

Labor and Employment E-news

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New Statute Reverses Pro-Employer Supreme Court Case

This morning President Obama signed into law the first new statute enacted during his Presidency: the Lilly Ledbetter Fair Pay Act. This new statute reverses *Ledbetter v. Goodyear Tire & Rubber Co.*, a pro-employer Supreme Court decision.

According to the *Ledbetter* case, the time limits within which an employee must file a discrimination charge with the Equal Employment Opportunity Commission - either 180 or 300 days - starts with the first discriminatory decision. Ms. Ledbetter discovered that she was being paid less than her male colleagues after more than 20 years of employment. She filed a lawsuit after she discovered this alleged sex-related pay discrimination. Because the alleged pay discrimination began over 20 years before Ledbetter filed her lawsuit, her case was dismissed for failing to file within the statutory time period.

The Lilly Ledbetter Fair Pay Act amends Title VII of the 1964 Civil Rights Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Rehabilitation Act so that the time limits for filing a charge run from the *last*, not the *first*, alleged discriminatory decision. Under the Lilly Ledbetter Fair Pay Act, an employee's time limit for filing a charge of discrimination alleging sex discrimination regarding compensation would begin from her last paycheck, not her first. Because the issuance of each paycheck starts the statute of limitations period again, the practical effect of the Lilly Ledbetter Fair Pay Act consists of the effective elimination of a statute of limitations for this kind of claim under the amended statutes.

The Fair Pay Act will have little impact on how employers run their businesses on a day-to-day basis. However, because the Fair Pay Act effectively eliminates the statute of limitations, employers will likely be subject to the risk of increased litigation involving sex discrimination claims alleging unlawful differences in pay. Defending against that kind of lawsuit could be difficult, especially depending on how far in the past the alleged discrimination started. To minimize its risk of exposure to that kind of litigation, an employer should audit its compensation practices to ensure that it is not engaging in sex discrimination regarding pay.

Perhaps the most significant message sent by the enactment of the Lilly Ledbetter Fair Pay Act is that the current Congress and the Obama Administration intend to act quickly in modifying employment laws in pro-employee fashions. The Lilly Ledbetter Fair Pay Act may be the first of a series of pro-employee changes in federal law in 2009.

If you have any questions regarding this statute, please contact the author of this E-News bulletin as indicated below, or your Butzel Long attorney, or any member of Butzel Long's Labor and Employment Law Practice Group.

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