



Supreme Court Limits Suits on Pay Disparity in *Ledbetter v. Goodyear Tire & Rubber Co.*

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On May 29, 2007 the Supreme Court decided that employees claiming pay discrimination under federal law must file a charge within 180 or 300 days (depending on the state) with the Equal Employment Opportunity Commission (EEOC) after each allegedly discriminatory pay decision or forever lose the claim. By a 5-4 vote, the Court affirmed an Eleventh Circuit decision that overturned a jury verdict in favor of Lilly Ledbetter on her Title VII claim of sex discrimination against Goodyear Tire & Rubber Co (Goodyear) because she failed to file her claim within 180 days of a discriminatory pay decision.

The Statute of Limitations in Title VII Claims

According to federal law, the limitations period for filing a discrimination charge with the EEOC is 180 days if the state where the person worked does not have an agency authorized to accept Title VII charges, or 300 days if the state does have such an agency. In Washington, a plaintiff has 300 days to file with the EEOC because the Washington State Human Rights Commission (HRC) is authorized to accept Title VII charges.

Background

Ledbetter worked as an area manager for Goodyear in Alabama, from 1979 until she retired in 1998. At first, Ledbetter's salary was in line with the salaries of male area managers. Ledbetter's annual performance evaluations showed that she was not the worst performing area manager, nor was she the best. Once, in 1985 a supervisor recognized that Ledbetter was being paid less than the minimum for her position, and she received a raise. Over time, however, her pay slipped dramatically in comparison to male area managers with equal or less seniority. By the end of 1997, Ledbetter was the only female working as an area manager and was making 15-40% less than similarly situated male managers.

EEOC Filing and Suit

In early 1998 an anonymous letter tipped off Ledbetter about wage disparities between her and male employees. She then filled out an EEOC questionnaire in March 1998, filed a formal charge of sex discrimination four months later, and took early retirement later that year to avoid being laid off. Ledbetter sued Goodyear in November 1999. Ledbetter's claim asserted that several supervisors had given her poor evaluations in the past because of her sex, and her pay therefore had not increased as much as it would have if she had been evaluated fairly. She claimed those past pay decisions affected the amount of her pay throughout her employment, and that by the time she retired she was earning significantly less than her male colleagues. However, Ledbetter did not allege Goodyear had discriminatory intent or that it committed discriminatory acts during the 180-day EEOC charging period.

At summary judgment, Ledbetter's Equal Pay Act claim was dismissed, but her Title VII claim was allowed to proceed to trial. At trial, the jury found for Ledbetter, awarding her more than \$3 million in back pay and damages. Goodyear appealed. The Eleventh Circuit reversed, holding that a Title VII pay discrimination claim cannot be based on allegedly discriminatory events that occurred before the last pay decision that affected the employee's pay during the EEOC charging period, and concluded there was insufficient evidence to prove that Goodyear acted with discriminatory intent in making the only two pay decisions during that period - denials of raises in 1997 and 1998.

The Supreme Court affirmed the Eleventh Circuit's decision and ruled that Ledbetter's claim failed because she did not timely file her EEOC claim. In the majority opinion, Justice Alito wrote that the time limitation for filing a discrimination charge with EEOC "is triggered when a discrete unlawful employment decision takes place." Justice Alito continued, stating "a new violation does not occur, and a new charging period does not commence, upon the occurrence of a subsequent nondiscriminatory act that entails adverse effects resulting from past discrimination." Thus, the Court held that Title VII's statute of limitation period begins to run when "each allegedly discriminatory pay decision [is] made and communicated to her," not the date that the employee actually receives a paycheck with a discriminatory wage. The Court also stated that the limitation applies even if the effects of the discrimination were not fully apparent to the worker at the time of the pay-setting decision.

Justice Ginsberg's dissent stated that "the unlawful practice is the *current payment* of salaries infected by gender-based (or race-based) discrimination - a practice that occurs whenever a paycheck delivers less to a woman than to a similarly situated man."

What This Means

The *Ledbetter* case limits the scope in time that an employer may be liable for a Title VII discriminatory pay claim involving an individual employee to 180 or 300 days after the actual unlawful employment action took place.

However, the Court's time limits appear to be limited to cases in which pay decisions affecting an individual are challenged. In challenges to discriminatory "pay structures," or pay decisions affecting a class of employees the statute of limitations apparently would still run from the time of the last paycheck that demonstrated disparate pay based on protected class status.

Conclusion

Ledbetter indicates that this Supreme Court may be inclined to make decisions that are more "employer-friendly." However, this decision does not alter the statute of limitations for claims under the Federal Equal Pay Act, or state equal pay laws. Moreover, state anti-discrimination statutes such as the WLAD often have longer statutes of limitation (3 years); based on its current composition, the Washington State Supreme Court is less likely to be employer-friendly. Additionally, Democratic lawmakers are reacting to the *Ledbetter* decision by crafting federal legislation to overrule *Ledbetter* and allow the statute of limitations to run from the employee's receipt of the last paycheck. Stay tuned for further developments.

What Employers Should Do?

- Provide equal pay for equal work and performance regardless of gender, race, religion or disability.
- Be aware that the statute of limitations for an Equal Pay Act claim is 2 years and does not have an EEOC filing requirement, and the statute of limitations for WLAD discrimination claims is 3 years.
- Document reasons for raises and/or denial of raises and base pay decisions on performance.
- Analyze your pay system to determine whether employees in protected categories could claim that the pay system discriminates against them.
- Be aware that legislation may change this decision.

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