Important Ruling for Employers:
U. S. Supreme Court Tightens Deadlines for Filing
Pay Discrimination Cases Under Title VII

On May 29, 2007, the U. S. Supreme Court ruled that the deadline for bringing a claim of pay discrimination under Title VII begins to run when the employer makes an allegedly unlawful pay-setting decision, and does not restart each time the employer issues a paycheck. The Court held that Title VII pay discrimination claims are subject to a 180-day charge filing period (or 300 days in states, such as Illinois, with local FEP agencies), thereby potentially protecting employers from years worth of backpay in Title VII pay discrimination lawsuits. Ledbetter v. Goodyear Tire & Rubber Co., No. 05-1074, 2007 U.S. LEXIS 6295 (May 29, 2007).

The Court held, in a 5-4 decision, that because an employer's original "pay-setting decision is a 'discrete act,' it follows that the period for filing an EEOC charge begins when the discriminatory act occurs." Id. at *7. Thus, the charge-filing deadline (either 180 or 300 days depending on jurisdiction) begins when an aggrieved employee is informed of his compensation, not each time he receives a paycheck thereafter.

The Ledbetter decision is important because many lower courts had allowed employees to recover for pay discrimination under Title VII even when the alleged discriminatory pay-setting decision had occurred many years earlier, interpreting prior Supreme Court precedent as permitting each new paycheck to restart the charge-filing time clock and to continue the effects of past discriminatory pay decisions.[1] The Ledbetter decision may also signal a more restrictive approach from the newly constituted high court on significant employment law issues.

Key Facts and Points of Law

Lilly Ledbetter had been employed by Goodyear Tire and Rubber Company (Goodyear) at its Alabama tire plant, for almost 20 years. During the last year of her employment, Ledbetter filed a charge of discrimination with the EEOC, alleging she was paid less than male counterparts. Ledbetter thereafter sued Goodyear in the U. S. District Court for the Northern District of Alabama alleging pay discrimination that occurred throughout the course of her employment. The U. S. District Court ruled in Ledbetter's favor, awarding her $225,000 in backpay and $3.28 million in punitive damages, although the verdict was later reduced.

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[1] As a result of the Supreme Court's decision, the law in the Seventh Circuit (encompassing Illinois, Wisconsin and Indiana), will change. Previously, the Seventh Circuit Court of Appeals has taken an intermediate approach between the Supreme Court's ruling and the approach advocated by Ledbetter. Hildebrandt v. Illinois Dept. of Natural Resources, 347 F. 3d 1014 (7th Cir. 2003) (permitting suit for discriminatory pay even though pay-setting decision occurred outside limitations period, but limiting recovery to only pay received within charge-filing period); Reese v. Ice Cream Specialties, Inc., 347 F. 3d 1007 (7th Cir. 2003) (same).

Goodyear appealed the judgment, arguing that Ledbetter's discrimination claim was barred as outside the 180-day time limitation for filing a charge of discrimination with the EEOC. The Eleventh Circuit Court of Appeals agreed, and reversed the judgment.

The U. S. Supreme Court affirmed the Eleventh Circuit, holding that Ledbetter's pay discrimination claim was time-barred, and reasoning that the continuing effects of prior discriminatory pay decisions do not give rise to new violations of Title VII where, within the charge-filing period, there is no separate evidence of a discriminatory intent.

Rejecting Ledbetter's "paycheck accrual rule" whereby each paycheck triggers a new EEOC charge-filing period, the Court majority reasoned that "current effects alone cannot breathe life into prior, uncharged discrimination." Id. at *4. This is so, the majority opinion explained, because "a pay-setting decision is a discrete act that occurs at a particular point in time" and "Ledbetter should have filed an EEOC charge within 180 days after each alleged discriminatory pay decision was made and communicated to her." Id. at *4 and *7.

Implications for Employers

- Employers will benefit from the new deadline (180/300 days) to file a charge with the EEOC of pay discrimination under Title VII – as the Court stated: "[t]he EEOC filing deadline 'protect[s] employers from the burden of defending claims arising from employment decisions that are too long past.'" Id. at *23.

- Pay discrimination claims under Title VII will now focus on the decision-making process with respect to pay, rather than tracking paychecks – similar to the approach used with other discrete employment decisions involving matters such as discipline, discharge, failure to promote and failure to hire.

- The ruling will not apply where there is evidence of a new specific intent to discriminate within the charge-filing period.

- There has been no change in the law concerning deadlines applicable to hostile work environment claims, typically involving claims of sexual harassment.

- The ruling does not extend to sex-based pay discrimination claims brought under the Equal Pay Act, which provides for a longer two or three year (if willful) limitations period. However, the Equal Pay Act applies only to alleged sex-based disparities in pay – the EPA does *not* apply to alleged race, color, national origin, age or disability pay disparities or discrimination.

- The ruling has resulted in an almost immediate initiative in Congress to modify the Ledbetter decision through an amendment to Title VII that would permit broader recovery in pay discrimination cases.

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