Legal Notes: March 2016

The light that the federal government shines on wages was turned up a few more clicks last month. The EEOC is now requiring large employers to provide more information on what they pay their employees. Good news for all, and part of growing trend.

First, some background. The idea of equal pay for equal work has been around for at least fifty years. However, these laws envision a simplistic situation where two people, a man and a woman, are doing the same job but for different pay rates, e.g. the man is earning $15 an hour while the woman is only earning $10 an hour. This idea has been perpetuated by the oft cite statistic that women earn 70 cents for every 1 dollar a man earns.

That sort of blatant wage discrimination is rare these days (although apparently common in Hollywood, see the recent "X Files" story). What is more prevalent is that the types and classes of jobs women go into, or are employed in, are paid less than more male oriented jobs. If a man goes into daycare, he is paid the same as a woman, but his pay is less than if he went into a more male oriented job, such as construction. This sort of discrimination is much harder to address than the stereotypical wage discrimination of paying a women less for doing the same work as a man.

A means to address this type of discrimination is learning more about how employees in various jobs are paid. You would think that the government already has this type of information but it does not, although they are now asking for it more often. Last year I wrote about how the SEC is requiring information on how much a company pays its top management. The federal government has already been asking federal contractors for more information about wages for the last two years. Finally, recent NLRB rulings have made it an unfair labor practice for any employer (not only union employers) to discipline employees for openly discussing wages.

So what has always been a dark corner of discrimination law is finally receiving some well deserved light.