve in her roles with Signal and Signal Financial," *id.* ¶ 33, which are located in Illinois. Based on this allegation, it is plausible to infer that Jafri continued to perform some work for Defendants in Illinois even after she relocated to Miami. Assuming that allegation is true, the fact that the alleged harassment occurred outside Illinois would not be a basis to dismiss her IHRA claims.

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[1] The work must also be performed for an "employer" meeting the statutory definition, but Defendants do not argue they are not "employers" for purposes of the IHRA.

II. Equal Pay Act Claims

"In order to establish a prima facie case under the Equal Pay Act, a plaintiff must show: (1) higher wages were paid to a male employee, (2) for equal work requiring substantially similar skill, effort and responsibilities, and (3) the work was performed under similar working conditions." *David v. Bd. of Trustees of Cmty. Coll. Dist. No. 508*, 846 F.3d 216, 230 (7th Cir. 2017). Defendants argue that Jafri has insufficiently alleged the "skill, effort and responsibility levels for the various positions at Signal Funding that she claims were comparable to her position." R. 17 at 10. But Jafri specifically alleges, by name, five male subordinates who were paid more than she was. *See* R. 1 ¶¶ 28-30. It is plausible to infer that subordinates do work that requires less skill, effort, or responsibility than their supervisors. By alleging that Defendants paid her male subordinates more than her, Jafri has stated a prima facie case for violation of the Equal Pay Act.

Additionally, Defendants argue that because Jafri did not name three of the four defendants in this case in her administrative complaint under the IHRA, she is precluded from naming them in this case as her employers for purposes of her Equal Pay Act claims. Defendants rely on the "well-settled rule that when a written instrument contradicts allegations in a complaint to which it is attached the exhibit trumps the allegations." *Thompson v. Ill. Dep't of Prof. Regulation*, 300 F.3d 750, 754 (7th Cir. 2002). But the "Equal Pay Act expressly contemplates that an employee may have multiple employers." *Tamayo v. Blagojevich*, 526

F.3d 1074, 1088 (7th Cir. 2008). Defendants cite no authority that a prior allegation that one entity is an employer precludes a later allegation of additional employers. Absent such preclusion, Jafri's earlier administrative complaint cannot be said to "contradict" her current federal complaint.

Lastly, Defendants argue that Jafri has failed to allege "that Signal Financial or 777 Partners had any control over her pay." R. 17 at 11. "[C]ourts must look to the 'economic realities' of the employment relationship, as well as 'the degree of control the employer exercises,' to determine whether an entity may be considered an employer for the purposes of [Equal Pay Act] liability." *Tamayo*, 526 F.3d at 1088. Jafri alleges that "she was employed as Chief Operating Officer of Signal Financial, and as an Associate at Defendant 777 Partners." R. 1 ¶ 19. The allegation that she was employed by these entities is sufficient to plausibly allege that the entities had some control over her pay. This is particularly so when one individual—defendant Joshua Wander—owns all three entities and is alleged to have directed Jafri to move from Illinois to Florida in order to be able to more effectively work for all three entities. *See* R. 1 ¶¶ 6, 33. Only with discovery can it be determined which of the defendants had "control" over Jafri's compensation, and liability for an Equal Pay Act violation.

Conclusion

Therefore, Defendants motion to dismiss [17] is granted in that Jafri's Illinois Human Rights Act claims (Counts III and IV) are dismissed without prejudice, and is denied in that Jafri's Equal Pay Act claims (Counts I and II) will proceed.

ENTERED:

/s/ Thomas M. Durkin
Honorable Thomas M. Durkin
United States District Judge

Dated: October 1, 2019

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

January 14, 2022

Before

FRANK H. EASTERBROOK, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

No. 20-2951 OASIS LEGAL FINANCE OPERATING COMPANY, LLC, *Plaintiff-Appellee*, *v.* GARY CHODES and OASIS DISABILITY, LLC, *Defendants-Appellants*.	Appeal from the United States District Court for the Northern District of Illinois, Eastern Division. No. 17 C 0358 Robert W. Gettleman, *Judge*.

Order

(Filed Jan. 14, 2022)

In light of the information provided in Farva Jafri's request for reconsideration, the reprimand entered on December 3, 2021, is vacated, and the rule to show cause is discharged.

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

December 3, 2021

Before

FRANK H. EASTERBROOK, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

No. 20-2951 OASIS LEGAL FINANCE OPERATING COMPANY, LLC, *Plaintiff-Appellee*, *v.* GARY CHODES and OASIS DISABILITY, LLC, *Defendants-Appellants*.	Appeal from the United States District Court for the Northern District of Illinois, Eastern Division. No. 17 C 0358 Robert W. Gettleman, *Judge*.

