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The Equal Pay Act

The Equal Pay Act (EPA) prohibits an employer from paying an employee differently than an employee of the opposite sex “for equal work, requiring equal skill, effort, and responsibility, under similar working conditions within the same establishment.” The EPA is part of the Fair Labor Standards Act of 1938, as amended (FLSA).

Scope of Protections Under the Equal Pay Act

The EPA applies to all forms of pay, not just salary or hourly wages. This means it may apply to overtime pay, bonuses, stock options, profit sharing, and other benefits of employment.

However, the EPA only applies to pay. It does not apply to other forms of discrimination in the workplace. Nonetheless, an employee’s claim that he or she is being paid disparately also may be raised under Title VII or another applicable anti-discrimination statute, such as the Americans with Disabilities Act (ADA) or Age Discrimination in Employment Act (ADEA). However, such claims are analyzed using a different legal framework.

Proving an Equal Pay Act Violation

EPA violations can be raised by either male or female employees. A violation occurs where an employee is paid less than an employee of the opposite sex “for equal work, requiring equal skill, effort, and responsibility, under similar working conditions within the same establishment.” Even where such a disparity can be shown, be mindful that there are a number of defenses that an employer can raise to an EPA claim. As such, not every situation where employees of the opposite sex receive different amounts of compensation will be a violation.

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Damages Under the Equal Pay Act

If the EPA is violated, an employer is liable for the unpaid portion of wages. The employer may be liable for an amount equal to the unpaid portion as liquidated damages. The EPA prohibits retaliation. In such cases, an award of damages for mental and emotional distress also may be permitted. Attorneys' fees are recoverable under the EPA.

If you are an employee or applicant and you have questions about your rights, please contact the Wick Law Office at 720-999-5390 or ben@wick-law.com.

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