



Women Employed

Vote YES on Ledbetter Fair Pay Act and Paycheck Fairness Act

January 6, 2009

Dear Representative:

As a 35-year-old membership organization dedicated to improving women's economic status, Women Employed ("WE") urges you to **pass the Ledbetter Fair Pay Act and the Paycheck Fairness Act, and to oppose any motion to recommit.** The Fair Pay Act would reinstate the "paycheck accrual rule," which restarts the 180-day filing clock at each discriminatory paycheck, and the Paycheck Fairness Act will strengthen the Equal Pay Act of 1963 in several ways still necessary to close the wage gap; women on average continue to earn only 77 cents for every dollar earned by men.

WE's work has been informed by our Job Problems Counseling Service, which has responded to thousands of individuals who call to get advice on employment-related problems. We regularly receive calls about equal pay from workers who are doing the same job as men but learn they are being paid less – and many employers defend this even when confronted by relying on a poor excuse like "his job has always been categorized that way," or "but he has a family to support." Of course that is irrelevant to the law – besides the fact that more than half of working women are married and earn half or more of their family's income, not to mention single women who need the income to support themselves, especially if they're the sole support of their family.

In *Ledbetter v. Goodyear Tire & Rubber Co.* the Supreme Court denied Lilly Ledbetter her pay discrimination claim. The Court based its ruling on the basis that Ledbetter failed to file her complaint within 180 days of Goodyear's decision to pay her less than her male colleagues, even though the discrimination continued with every paycheck she received. Pay discrimination based on gender is a violation of federal law and requires that victims file their complaint within 180 days of the discriminatory practice. But in *Ledbetter v. Goodyear Tire & Rubber Co.*, the Supreme Court interpreted the law to mean that the 180-day clock starts when the employer makes the discriminatory decision, not each time the employee receives a paycheck that reflects the discrimination. As it stands right now, the Court has practically given employers a loophole to discriminate, as long as they can keep it a secret for 180 days.

The Supreme Court's ruling disregarded the realities of workplace discrimination that Title VII of the 1964 Civil Rights Act was enacted to prevent. Pay discrimination is often incremental and subtle. Employees don't necessarily know they are being discriminated against at the time the inequity begins because pay levels are rarely disclosed; initial acts

It's up to us.

of discrimination compound with raises over time; and new employees believe they will jeopardize their jobs by making inquiries about their pay.

While the Equal Pay Act is intended to prohibit wage discrimination, it is apparent that it must be strengthened in order to end pernicious stereotypes once and for all. After all, everyone works to support themselves and their families, and women are not charged less than men for expenses such as rent and food. **The Paycheck Fairness Act has, among other provisions, two important changes to combat pay discrimination:**

- prohibit retaliation against workers who inquire about employers' wage practices or disclose their own wages; and
- deter wage discrimination by strengthening penalties for equal pay violations. The Equal Pay Act currently provides for only back pay and double that amount for a willful violation – hardly a deterrent to employers. The Paycheck Fairness Act would ensure that women can obtain the same types of damages as those subject to discrimination on the basis of race or national origin. Having a cap on damages minimizes the deterrent effect if employers feel that liability is simply a cost of doing business, whereas uncapped damages create more of an incentive to employers to be proactive in ensuring a workplace free from discrimination.

We need to ensure that equal work really means equal pay. Civil rights laws have been in effect for almost half a century prohibiting sex discrimination, and yet women still earn on average a quarter of what men earn – and it's even worse for women of color. It is in your hands to ensure that pay discrimination based on sex is no longer tolerated.

Together, these bills can help to create a climate where wage discrimination is not tolerated and give the new administration the enforcement tools it needs to make real progress on pay equity. As the 111th Congress begins, American women are looking for concrete action to improve the economic security of working families. **We urge you to support the Lilly Ledbetter Fair Pay Act and the Paycheck Fairness Act and oppose any motion to recommit.**

Sincerely,



Melissa Josephs
Director of Equal Opportunity Policy
Women Employed