

TESTIMONY OF LILLY LEDBETTER
BEFORE THE SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR AND
PENSIONS
JANUARY 24, 2008

Good morning. Thank you, Mr. Chairman and members of the Committee, for the opportunity to testify before you. My name is Lilly Ledbetter. It is an honor to be here today to talk about my experience trying to enforce my right to equal pay for equal work. I wish my story had a happy ending. But it doesn't. I hope that this Committee, and the Congress as a whole, can do whatever is necessary to make sure that in the future, what happened to me does not happen to other people who suffer discrimination like I did.

My story begins in 1979, when Goodyear hired me to work as a supervisor in their tire plant in Gadsden, Alabama. I worked hard at Goodyear, and I was good at my job. For example, Goodyear gave me a "Top Performance Award" in 1996.

But it wasn't easy. Of the approximately eighty people who held the same position that I did during the nineteen years I worked at Goodyear, only a handful were women. And I was subject to challenges the men didn't have to face. For example, the plant manager flat out said that women shouldn't be working in a tire factory because women just made trouble. Also, one of my supervisors asked me to go to a local hotel with him. He promised that if I did, I would get good evaluations; if I didn't, he would put me at the bottom of the list. I didn't say anything about it at first because I wanted to try to work it out and fit in without making waves. But it got so bad that I finally complained to the company. The manager I complained to refused to do anything to protect me and just told me I was being a troublemaker. So I filed a charge with the EEOC, and they worked out a deal with the company to make sure the supervisor would no longer manage me. But the company continued to treat me badly, trying to isolate me, leaving me out of important management meetings, having employees refuse to talk to me. I got a taste of what happens when you complain about discrimination.

Despite these problems with my supervisor, for virtually all of the time I worked at Goodyear, I did not know that I was also being subjected to discrimination in pay. When I first started at Goodyear, all the managers got the same pay, so I knew I was getting as much as the men. But then Goodyear switched to a new pay system based on performance. After that, people doing the same jobs could get paid differently. Goodyear kept what everyone got paid strictly confidential. No one was supposed to know. Over the following years, sometimes I got raises, sometimes I didn't. Some of the raises seemed pretty good, percentage-wise, but I didn't know if they were as good as the raises other people were getting.

I only started to get some hard evidence of what men were making when someone anonymously left a piece of paper in my mailbox at work, showing what I got paid and what three other male managers were getting paid. I thought about just moving on, but in the end, I could not let Goodyear get away with their discrimination. So I filed another complaint with the EEOC in 1998.

After I filed my EEOC complaint and then filed a lawsuit, I was finally able to get the whole

picture on my pay compared to the men's. It turned out that I ended up getting paid what I did because of the accumulated effect of pay raise decisions over the years.

In any given year, the difference wasn't that big, nothing to make a huge fuss about all by itself. Some years I got no raise when others got a raise. Some years I got a raise that seemed ok at the time, but it turned out that the men got bigger percentage raises. And sometimes, I got a pretty big percentage raise, but because my pay was already low, that amounted to a smaller dollar raise than the men were getting.

For example, in 1993, I got a 5.28 percent raise, which sounds pretty decent. But it was the lowest raise in dollars that year because it was 5.28 percent of a salary that was already a lot less than the men's because of discrimination. So the gap in my pay grew wider that year. Without knowing what the men were getting paid, I had no way of knowing whether that raise was potentially discriminatory or not. All I knew was that I got a raise.

The result was that at the end of my career, I was earning \$3,727 per month. The lowest paid male was getting \$4,286 per month for the same work. The highest paid male was making \$5,236. So I was actually earning twenty-percent less than the lowest paid male supervisor in the same position. There were lots of men with less seniority than me who were paid much more than I was.

When we went to court, Goodyear acknowledged that it was paying me a lot less than the men doing the same work. But they said that it was because I was a poor performer and consequently got smaller raises than all the men who did better. That wasn't true, and the jury didn't believe it. At the trial, two other women managers took the stand and explained how they were also subject to discrimination. One of them was a secretary who got promoted to manager but was only paid a secretary's salary. The company kept telling her they would give her a raise, but they never did and she got fed up with that and went back to being a secretary. The other woman was also paid less than Goodyear's mandatory minimum wages.

