

Statement of the Hon. George Miller
Chairman, Committee on Education and Labor
Markup of H.R. 2831, the Lilly Ledbetter Fair Pay Act
Opening Statement
June 27, 2007

Good morning. Welcome to today's markup of H.R. 2831, the Lilly Ledbetter Fair Pay Act.

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

Nondiscrimination in the workplace is an inviolable American principle. Yet today, 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. When she retired as a supervisor in 1998, her salary was 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.

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 damage cap in Title VII of the Civil Rights Act.

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 Goodyear discriminated against Ms. Ledbetter, her claim was made too late.

Title VII of the Civil Rights Act 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 from Goodyear.

The members of this committee were honored to have Ms. Ledbetter testify before us at a hearing earlier this month. I'd like to read an excerpt from Ms. Ledbetter's testimony:

“What happened to me is not only an insult to my dignity, but it had real consequences for my ability to care for my family. Every paycheck I received, I got less than what I was entitled to under the law.

“The Supreme Court said that this didn't count as illegal discrimination, but it sure feels like discrimination when you are on the receiving end of that smaller paycheck and

trying to support your family with less money than the men are getting for doing the same job.

“And according to the Court, if you don’t figure things out right away, the company can treat you like a second-class citizen for the rest of your career. That isn’t right.”

I agree with Ms. Ledbetter. What happened to her wasn’t right. A slim majority of the Supreme Court shunned reason in order to satisfy its own narrow ideological agenda.

The legislation that this committee is considering today would rectify the Supreme Court’s decision and provide the justice that reason demands.

Under H.R. 2831, every paycheck or other compensation resulting, in whole or in part, from an earlier discriminatory pay decision or other practice would constitute a violation of Title VII, which guards against discrimination on the basis of race, sex, color, national origin, and religion.

In other words, each discriminatory paycheck would restart the clock for filing a charge. As long as workers file their charges (as Ledbetter herself did) within 180 days of a discriminatory paycheck, their charges will be considered timely.

The legislation clarifies that, with pay discrimination, an employee is entitled to up to two years of back pay – as

provided in Title VII already – not just 180 days of back pay, as insinuated in Ledbetter.

Finally, H.R. 2831 ensures that these simple reforms extend to the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Rehabilitation Act to provide these same protections for victims of age and disability discrimination.

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.

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. So workers may not know when the decision to discriminate against them was made.

The Court's misguided decision – if allowed to stand – has harmful consequences far beyond Ms. Ledbetter's case. It has far-reaching implications for an individual's right to be compensated fairly for an honest day's work, regardless of their sex or race or religion.

The Court is telling employers that to escape responsibility for discrimination all they need to do is keep it hidden and run out the clock.

Unless Congress acts, employers who have made discriminatory pay decisions more than 180 days ago will be allowed to lawfully continue discriminating against employees with every paycheck without any legal consequences.

We must not allow this ruling to stand.

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

Thank you.