

Busy Week in Employment Law: State, U.S. Supreme Courts Issue Rulings, President Hikes Federal Minimum Wage

June 4, 2007

The past week has seen several developments in employment law worthy of note.

Federal Minimum Wage Hiked

On May 25, President Bush signed into law the first increase to the federal minimum wage in 10 years. The increase was enacted as part of the Iraq war funding bill that has been in the news recently.

The current federal minimum wage of \$5.15 an hour increases to \$5.85 an hour on July 24, 2007, to \$6.55 an hour on May 25, 2008, and to \$7.25 an hour in 2009.

This increase will not affect Michigan employers, who are covered by Michigan's higher minimum wage. Currently, Michigan's minimum wage is \$6.95 an hour. That will increase to \$7.15 in just over a month (on July 1), and will increase again to \$7.40 an hour on July 1, 2008. The federal minimum wage hike will not overtake Michigan's higher minimum wage through at least 2009, leaving Michigan employers bound to pay the state's higher minimum wage.

To see previous Miller Canfield alerts on Michigan's minimum wage increase, [click here](#).

Michigan Supreme Court Agrees to Hear Same-Sex Benefits Appeal

On May 23, the Michigan Supreme Court decided to consider an appeal of the Court of Appeals's February 1, 2007 decision concerning the impact of Michigan's two-year-old constitutional ban on same-sex marriage. As reported in Miller Canfield's February 2007 Employer Alert, the Court of Appeals decided that Proposition 2 from the November 2004 general election—not to be confused with the 2006 general election's Proposition 2, which banned affirmative action preference programs in public hiring, education, and contracting—prohibits public employers from offering employment benefits normally reserved for married employees to employees in same-sex domestic partner relationships.

The Supreme Court denied a request to suspend the Court of Appeals decision pending the appeal, so the Court of Appeals's February 2007 ruling remains in effect. Justices Michael Cavanagh and Marilyn Kelly would have suspended the Court of Appeals decision pending the appeal, but were overruled by the other five justices. The Supreme Court invited interested persons or groups to request permission to file briefs in support of or opposition to the Court of Appeals decision.

Miller Canfield will keep you updated as this appeal progresses in the Michigan Supreme Court.

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United States Supreme Court Limits Time to File Title VII Pay Discrimination Claims

The United States Supreme Court ruled on May 29, in a 5-4 decision, that the 180-day limitations period for filing a pay discrimination claim with the EEOC based on Title VII of the Civil Rights Act of 1964 (or 300 days in states with work-sharing agreements between the EEOC and the state civil rights agency) is triggered when the discriminatory pay decision occurs – not each and every time a pay check is issued.

In *Ledbetter v. Goodyear Tire & Rubber Co.*, Lilly Ledbetter’s pay discrimination charge against Goodyear Tire was ruled untimely because Goodyear’s discriminatory pay decision occurred more than 180 days before she filed her charge. The Court therefore rejected Ledbetter’s contention that a new 180-day limitations period was triggered each time she received a paycheck. Noting that the central element of any discrimination claim is discriminatory intent, the Court reasoned that Ledbetter had to prove, as with any other type of discrimination claim based on a discrete employment decision (e.g., termination), that Goodyear’s decision-makers acted with actual discriminatory intent when they issued her checks within the 180-day filing period.

Michigan is one of the states whose employment/civil rights agency—the Michigan Department of Civil Rights—has a “work-sharing” agreement with the EEOC to jointly handle discrimination filings under Title VII and Michigan’s Elliott-Larsen Civil Rights Act. Thus, Title VII claims like Ms. Ledbetter’s in Michigan would have to be brought within 300 days of the decision about the alleged pay practice at issue. The same limitation would not apply, however, to pay discrimination claims brought solely under Michigan’s employment discrimination statute. In Michigan, claimants are not required to file state-law discrimination claims first with the EEOC or the Michigan Department of Civil Rights. Such claims may be brought directly in state court (or, in certain circumstances, in federal court), and claimants have up to 3 years to file the claims. It is possible, if not likely, however, that courts would apply the *Ledbetter* decision to only permit claims brought within 3 years of the pay decision at issue.

If you have any questions about these or any other employment issues or practices, feel free to contact Miller Canfield’s Labor and Employment Group; James B. Thelen at (517) 483-4901, email: thelen@millercanfield.com; Chuck Oxender at (313) 496-7520, email: oxender@millercanfield.com; or Scott R. Eldridge at (517) 483-4918, email: eldridge@millercanfield.com. This message is for general information only and should not be used as a basis for specific action without obtaining further legal advice.