At the end of the trial, the jury found that Goodyear had discriminated against me in violation of Title VII. The jury awarded me backpay as well as more than \$3 million in compensatory and punitive damages.

I can tell you that that was a good moment. It showed that the jury took my civil rights seriously and wasn't going to stand for a national employer like Goodyear paying me less than others just because I was a woman. And it seemed like a large enough award that a big company like Goodyear might feel the sting and think better of it before discriminating like that again.

I was very disappointed, however, when the trial judge was forced to reduce that award to the \$300,000 statutory cap. It felt like the law was sending a message that what Goodyear did was only 10% as serious as the jury and I thought it was. I'm not a lawyer, but I am told that most of the time, the law doesn't put an arbitrary cap like that on the amount a defendant has to pay for mental anguish or punitive damages. I don't see why a company like Goodyear should get better treatment just because it broke a law protecting workers against discrimination instead of some other kind of law.

But the worst was yet to come. By a single vote, the Supreme Court took it all away, even the backpay. They said I should have complained after the first time I was paid less than the men, seemingly ignoring the fact that I didn't know what the men were getting paid and had no way to prove that the decision was discriminatory in any event. But the Court said that once 180 days passes after the pay decision is made, the worker is stuck with unequal pay for equal work for the rest of her career and there is nothing illegal about that under the statute.

Justice Ginsburg hit the nail on the head when she said that the majority's rule just doesn't make sense in the real world. You can't expect people to go around asking their coworkers how much money they're making. At a lot of places, that could get you fired. And nobody wants to be asked those kinds of questions anyway.

Plus, even if you know some people are getting paid a little more than you, that's no reason to suspect discrimination right away. Pay can go up and down, and you want to believe that your employer is doing the right thing and that it will all even out down the road. Especially when you work at a place like I did, where you are one of the only women in a male-dominated factory, you don't want to make waves unnecessarily. You want to try to fit in and get along. As I found out all too well, calling something "discrimination" isn't appreciated -- I suffered the consequences when I went to the EEOC with proof of sexual harassment.

Anyway, the small amount of money at issue early on isn't worth fighting over at first. No lawyer is going to take a case to fight over an extra \$100 a month, and most people can't afford to pay a lawyer out of their own pockets. It would have been hard to demonstrate to the EEOC or a jury that the first \$100 pay difference was discrimination. It was only after I got paid less than men again and again, without any good excuse, that I had a case that I could realistically bring to the EEOC or to court.

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. With 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. It doesn't feel any less like discrimination because it started a long time ago. Quite the opposite, in fact. But 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 just isn't right.

The truth is, Goodyear continues to treat me like a second-class worker to this day because my pension and social security is based on the amount I earned while working there. Goodyear gets to keep my extra pension as a reward for breaking the law.

As you may know, making ends meet during retirement is not easy for a lot of seniors like me, even under the best of circumstances. It shouldn't be harder just because you are a woman who was discriminated against during your career.

My case is over and it is too bad that the Supreme Court decided the way that it did. But this Committee and the Senate have the chance to make sure that no one else will suffer the same injury that I have. Senator Kennedy and numerous others have introduced the Fair Pay Restoration Act, which would make sure that people can challenge discriminatory paychecks as long as they continue to receive them. The House has already passed this bill, which would protect workers like me and give employers the incentive to fix pay problems even after 180 days has passed from the time of their original decision. I urge the Senate to pass the bill as well so that our civil rights laws can once again offer effective protection against discrimination.

Goodyear may never have to pay me what it cheated me out of. But if this bill passes, I'll have an even richer reward because I'll know that my daughters and granddaughters, and all workers, will get a better deal. That's what makes this fight worth fighting and it's what makes this fight one we have to win.

Thank you.