Order

(Filed Dec. 3, 2021)

When the appeal of this case was called for oral argument on October 25, 2021, Farva Jafri, representing appellants, did not appear. We issued an order the next day requiring her to show cause why she should not face professional discipline.

Jafri's response states that she relied on counsel for opposing litigants to represent the joint views of all parties—and she then chastises opposing counsel for

what she calls an inaccurate statement about how the settlement handles appellate costs and fees. One major problem with this approach is that it is the court's power, not that of counsel, to decide when a case requires argument. As our order to show cause recited:

> Late last Friday afternoon [October 22], counsel for appellants called the court, said that the case had been settled, and asked to have the argument set for 9:30 am on October 25 cancelled. The Clerk's Office informed counsel that, unless a motion to dismiss was filed and granted, the argument would proceed as scheduled, and counsel must appear.
>
> Friday evening, after the close of business, Farva Jafri, representing appellants, filed a motion to dismiss the appeal. The court did not act on the motion over the weekend, but Jafri nonetheless did not appear for argument.
>
> One reason for the lack of action is the motion's lateness. The other is the motion's incompleteness. Rule 42(b) of the Federal Rules of Appellate Procedure provides in part: "The circuit clerk may dismiss a docketed appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any fees that are due. . . . An appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the court." Jafri's motion, though it recited that the dismissal was by agreement of the parties, was not signed by counsel for the appellee, nor did

it mention costs or other terms agreed by the parties.

Our ability to inquire about costs or other terms was frustrated by Jafri's failure to appeal for argument.

Jafri's response to our order to show cause does not try to explain why the motion was filed so close to argument, why it was incomplete, or why she felt free to disregard the instruction from the Clerk's Office. Indeed, her response does not mention any of these things. Instead she asserts, as if it were obvious, that, once the parties have settled a case, one side's lawyer is free to rely on the other side's lawyer to explain matters to the court.

Some formal response is necessary. We therefore reprimand Jafri for neglect of her duties to this court. This is a public reprimand, which Jafri must report whenever called on to disclose her disciplinary history.

United States Court of Appeals
For the Seventh Circuit
Chicago, Illinois 60604

October 26, 2021

Before

FRANK H. EASTERBROOK, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

DIANE P. WOOD, *Circuit Judge*

No. 20-2951 OASIS LEGAL FINANCE OPERATING COMPANY, LLC, *Plaintiff-Appellee*, *v.* GARY CHODES and OASIS DISABILITY, LLC, *Defendants-Appellants*.	Appeal from the United States District Court for the Northern District of Illinois, Eastern Division. No. 17 C 0358 Robert W. Gettleman, *Judge*.

Order

(Filed Oct. 26, 2021)

Late last Friday afternoon, counsel for appellants called the court, said that the case had been settled, and asked to have the argument set for 9:30 am on October 25 cancelled. The Clerk's Office informed counsel that, unless a motion to dismiss was filed and granted, the argument would proceed as scheduled, and counsel must appear.

Friday evening, after the close of business, Farva Jafri, representing appellants, filed a motion to dismiss the appeal. The court did not act on this motion over the weekend, but Jafri nonetheless did not appear for argument.

One reason for the lack of action is the motion's lateness. The other is the motion's incompleteness. Rule 42(b) of the Federal Rules of Appellate Procedure provides in part: "The circuit clerk may dismiss a docketed appeal if the parties file a signed dismissal agreement specifying how costs are to be paid and pay any fees that are due. . . . An appeal may be dismissed on the appellant's motion on terms agreed to by the parties or fixed by the court." Jafri's motion, though it recited that the dismissal was by agreement of the parties, was not signed by counsel for the appellee, nor did it mention costs or other terms agreed by the parties.

Our ability to inquire about costs or other terms was frustrated by Jafri's failure t appear for argument.

The court now directs the parties to file statements about how costs are allocated under their agreement—and, if the agreement does not address this matter, what costs or other terms either side is seeking.

The court also directs Jafri to show cause, if she has any, why her failure to appear for argument should not lead to professional discipline under Fed. R. App. P. 46(c). A fine and a public reprimand are possible, but this order does not limit the court's options.

Responses must be filed no later than November 9, 2021.

