



Human Resources

Committee

Palm Springs, CA

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# EEOC Issues New Proposed ADA Regulations: Almost Anyone Can Be Disabled



- New proposed regulations interpreting the Americans with Disabilities Amendments Act of 2008
  - ◆ Significantly broaden the definition of “disability” by mandating that potential disabilities of employees be evaluated by disregarding mitigating measures such as medication or assistive devices. **In other words, if an employee can function perfectly with a disability due to medication or other assistance, the employee is still disabled if without those aides, the employee’s disability limits his or her ability to perform a major life activity (e.g., sleeping, working, getting along with others) as compare to the general population.**
- California employers already must comply with California’s broad definition of “disability,” which is now very similar to the ADA’s definition. The Feds are just playing catch-up.
- **Beware – there has been a significant increase in “disability” litigation.**



# POP QUIZ

What was the first bill  
signed into law by  
President Obama?



# Lilly Ledbetter Fair Pay Act



## Fair Pay Act Makes it Easier for Employees to Sue Over Discriminatory Wages

- The Lilly Ledbetter Fair Pay Act supersedes the Supreme Court's decision in *Ledbetter v. Goodyear Tire & Rubber Co., Inc.*, 550 U.S. 618 (2007).
  - ◆ *Ledbetter* had required a compensation discrimination charge to be filed within 180 days of a discriminatory pay-setting decision (or 300 days in jurisdictions that have a local or state law prohibiting the same form of compensation discrimination).
- The Act restores the pre-*Ledbetter* position of the EEOC that each paycheck that delivers discriminatory compensation is a wrong actionable under the federal EEO statutes, regardless of when the discrimination began.



# Fair Pay Act Makes it Easier for Employees to Sue Over Discriminatory Wages

- Under the Act, an individual subjected to compensation discrimination under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, or the Americans with Disabilities Act of 1990 may file a charge within 180 (or 300) days of any of the following:
  - ◆ when a discriminatory compensation decision or other discriminatory practice affecting compensation is adopted;
  - ◆ when the individual becomes subject to a discriminatory compensation decision or other discriminatory practice affecting compensation; or
  - ◆ **when the individual's compensation is affected by the application of a discriminatory compensation decision or other discriminatory practice, including each time the individual receives compensation that is based in whole or part on such compensation decision or other practice.**



# New Secretary of Labor Hilda L. Solis

- Staunch Union Supporter -- 97% lifetime rating by AFL-CIO for pro-union voting record
- Member of the American Rights at Work Board of Directors
  - ◆ Strong proponents of Employee Free Choice Act
  - ◆ Workplace Safety
- Consistently votes in favor of increased minimum wage, led initiative in California to raise minimum wage
- Co-sponsored Protecting America's Workers Act
  - ◆ increases employer penalties for worker safety violations-
  - ◆ Enhances whistleblower protections
- **Declared War on Employers on 11/19/09!**

# The Declaration of War...



**November 19, 2009, WASHINGTON** — U.S. Secretary of Labor Hilda L. Solis today issued the following statement regarding the increased enforcement and outreach efforts of the department's Wage and Hour Division:

**"There is no excuse for employers who disregard federal labor standards – especially those that are designed to protect the most vulnerable in the workplace. The failure to comply with these basic labor standards means that workers are not receiving the money they have earned. It is both an economic issue and a fairness issue. America's workers should rest assured that protecting worker rights is a top priority at the Department of Labor. To make good on that promise, I have hired an additional 250 new wage and hour investigators, a staff increase of more than one third, to ensure that we promptly respond to complaints and can undertake more targeted enforcement.**

"In the past three months alone, the department has had several significant enforcement cases, including collecting nearly \$2 million in back wages for more than 500 workers.

**"In early 2010, the department will launch a national public awareness campaign titled *"We Can Help"* to inform workers about their rights. The department will work closely with advocacy groups and other stakeholders to ensure that the materials developed for the campaign reach the workers who need them. We will not rest until the law is followed by every employer, and each worker is treated and compensated fairly."**





**What can**

**we do**

**?!?!?!?!**



# *Get your house in order immediately!*

- **Get help and conduct an internal Wage/Hour compliance audit**
- **Written Pay Plans**
- **Employee Handbook – Get one or get updated**
- **Train Managers on HR Practices**



Thank You!

Human Resources Committee

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