



Employer Obligations Under the Lilly Ledbetter Fair Pay Act of 2009

By Brigid Heid

On January 29, 2009, President Obama signed his first bill into law with the enactment of the Lilly Ledbetter Fair Pay Act. The Act is named for Lilly Ledbetter, who, upon retiring from Goodyear Tire & Rubber after 19 years, sued her former employer for pay discrimination, claiming that male counterparts had been paid more for doing the same jobs over her career.

The U.S. Supreme Court eventually held that the 180-day statute of limitations for bringing a discriminatory-pay claim had long expired and thereby barred her claims, even though the discriminatory management decisions about pay which occurred years before continued to impact her pay over the years until retirement.

Following the court decision, Congress subsequently amended the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 and passed the Fair Pay Act, overturning the Ledbetter case. The Act's 180-day statute of limitations now applies to the receipt of each paycheck, thus triggering a new cause of action each time that:

1. A discriminatory compensation decision or other practice is adopted;
2. An individual becomes subject to a discriminatory compensation decision or other practice; or
3. An individual is affected by application of a discriminatory compensation decision or other practice, including each time wages, benefits, or other compensation is paid.

The Act applies to Title VII claims of pay disparity premised on race, color, religion, sex and national origin as well as those arising under the Americans with Disabilities Act of 1990, the Rehabilitation Act of 1973 and the Age Discrimination in Employment Act of 1967. The Act is retroactive to May 28, 2007. In addition, an employee can now recover back pay for up to two (2) years preceding filing of a charge for discriminatory pay.

Best Practice: Employers are advised to revisit employment decisions and be prepared to defend old and new pay practices. For more information on the Fair Pay Act or how to evaluate and develop compensation practices, please call Brigid Heid or your CPM attorney.