

# Supreme Court Holds Employers Not Required to Retroactively Calculate Benefits

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The United States Supreme Court recently held that an employer's policies qualified as a bona fide seniority system under Title VII, and therefore immunized the company from liability since the policy was not based on an intention to discriminate because of race, color, religion, sex, or national origin. In *AT&T Corp. v. Hulteen*, 129 S.Ct. 1962 (2009), AT&T provided pension and other benefits to employees using a seniority system in which benefits were calculated based on an employee's period of service at the company, less any leave time not credited. In the 1960s and early 1970s, employees on disability leave got full service credit for any period of absence, however those who took a personal leave of absence received up to 30 days of service credit. At that time, the company regarded pregnancy as personal leave. In accordance with the law, in 1977, AT&T instituted a Maternity Payment Plan wherein pregnant employees received disability service credit for up to six weeks of leave but leave beyond six weeks was treated as personal. In 1978, Congress amended Title VII of the Civil Rights Act of 1964 and enacted the Pregnancy Discrimination Act of 1978 (PDA) which made it unlawful to treat pregnancy related conditions less favorably than other medical conditions. While AT&T changed its policies in accordance with the law it did not make any retroactive adjustments to the service credit calculations of women who had been subject to the policies before the PDA. As a result, four female employees who had taken leave for pregnancy under the pre-PDA policy filed charges of discrimination claiming that their pension benefits were reduced under a discrimina-



tory seniority policy of AT&T. The governmental agency enforcing the laws against discrimination found reasonable cause to determine that AT&T had discriminated against the employees. Thereafter, the female employees filed suit and the trial and appellate court held in their favor. AT&T appealed to the United States Supreme Court which reversed in favor of the company finding that since the policy was based on a then legal interpretation of Title VII, the policy did not reflect the intent to discriminate against female employees on the basis of gender.

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