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April 16, 2008

Honorable Ted Kennedy
Honorable Mike Enzi
Senate Committee on Health, Education, Labor & Pensions (HELP)
Washington, DC 20010

Dear Chairman Kennedy and Ranking Member Enzi:

I am writing on behalf of the National Senior Citizens Law Center (NSCLC) to urge swift Senate action to enact S. 1843, the Fair Pay Restoration Act. S. 1843 will correct a May 2007 5-4 Supreme Court decision that misconstrued and severely undermined longstanding guarantees of pay equity prescribed by the Civil Rights Act of 1964 and the Age Discrimination in Act (ADEA) of 1967.

Title VII of the Civil Rights Act, which bans workplace discrimination, requires individuals to file complaints of pay discrimination within 180 days of "the alleged unlawful employment practice." In *Ledbetter v. Goodyear Tire & Rubber*, the Supreme Court held that the 180 day statute of limitations should be calculated from the day a pay decision is made, rather than from when the employee is subject to that decision or injured by it. The Court's decision in this case, a sharp departure from judicial precedent and from the long-established interpretation of the Equal Employment Opportunity Commission (EEOC), leaves many victims of pay discrimination with no remedy for violations of the rights Congress intended to protect.

Not only did this 5-4 decision misconstrue the original 1964 Civil Rights Act. The decision also effectively cast aside a legislative "fix" enacted in the Civil Rights Act of 1991, designed to overturn a 1989 Rehnquist Court decision that had gutted precisely the same provision at issue in *Ledbetter*.

It bears emphasis that the Court's uprooting of established law will obstruct equal pay claims under the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Rehabilitation Act, as well as under the Civil Rights Act. Age discrimination protections grow ever more important to older Americans. Shrinking pension benefits, rising health care costs, and chronic economic uncertainty force more and more older Americans to work past retirement age, where, too often, they face discriminatory bias and practices. To restore guarantees vital to so many millions of Americans, Congress must make clear that a pay discrimination claim accrues when a pay decision is made, when an employee is subject to that decision, or at any time they are injured by it.

Sincerely,

Simon Lazarus
Public Policy Counsel, NSCLC