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## Supreme Court Upholds Limit for Unequal Pay Claims

### Supreme Court Upholds Limit for Unequal Pay Claims

The United States Supreme Court has continued its trend of issuing decision favorable to employers with its most recent ruling in the case of *Ledbetter Goodyear Tire and Rubber Company* (May 29, 2007). This narrow 5-4 decision requires an employee to file a claim for unequal pay within 180 days of the when the claim first arose.

This controversial decision has sparked significant stinging criticism of the Supreme Court from many sources, including from those justices who disagree with the decision. In reaction to this decision, several Democratic senators (including Edward Kennedy and Hillary Clinton) have promised to introduce legislation limiting the impact of this decision. George Miller, a Democrat representative from California, has already introduced companion legislation in the House of Representatives which would essentially overturn the *Ledbetter* decision.

#### ***Ledbetter Decision***

Lilly Ledbetter worked as a supervisor at Goodyear from 1979 until she opted for early retirement in 1998. By the end of her employment there, Ledbetter was significantly less than any of her male colleagues at Goodyear. She was paid \$3,727 per month as the only female area manager while her 15 male counterparts received monthly pay ranging from \$4,286 to \$5,236.

Shortly before her employment ended with Goodyear, Ledbetter filed a formal charge with the Equal Employment Opportunity Commission (EEOC) claiming that Goodyear violated federal law by engaging in pay discrimination practices on a basis of gender. When her case went to trial, the jury found in her favor and awarded her back pay and damages.

Goodyear appealed the jury verdict against it and ultimately convinced the United States Supreme Court that Ledbetter's claims were time-barred. In reaching its conclusion, the Supreme Court determined that Ledbetter had failed to bring her claim for pay discrimination within 180 days of the date when she had first suffered from intentional discrimination by Goodyear.

The Supreme Court rejected Ledbetter's argument that this statute of limitations should not apply to her because of the continuing effects of Goodyear's all-pay discrimination which began nearly 20 years earlier.

Justice Samuel Alito stated in the majority opinion that the EEOC charging

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is triggered when "a discrete unlawful practice takes place." The majority opinion further concluded that a new violation does not occur when subsequent decisions (which are not intentionally discriminatory) have the effect of continuing the past discrimination.

The tremendous philosophical differences among the present Supreme Court justices are on prominent display in the *Ledbetter* decision. In the dissenting opinion, Justice Ruth Bader Ginsberg expressed her belief that *Ledbetter* should be entitled to back pay and damages since "Goodyear continued to treat Ledbetter differently because of sex each pay period, with mounting harm."

The majority opinion attempted to deflect this criticism by stating that the day filing deadline protects employers from the burden of defending claims arising from various employment decisions made long ago.

#### ***Future impact of decision***

The *Ledbetter* decision has already drawn extreme praise and criticism from competing circles. Business groups have defended the decision because it establishes a welcome certainty for employers in clarifying their potential exposure to claims of potential pay discrimination. Supporters of this decision applaud the Supreme Court for recognizing the need to prohibit employees from recovering damages for pay decisions made 20 years ago or more.

Meanwhile, the *Ledbetter* decision has likewise triggered angry reactions from civil rights groups and employee groups. For example, the president of the Leadership Conference on Civil Rights (Wade Henderson) recently testified before the House Education and Labor Committee that the *Ledbetter* decision is fundamentally unfair to victims of pay discrimination and ignores the reality of the workplace.

Relying upon the statements of Justice Ginsberg in her dissenting opinion, Henderson testified that pay discrimination is a hidden form of discrimination which is particularly dangerous due to the silence surrounding salary information in the United States. He cited statistics asserting that one-third of private employers have specific rules prohibiting employees from discussing their wages with co-workers and that only one in ten employers has adopted a pay openness policy.

In reaction to the criticism surrounding the *Ledbetter* decision, Democrats recently introduced legislation in Congress that would essentially overturn the Supreme Court's decision. This proposed legislation would provide that discriminatory acts occur by extension "each time wages, benefits, or other compensation is paid."

Given the present politically charged atmosphere in Washington, the impact of the *Ledbetter* decision will surely be debated extensively within Congress in the coming years. For the time being, however, the *Ledbetter* decision has provided a level of certainty for employers regarding their level of exposure for claims of pay discrimination.

Still, in order to avoid involvement in any lengthy litigation concerning this issue, employers should carefully examine their present salary structure to ensure that they are not vulnerable to any claims of pay discrimination.

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Posted by mthomton Contributed by mthomton

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