

## LSU WOMEN WIN COURT RULING - DECISION UPHELD THAT UNIVERSITY DISCRIMINATED

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### BATON ROUGE

In response to LSU attorneys' request for rehearing, a federal appeals court affirmed Thursday its January decision that the university had intentionally discriminated against female athletes and that the plaintiffs and perhaps more students could seek monetary damages.

The U.S. 5th Circuit Court of Appeals' three-judge panel changed little of its original, unanimous opinion that was released Jan. 27. Thursday's opinion, also written by Justice Carl E. Stewart, repeated that the LSU athletic department's "outdated attitudes about women amply demonstrate intention to discriminate" and a clear violation of Title IX in this 6- year-old case.

"It sounds very familiar to the original," said Atlanta-based attorney Nancy Rafuse, who represents the five LSU students who sued the school in 1994 for not being in compliance with Title IX of the 1972 Education Amendment Act that requires equal access to athletics.

"Obviously, I wanted to see that the intent finding held. Guess we'll be going back to the district court," Rafuse said.

The circuit court upheld its reversal of U.S. District Judge Rebecca Doherty's decision that LSU's violations were not intentional. The circuit court's finding that LSU "persisted in a systematic, intentional, differential treatment of women" opens the way for the plaintiffs -- three soccer players and two softball players -- to seek unlimited monetary damages.

Because of the ruling, the plaintiffs could be joined by an undetermined number of other students in a class-action lawsuit against LSU. Regardless of the class action's status, the five plaintiffs will seek damages, Rafuse said.

The appeals court decision will be sent back to Doherty and the district court for the certification of such a class. The appeals court ruled that the plaintiffs had proved that the students affected by LSU's intentional discrimination were too numerous to be included name by name.

LSU attorney Shelby McKenzie said the university did not have an official statement as of Thursday evening.

Since the case was first filed in 1994, LSU has added women's soccer and softball, which recently held an NCAA regional on the Baton Rouge campus. Guided by Doherty's decision, the university established a compliance plan and had to make several reports to the district judge.

After January's decision, the university's attorneys filed a request in early February for rehearing. They asked the appeals court to reconsider its ruling on two primary issues -- the university's immunity from paying damages under the 11th Amendment and the university's claim that discrimination was not intentional.

The circuit court denied LSU attorneys' request for a hearing concerning the state sovereignty clauses in the U.S. Constitution, which protects a state from being sued by a citizen in federal court. LSU attorneys argued that the university was an extension of the state and therefore protected by this amendment. **The circuit court ruled that LSU had waived such immunity by accepting federal funds.**

The request for rehearing exhausted LSU's appeal at this level, the final judicial step before the Supreme Court.

**Section:** SPORTS  
**Page:** D3

**Exhibit H**  
Bernofsky v. Road Home