

## PROGRAM ON A PAGE (or two)

### FAIR PAY RESTORATION ACT (S. 1843)

It is imperative that Congress fix an egregious ruling by the U.S. Supreme Court in a case entitled *Ledbetter v. Goodyear Tire and Rubber*.

In a decision handed down in May, 2007, newly appointed Justices Roberts and Alito allied with Justices Kennedy, Scalia and Thomas to side with business when they ruled that employees cannot challenge ongoing pay discrimination if the employer's original decision on pay occurred outside of a statutory limitations period – even if the employee continues to receive paychecks that have been discriminatorily reduced. The ruling not only cripples the law's intent to address pay discrimination, it also undermines the incentive for employers to prevent or correct it.

#### Background of the case

Lily Ledbetter worked for Goodyear Tire and Rubber from 1987 to 1998. Early in her career, Goodyear paid her less than her male coworkers. Over time, this pay differential caused Ledbetter to receive nearly 25 percent less than the men when she retired. A jury found that Goodyear violated her rights under Title VII of the Civil Rights Act. On appeal, Goodyear contended that the pay discrimination claim was time barred with regard to all pay decisions made before September 26, 1997 – 180 days before Ledbetter filled her EEOC questionnaire – and that no discriminatory act relating to her pay occurred after that date.

A majority of the Supreme Court concurred. In effect, their ruling says, “too bad” to employees who don't immediately challenge their employer's discriminatory practices. Now any victim of pay discrimination who does not immediately know of pay disparities or who is afraid to file a complaint will be out of luck and will have no effective means of remedying discrimination.

In her dissent, Justice Ruth Bader Ginsburg noted that there were strong precedents supporting Ms. Ledbetter. In a similar race discrimination case, the Supreme Court ruled that each paycheck calculated on the basis of past discrimination is unlawful under Title VII. Justice Ginsburg further stated, “In our view, this court does not comprehend, or is indifferent to, the insidious ways in which women can be victims of pay discrimination.”

The Fair Pay Restoration Act (S. 1843) restores the law to how it was previously applied to be consistent with Congress' intent and the Court's own precedents. The bill would also apply to all claims of discrimination in compensation.

AAUW believes the outcome in the *Ledbetter* case is fundamentally unfair to victims of pay discrimination. Such discrimination is responsible for a significant portion of the wage gap experienced by women and people of color. Although the wage gap has narrowed over the years, success in closing the gap remains elusive, and the Supreme Court's recent decision in the *Ledbetter v. Goodyear* case will make it even more difficult for women workers and employees of color to close the wage gap.

Thanks to the hard work of AAUW members and other coalition partners, the U.S. House passed its companion bill, the Lilly Ledbetter Fair Pay Act (H.R. 2831), in July 2007. It was then sent to the Senate.

On November 1, the AAUW Capitol Hill Lobby Corps visited senators to urge them to sponsor and support the Fair Pay Restoration Act (S. 1843). They delivered letters of support from AAUW and over 200 coalition partners, and several also delivered letters from select AAUW states and branches.

AAUW members have been very supportive of this bill, and many have already contacted their members of Congress on this issue. However, National AAUW asks all of us to take action again in order to show a critical mass of support and to send a strong signal to our senators that pay discrimination will not be tolerated.

We are pleased to report that Senator Debbie Stabenow was an original cosponsor and that Senator Carl Levin is also a cosponsor. They should be thanked.