

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 16-cv-02471-WYD-MJW

**EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,**

Plaintiff,

**LUCY MARSH,**

Intervenor,

v.

**UNIVERSITY OF DENVER,**

Defendants.

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**COMPLAINT IN INTERVENTION**

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**INTRODUCTION**

1. This action is brought by Plaintiff-Intervenor Marsh to secure redress for Defendant's violations of her right to be free from employment discrimination pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000-e, *et seq.*

**JURISDICTION**

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 in that this case arises under federal law, Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000-e, *et seq.* ("Title VII").

### **VENUE**

3. Venue is proper in the District of Colorado pursuant to Title VII, 42 U.S.C. § 2000e-5(f)(3), because the unlawful employment discrimination giving rise to Plaintiff-Intervenor's claims occurred in that District.

### **JURISDICTIONAL PREREQUISITES**

4. Plaintiff-Intervenor Marsh has exhausted her administrative remedies. She filed timely administrative charges of discrimination against Defendant with the U.S. Equal Employment Opportunity Commission (EEOC) on July 27, 2013.

5. The EEOC investigated the charge of discrimination. On August 27, 2015, the EEOC issued a letter of determination finding reasonable cause to believe the Defendant had violated Title VII. Though the parties attempted conciliation, conciliation failed on May 6, 2016.

### **PARTIES**

6. Plaintiff-Intervenor Lucy Marsh is a tenured law professor at the University of Denver Sturm College of Law ("Law School"). She lives in Colorado and has been employed at the Law School. At all times relevant hereto, she has been a resident of and domiciled in Colorado.

7. Defendant University of Denver (Colorado Seminary) is a Colorado nonprofit that has, at all relevant times, been continuously doing business in the State of Colorado and the City of Denver, and has continuously had at least fifteen employees. Defendant University of Denver has continuously been an employer engaged in an industry affecting commerce under Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e(b),(g), and (h).

### STATEMENT OF THE FACTS

8. Defendant University of Denver is a private university in Colorado that includes the Law School.

9. Plaintiff-Intervenor Marsh is a tenured full law professor (“Full Law Professor”) at the Law School.

10. Plaintiff-Intervenor Marsh is a highly accomplished legal scholar. Among her accomplishments, she is author of five books and has over forty years of experience teaching law. She is also a recipient of the awards for excellence in teaching and pro bono service. She has served on the Board of Governors for the Colorado Bar Association and the Board of Metropolitan Denver Legal Aid, and was appointed to the Colorado Real Estate Commission by the Governor of Colorado. Plaintiff-Intervenor Marsh is also the founder the Tribal Wills Project, which brings law students to reservations to write wills for tribal members, and is Director of the Wills Lab, a class at the Law School in which students write wills for elderly and low income people.

11. Plaintiff-Intervenor Marsh was hired by the Law School as an assistant law professor in 1976, at an annual salary of \$16,800. The same year, the Law School hired a male as an assistant law professor at an annual salary of \$19,000.

12. In 1982, Plaintiff-Intervenor Marsh became a Full Law Professor. At that time, Ms. Marsh was paid a salary of \$37,320.

13. The male professor hired in 1976 became a Full Law Professor in 1982 as well. He was paid a salary of \$40,500.

14. In 2012, the Law School released a memo to law professors that revealed a pay disparity between male and female Full Law Professors. On average, female Full Law Professors earned \$15,859 per year less than male Full Law Professors.

15. The median salary for all Full Law Professors at the time was just over \$149,000. Plaintiff-Intervenor Marsh's salary was \$111,977.

16. The male professor who was hired, and promoted to Full Law Professor, at the same time as Plaintiff/Intervenor Marsh was earning over \$75,000 more than Plaintiff-Intervenor Marsh.

17. On January 30, 2013, Plaintiff-Intervenor Marsh met with Law School Dean Martin Katz to discuss the memo.

18. Plaintiff-Intervenor Marsh was told by Dean Katz that she was the lowest paid Full Law Professor at the Law School. Dean Katz refused to provide Plaintiff-Intervenor Marsh with any specific salary data for the remainder of the Law School faculty.

