

Employment Law Summer Recap 2014: Part 9 of 11 - Mo'ne Davis, Becky Hammon and Obama's Equal Pay Disclosure Rule: Three More Cracks in the Glass Ceiling



Article By
[Michael S. Arnold](#)
[Mintz](#)
[Employment Matters Blog](#)

- [Entertainment, Art & Sports](#)
- [Labor & Employment](#)
- [Administrative & Regulatory](#)

- [Texas](#)
- [All Federal](#)

Thursday, September 25, 2014

Thirteen year-old pitching sensation Mo'ne Davis made headlines this summer as she became the first female to throw a shut-out in a Little League World Series game. She dominated batter after batter and looked mature beyond her years when she addressed the media. Meanwhile, a lesser-known news item seemed equally if not more impressive: Becky Hammon, the collegiate standout and 16-year WNBA veteran, was hired by the NBA world champion San Antonio Spurs as an assistant coach – the first female to occupy that role in any major male American professional sport. These are two more wonderful examples of women entering workplaces

traditionally reserved for men.

President Obama has been focusing his attention on women in the workplace as well.

In April, he directed the Department of Labor to implement new regulations requiring certain federal contractors and subcontractors to provide the DOL with summary compensation data by sex (and race). (He also issued three other executive orders: (i) prohibiting federal contractors from retaliating against employees who discuss their compensation with their co-workers; (ii) prohibiting contractors from discriminating against employees on the basis of the sexual orientation or gender identity; and (iii) requiring contractors to disclose labor and employment law violations).

The OFCCP released a proposed pay disclosure rule just before the summer came to an end, and it would require most federal contractors and subcontractors to disclose data that it says will help the government identify any pay disparities based on gender (and other protected categories). The DOL will use data from these "Equal Pay Reports" to encourage contractors to voluntarily comply with equal pay laws, but also to conduct targeted enforcement actions against contractors with perceived pay discrepancies. Contractors will have to submit this Equal Pay Report each May and it will supplement the EEO-1 report they are required to submit the previous September.

The President's expectation, of course, is that these new rules will help women narrow the pay gap with their male counterparts. Currently, employers pay women about 78% of what they pay men. There are all sorts of debates about whether this is the correct figure, and if not, what are the real disparities, but there isn't much debate over whether there is still at least some disparity in pay rates between the two genders.

Contractors large and small will likely find the new reporting requirements burdensome and difficult to satisfy given the amount and types of specific information that they must disclose. Further, the information the government would require contractors to report could also lead it to draw incorrect conclusions about certain perceived pay disparities and then audit certain employers based on those incorrect conclusions. There are dozens of reasons why there may be a pay disparity between men and women in any given workplace regardless of what an Equal Pay Report says.

Overall, these disclosure rules and the possibility of an audit will make it more expensive for employers to contract with the government. Indeed, it may lead some contractors to question whether doing business with the government is even worth it. Comments to the proposed rule are due by November 6, 2014. If you are a federal contractor or subcontractor, we recommend that you consult with your trusted legal advisor to wrap your arms around the proposed rule, submit comments to the OFCCP as necessary, and prepare to comply with any released final rule.

©1994-2019 Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. All Rights Reserved.

Source URL: <https://www.natlawreview.com/article/employment-law-summer-recap-2014-part-9-11-mo-ne-davis-becky-hammon-and-obama-s-equa>