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**President Obama Signs Lily Ledbetter Fair Pay Act into Law**

By: Oyvind Wistrom

The first piece of legislation signed into law by President Barack Obama is a law that will make it easier for workers to sue for pay discrimination. President Obama called the law “a simple fix to ensure fundamental fairness for American workers.” Under the Lily Ledbetter Fair Pay Act, the statute of limitations will run 180 days from each paycheck that is diminished by discriminatory pay practices.

The Act effectively reverses the Supreme Court’s decision in Ledbetter v. Goodyear Tire & Rubber Co., retroactive to May 28, 2007, the day the Supreme Court announced the ruling. Ledbetter had been employed as a supervisor at a Goodyear Tire & Rubber plant. She filed suit against her employer alleging that she was paid less than male counterparts for 20 years. She claimed that she did not realize the pay discrepancy existed until a colleague placed an anonymous note in her mailbox many years later. Based on the Supreme Court’s earlier decision, her claim was deemed untimely because it was not filed within 180 days of the original discriminatory act.

The Act reverses the controversial 5-4 Supreme Court decision. Under the new law, employees are afforded a number of theories under which to sue. The Act states that an unlawful employment practice 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 (which may include family members or others) by application of the decision or practice, including each time there is a payment of compensation based on the decision or practice. The effect of the new law is to permit the filing of a pay discrimination suit following the issuance of each paycheck or subsequent to any pay period. In other words, every paycheck issued by an employer can constitute a new pay discrimination violation. Accordingly, employees are now able to bring a claim within 180 days of the last issued “discriminatory” paycheck.

The EEOC has indicated that it intends to enhance enforcement in this area, in addition to increasing public outreach and education. The passage of this law will likely increase the prevalence of pay discrimination law suits and highlights the importance of employers ensuring that its pay practices are fair and nondiscriminatory.

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If you have any questions about the issues raised by this e-alert, please feel free to contact Oyvind Wistrom at (414) 273-3910 or by e-mail at [owistrom@lindner-marsack.com](mailto:owistrom@lindner-marsack.com)

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