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EMPLOYERS CHEER SUPREME COURT'S AGE CASE DECISION

Burr Ridge, Illinois - (June 19, 2009). With layoffs, cutbacks and age discrimination claims all dramatically increasing, employers welcomed this week's ruling by the U.S. Supreme Court that will make it substantially more difficult for employees to prove such claims in court.

The Court's 5 to 4 decision reversed prior holdings that allowed older employees to win age cases if they could show age was one motivating factor behind an adverse job action. Now, given the Court's ruling in *Gross v. FBL Financial Services, Inc.*, an employee will have to prove that age was the decisive factor in a discharge, demotion, etc., to prevail.

"This decision is significant for employers," said Christopher Lyons, a management-side, labor and employment attorney with the law firm of Peters & Lyons, Ltd., in Burr Ridge, Illinois. "At a time when age discrimination charges are being filed against companies in increasingly greater numbers, this ruling should provide great relief to employers, particularly small business owners, who have previously been forced to spend substantial time and money to defend speculative cases in court."

The case puts age discrimination claims, filed in record numbers in 2008, on different legal footing than most other types of discrimination claims. In the Court's ruling, Justice Clarence Thomas, writing for the Court's conservative majority, noted that although Congress specifically authorized a "mixed motive" approach to Title VII discrimination cases (governing claims based on race, sex, religion, national origin, etc.), it did not make any similar provision in the Age Discrimination in Employment Act, the separate law that governs age claims. Consequently, per the express terms of that law, a successful age discrimination plaintiff must prove that age was the ultimate determining factor behind a challenged job-action, while other discrimination plaintiffs can win if they show that their protected status was merely "in the mix."

"It will be interesting to see how the seemingly pro-employee Congress and Administration respond to this decision," Lyons said. Earlier this year, President Obama signed into law the Lily Ledbetter Fair Pay Act, which was enacted to specifically overrule a U.S. Supreme Court decision adverse to employee claimants. "It's a good bet that similar legislation will be introduced soon, making this employer victory potentially short-lived."

Christopher P. Lyons. is a partner in the law firm of PETERS & LYONS, LTD. located in Burr Ridge, IL. Since 1971, the firm has concentrated its practice in representing employers in labor and employment law matters.

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