

Insights, News & Events

# AN EMPLOYER'S NEW YEAR RESOLUTION: PAY ATTENTION TO PAY EQUITY IN 2017

Insights  
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We are not yet through the first month of the New Year, but pay equity lawsuits have already dealt a one-two punch to employers: "one" being a million-dollar settlement between a legal and business research company and its employees, and "two" taking the form of a new lawsuit brought by a female automotive industry employee against automotive giant General Motors. Meanwhile, pay equity legislative activity has already cropped up in South Carolina (among other states), indicating that the pay equity legal boxing match between employees and employers is only in its first round.

To avoid getting knocked out in the New Year, you should resolve to pay attention to pay equity issues sooner rather than later, adjusting as necessary to adapt to the new reality we're now living in.

## LEXISNEXIS TAKES 1.2M HIT TO SETTLE PAY EQUITY CLAIMS

On January 12, 2017, LexisNexis Risk Solutions announced that it would settle claims brought by the U.S. Department of Labor (USDOL) on behalf of 211 female employees. The USDOL alleged that the company violated federal laws that prohibit federal

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contractors from paying women less than men when they perform the same jobs.

According to an investigation by the Office of Federal Contract Compliance Programs (OFCCP), LexisNexis paid women in operational leadership roles less than their male counterparts. The OFCCP stated that even when gender-neutral factors that could account for the pay disparity were factored in, 26 female operational leaders in Boca Raton and 185 female operational leaders in Alpharetta were paid “substantially less” than men.

It is worth noting that LexisNexis disputes the OFCCP’s findings and has not admitted to any liability in connection with the settlement, but that does not change the fact that it had to pay out over a million dollars to resolve the matter. The settlement also provides that LexisNexis will pay approximately \$45,000 to augment salaries for some of its female operational leaders at their Boca Raton facility.

## **FEMALE CLAY MODELER THROWS PUNCHES AT GENERAL MOTORS IN FEDERAL COURT**

Heather Anger, a female clay modeler, filed a federal lawsuit the Eastern District of Michigan on January 11, 2017. In the complaint, Anger asserts a cause of action for violations of the Equal Pay Act, claiming that General Motors (GM) engaged in gender discrimination. She alleges that the company failed to pay her as much as her similarly situated male coworkers who performed the same or similar duties. Her lawsuit also claims that male coworkers received bonuses that she did not, were afforded more consistent work assignments, and were ultimately able to move up the ranks to a lead sculptor position in less time than she did – even though she has a college degree and received honors and recognition for her work.

She claims that when she raised her allegations with Human Resources managers, they responded by telling her that was just the way things were. According to her

complaint, one manager even advised her to read a novel called "Seducing the Boys Club," which instructs women how to woo their male supervisors without engaging in any sexual acts.

Anger also uses her lawsuit to take shots at the automotive industry as a whole: she claims that the automotive manufacturing industry, and clay modeling and design in particular, are permeated by an attitude that favors male workers over females. In making her argument, she cites a survey which states that only 26.7% of automotive industry jobs are occupied by females, and that the industry has been the least successful at female recruitment and retention. She also cites to a figure from the Bureau of Labor Statistics that states men occupy 73% of jobs in the industry overall.

The lawsuit does not specify the exact dollar amount that Anger seeks to recover, but she requests compensatory and punitive damages to account for lost wages, humiliation, and embarrassment. She also seeks injunctive relief to prohibit GM from engaging in any further discriminatory acts. GM has not yet responded to the complaint.

## **SOUTH CAROLINA LEGISLATURE ENTERS THE RING WITH MULTIPLE BILLS AIMED AT ADDRESSING PAY EQUITY**

The pay equity battle isn't just taking place in the courtroom. State legislatures are also debating measures that would add pay equity restrictions to the workplace, including most recently in South Carolina. Two bills related to pay equity are currently pending in the state legislature. The South Carolina State Employee Equal Pay for Equal Work Act (H.33242) was introduced in December 2016 by Representative Stavrinakis. The bill would prohibit pay disparities between state employees of different genders who perform "the same or substantially similar work" and "under similar working conditions."

Earlier this week, on January 17, Senator McLeod introduced The South Carolina Equal Pay for Equal Work Act (S.257), which contains a similar prohibition as H.33242, but would apply to all workers and not just state employees. South Carolina is just one part of a broader national trend. New pay equity laws recently became effective in California, Maryland, and New York. A pay equity statute will go into effect in 2018 in Massachusetts, and Oregon is expected to debate the matter in its 2017 session.

## CONCLUSION

Employers who do not pay attention to pay equity laws in their respective states risk getting “knocked out.” Best practices for avoiding big settlement payouts or lawsuits include conducting regular pay audits in conjunction with counsel to ensure that employees are being fairly compensated as required by state and federal law.

For more information about these developments, contact any attorney in our [Pay Equity Practice Group](#), or your regular Fisher Phillips attorney.

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