



Labor and Employment *ALERT*

Current Law Developments and Legal Issues

That May Affect You Or Your Business

Lafayette Shreveport

January 29, 2009

[Obama Signs the Lilly Ledbetter Fair Pay Act into Law](#)

President Barack Obama signed his first bill into law today, and it affects employers. President Obama signed into law the Lilly Ledbetter Fair Pay Act, which extends the time period for the filing of claims by employees alleging discrimination in compensation or other practices.

This law overturns the United States Supreme Court decision in *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. 618 (2007). Under this decision, the Court ruled that the time limit for filing a charge of discrimination begins to run when an employer makes a discriminatory decision related to compensation, not each time an employee receives a paycheck affected by the discriminatory decision. Lilly Ledbetter sued her employer of 20 years alleging pay discrimination based on decisions made decades prior to the filing of her claim. In most states, including Louisiana, the time period for filing charges of discrimination with the Equal Employment Opportunity Commission is 300 days. Under the *Ledbetter* decision, employees would have had 300 days from the date of a discriminatory decision to file a charge.

Under the new law, the time period employees have for filing claims will be triggered each time they are affected by a discriminatory pay decision, including each time they receive a discriminatory paycheck. Under the new law, a discriminatory act now occurs "when a discriminatory compensation decision or other practice is adopted, when an individual becomes subject to a discriminatory compensation decision or other practice, or when an individual is affected by the application of a discriminatory compensation or other practice, including each time wages, benefits, or other compensation is paid, resulting in whole or in part from a [discriminatory] decision or other practice." Practically speaking, this means that each time an employee receives a paycheck based on an alleged discriminatory practice, such as a failure to promote or an inequitable decision regarding pay raises, the employee has another 300 days to file a charge of discrimination.

This covers all types of discrimination because the law amends Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Rehabilitation Act, and the Age Discrimination in Employment Act (ADEA). The law does limit recovery of back wages to two years preceding the filing of the charge of discrimination. Under the ADEA, employees could recover for two years, except in cases of willful violations where employees could recover for three years.

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The law specifically states, however, that it is not intended to limit an employee's right to bring evidence of unlawful employment practices outside of the time period for filing charges. In other words, employees can use evidence of past discrimination affecting compensation or other practices to prove that they are entitled to recover back wages or other damages.

Importantly, this law was made retroactive to May 28, 2007. Employers should consider the impact of this bill on their pay practices, decision making processes, and record keeping policies.

For any questions about this article or other information, please contact **Maria Fabre Manuel** at **manuelm@onebane.com**.

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