

January 8, 2009

United States House of Representatives
Washington, DC 20515

Re: The Lilly Ledbetter Fair Pay Act of 2009

Dear Representative:

This is to convey the American Bar Association's support for H.R. 11, the Lilly Ledbetter Fair Pay Act of 2009, bipartisan legislation to restore the opportunity for individuals subjected to unlawful pay discrimination to effectively assert their rights under the federal anti-discrimination laws.

In May 2007, the Supreme Court issued its decision in *Ledbetter v. Goodyear Tire and Rubber Co.*, ruling that employees cannot challenge ongoing compensation discrimination under Title VII of the Civil Rights Act if the employer's original discriminatory decision occurred more than 180 days before, even when the employee continues to receive paychecks based on the discriminatory pay decision.

Before the Ledbetter decision, if an employee brought a claim for pay discrimination on the basis of race, color, religion, sex, national origin, age or disability, both the Equal Employment Opportunity Commission and an overwhelming majority of courts applied what is known as the "paycheck accrual rule," which treated each new paycheck as a separate discriminatory act that tolled anew the 180-day statute of limitations.

The Supreme Court's decision was based on its restrictive interpretation of the controlling statutory language of Title VII. The Court did not give consideration to the core purpose for which Title VII was enacted or to the declared intention of Congress in passing the law. H.R. 11 would correct the drafting deficiencies identified by the Court and restore the law to its pre-2007 status by amending Title VII (and federal age and disability employment laws, which are also affected by the Ledbetter ruling) to clarify that the paycheck accrual rule should be applied to claims involving pay discrimination.

Since the Ledbetter decision, plaintiffs in Title VII pay discrimination cases have been severely disadvantaged. It makes no sense to deny redress to those workers who have received discriminatory paychecks the longest: indeed, arguably, they are the ones who have suffered the greatest injury and are most in need of the protection of the law.

That H.R. 11 is one of the first bills of the 111th Congress scheduled for a floor vote is evidence of the critical importance of this remedial legislation and is a testament to the commitment of members of the House to the fundamental principle that all workers should be protected from pay discrimination. We applaud your commitment and urge your favorable vote for the Lilly Ledbetter Fair Pay Act of 2009.

Sincerely,

A handwritten signature in black ink, reading "Thomas M. Susman" with a long horizontal flourish extending to the right.

Thomas M. Susman
Director