19. When Ms. Marsh asked Dean Katz what would be done to adjust her pay to a level commensurate with her male peers, he told her "nothing."

20. The Law School has discriminated against Plaintiff-Intervenor Marsh by paying her less than her peers because of her sex since 1976, and continues to do so to this day. Despite her accomplishments, and the fact that she is the second-most senior Full Law Professor at the Law School, her salary is less than every other male Full Law Professor, including those more junior to her. At the time of this filing, the Law School has not adjusted Plaintiff-Intervenor Marsh's salary to address the gender disparity in her pay.

21. The Law School has engaged in a pattern and practice of discrimination with respect to the compensation of female Full Law Professors, which continues to this day. As of October 2013, the Law School employed nine female Full Law Professors and sixteen male Full Law Professors. The mean annual salary for female Full Law Professors was approximately \$139,940, while the mean annual salary for male Full Law Professors was \$159,721. On average, male Full Law Professors were paid approximately \$19,781 more annual for performing substantially equal work, a statistically significant disparity. No female Full Law Professor earned an annual salary greater than the mean salary for male Full Law Professors. Upon information and belief, the Law School has continued to pay female Law Professors significantly less than male Full Law Professors because of their sex.

### **STATEMENT OF CLAIM**

#### **COUNT 1**

#### **UNLAWFUL DISCRIMINATION IN VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. 2000e ET SEQ.**

22. Plaintiff-Intervenor Marsh restates and realleges each and every factual allegation contained in Paragraphs 1 through 21.

23. Defendant's conduct as herein alleged violated Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a), which makes discrimination with respect to compensation, terms, conditions, or privileges of employment because of sex unlawful.

24. Defendant has violated and continues to violate Title VII as described herein, including but not limited to by paying Plaintiff-Intervenor Marsh a lower salary because of her sex.

25. Defendant has violated and continues to violate Title VII by engaging in a pattern and practice of discrimination against female Full Law Professors, including but not limited to by paying female Law Professors lower salaries because of their sex.

26. As a result of Defendant's discriminatory actions, Plaintiff-Intervenor Marsh has suffered losses in compensation, pain and suffering, and emotional distress. As a result of those actions and consequent harms, Plaintiff-Intervenor Marsh has suffered such damages in an amount to be proved at trial.

27. Defendant's unlawful actions were intentional, willful, malicious and/or done with reckless disregard for Plaintiff-Intervenor Marsh's rights.

28. Plaintiff-Intervenor Marsh requests relief as described in the Prayer for Relief below.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff-Intervenor Marsh requests that this Court:

1. Enter a declaratory judgment that the practices complained of in this complaint are unlawful and violate Title VII;
2. Grant all injunctive relief necessary to bring Defendant into compliance with the aforementioned laws;
3. Order Defendant to pay the wages, salary, employment benefits, and other compensation denied to Plaintiff-Intervenor Marsh to date by reason of Defendant's unlawful actions, in an amount to be proven at trial;
4. Order Defendant to pay compensatory damages for Plaintiff-Intervenor Marsh's emotional pain and suffering, in an amount to be proven at trial;

5. Order Defendant to pay exemplary and punitive damages;
6. Order Defendant to pay attorneys' fees and costs of the action;
7. Order Defendant to pay interest at the legal rate on such damages as appropriate, including pre- and post-judgment interest; and
8. Grant any further relief that the Court deems just and proper.

PLAINTIFF/INTERVENOR DEMANDS A JURY TRIAL ON ALL ISSUES SO TRIABLE

Dated: December 28, 2016

Respectfully submitted,

*s/ Baine P. Kerr*

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ATTORNEYS FOR PLAINTIFF-INTERVENOR

**CERTIFICATE OF SERVICE**

I hereby certify that on December 28, 2016, a true and correct copy of the foregoing **COMPLAINT IN INTERVENTION** was served by CM/ECF system on the following:

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