

US Soccer To Pay \$24M To End Women's Team Equal Pay Suit

By Zachary Zagger

Law360 (February 22, 2022, 9:47 AM EST) -- The U.S. Soccer Federation and women's national team players have reached a \$24 million settlement to end the high-profile equal pay and pay discrimination litigation just weeks before the Ninth Circuit was set to hear the case, the sides announced Tuesday.

Under the settlement, U.S. Soccer will pay \$22 million to the players in the case, distributed in a manner proposed by the U.S. Women's National Team players with approval by the U.S. district court, the sides said. An additional \$2 million will be paid into an account "to benefit USWNT players in their post-career goals and charitable efforts related to women's and girls' soccer," the sides said.

The deal is contingent on the USWNT players ratifying a new collective bargaining agreement, after which the sides will seek final approval of the settlement by the district court. U.S. Soccer has further committed to providing an equal rate of pay going forward for the women's and men's national teams in all friendlies and tournaments, including the World Cup.

Once the CBA is ratified and the settlement is approved by the court, the agreement will "fully resolve the litigation," the sides said.

In a court filing Tuesday, the parties asked the Ninth Circuit to pull the appeal from the argument calendar. The appellate court was set to hear the case on March 7.

"We are pleased to announce that, contingent on the negotiation of a new collective bargaining agreement, we will have resolved our longstanding dispute over equal pay and proudly stand together in a shared commitment to advancing equality in soccer," the players and the federation said in a joint statement. "Getting to this day has not been easy.

"The U.S. Women's National Team players have achieved unprecedented success while working to achieve equal pay for themselves and future athletes," the statement continued. "Today, we recognize the legacy of the past USWNT leaders who helped to make this day possible, as well as all of the women and girls who will follow. Together, we dedicate this moment to them. We look forward to continuing to work together to grow women's soccer and advance opportunities for young girls and women in the United States and across the globe."

The players had been seeking \$66.7 million in back pay from U.S. Soccer in the long-running dispute that dates back to 2016, when the players filed a complaint with the U.S. Equal Employment Opportunity

Commission. They filed suit in March 2019 just ahead of the 2019 FIFA Women's World Cup, which the USWNT would go on to win.

But the case hit a roadblock when in May 2020 U.S. District Judge R. Gary Klausner in California tossed Equal Pay Act and Civil Rights Act claims after finding the USWNT players actually made more money than the men's team over the relevant time.

The women's team players had asked the Ninth Circuit to revive those claims, arguing that the judge failed to look at the underlying rates of pay, ignoring the fact that the women had to far outperform the men to earn more compensation. Last month, the EEOC sought to join the case after throwing its support behind the players' position.

The USWNT won back-to-back FIFA Women's World Cups in 2015 and 2019, while the U.S. Men's National Team failed to even qualify for the last men's tournament in 2018.

The federation has since maintained that the USWNT specifically negotiated for a different pay structure in their prior CBAs, prioritizing guaranteed pay over performance-based compensation. Last month, the EEOC sought to join the case after throwing its support behind the players' position.

"I think everyone is excited today," said Mayer Brown LLP partner Nicole Saharsky, who represented the women's team players in the appeal. "From the players' perspective, they have been fighting for so long. This is the first time since this team was formed in 1985 that U.S. Soccer has committed to giving them equal pay."

"To have U.S. Soccer agree to that in a settlement and have it be enforceable in a court is huge," she added. "From U.S. Soccer's perspective, I understand the federation and [U.S. Soccer President] Cindy Parlow Cone want to turn the page and move forward. So this is really a big day for everyone."

The federation has further argued that it cannot make up the deficit in FIFA prize money for the World Cup. During the FIFA Women's World Cup in France, which the USWNT won, 24 national teams competed for a total purse of \$30 million, \$8 million less than the French men's team alone took home for winning the men's tournament in 2018.

Under Tuesday's settlement in principle, U.S. Soccer has committed to equalizing payouts for the men's and women's teams from those tournaments but the details of how that actually works must still be negotiated with the U.S. Women's National Team Players Association as part of the new CBA, in conjunction with the men's team union.

The deal comes after litigation turned ugly for the U.S. Soccer when the federation and its prior attorneys from Seyfarth Shaw LLP made controversial legal arguments that the women's team players are not entitled to equal pay because they do not work in the same establishment nor do they "perform equal work requiring equal skill, effort and responsibility under similar working conditions."

U.S. Soccer later disavowed that line of argument and replaced its legal defense team with Latham & Watkins LLP. Then U.S. Soccer president Carlos Cordeiro also stepped down and was replaced by former USWNT player Cindy Parlow Cone, who later promised to settle the litigation with the players.

"We are all pleased and happy that we could assist U.S. Soccer and the women's national team players in coming to this resolution," Latham & Watkins partner Jamie Wine, who represented U.S. Soccer told

Law360 on Tuesday. "It really is a major step forward and significant for everyone who is committed to the growth of women's soccer in the United States to have the players treated in an equitable fashion."

Parlow Cone is now seeking re-election at the next National Council Meeting on March 5 facing off against Cordeiro, who is vying for his old position.

The USWNT is currently competing in the 2022 SheBelieves Cup, an invitational tournament for women's national teams held in the U.S., which is set to end Wednesday.

The players are represented in the Equal Pay case by Jeffrey L. Kessler, David G. Feher, Cardelle B. Spangler, Jeanifer E. Parsigian and Diana Hughes Leiden of Winston & Strawn LLP, and Nicole A. Saharsky, Carmen Longoria-Green, Minh Nguyen-Dang and Michael A. Scodro of Mayer Brown LLP.

U.S. Soccer is represented by Jamie L. Wine, Michele D. Johnson, Melissa Arbus Sherry, Gregory G. Garre, Michael E. Bern and Sarah Gragert of Latham & Watkins LLP.

The case is Morgan et al. v. U.S. Soccer Federation Inc., case number 21-55356, in the U.S. Court of Appeals for the Ninth Circuit.

--Additional reporting by Irene Spezzamonte, Rachel Scharf and Braden Campbell. Editing by Alyssa Miller.