

**SPECIAL EDITION DATA DELAWARE: Tuesday, July 2, 2019**  
**SUBJECT: Delaware's sexual harassment law! (Part 1 Podcast transcript)**

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Dace Blaskovitz: Good morning. Welcome to money and politics in Delaware. I am your host. I am Dace Blaskovitz. Compliance says I should read, I am Dace Blaskovitz, president and majority owner of Wealth Advisors in Wilmington, Delaware. As a financial advisor, I offer full brokerage services.

Dace Blaskovitz: With that said, let me turn to the audience. We have two home run guests today in the first half. Katherine Witherspoon Fry, local attorney, age discrimination, employment attorney. Fascinating, a regular to the program. We do women's soccer. We do SATs and then in the second half she does two segments with us. We're going to tackle the Delaware HR law, which to my surprise, according to Katherine, actually has traction. Everybody wants to know what's going on. It's not the plague, just the opposite. What's happening?

Dace Blaskovitz: Second Half Charlie Copeland's on fire, politics, politics and more politics. State Senator McDowell, that's one issue and then the other one is the News Journal and there's a key paragraph in the Friday news show. Anyway, welcome to the program. Welcome back, Katherine Witherspoon Fry.

Katherine W.: Thanks Dace. It's good to be here.

Dace Blaskovitz: On your side, you're a regular, but we get new listeners. 30 seconds about you, 30 seconds about the practice.

Katherine W.: Thank you. I'm a principal attorney at Offit Kurman, which is a regional law firm. We have over 200 lawyers helping people from Virginia to New York. We opened the Wilmington office here in 2017 and I specialize in employment law and education matters. We have a nice overlap of the affirmative action/disability areas and I know we're going to talk about those today.

Dace Blaskovitz: Oh, they are fascinating topics and of course on Friday the match with France, but beyond that, the women's world soccer is on stage. I'm going to give it a 30 second recap. You're going to clean it up and then run with it. You with me?

Katherine W.: Gotcha.

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Dace Blaskovitz: All Right. Compliments to the Wall Street Journal as they have continued to follow the story, I argue broke the story. Again I'm trying to do this and sound bites. You're the guest. So U.S. Soccer as I understand it, is the employer for both the men's and women's soccer team. The U.S. women's team, or members of that team claim, or have claim they make far less money and or receive far less compensation than the men. If you're at home and you're not choking already, the story gets worse. So the women sued their employer, U.S. Soccer and it's been revealed in this process of many months, the women from a money making revenue prospective raise much more money and are far more popular than the men. Katherine Witherspoon Fry, it's your turn. Clean that up and then tell us what's going on.

Katherine W.: Right. So all 28 nationally qualified women's players sued the U.S. Soccer Federation in March and they alleged violations of title seven and the equal pay act. They alleged not only that they're paid less for playing, but that they have poor travel provisions, practice conditions, and play more games on worse surfaces, which they consider astroturf to be an inferior surface to play. So it's not just money, it's also other conditions of employment which are lesser than the men's teams in their allegations. What's interesting is a major defense of the lawsuit by the Federation has been that the difference between the revenue in men's and women's soccer justify the difference. What's interesting is that this recent audit of the records indicates that in 2016 through 2018, the women's games earned \$1 million more in revenue during those years. Interestingly, ticket sales are only part of the revenue, obviously. But I think U.S. Soccer might've thought that the women earn less revenue just from game tickets. They sell broadcast rights and sponsorships for all of the games, men's and women's bundled. So we actually can't distinguish who makes more based on those things, and we're left with this one statistic indicating that women are doing better money wise than men.

Dace Blaskovitz: All right. So then I don't want to be accusatory, and I'm about to express an opinion. It's only my opinion, but how do the dummies at the Soccer Federation get away with this?

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- Katherine W.: How do they get away with this? Well, historically before women has been super successful, way more successful than the men I might add in the world cup, and so on. The men did bring in a lot more revenue, and also they have collective bargaining agreements, which are different. So the women have a different representation and a different collective bargaining agreement than men. So it was thought that, well, that's what they bargained for and this is what they're going to get. Women bargained for a salary and men bargained for a per appearance fee. So basically now a Soccer Federation is falling back on, well they should have a better collective bargaining agreement and that's how they should get more money and they should leave us alone because we didn't do anything. Of course they are represented at collective bargaining. So do you really think that's a fair price, or do you not think it's a fair price? They sit in on the bargaining sessions against the unions, right? So that's how that goes.
- Dace Blaskovitz: Well give us a predicted outcome. You're not an insider, it's just an opinion. Is the obvious, obvious?
- Katherine W.: Well here's the thing. They interestingly, again the, I don't know how they get this stuff, but the Wall Street Journal got hold of apparently some correspondence and indicated that in April, and sort of all along, the players have been in touch with the president of U.S. Soccer, Carlos Cordeiro and asked him to sit down and talk, can we talked without lawyers, can we have a discussion about this? And indicating it wasn't against him personally. Trying to keep their good relationship, which they apparently have with him, and that never worked out. He refused to meet without lawyers. He wanted to meet with all 28 players. Now, so that never happened. So now they have agreed though to sit down to mediation on it, and I believe that in my long experience in doing these things that they will settle at mediation. If they don't settle at mediation, then they're going to settle before trial. I mean, you know, 90% of cases settle before trial anyway.
- Dace Blaskovitz: You're my, you're my guest and my guru and I always bow kiss your ring, but on this one, Carlos better bring his checkbook. Next subject.
- Katherine W.: Exactly right. At mediation, I mean I just mediated a case on Tuesday of this week and mediation, no one's ever happy with the outcome. You have to go in with that mind frame and saying, all right, look, we're just going to settle this and get it done and I'm going to have something better than I had before. Whether it's facing a lawsuit or whether it's less pay. They're absolutely going to have to compromise and I hope their mediator is great. That's all I have to say.

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Dace Blaskovitz: Next one. Next one. Next one. We're going to run out of time, we've got less than two minutes, but let's set it up. Again, compliments to the Wall Street Journal. They broke the story, continue to follow it. So what's it in a sentence? The law demands, as I understand it. I'm not an attorney, but law demands diversity while the Trump Administration is increasingly demanding race, government can't be discriminatory. The administration is demanding race not be a factor, so that's one issue. Second paragraph. So UNC, in a Wall Street Journal story says if you're Asian or Asian American, your SAT score had to be 1431. If you're white, 1360. African American, 1229. So then the higher education's moved to away from race to what's called an adversity index. Now just this week, the Wall Street Journal ran another story saying, using only SAT scores, student diversity suffers. You got 30 seconds, we'll come back in the second segment and clean it up. Clean that up quickly.

Katherine W.: Right, the SAT score discussion is really centering on the fact that the Supreme Court is held that it is a compelling government interest to increase diversity in colleges. However, these policies keep getting challenged on these racial grounds, as you're saying, because things are just not working out with the race being considered as the only factor. Now the college board has come forward and said, we've produced a diversity index.

Dace Blaskovitz: All right, and with that, is it going to work? Her name, fascinating, Katherine Witherspoon Fry. When we come back, we're going to tackle it. We will be right back.