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## SUPREME COURT CLARIFIES STATUTE OF LIMITATIONS FOR PAY DISCRIMINATION CLAIMS

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In a decision released yesterday, the United States Supreme Court clarified its interpretation of the statute of limitations governing claims of pay discrimination under Title VII.

Under Title VII, an employee must file a charge of discrimination within 180 days (or 300 days depending on the state) of the alleged discriminatory act. Before yesterday's decision, many federal appellate courts had ruled that, in pay discrimination cases, each paycheck was a discrete act of discrimination that triggered a new 180-day filing period. The Supreme Court rejected this approach, holding that the *decision to set the employee's pay*, and *not the issuance of each subsequent paycheck*, was the discrete discriminatory act that triggered the 180-day filing period. In other words, the fact that past discriminatory acts may continue to affect an employee's current pay is not enough to allow an employee to revive an otherwise time-barred claim.

The Supreme Court was careful to explain that the rule announced applies only to facially non-discriminatory and neutral pay structures. If the employer maintains a facially discriminatory pay structure (*e. g.*, if the employer has a policy of paying men more than women), then each paycheck still constitutes a separate violation of Title VII, and each paycheck triggers a new 180-day filing period. Moreover, the Supreme Court made clear that its opinion did not apply to claims brought under the Equal Pay Act, which, unlike Title VII, does not require the plaintiff to show an intent to discriminate and does not require an EEOC charge to be filed.



Although a positive development for employers, the opinion may have the unintended consequence of increasing the number of charges filed at or near the time of an employer's annual employee review process. To better position themselves for this potential rush of claims, employers should take necessary steps to ensure that their employee compensation and review processes are uniformly applied in a non-discriminatory fashion.

The case is *Ledbetter v. Goodyear Tire & Rubber Co.*, No. 05-1074 (May 29, 2007).

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L A B O R     A N D     E M P L O Y M E N T     C O N T A C T S

BIRMINGHAM, AL

David R. Boyd  
205.226.3485  
[dboyd@balch.com](mailto:dboyd@balch.com)

Leslie Allen Coyne  
205.226.3484  
[lallen@balch.com](mailto:lallen@balch.com)

Aaron L. Dettling  
205.226.8723  
[adettling@balch.com](mailto:adettling@balch.com)

Monica G. Graveline  
205.226.8722  
[mgraveli@balch.com](mailto:mgraveli@balch.com)

Douglas B. Kauffman  
205.226.8758  
[dkauffman@balch.com](mailto:dkauffman@balch.com)

Lisa J. Sharp  
205.226.8714  
[lsharp@balch.com](mailto:lsharp@balch.com)

M. Jefferson Starling, III  
205.226.3406  
[jstarling@balch.com](mailto:jstarling@balch.com)

JACKSON, MS

R. Pepper Crutcher, Jr.  
601.965.8158  
[pcrutcher@balch.com](mailto:pcrutcher@balch.com)

Armin J. Moeller, Jr.  
601.965.8156  
[amoeller@balch.com](mailto:amoeller@balch.com)

David M. Thomas, II  
601.965.8157  
[dthomas@balch.com](mailto:dthomas@balch.com)

E. Russell Turner  
601.965.8159  
[rturner@balch.com](mailto:rturner@balch.com)

ATLANTA, GA

T. Joshua R. Archer  
404.962.3556  
[jarcher@balch.com](mailto:jarcher@balch.com)

Michelle Rothenberg-Williams  
404.962.5349  
[mrothenberg-williams@balch.com](mailto:mrothenberg-williams@balch.com)

MONTGOMERY, AL

David R. Boyd  
334.269.3132  
[dboyd@balch.com](mailto:dboyd@balch.com)

W. Pete Cobb, II  
334.269.3128  
[pcobb@balch.com](mailto:pcobb@balch.com)

Charles B. Paterson  
334.269.3143  
[cpaterso@balch.com](mailto:cpaterso@balch.com)

John G. Smith  
334.269.3150  
[jgsmith@balch.com](mailto:jgsmith@balch.com)

Dorman Walker  
334.269.3138  
[dwalker@balch.com](mailto:dwalker@balch.com)

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