

PUBLICATION

Pay Me: Texas Supreme Court Refuses to Extend Ledbetter to State Law

September 17, 2012

Three years ago, Congress passed the Lilly Ledbetter Fair Pay Act of 2009, overturning a United States Supreme Court ruling that rejected an employee's claim that because she did not know she was being paid less than her male co-workers, she should have been excused from filing an EEOC Charge of Discrimination within the statute of limitations period. In so doing, Congress extended the limitations period by decreeing that each allegedly discriminatory paycheck issued restarted the limitations period.

More recently, Houston's First Court of Appeals revived a discrimination claim and held in *Prairie View A&M University v. Chatha* that the Ledbetter Act applies to cases arising under the Texas Labor Code. Specifically, the Court of Appeals ruled, "[t]he State's public policy in the Texas Act is to execute the policy in Title VII."

On August 31, 2012, the Texas Supreme Court reversed the lower court's holding, ruling instead that the Texas Commission on Human Rights Act (TCHRA) does not automatically incorporate federal law, and the Texas Legislature would need to pass its own version of the Ledbetter Act if it wanted to indefinitely tool the statute of limitations in the manner in which the Lilly Ledbetter Fair Pay Act did. Until then, the court held, the statute of limitations begins to run once an employee learns of the alleged discriminatory pay decision. In this case, because the employee did not file her charge of discrimination timely, her claim was dismissed. The court went on to rule that subsequent, allegedly discriminatory paychecks did not constitute an unlawful employment practice under the TCHRA.

For information about this holding or its application to your Texas operations, please contact any of our more than 70 Labor & Employment attorneys located in Birmingham, Alabama; Atlanta, Georgia; Baton Rouge, Mandeville and New Orleans, Louisiana; Jackson, Mississippi; Chattanooga, Johnson City, Knoxville, Memphis and Nashville, Tennessee; and Houston, Texas.