



HR CORNER

FEES & BURGESS, P.C.



Volume 6, Issue 1

January 2010

Recent Eleventh Circuit Case: Ledbetter Law Not Applicable to Waiver of Age Discrimination Claims

Fees & Burgess, P.C., Emphasizes:

In a recent case, the Eleventh Circuit Court of Appeals (covering Alabama) reviewed claims by a group of police officers regarding alleged age discrimination issues. The police officers were offered a retirement incentive program, and participation in the program required their execution of a waiver of age discrimination claims related to the incentive program. Based on issues related to various benefits received under the program, the officers sued the City of Fort Lauderdale (City), alleging that younger officers received better pay benefits than some of the older officers. The City argued that because each employee signed a release, the employees waived any liability of the City for such issues. The police officers disagreed and argued that, based on the recent Lily Ledbetter Fair Pay Act (Act), the waivers were invalid. The court sided with the City, and noted that the Act was inapplicable to this case. Even though the Act discusses claims for improper wages, and even though the Act allows employees a longer time period in which to bring claims regarding improperly paid wages, the court does not apply the law to the facts of this case. Because the police officers signed valid waivers of their age discrimination claims regarding the incentive programs, those waivers were binding and enforceable against the employees.

General Civil Litigation

Commercial Law & Litigation

Municipal Law & Litigation

Police Civil Liability Defense

Employment Law & Litigation

Construction Litigation

Corporate Law & Government Contracting

Insurance Defense

Railroad Law

Corporate Counsel Services

This case indicates that, while the Lily Ledbetter Fair Pay Act can create significant liability for employers regarding past wage decisions, there are still limits to the Act's scope. Furthermore, the case reminds employers of the importance of properly drafted age discrimination releases. In drafting these waivers, employers should remember that the Older Workers' Benefit Protection Act lays out various criteria for proper waiver of age discrimination claims, including, for example, that the waivers be written in "plain English" and that they allow a certain number of days after signature during which an employee can revoke signature of the waiver. Properly drafted waivers can protect employers from significant liability, particularly regarding retirement incentive programs or other benefits programs, as demonstrated in this case.

Lerman v. City of Fort Lauderdale, FL, 2009 WL 3065199 (11th Cir. 2009)

**Fees & Burgess, P.C.—Calendar of Events for 2010**

Fees & Burgess, P.C., is proud to present, or participate in the presentation of, the following upcoming seminars/webinars:

January 13, 2010—Decatur, Alabama

[Labor/Human Resources Law Update](#) —Allen Anderson and Leah Green will be presenting at the Tennessee Valley Chapter of SHRM monthly meeting held in Decatur, Alabama. We will discuss:

- Employee Free Choice Act
- Healthy Families Act
- Employment Nondiscrimination Act (ENDA)
- Equal Remedies Act
- Federal Oversight, Reform, and Enforcement of the WARN Act (FOREWARN Act)
- Protecting Older Workers Against Discrimination Act (S.1756)
- Arbitration Fairness Act of 2009 (S.931)
- Firearms in Parking Lots

January 13, 2010—Huntsville, Alabama

[Marketing to the Government—\(Legal Need to Knows\)](#) — Jeffrey Roth's segment of this all-day seminar will discuss the different types of government contracts and related allocations of risk, as well as other practical compliance advice relating to federal laws applicable to small business. This event is hosted by Women's Business Center of North Alabama (WBCNA) and the Institute for Supply Management (ISM). For more information, please contact the Chamber of Commerce at (256) 535-2051, WBCNA at (256) 535-2038, or e-mail info@wbcna.org.

January 22-23, 2010—San Diego, California

[Special Contract Issues in the EMS Industry](#)—During EMS Training II, students will build on the basic business concepts covered in the previous segments by applying them to specific EMS situations. By focusing on the EMS industry, this portion prepares students for the real situations they will face every day on the job.

February 3, 2010; 11:00 - 1:00 PM CST — Webinar

[Negotiation and Resolution of Federal Government Contractor Claims under the Contracts Disputes Act Webinar](#) — Attendees of this program will learn how to prepare, negotiate, and submit contract disputes to the government for resolution under the Contract Disputes Act of 1978, as well as options for appealing claims denied by the government. This course is designed to meet the requirements of the National Contract Management Association's (NCMA) certification programs for 1 hour of CPE. [Click here for details.](#)



Fees & Burgess, P.C.—Calendar of Events
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February 11, 2010—Huntsville, Alabama

[Reducing Employee Benefits Costs for Alabama Business](#) — F&B is partnering with Summit Financial Group and ADP to bring you this seminar that will discuss employee benefit costs and the current legal landscape with a focus on:

- Recent legislative changes affecting employee benefits
- Updates on health insurance and other benefits options available for Alabama businesses
- Potential opportunities for cost savings and available alternatives
- Using state-of-the-art systems to streamline and improve benefits management and compliance

[Click here for details.](#)

February 17, 2010 ~ March 17, 2010 ~ April 21, 2010 ~ May 12, 2010—Huntsville, Alabama

[International Commercial Contracting: Identifying, Avoiding, and Managing Risk Areas](#)

This four-part course provides a practical introduction to international contracting, focusing particularly on risk identification and avoidance. Attendees will gain an understanding of the laws and provisions governing international agreements, and how international contractual relationships differ from domestic counterparts. The course will provide a solid grasp of the concepts, theories, and practical considerations necessary for drafting, interpreting, and negotiating international contracts. This course will be held at Holiday Inn, Research Park and can be used toward ISM and NCMA recertification credit.

Session 1: Introduction to International Contracting ~ February 17, 2010 ~ [Click here for details.](#)

Session 2: Drafting 101 ~ March 17, 2010 ~ [Click here for details.](#)

Session 3: Drafting 101 ~ Continued ~ April 21, 2010 ~ [Click here for details.](#)

Session 4: Special Considerations in International Contracting ~ May 12, 2010 ~ [Click here for details.](#)

February 24, 2010—Huntsville, Alabama

[Uniform Commercial Code/ CCCM Certification](#) — This program consists of 6 hours of training in one day covering an overview of the Uniform Commercial Code, Articles 1, 2, and 2A. This training, similar to the basic material presented by the same presenters for the National Contract Management Association at its 2009 World Congress held in Long Beach, California, was used as a FastTrack study session as preparation for the Certified Commercial Contracts Manager exam. [Click here for details.](#)

If you would like more information on these and other seminars, please go to www.feesburgess.com.

Watch for Other Upcoming Seminars and Webinars





SPEAKERS

Fees & Burgess, P.C., provides speakers, training programs, seminars, and webcasts for various trade associations; business groups; and clients. For information regarding a program, contact newsletters@feesburgess.com

NEWSLETTERS

Fees & Burgess, P.C., also publishes *F&B Quarterly Bytes*, focusing on multiple practice areas; and *F&B SCM Memo*, focusing on the supply chain management industry. To receive any of these e-newsletters, please e-mail newsletters@feesburgess.com with your contact information.

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“No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers.”