



20-Second Summary

FINDING A SILVER LINING IN DENYING THE CONTRACTOR THE CHANCE TO INTRODUCE AN OFCCP AUDIT

News

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The U.S. Court of Appeals for the 8th Circuit recently ruled that the employer could not use a successful OFCCP audit that had reviewed and passed its compensation data as evidence to support that it had not discriminated against female employees who alleged they were paid less than males under the Equal Pay Act. This ruling in the Dindinger v. Allsteel case did not help the employer trying to introduce the OFCCP audit results in this case.

However, the case held that the introduction of the OFCCP audit would be too prejudicial to the jury, in part, “because it would suggest to the jury that an official fact-finding body had already decided whether Allsteel had violated the Equal Pay Act.” If an OFCCP audit is too prejudicial to be allowed to come before the jury when the employer tries to introduce it, this same argument should apply if a plaintiff or a plaintiff class tries to use OFCCP findings against the employer. This case provides an argument for any employers seeking to exclude unfavorable OFCCP audit findings in discrimination lawsuits.

To learn more, please contact Cheryl Behymer at (803) 255 0000 or cbehymmer@fisherphillips.com or another attorney in Fisher Phillips’ Affirmative Action and Federal Contract Compliance Practice Group.

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