

THOMAS W. RIECK
trieck@rieckcrotty.com
JEROME F. CROTTY
jcrotty@rieckcrotty.com
RONALD P. DUPLACK
rduplack@rieckcrotty.com
DOUGLAS C. CONOVER
dconover@rieckcrotty.com
KEVIN P. BROWN
kbrown@rieckcrotty.com
AMY E. COLLINS
acollins@rieckcrotty.com

RIECK AND CROTTY

ATTORNEYS AT LAW

A PROFESSIONAL CORPORATION

55 WEST MONROE STREET, SUITE 3390

CHICAGO, ILLINOIS 60603-5062

CHICAGO'S BUSINESS LAWYERS

TELEPHONE

(312) 726-4646

TELECOPIER

(312) 726-0647

FIRM WEB SITE:

<http://www.rieckcrotty.com>

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THE COURTHOUSE PERSONNEL DEPARTMENT

Since the year 2000, our firm has written and published *The Courthouse Personnel Department* to keep our readers, i.e., clients, colleagues and friends, informed about employment law matters. The firm has also published *A Potpourri* for 25 years addressing other legal issues of relevance to our readers.

We have found that readers of *A Potpourri* and *The Courthouse Personnel Department* benefit from our publications by understanding the law and undertaking preventative actions to avoid litigation and to document their actions more carefully.

In order to better serve our readers, we are expanding the scope of *The Courthouse Personnel Department* to include articles on all types of issues confronted by employers and employees. In future issues of *The Courthouse Personnel Department*, you will see the results of this expansion.

Additionally, we decided to distribute future issues of *The Courthouse Personnel Department* by e-mail. Accordingly, on or about August 1st, you should receive this issue by regular mail and e-mail. If you only received this issue by regular mail, and you want to receive future issues of *The Courthouse Personnel Department*, please forward your e-mail address to courthouse@rieckcrotty.com.

SUPREME COURT STRICTLY APPLIES

DISCRIMINATION CLAIMS FILING REQUIREMENTS

In the recent case of *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, the United States Supreme Court strictly applied the statutory requirement that a charge of discrimination must be filed within 180 days of the discriminatory conduct when continuous discriminatory acts are alleged.

Lilly Ledbetter (“Ledbetter”) was employed by Goodyear Tire & Rubber Co., Inc. (“Goodyear”) for 19 years. Shortly before she retired, Ledbetter filed a charge of discrimination against Goodyear in which she claimed she had been discriminated against because of her sex in violation of Title VII of the Civil Rights Act of 1964. Ledbetter asserted that she received several poor evaluations during her 19 years of employment because she was female, which resulted in Ledbetter being denied salary increases. Accordingly, she was earning significantly less than her male colleagues upon retirement.

Rieck and Crotty, P.C. publishes ***THE COURTHOUSE PERSONNEL DEPARTMENT*** bi-monthly to keep employers and employees advised of current issues and decisions throughout the United States relating to employment law matters which may impact our readers. If you desire additional information concerning any of the articles, please telephone a member of the firm.

Since Ledbetter's last review was several years prior to her retirement, in order to comply with the 180 day filing requirement, Ledbetter asked the Supreme Court to recognize a rule Ledbetter entitled the "paycheck accrual rule." Ledbetter argued that such a rule would provide that each paycheck was a discriminatory act because the paycheck would have been larger if Ledbetter's evaluations had not been discriminatory and she had received raises similar to her male colleagues. Thus, she claimed, her charge was timely filed because it was filed within 180 days of her last paycheck.

Goodyear responded by arguing Ledbetter did not timely file her charge because the discriminatory evaluations occurred more than 180 days prior to the date the charge was filed. In ruling for Goodyear, the Supreme Court held "the EEOC charging period is triggered when a discrete unlawful practice takes place. A new violation does not occur, and a new charging period does not commence upon the occurrence of subsequent non-discriminatory acts that entail adverse effects resulting from past discrimination." Thus, since the evaluations and not the subsequent paychecks were the discriminatory acts, the Court rejected the paycheck accrual rule and found Ledbetter had not timely filed her charge.

The Supreme Court's decision is helpful because it provides a clear explanation of how to apply the 180 day filing requirement in cases where continuous discriminatory acts are alleged.

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COURT CLARIFIES DEFINITION OF EMPLOYMENT PRACTICE UNDER TITLE VII

Carol Isaacs ("Isaacs") was employed by Hill's Pet Nutrition Inc. ("Pet Nutrition"). Isaacs worked with Pet Nutrition's Packaging Team for two years and later worked with its Stretchwrap Team. During her employment, Issacs was subjected to harassment, including comments and objectionable materials in the work place. Issacs reported the harassment to her supervisors and management personnel. Pet Nutrition responded by telling Issacs to "grin and bear it." Isaacs refused to grin and bear it and filed a charge of discrimination, asserting Pet Nutrition violated Title VII of the Civil Rights Act ("Title VII").

In the trial court, Pet Nutrition successfully argued the hostile work environment Isaacs experienced with each Team was a separate employment practice. Accordingly, the harassment by the Packaging Team could not be considered because it occurred more than two years prior to the filing of Issacs' charge. Moreover, Pet Nutrition established the harassment by the Stretchwrap Team was not severe enough to constitute sexual harassment. Therefore, Isaacs' claim was dismissed.

Upon appeal, the Appellate Court found that even though Isaacs changed Teams, she remained under the same chain of command and was under the control of the same management personnel. Thus, it held the harassment Isaacs experienced was a single employment practice. Accordingly, all the harassment suffered by Isaacs could be considered in determining whether Pet Nutrition violated Title VII.

Given the definition of employment practice stated in the *Issacs*' case, employers should address all claims of sexual harassment upon receiving the same to avoid liability for such conduct.

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Be sure to visit our website at www.riECKcrotty.com to read prior issues of *The Courthouse Personnel Department* and *A Potpourri*.