

Car Leasing Employee's Equal Pay Discrimination Claim Proceeds, Federal Court Rules

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Practices

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A car leasing company's manager will go to trial on her Equal Pay Act claim because the employer failed in its burden to show the manager's gender provided "no basis" for the pay differential between her and her male counterpart, a Mississippi federal district court has ruled. *White v. Checker Leasing, Inc.*, No. 1:14CV172-SA-DAS, 2016 U.S. Dist. LEXIS 17066 (N.D. Miss. Feb. 11, 2016).

Denying summary judgment to the leasing company and highlighting the burdens of proof under the EPA, the court stated that once an employee establishes a *prima facie* pay discrimination claim, the employer bears a heavy burden to prove a pay differential is based on a "factor other than sex."

Background

Tamra Renee Guest-White worked as a regional manager for Checker Leasing, Inc., a car leasing company. At the time of her termination, White was earning \$52,000 per year, while a comparable male regional manager was earning \$62,500 per year. Following her termination, White sued the company for pay discrimination in violation of the EPA, among other things. The company filed a motion for summary judgment, arguing that the difference in pay between White and the male manager was due to his prior experience, a "factor other than sex," under the EPA.

Burdens of Proof

Addressing White's EPA claim, the district court first reviewed the parties' respective burdens of proof. The court noted that, to establish an EPA claim, an employee must demonstrate that:

1. she worked in a position requiring equal skill, effort, and responsibility under similar working conditions as a comparable male employee,
2. she was paid less than a comparable male employee, and
3. the pay disparity was a result of sex and not attributable to any other factor.

After the employee makes out this *prima facie* case, the burden of proof shifts to the employer to establish the pay differential falls within one of the EPA's exceptions; i.e., any pay disparity is justified by (1) a seniority system, (2) a merit system, (3) a pay system based on quantity or quality of output, or (4) a disparity based on a factor other than sex. The exceptions are affirmative defenses on which the employer has the burden of persuasion. This evidentiary burden distinguishes EPA claims from Title VII of the Civil Rights Act and other discrimination claims, where the burden of proof remains with the employee at all times.

Summary Judgment Denied

The court found that White established a *prima facie* EPA case because she performed work that was "virtually identical" to a male regional manager and was paid less, more than \$10,000 less. The burden of proof then shifted to the employer to demonstrate the pay differential fell within the EPA's exception for "any factor other than sex."

The employer argued that the pay differential was due to the male regional manager's experience in the industry. However, it failed to offer evidence establishing that it "was unable to compensate" White at the same level it had compensated the male regional manager. Consequently, the court concluded that the employer did not carry its burden of proving the pay differential was based on any "factor other than sex" and denied its motion for summary judgment.

Reminders

The burdens of proof in a pay discrimination claim under the EPA differ from those under other anti-discrimination laws. Once an employee satisfies the relatively low burden of demonstrating a *prima facie* case under the EPA, the employer bears the burden of proving an exception applies. This burden is a heavy one, particularly on summary judgment.

In this case, the employer did not offer any evidence establishing the reasons for the pay differential, other than its assertion that the differential was due to the male manager's "experience in the industry." This was insufficient to carry the day for the employer.

Such an explanation also likely would not carry the day with the Equal Employment Opportunity Commission. The EEOC has proposed changes to the EEO-1 report to include W-2 earnings and hours worked for all employees. (For details, see our article, [EEOC Proposes to Collect Pay Data from Employers.](#)) The EEOC has stated that it intends to use employer pay data to "assess complaints of discrimination, focus investigations, and identify employers with existing pay disparities that might warrant further investigation." Such pay data also could be used to force employers to make pay changes for women without the EEOC having to prove an EPA claim in litigation. The heightened focus on pay discrimination may spur employers to consider reviewing their compensation practices with experienced counsel to identify and address areas of unexplained pay disparities.

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