

## PROGRAM ON A PAGE (or two)

### THE LEDBETTER FAIR PAY ACT OF 2007

Lilly Ledbetter was almost 60 years old and on the verge of retiring when she first caught on that she was being shortchanged at work by what her lawyer called a "good old boys" network.

An anonymous letter turned up out of the blue and revealed to Ledbetter she was making substantially less money than male co-workers at the Goodyear tire plant where she worked.

A federal jury would later find she was owed almost \$225,000 in back-pay over her 19-year career.

In 1979 Ledbetter was hired as a supervisor at Goodyear's tire assembly department in Gadsden, Alabama. As in any corporation, Goodyear employees' wages were hush-hush so Ledbetter didn't know her first paychecks didn't match her co-workers' paychecks. She just assumed they did.

In 1998, an anonymous note turned up indicating she was being paid less than all her male counterparts in the tire assembly department, even recent hires with far less on-the-job experience.

Ledbetter filed a discrimination charge with the Equal Employment Opportunity Commission less than a month after receiving the letter, but it was already too late. Title VII of the 1964 Civil Rights imposes a six-month limitations period on discriminatory acts, preventing her from even bringing the claim to court.

But the fiery mother of two just wasn't content to see the injustice she says she bore go unanswered. In November 1998, Ledbetter filed suit to determine and recoup her losses.

Such a clear difference between the wages of the sexes could only result from intentional discrimination, Ledbetter's lawyers argued.

Goodyear's lawyers countered with evidence that Ledbetter's poor job performance was to blame.

And Goodyear had a trump card. Title VII's timely-filing rule meant Ledbetter's evidence was limited to events that took place after Sept. 26, 1997, or 180 days prior to her EEOC charge. The rule is meant to foster quick, efficient claim resolution and protect companies from being slapped with lawsuits from long ago.

Still, Ledbetter prevailed and was awarded nearly \$4 million dollars in pay and punitive damages, which the judge reduced to \$360,000.

But her vindication did not last. Goodyear appealed, and the 11th Circuit Court of Appeals' unanimous opinion tossed out the award and dismissed Ledbetter's complaint altogether.

Ledbetter's lawyers appealed to the Supreme Court and pointed to the 2nd and D.C. circuit courts which considered and rejected the idea that a plaintiff can never bring a Title VII claim based on discriminatory decisions that took place outside the limitations period.

On May 29, 2007, a divided Supreme Court upheld the 11th Circuit Courts decision, finding that the limitations period for a disparate pay claim cannot be extended or disregarded. in essence the Supreme Court said workers who wait too long under the civil rights law are out of luck.

AAUW is pleased that Congress is moving to address this conceptually wrongheaded Supreme Court decision with a legislative fix.

The Ledbetter Fair Pay Act of 2007 (HR. 2831) will simply restore the law to how it was applied by the EEOC and the courts prior to the *Ledbetter* decision.

### **HR 2831: The Ledbetter Fair Pay Act of 2007**

To amend title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans With Disabilities Act of 1990, and the Rehabilitation Act of 1973 to clarify that a discriminatory compensation decision or other practice that is unlawful under such Acts occurs each time compensation is paid pursuant to the discriminatory compensation decision or other practice, and for other purposes.

**Passed the House of Representatives July 31, 2007.**

#### IN THE SENATE OF THE UNITED STATES

On July 20, 2007, Mr. KENNEDY introduced bill **S.1843**

To amend title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967 to clarify that an unlawful practice occurs each time compensation is paid pursuant to a discriminatory compensation decision or other practice, and for other purposes.

It was read twice and referred to the Committee on Health, Education, Labor, and Pensions.

On August 1, 2007, the bill left committee and the Senate received the bill, and it was read the first time.

On August 2, 2007, it was read the second time and placed on the Senate Legislative Calendar under General Orders, Calendar No. 325.

**Our Call to Action is to encourage our Senators and get our friends and family in other states to encourage their Senators to pass the bill in the Senate.**