

June 2007

From Daryl Hafter:

It's about the Supreme Court's latest decision re: discrimination in the workplace. I am beside myself with irritation and outrage that now it will be virtually impossible to protest unfair, discriminatory practices, unless you can catch them by 180 days from the happening. What are people supposed to do? Get hired and then within two months file a discrimination complaint? This court, or at least 5 of the members-it boggles the mind to call them supreme- have said congress needs to change the law. OK, let's all write our congresspeople and press them to change it, as quickly as possible. So here's a challenge! If each of us wrote immediately let's see what we can do. I suppose we have to leave the name of WITH out of it. But we could use the listserv as a vehicle to mobilize ourselves. Anybody game to do this?

Yours in sisterhood and brotherhood, Daryl Hafter

From Ruth Cowarn: I'm more than game to do it; I've already done it. I've emailed both my senators and my congressmen.

I won a sex discrimination law suit, which was filed SEVEN YEARS after the discrimination began. There's no way I could have filed it 160 days after I started working at SUNY Stony Brook because salaries were not made public in those days. Indeed, even after we were unionized (which was five years after I was hired)and the contract said that salaries had to be made public "publication" was done by giving the head of the union ONE printout which had to be kept under lock and key in the union office; that was why we didn't get enough information to file a class action suit for two more years.

Daryl is right. The strongest lever that we have against discrimination in the workforce has just been yanked out of the hands of employees. Filing suit isn't easy (for many reasons, in many different ways) but it does work--or, at least, it used to.

From Gabriella Petrick: I totally agree with both Daryl and Ruth. I also agree that the first course of action is to contact our representatives in Congress, but what else can we do? Are there things on our own campuses? How does some one at a private institution get the access Ruth does? How can we protect ourselves, particularly in "feminized" departments?

From Judith Hughes: For those who need/want the text of the decision and dissent, the case is Ledbetter v. Goodyear Tire & Rubber Co., 05-1074.

From Nina Lerman: As far as I know, the only recourse at private institutions is to actually talk to each other about salary, which is one of the most taboo subjects of US society (where everyone is equaland we're all middle class???!). Unfortunately doing so means finding people who are willing to question the Reign of Meritocracy -- which was a big part of what the combined forces of the movements history books call Civil Rights and Second Wave gave us. At the time, the vocabulary was a little different: Freedom

Now, equality, women's liberation. The language of freedom and equality very much included economic power, and an understanding that people were paid according to the bodies they lived in despite their worth. These movements drew on a heritage of protest based on clear understandings of power: we now know Betty Friedan drew on (even as she camouflaged, in those Cold War years) her experience in organized labor, and the non-violent strategies against Jim Crow as well as the self-defense movements against white supremacy drew on anti-colonial independence movements and theory.

In my experience more recently many people believe meritocracy won. That my students, born in the 1980s (and soon '90s), believe this is not particularly surprising -- but many of my colleagues will insist that the fact that the four tenure denials of the past 15 years at my college were single women is "coincidence" and not at all an indication of a systemic problem. It is true that in each case the grapevine (because of course the decisions are "confidential") and sometimes the departing colleague can explain the cause (generally shortage of publications), and so in each case there has been little or no reason to believe meritocracy isn't working nicely. But something, obviously, is working in a skewed fashion, somewhere between hiring and the tenure system, because a fair number of other people have been granted tenure in the same period. One suspects that pay scales follow a similar pattern, but one cannot know unless and until people talk to each other.

We need to tell the stories. Here's a quick-read version of Lilly Ledbetter's story at Goodyear:

<http://docket.medill.northwestern.edu/archives/003741.php>.

We need to keep telling the stories to younger colleagues and students, or they will not understand why this decision is problematic. Note also that more recently hired people will be less likely to see any problems, because hires are often made at comparable salaries -- introducing a whole new kind of salary compression if some people (like Lilly Ledbetter but also like some academics) have been getting smaller raises than other people over their years of service. The MIT story is also a good one to keep telling (here's a version from MIT: <http://www-tech.mit.edu/V119/N15/15women.15n.html>) because it suggests some approaches to documentation as well as explaining the subtle ways in which social power undermines meritocracy even when everyone professes belief in, and even intends, equality.

