



January 29, 2009 - President Obama welcomed Lilly Ledbetter to the White House and signed the Lilly Ledbetter Fair Pay Act.

Ledbetter Fair Pay Act: President Obama's First Bill Signed into Law

RELAXES THE STATUTE OF LIMITATIONS ON EMPLOYEE PAY DISCRIMINATION CLAIMS

NEW LEGISLATION THAT MAY AFFECT THE WORKPLACE.

As the global economic crisis continues unabated and many industries teeter precariously between survival and failure, American employers face a multitude of challenges to their livelihood and litigation could prove devastating to enduring today's recession. As a result, it is particularly important to be mindful of new legislation and regulations that may affect the workplace. If ignored, it could culminate in damaging litigation.

On January 29, 2009, President Obama signed the Lilly Ledbetter Fair Pay Act of 2009 into law, broadening the statute of limitations on compensation discrimination claims, brought under Title VII of the Civil Rights Acts of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act and the Rehabilitation Act of 1973, retroactive to May 28, 2007. The Act overturned the United States Supreme Court decision, *Ledbetter v. Goodyear Tire and Rubber Company*, 550 U.S. 618 (2007), in which the court held that the time to file a compensation discrimination claim begins to run from the date of the discriminatory pay-setting decision.

LEDBETTER V. GOODYEAR TIRE AND RUBBER COMPANY

Plaintiff, Lilly Ledbetter, filed a Title VII action with the Equal Employment Opportunity Commission (EEOC) against her former employer, Goodyear Tire and Rubber Company, for gender-based pay discrimination after she learned that, although her initial compensation was comparable to that of male managers, over the course of her employment with the tire giant, she received less pay each month than that of her male colleagues. Though she originally succeeded on her Title VII claim at trial, the United States Court of Appeals for the Eleventh Circuit reversed the trial court's ruling, holding that a Title VII pay discrimination claim cannot be based on a pay decision that occurs outside the statute of limitations, even if the effect of that decision takes place within the statute of limitations. The statute of limitations was therefore not renewed with each paycheck the employee received, but rather the statute of limitations began running from the initial occurrence of a discriminatory act.

The plaintiff's career with Goodyear spanned about two decades and her claim of discrimination fell

beyond the 180 day statute of limitations period required by the EEOC to succeed in a Title VII suit. Ledbetter appealed the Eleventh Circuit's decision and the Supreme Court granted a writ of certiorari to review the matter. The court found that the only relevant discriminatory event occurred when Goodyear decided the plaintiff's salary level and held that the time to file a compensation discrimination claim begins to run from the date of the discriminatory pay-setting decision.

LEDBETTER FAIR PAY ACT OF 2009

In response to the Supreme Court's controversial ruling, Congress passed the Ledbetter Fair Pay Act into law, which created a separate unlawful employment act each time a discriminatory compensation act occurs. Under the Act, employers are liable for an employee's lost income for backpay for the two years preceding the filing of the compensation discrimination claim. The Act also extends its reach to compensation discrimination claims brought under the Americans with Disabilities Act and the Rehabilitation Act of 1973.

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How this Act Impacts the Towing Industry

Towing company owners, like other employers, should beware of a potential increase in compensation discrimination claims since the Act applies retroactive to May 2007 and significantly broadens the statute of limitations.

In addition, the EEOC released a statement that as a result of the Act, it will intensify its enforcement of compensation discrimination claims.

Protect Yourself Before Litigation Begins

Employers can limit their liability under the Act by taking a number of protective steps before an employee files a compensation discrimination suit.

These steps include:

1. Regular review of your compensation policies and procedures.
2. Staying abreast of the relevant changes in the law and revising the affected policies to meet legal requirements.
3. Documenting compensation policies and decisions for all employees.
4. Retaining compensation decisions in an organized and timely manner.
5. Regular review of compensation decisions to ensure that they meet all legal requirements.
6. Equity analysis of your compensation practices from May 27, 2007.

Dana A. Kravetz, the Firm Administrative Partner of Michelman & Robinson, LLP and the Chair of the Firm's Employment Practice Group, practices in the area of employment law. Dana represents management in discrimination, sexual harassment, wrongful termination, and wage and hour suits in all State and Federal Courts and before the EEOC and related State agencies. For more information regarding the requirements imposed by the Ledbetter Fair Pay Act of 2009 or to discuss employment law matters, please contact Dana Kravetz at 818-783-5530 or by email at dkravetz@mrlp.com.