

Wage Claims Likely to Increase as Lilly Ledbetter Fair Pay Act is Signed Into Law

Ronald W. Schneider Jr. | 30 January 2009

Yesterday, President Obama signed into law the Lilly Ledbetter Fair Pay Act of 2009, which explicitly overturns a United States Supreme Court decision limiting the time within which employees could file suit for unequal pay. In a legislative rejection of the Court's decision, the new law redefines when an unlawful employment practice occurs with respect to wage discrimination and gives employees more time to file their unequal pay claims.

Under the law, an unlawful employment practice with respect to wage discrimination based on gender, age, race, disability, religion or ethnicity is deemed to occur when an employee becomes subject to the discriminatory decision or practice or when the employee is affected by the decision or practice and not only when the discriminatory decision is made or the practice instituted. Employees have six months after each allegedly discriminatory paycheck to take legal action and, in addition to other damages, may be awarded backpay for up to two years preceding their filing of a claim of discrimination.

In 2007, in *Ledbetter v. Goodyear Tire & Rubber Co.*, the U.S. Supreme Court ruled that Lilly Ledbetter should have brought her claim for gender-based wage discrimination within 180 days of her employer's alleged discriminatory decision. The Court also limited the amount of backpay that employees could receive. An explicit reaction to the Court's decision, the Fair Pay Act became the first bill the President signed into law.

The law is almost certainly likely to generate more wage claims against employers, particularly in light of the fact that making its way through the Senate is the Paycheck Fairness Act, a bill linked in the House of Representatives with the Fair Pay Act. If it becomes law, the Paycheck Fairness Act would limit the ability of employers to defend unequal pay claims, would provide additional legal protection to employees who discuss wages at work, would make it easier for plaintiffs to pursue class action lawsuits, and would enhance damages for successful plaintiffs.

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