I'm teaching my US women's and gender history class again next fall, which I haven't for several years. When I got to Whitman in 1995 the students in my class all knew that gender inequality existed (if they hadn't known before, they arrived on a campus where less than 20% of the faculty was female, and they noticed). Now they think gender history means history of sexuality, and maybe some funny changes in gender performance, and maybe a few of those quaint old laws from the days before we were equal. I exaggerate only slightly. I'm thinking we might start with a few of these recent cases and places -- Goodyear and MIT -- before we go back 200 years... the last couple of times I taught the class we read Linda Kerber's marvelous *No Constitutional Right to be Ladies* which does generally startle them a bit by the end, but the 1980s are fast becoming history, even if their parents remember them well.

I would love to hear some reactions from some of our WITHniks outside the US as well as hearing the US stories.

From Martha Trescott: Just today, I was responding to an e-mail from an SMU student about women's issues and resources she might consult re some bad treatment of women on campus and suggested, among many other things, women's centers on several campuses where she will be doing research on such matters in the coming school year. Someone on this list wondered what else beside writing our reps we can do. We used to get together at women's centers, whose funding has been cut in some schools in recent years, to be sure, to see what actions we might jointly take on campus.

Re the letter to our Congress people, it would be great if Ruth can do that as one the rest of us could follow in writing our own. Marcia Greenberger, a founder and co-president of the National Women's Law Center, posted some very good remarks about this decision on the NWLC website. Also, I myself always write the senators and others in Congress who are most concerned with these issues, not just my own reps, since I never get much response from some of them! So Pelosi, Hilary Clinton, Boxer, Kennedy, Biden, John Kerry, etc. might be especially interested. They always respond well, even though I'm not a constituent. The community of Catholic sisters in which I'm an associate issues very salient, secular social action letters by their Social Action office specifically for us to send our Congress people every week on various issues. If I see one on this issue, I can pass it along.

From Ruth Cowan:

For those who were exercised about the Supreme Court decision about the Equal Pay Act: The House will be voting on the Lilly Ledbetter Fair Pay Act Tuesday or Wednesday. This piece of legislation specifies that employees do not have to claim employment discrimination within 180 days of being hired, the criterion that the Court used to decide that Lilly Ledbetter could not sue her employer for discrimination. **CALL YOUR CONGRESSPERSON RIGHT NOW** to express your opinion about this piece of pending legislation, which is intended to right the wrong done a few months back.

From Daryl Hafter's congressman: Dear Daryl:

Thank you for contacting me to express your support for H.R. 2831, the Ledbetter Fair Pay Act. I appreciate hearing from you.

As you may know, Congressman George Miller introduced the Lebetter Fair Pay Act on June 22, 2007 and it was immediately referred to the House Committee on Education and Labor. If enacted, this legislation would correct a recent Supreme Court ruling that made it harder for workers to pursue pay discrimination claims. Specifically, it would clarify that every paycheck or other compensation resulting, in whole or in part, from an earlier discriminatory pay decision constitutes a violation of the Civil Rights Act. As long as workers file their charges within 180 days of a discriminatory paycheck, their charges would be considered timely. The legislation would also clarify that, once a worker files a charge, he or she does not need to continue filing new charges with each new paycheck.

Like you, I believe that one of the founding principles of our nation is equality. Every person deserves to be treated with dignity and respect, and discrimination, in any of its forms, should not be tolerated. Clearly sexism has no place in the workplace or in the paycheck. To that end, I have consistently supported efforts to close the gap in pay for women in the workplace. In fact, Congresswoman Maloney and I have twice commissioned the Government Accountability Office (GAO) to look into the significant gap in wages between men and women. As the father of two daughters and grandfather to two granddaughters, you may rest assured that I will continue to support working women and their role in the work place.

Again, thank you for being in touch. For news on current federal legislative issues, please visit my website at www.house.gov/dingell; you can also sign up there to receive my e-newsletter. In the meantime, please do not hesitate to contact me again if I may be of assistance with this or any other matter of concern.

With every good wish,

Sincerely yours,

John D. Dingell

Member of Congress