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Author

Kishka-Kamari Ford McClain

kford@Venable.com
703.760.1610

Lilly Ledbetter Fair Pay Act Becomes Law Creating New Legal Exposure For Employers

On January 29, 2009, President Obama signed the Lilly Ledbetter Fair Pay Act. This new law dramatically expands the time frame for employees to bring compensation discrimination claims against their employers, whether based on sex, race, age or disability.

Under the Lilly Ledbetter Fair Pay Act, employees will now have more time to file lawsuits in cases of compensation discrimination. The Act amends Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Rehabilitation Act to specify that the time limits for filing pay discrimination claims begin to run each time an employee receives a paycheck that manifests discrimination (the "Paycheck Rule"), not just when an employer makes a discriminatory pay decision. In so doing, the new law abrogates the U.S. Supreme Court's ruling in *Ledbetter v. Goodyear Tire & Rubber Co.*, 127 S. Ct. 2162 (2007). The Act is retroactive to May 28, 2007, the day before the Court's decision. A copy of the new law can be found at http://www.whitehouse.gov/briefing_room/LillyLedbetterFairPayActPublicReview/.

Under the new law, employers should expect a surge in claims based on current paychecks that allegedly manifest past discriminatory decisions. Passage of the Act may also "revive" otherwise untimely claims of pay discrimination, and increase claims by retired employees regarding calculation of pension benefits. Therefore, going forward, employers should focus on employment practices aimed at eliminating any potentially or arguably unlawful pay disparities throughout their workforce. Employers should take care to continue efforts to monitor and prevent arguably unlawful pay disparities, including efforts to eliminate systemic bias (for example: minimizing discretionary compensation decisions; regularly monitoring employees' perceptions regarding pay differentials; and regularly monitoring pay disparities and implementing appropriate remedial measures). Employers should also carefully document and be prepared to defend in future years compensation determinations made now.

Compliance Assistance

If you have questions regarding this e-let or would like to schedule training, please contact one of the Venable lawyers with whom you work. Employers should take immediate steps to refresh training programs for their human resources personnel and managers/supervisors in order to avoid litigation under the new Act. Venable's labor and employment lawyers have wide experience in training management and representing employers in matters related to compensation and other discrimination claims.

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