

THE WOMEN'S ADVOCATE

A CATALYST FOR 2009



Women and the Law Section Newsletter
www.txwomenlawsection.org

MAY 2009

Vol. 31, No. 1

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CHAIR'S CORNER

By Teri Danish

THE TIMES THEY ARE A'CHANGIN'?

Since I last wrote this article, we have seen history made in our country. Barack Obama was sworn in as this nation's first African American President. I was a Hillary girl from the beginning, but the new President received my full support once he was the nominee of the Democratic Party. I watched the inauguration with a sense of pride, emotion, and wonder. Even if you voted for the other guy, I do not believe that anyone watching the new President being sworn in did not feel that our nation has achieved an amazing milestone. I then also wondered: having promised "change," will the new administration do anything to move the issues most affecting women forward?

There were immediate signs of change for all women. On January 23, 2009, President Obama signed an Executive Order that reversed the "global gag rule," which prohibited non-governmental organizations receiving U.S. financial aid from advising women on their reproductive rights. The Executive Order will now improve the efforts of those organizations to expand and improve reproductive health care services and information for women and their families around the world. In addition, Democratic lawmakers in the House and Senate have introduced a proposed "Prevention First Act," designed to prevent unintended pregnancies. I mentioned in our last newsletter that the Supreme Court in a 5-4 decision effectively reversed decades of decisions by refusing to allow a woman named Lilly Ledbetter to sue her employer for failing to pay her wages that were equal to those earned by similarly situated male employees. During the last week of January, Congress passed and President Obama signed the "Lilly Ledbetter Fair Pay Act," reversing the Supreme Court's decision and reinstating the fair pay protections female workers had previously enjoyed. The new President also signed the new comprehensive Children's Health Insurance Program ("CHIPS") legislation, greatly expanding health insurance coverage for many children whose parents cannot afford insurance.

While these are encouraging beginnings, the nation's (and world's) current financial crisis has the potential to direct the focus on issues for which women have fought for literally a century and a half away from the sights of our legislators. The new financial stimulus package has many funding initiatives that will directly assist women and children. However, the fights looming in Congress over passage of a package and distribution of those funds threatens to undermine those initiatives. In other words, something will probably be cut. The best way to avoid cuts that will affect the wellbeing of women is to remain informed of legislative and legal issues affecting women and let your legislators know your opinion. As a result, the Women and the Law Section will begin including a Legislative Update in both our newsletter and on our website to keep our members informed and to provide them with information on how best to inform your Congressional representatives on what is important to women.

It is also important to recognize women who have worked so hard to further these issues. Our past Ma'at Justice Award and the Sarah T. Hughes Award recipients are great examples of women who have more than done their part to further these issues. We are proud to introduce you to this year's award recipients in this issue. You will also read about members' contributions to the cause as well (way to go, Shannon!).

I remain confident that women will continue to achieve success in both their professional and personal lives, regardless of whoever is elected. But, it can not hurt to get a little help from our representatives! As before, I encourage you to remain informed of issues affecting women and get involved in whatever way you can. I also encourage you to write me or anyone else on the Council about ways in which we can improve the services to our membership, or if there's anything you'd like to see in our newsletter or on our website. We look forward to hearing from you!

Please Join Us In Honoring

The Honorable Migdalia Lopez of Brownsville
2009 Ma'at Justice Award Recipient

and

Jeanne C. "Cezy" Collins of El Paso
2009 Sarah T. Hughes Award Recipient

at the

Women And The Law
Annual Section Meeting
at the State Bar Annual Meeting

Thursday, June 25, 2009
1:30-3:00 P.M.

LEGISLATIVE UPDATE

By Teri Danish

The Lilly Ledbetter Fair Pay Act

On January 23, 2009, President Obama signed into law the Lilly Ledbetter Fair Pay Act, which reinstated fair pay protections under Title VII recently taken away by the Supreme Court. The Supreme Court reversed decades of authority by limiting a female worker's recovery damages resulting from the last paycheck, even though the paycheck was the result of a discriminatory pay practice put into place much earlier. Under the Act, a female employee's time limitation for filing a charge of discrimination was deemed to run from the date on which the discriminatory pay practice was instituted, providing protection for women for what was in Ms. Ledbetter's case, decades of discriminatory wage disparity.

