

One Minute Memo[®]



Texas Supreme Court Rules That The Lilly Ledbetter Fair Pay Act Does Not Apply To State Anti-Discrimination Law

Under Texas discrimination law, when does the statute of limitations start for pay discrimination claims—when the employee learns of the discriminatory decision or each time the employee receives a paycheck? Under federal law, the answer is the latter as a result of the Lilly Ledbetter Fair Pay Act of 2009. But not so as to state discrimination law says the Texas Supreme Court. On August 31, 2012, the Texas Supreme Court ruled the Lilly Ledbetter Act does not apply to claims made under the Texas Commission on Human Rights Act.

The Issue and Background

Diljit K. Chatha began working as a professor at Prairie View A&M University in 1987. When she was promoted to full professor in 2004, Chatha complained that her pay was inequitable, but was told there were no funds available for a salary increase. In 2006, Chatha (who is of Indian national origin) filed a charge of race and national origin discrimination alleging that she was paid less than other non-Indian faculty members. Chatha subsequently filed suit against the University in state court under the Texas Commission on Human Rights Act (“TCHRA”).

The University argued that Chatha’s pay disparity claim was time-barred because she did not file claims with the TWC within 180 days of the date the alleged unlawful employment practice occurred, as required under state law. Because the TCHRA was modeled on Title VII of the Civil Rights Act of 1964, Chatha argued the Lilly Ledbetter Act revived her otherwise time-barred claims. The Lilly Ledbetter Act provides that each paycheck that stems from a discriminatory compensation decision or pay structure is a tainted, independent employment action that commences the administrative statute of limitations under Title VII. Thus, when an employee files a pay discrimination claim under federal law, the 180-day limitations period begins anew each time the employee receives a paycheck that is based on a previous discriminatory pay decision or practice.

The trial court rejected the University’s argument and the University appealed. In April 2010, the Court of Appeals for the First District of Texas ruled that the Lilly Ledbetter Act applied to the TCHRA and that Chatha’s claims were timely because she received a paycheck containing an alleged discriminatory amount within 180 days of the date she first filed her charge of discrimination.

The Decision

In a 7-2 decision, the Texas Supreme Court refused to read the Lilly Ledbetter Act into the TCHRA. Instead, the Court reaffirmed that under the TCHRA, “a pay discrimination complaint must generally be brought within 180 days of the date the claimant is informed of the compensation decision.” Based on this holding, the Court dismissed Chatha’s suit.

In reaching this decision, the majority noted that before the Lilly Ledbetter Act, Title VII and the TCHRA contained “virtually identical language” concerning the 180-day limitations period. But after the Lilly Ledbetter Act, the Texas Legislature did

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not amend the TCHRA—even though, as the majority points out, the Texas legislature has repeatedly rejected proposed legislation that would have incorporated the Ledbetter amendments into the TCHRA. As the majority wrote, “it is the providence of the Legislature to determine whether to enact an exception similar to the Ledbetter Act in the context of pay discrimination claims under the TCHRA.” Applying the Ledbetter Act without prior legislative action, the majority explained, “would require us to abdicate our role as interpreters of the law in favor of a lawmaking function. We decline to take that role.”

The Court also reaffirmed that Texas courts should look to federal law for guidance in interpreting the TCHRA, but only when the relevant provisions of Title VII and the TCHRA are analogous. Because the limitations provisions in these two statutes are no longer analogous, the Court said Texas courts are not bound by federal precedents on this issue.

Implications For Employers

While this decision is a welcome ruling for Texas employers, it may be a hollow victory. Although the decision may curtail some Texas-law pay discrimination claims, it does not prevent employees from filing suit under analogous federal statutes. Employees can still file pay discrimination claims based on decisions that were made years—or even decades—earlier under federal laws that have incorporated the Lilly Ledbetter Act, including Title VII, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and the Rehabilitation Act of 1973. There is also the possibility that the Texas Legislature will at some point amend the TCHRA to conform with the Ledbetter Act. Until such time, however, employees wishing to file suit under Texas law must comply with the 180-day mandatory prerequisite.

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