

January 30, 2009

President Obama Signs Lilly Ledbetter Fair Pay Act

On Thursday, January 29, 2009, in a widely anticipated move, President Barack Obama signed his first bill into law, approving the Lilly Ledbetter Fair Pay Act. This legislation focuses on salary bias in the workplace. Discussed in greater detail below, the Ledbetter bill essentially negates a 2007 United States Supreme Court decision that limited a woman's ability to sue for pay discrimination long after the first discriminatory paycheck occurred.

Lilly Ledbetter Fair Pay Act

This bill was inspired by Goodyear Tire and Rubber Co. employee Lilly Ledbetter, who sued the company for gender-based discrimination. In 2007, the United States Supreme Court ruled that Ledbetter was not entitled to back pay in her Title VII discrimination case because the alleged violation took place outside of the 180 day statute of limitations period.

The Ledbetter bill amends the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and modifies the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to clarify at which points in time discrimination actions qualify as an "unlawful employment practice." According to the legislation, unlawful conduct occurs when: (1) a discriminatory compensation decision or other practice is adopted; (2) an individual becomes subject to the decision or practice; or (3) an individual is affected by application of the decision or practice, *including each time compensation is paid*. The law further provides that individuals may receive back pay as compensation for discrimination that occurred up to two years preceding the filing of a charge.

Under the bill, therefore, employees would be permitted to reclaim lost pay, no matter when the initial violation took place, if a claim is filed within 180 days of the discriminatory paycheck's issuance.

Given that employees will experience less difficulty bringing employment-related pay discrimination claims, employers should expect increased litigation. Care should also be taken to review pay policies, especially with regard to recordkeeping. If you have any questions concerning pay discrimination issues, please contact:

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