IN THE UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF ILLINOIS

Farva Jafri, Plaintiff(s), v. Signal Funding LLC et al, Defendant(s).	Case No. 1:19-cv-00645 Judge Thomas M. Durkin

JUDGMENT IN A CIVIL CASE

(Filed Jul. 7, 2022)

Judgment is hereby entered (check appropriate box):

☐ in favor of plaintiff(s)
and against defendant(s)
in the amount of $

which ☐ includes pre-judgment interest.
☐ does not include pre-judgment interest.

Post-judgment interest accrues on that amount at the rate provided by law from the date of this judgment.

Plaintiff(s) shall recover costs from defendant(s).

☒ in favor of defendant(s) Signal Financial Holdings LLC, 777 Partners LLC, Signal Funding, LLC and against plaintiff(s) Farva Jafri

Defendant(s) shall recover costs from plaintiff(s).

☐ other:

This action was *(check one)*:

☐ tried by a jury with Judge presiding, and the jury has rendered a verdict.
☐ tried by Judge without a jury and the above decision was reached.
☒ decided by Judge Thomas M. Durkin on a motion for summary judgment.

Date: 7/7/2022 Thomas G. Bruton, Clerk of Court

E. Wall, Deputy Clerk

LEGAL PROVISIONS INVOLVED

28 U.S.C. § 455—

(a) Any justice, judge, or magistrate [magistrate judge] of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

> **(1)** Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

29 U.S.C. § 206 *et seq.* (Equal Pay Act)

(d) Prohibition of sex discrimination.

> **(1)** No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: Provided, That an employer

who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.

775 ILCS 5/1-101 *et seq.* (Illinois Human Rights Act)

This Act shall be known and may be cited as the Illinois Human Rights Act.

775 ILCS 5/1-102 (Illinois Human Rights Act)

It is the public policy of this State:

(A) Freedom from Unlawful Discrimination. To secure for all individuals within Illinois the freedom from discrimination against any individual because of his or her race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, pregnancy, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

(B) Freedom from Sexual Harassment-Employment and Elementary, Secondary, and Higher Education. To prevent sexual harassment in employment and sexual harassment in elementary, secondary, and higher education.

820 ILCS 112 *et seq.* (Illinois Equal Pay Act)

(a) No employer may discriminate between employees on the basis of sex by paying wages to an employee at a rate less than the rate at which the employer pays wages to another employee of the opposite sex for the same or substantially similar work on jobs the performance of which requires substantially similar skill, effort, and responsibility, and which are performed under similar working conditions, except where the payment is made under:

(1) a seniority system;

(2) a merit system;

(3) a system that measures earnings by quantity or quality of production; or

(4) a differential based on any other factor other than: (i) sex or (ii) a factor that would constitute unlawful discrimination under the Illinois Human Rights Act [775 ILCS 5/1-101 et seq.], provided that the factor:

(A) is not based on or derived from a differential in compensation based on sex or another protected characteristic;

(B) is job-related with respect to the position and consistent with a business necessity; and

(C) accounts for the differential.

No employer may discriminate between employees by paying wages to an African-American employee at a rate less than the rate at which the employer pays

wages to another employee who is not African-American for the same or substantially similar work on jobs the performance of which requires substantially similar skill, effort, and responsibility, and which are performed under similar working conditions, except where the payment is made under:

(1) a seniority system;

(2) a merit system;

(3) a system that measures earnings by quantity or quality of production; or

(4) a differential based on any other factor other than: (i) race or (ii) a factor that would constitute unlawful discrimination under the Illinois Human Rights Act, provided that the factor:

(A) is not based on or derived from a differential in compensation based on race or another protected characteristic;

(B) is job-related with respect to the position and consistent with a business necessity; and

(C) accounts for the differential.

2 U.S.C.S § 1311 Rights and Protections under Title VII of the Civil Rights Act of 1964

(a) Discriminatory practices prohibited. All personnel actions affecting covered employees shall be made free from any discrimination based on—

(1) race, color, religion, sex, or national origin, within the meaning of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2);

(b) Remedy.

(1) Civil rights. The remedy for a violation of subsection (a)(1) shall be—

(A) such remedy as would be appropriate if awarded under section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)); and

(B) such compensatory damages as would be appropriate if awarded under section 1977 of the Revised Statutes (42 U.S.C. 1981), or as would be appropriate if awarded under sections 1977A(a)(1), 1977A(b)(2), and, irrespective of the size of the employing office, 1977A(b)(3)(D) of the Revised Statutes (42 U.S.C. 1981a(a)(1), 1981a(b)(2), and 1981a(b)(3)(D)).