

EDUCATION & LABOR COMMITTEE

Congressman George Miller, Chairman

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Chairman Miller Statement at Committee Hearing on “Justice Denied? The Implications of the Supreme Court’s Ledbetter v. Goodyear Employment Discrimination Decision”

WASHINGTON, D.C. – *Below are the prepared remarks of U.S. Rep. George Miller (D-CA), chairman of the House Education and Labor Committee, for a committee hearing on “Justice Denied? The Implications of the Supreme Court’s Ledbetter v. Goodyear Employment Discrimination Decision.”*

The Supreme Court’s ruling in Ledbetter v. Goodyear is a painful step backwards for civil rights in this country. It makes it more difficult for workers to stand up for their basic rights at work. That is unacceptable.

Title VII of the Civil Rights Act is intended to protect the civil rights of every American. When employers violate their employees’ civil rights, the Civil Rights Act sought to ensure that those employers be held accountable.

Nondiscrimination in the workplace is an inviolable American principle. Yet today, in the 21st Century, more than 40 years after the passage of the Civil Rights Act of 1964, we have seen a devastating attempt to turn back the clock by the current Supreme Court.

Lilly Ledbetter worked for Goodyear for over 19 years. While it appears that her salary at the start of her career there was comparable to what her male colleagues were earning, her salary slipped over time.

When she retired as a supervisor in 1998, her salary was up to 20 percent lower than that of the lowest-paid male supervisor.

Not only was Ms. Ledbetter earning nearly \$400 less per month than her male colleagues, she also retired with a substantially smaller pension. She will now have less economic security in retirement.

A jury found that Goodyear discriminated against Ms. Ledbetter. She was awarded \$3.8 million in back pay and damages. This amount was reduced to \$360,000, the Title VII damage cap.

Despite the fact that the jury found Goodyear guilty of discrimination, a sharply divided Supreme Court, in a 5-to-4 opinion, decided that while Ms. Ledbetter was discriminated against, her claim was made too late.

Title VII requires an employee to file an Equal Employment Opportunity Commission charge within 180 days of the unlawful employment practice. Ms. Ledbetter filed within 180 days of receiving discriminatory pay from Goodyear.

But a slim majority of the Supreme Court found that, because Ms. Ledbetter did not file within 180 days of a discriminatory decision to write those discriminatory paychecks, her time had run out. She could not recover anything. Goodyear owed her nothing.

A slim majority of the Supreme Court shunned reason in order to satisfy its own narrow ideological agenda.

Reason – and justice – demand a different result.

Discrimination does not just occur when the initial decision to discriminate is made. You may not know when the decision to discriminate against you was made. You may not recognize it when it is made.

Discrimination occurs both when an employer decides to discriminate and then when the employer actually discriminates – by, for example, paying you less because you are a woman, or African American, or older than the other employees.

Ms. Ledbetter was discriminated against with nearly every paycheck she received.

The impact of the Court's decision extends far beyond Ms. Ledbetter's case. It has far-reaching implications for an individual's right to receive equal pay for equal work.

Victims of pay discrimination often do not realize they have been discriminated against for a long time.

The reality in the workplace is that most workers don't know what their co-workers are making. Many employers prohibit employees from discussing their pay with each other. And social norms also keep employees from asking the question.

In addition, employers hold significant power over their employees, so even if an employee suspects discrimination they will likely wait to sue until they know for sure.

With the Ledbetter decision, the Court is telling employers that to escape responsibility all they need to do is keep their discrimination hidden and run out the clock.

Employers with a history of pay discrimination will be allowed to lawfully continue discriminating against employees in protected categories, including sex, race, religion and national origin.

If the employee missed the deadline to sue when the employer made the decision, according to this Supreme Court, the employee must live with pay discrimination for the rest of his or her tenure with that employer.

This case is a clear indication that the Court does not understand pay discrimination, nor does it reflect what Congress intended when we passed the Civil Rights Act of 1964 or its amendments in 1991.

Women have made great strides in the workplace. They are leaders in business, government and academia. For the first time in history, a woman is serving as Speaker of the House of Representatives. Yet despite the progress that women have made, they continue to be held back by wage discrimination.

We know that women are earning only 77 cents for every dollar earned by men. On average, women's wages constitute more than one-third of their families' income.

Women still have a steep hill to climb for pay parity. Thanks to this misguided Supreme Court decision, that hill just got a lot steeper.

Justice Ginsburg issued a strong dissent in the Ledbetter case and stated that the Court does not comprehend, or is indifferent to, the insidious way in which women can be victims of pay discrimination.

And she is right.

As Justice Ginsburg suggests, the ball has now fallen into Congress' court. And make no mistake – Congress intends to act to correct the Supreme Court's grievous insult to American workers.

Today's hearing is a first step in our efforts to address the issues raised by the Court in the Ledbetter case and to clarify our intent that discriminatory pay is never immunized.

Victims of pay discrimination on the basis of race, sex, color, religion, national origin, disability, or age, are entitled to justice with each paycheck.

Ms. Ledbetter, I want to thank you for the courage you have shown in bringing this battle from the shop floor all the way to the Supreme Court and the Congress.

We look forward to your testimony today and we pledge to work with you to correct the Supreme Court's injustice.

Thank you.