

Remembering Justice Ginsburg's Impact on Business



By: Will Paterson

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Undoubtedly, and rightfully so, the late Justice Ruth Bader Ginsburg will be most remembered for her impact on gender equality. In her own practice and as a member of the Supreme Court of the United States, she was a pioneer for women's rights and was fundamental to the Court's changing perspective on these issues. Still, her impact in other areas, including business, should not be forgotten.

A Pioneer for Gender Equality

In her majority opinions, Justice Ginsburg emphasized that what mattered most were one's rights and opportunities, not one's identity or classification. For example, in *United States v. Virginia*, the Court was deciding whether the Commonwealth of Virginia's exclusive admission of males into its military program was a violation of equal protection. The Court, with Justice Ginsburg authoring the

majority opinion, held that it was. Because as Justice Ginsburg highlighted, "[i]nherent differences' between men and women, we have come to appreciate, remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual's opportunity." 518 U.S. 515, 533 (1996). Justice Ginsburg ensured that this equal appreciation resulted in equal protection.

In her dissents, Justice Ginsburg reminded the Court of these same protections. For example, in *Ledbetter v. Goodyear Tire & Rubber Co.*, the Court was deciding whether a female employee's lower pay was discriminatory and thus a violation of Title VII and Equal Pay Act. The Court ultimately held in favor of the employer, finding that the employee failed to bring her claims within the statute's triggering time limit. Justice Ginsburg famously dissented: "This is not the first time the Court has ordered a cramped interpretation of Title VII, incompatible with the statute's broad remedial purpose." 550 U.S. 618, 661 (2007). Whether in the majority or dissenting, what remained consistent was Justice Ginsburg's passionate advocacy for equality.

Impacting Business in More Ways Than One

Justice Ginsburg may be most remembered for this important work for equality, but her impact on business remains. Indeed, even in those cases in which gender equality was the focus, such as *Ledbetter*, Justice Ginsburg's opinions directly impacted business. After Justice Ginsburg called on Congress to "correct this Court's parsimonious reading of Title VII," the Lilly Ledbetter Fair Pay Act was signed into law. This law changed the time limit relating to discriminatory events, which both protects workers and forever impacts businesses moving forward.

And in those cases where businesses, along the issues most commonly associated with them, were directly at stake, Justice Ginsburg still made her impact. These examples range from *Daimler AG v.*

Bauman, to *Campbell-Ewald Co. v. Gomez*. In *Daimler*, the Court was focused on general jurisdiction, and more specifically "the authority of a court in the United States to entertain a claim brought by foreign plaintiffs against a foreign defendant based on events occurring entirely outside the United States." Ultimately, the Court held, with Justice Ginsburg authoring the unanimous opinion, that jurisdiction did not exist. The Court was primarily concerned that finding general jurisdiction based on limited contacts through a company's subsidiary would prevent businesses from having any assurances as to where they would be subject to liability. 571 U.S. 117 (2014). In *Campbell-Ewald*, the Court was focused on whether "an unaccepted offer to satisfy the named plaintiff's individual claim [is] sufficient to render a case moot when the complaint seeks relief on behalf of the plaintiff and a class of persons similarly situated?" Analogizing contract law and fearing a company's ability to dictate a class action suit, the Court, with Justice Ginsburg authoring the majority opinion, found that it was not. 577 U.S. 153 (2016).

Maybe not the most celebrated from Justice Ginsburg's tenure, these opinions, along with many others she wrote or adamantly dissented from, have had no small impact on the law. So, while we remember Justice Ginsburg and her advocacy for equality, we should also remember that her time on the Court affected almost every area of the law. Because whether you are advocating for gender rights or business liability, Justice Ginsburg likely impacted your fight.

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