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April 22, 2008

United States Senate
Washington, DC 20510

Dear Senator:

This is to convey the American Bar Association's support for S.1843, the Fair Pay Restoration Act, legislation addressing the imbalance in civil rights jurisprudence brought on by the 2007 Supreme Court ruling in *Ledbetter v. Goodyear Tire & Rubber Co.*, 127 S.Ct. 2162 (2007).

The *Ledbetter* decision tilted pay equity cases out of reach for most employee plaintiffs. Prior to the Court's decision, each discriminatorily low paycheck was considered a separate and distinct act of discrimination, even if the original decision to discriminate occurred years previously. Thus, employees had an opportunity to discover that they were receiving less than their peers during the course of their employment. If they felt that such a disparity was rooted in discrimination, they had 180 days from the time of discovery to initiate a pay equity case against their employer under Title VII of the Civil Rights Act of 1964. At the same time, employers were protected from having to defend against Title VII cases that had been unduly delayed under the equity doctrine of laches.

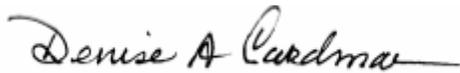
Since the *Ledbetter* decision, plaintiffs in Title VII pay discrimination cases have been severely disadvantaged. Employers seldom publish or encourage open conversation about pay schedules within the office. Consequently, few employees have routine access to information that would alert them to the fact they might be victims of pay discrimination, especially not early in their employment tenure. Indeed, many impacted employees never discover that they are receiving a discriminatorily low paycheck. Others may find out years later, during which time the initial disparity had impacted each and every paycheck, raise and pension contribution received since the initial decision.

One unintended consequence of the *Ledbetter* decision is that it creates an inducement for employers to hide unfair pay scales resulting from an initial discriminatory decision. Those employers are rewarded with immunity from lawsuit once the 180-day period for filing complaints has run its course. This is contrary to anti-discrimination public policy and inimical to good business practices, such as promotion of workforce diversity, support for employee morale and encouragement for reliance on principles of fairness.

The *Ledbetter* decision hampers access to just compensation for those who have actual and demonstrable evidence of discrimination. Enactment of the Fair Pay Restoration Act will reinstate a system that encourages employers to adhere to fair pay policies by restoring Title VII to its proper role as a legal tool for American workers.

S. 1843 is being deliberated by the Senate. I urge you to vote in favor of its passage.

Sincerely,

A handwritten signature in cursive script that reads "Denise A. Cardman". The signature is written in black ink and has a fluid, connected style.

Denise A. Cardman
Acting Director