

## HOW FIVE JUSTICES HAVE IMPACTED THE LIVES OF COUNTLESS HARDWORKING AMERICANS

*A look at Ledbetter v. Goodyear Tire & Rubber Co. (2007)*

### Roberts' Court Rejects Equal Pay For Equal Work

**BACKGROUND:** More than 40 years ago, Congress acted to protect women and others against discrimination in the workplace. It is a continuing struggle to ensure that all Americans – women and men – receive equal pay for equal work. In *Ledbetter vs. Goodyear Tire*, just five Justices decided to give immunity to employers who covertly discriminate against their workers.

**THE COURT'S DISSENTING OPINION:** Writing in dissent, Justice Ginsburg noted, "The Court asserts that treating pay discrimination as a discrete act, limited to each particular pay-setting decision, is necessary to 'protect] employers from the burden of defending claims arising from employment decisions that are long past.' Ante, at 11 (quoting Ricks, 449 U. S., at 256–257). But the discrimination of which Ledbetter complained is not long past."

Reacting to the five-Justice majority critic of her dissent, Justice Ginsburg wrote, "In a last-ditch argument, the Court asserts that this dissent would allow a plaintiff to sue on a single decision made 20 years ago 'even if the employee had full knowledge of all the circumstances relating to the . . . decision at the time it was made.'" Ante, at 20. It suffices to point out that the defenses just noted would make such a suit foolhardy. No sensible judge would tolerate such inexcusable neglect."

Finally, Justice Ginsburg concluded, "The Court's approbation of these consequences is totally at odds with the robust protection against workplace discrimination Congress intended Title VII to secure."

**DEMOCRATIC REACTION:** "Yesterday's Supreme Court decision creates an unacceptable obstacle to employees' pay discrimination claims. This is not what Congress intended when we passed the landmark Civil Rights Act of 1991. We are all dedicated to ensuring that workers may seek redress in the courts each and every time they are subjected to unlawful pay discrimination." (Senator Ted Kennedy, Press Conference, 5/30/07)

**REPUBLICAN REACTION:** "I firmly believe that America should be a global leader on issues related to gender discrimination and equal pay, but with its decision in *Ledbetter v. Goodyear Tire & Rubber Co.*, the Supreme Court telegraphed entirely the wrong message to the rest of the world about the value of equal pay for equal work--and ignored the realities of pay discrimination." (Senator Olympia Snowe, Senate Floor, 4/24/08)

**OUTCOME:** Justice Ginsburg rightly concluded in her dissent that, "Once again, the ball is in Congress' court. As in 1991, the Legislature may act to correct this Court's parsimonious reading of Title VII." The Bush administration and Senate Republicans rejected congressional efforts to enact the Lilly Ledbetter Fair Pay Act in the wake of the Ledbetter decision. Congress and the Obama administration finally enacted a law in January 2009 to ensure equal pay for equal work, and to strike down the immunity those five Justices gave to employers who covertly discriminate against their workers.