Supreme Court Expands Recovery for Gender Discrimination in Schools

In *Fitzgerald v. Barnstable School Committee*, — S.Ct. — , 2009 WL 128173, the U.S. Supreme Court unanimously rejected a First Circuit of Appeals decision denying a student's right to sue for discrimination under both Title IX of the Civil Rights Act of 1964 and the Equal Protection Clause of the Constitution. In *Fitzgerald*, a kindergarten girl claimed that a third grade boy regularly harassed her on the school bus. Dissatisfied with the school's response, her parents sued under Title IX, the federal statute that bars sex discrimination in schools that receive federal money, and the Equal Protection

Clause of the Constitution, which is enforced through 26 U.S.C. §1983. The First Circuit Court of Appeals held that the parents could sue their school only under Title IX, and that no one protected under Title IX could also hold their school accountable for violation of their constitutional rights against discrimination. The Supreme Court reversed, holding that students may sue for gender discrimination under both Title IX and the Constitution.

Executive Order Reverses Global Gag Rule

President Obama signed an Executive Order on January 23, 2009, reversing a previous Executive Order prohibiting non-governmental agencies receiving financial assistance from the U.S. from providing much needed family planning and reproductive health information to women. Reversal of the Global Gag Rule will greatly enhance the health information and services women receive around the world.

Prevention First Act is Introduced in Congress

On January 13, 2009, Senate Majority Leader Harry Reid (D-NV) and Reps. Louise Slaughter (D-NY) and Diana DeGette (D-CO) introduced the Prevention First Act (S. 21 and H.R. 463). The legislation's purpose is to prevent unintended pregnancies through common-sense measures to expand access to contraceptives and provide comprehensive sex education.

WAL CO-SPONSOR OF THE DIVERSITY FORUM AT THE 2009 STATE BAR MEETINGS

By Carol Jendrzey and Andrea Johnson

Our section once will again co-sponsor the Diversity Forum at the State Bar Meetings in June. The CLE program will be a presentation of a panel of diverse attorneys to discuss the recent and proposed changes in employment law moderated by our 2009 – 2010 incoming chair, Andrea Johnson. Significant changes have been occurring as to the ADA, FMLA, the Fair Pay Act (reversing the *Ledbetter* case), and several are proposed — such as the Employee Free Choice Act (dealing with union rights) and others, for example, in regard to Title VII. Generally speaking these changes are providing employees with more rights, offering greater opportunities for making claims, and setting forth the potential for broader damage awards. They will likely

have sweeping impact in the workplace. The panel will look at these changes and discuss their pros and cons. The panel also will consider the advantages and disadvantages for employers and employees, with a focus on how they particularly affect working women.

The panel for the presentation includes: Professor D. Aaron Lacy of SMU, Tonya Holt, in house counsel with Skychefs, Susan Motley of Advocacy, Inc., Karla Jackson of the Department of Labor, Marigny Lanier with Maris & Lanier and Teri Danish with Colvin, Chaney. You will not want to miss this very informative and timely presentation. The presentation is Thursday, June 25, from 1:30 p.m. to 3:00 p.m.

SHANNON DACUS HONORED BY WOMEN IN TYLER

By Carolyn Moore

WAL's very own chronologist Shannon Dacus is making history. Shannon was honored on January 5 in Tyler by Women in Tyler. Nancy Lamar, co-chair of the celebration described the honorees as women who are driven to succeed, to survive, and to help their communities.

Shannon was noted as an attorney who had received the W.C. Windsor Award, an active volunteer in Habit for Humanity, and an active member of the bar. Congratulations to Shannon.

Texas Bar Journal - Graphics

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