

# UW School of Law

## Transcript: A Conversation with Lilly Ledbetter

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WEDNESDAY, MARCH 3

**Peter Nicolas:**

Lawyers, law students, and law professors alike have a tendency when discussing the abstract legal principles associated with a particular case to forget that behind every case is a key ingredient. That ingredient is a courageous litigant willing to seek a public vindication of his or her statutory or constitutional rights. In *Ledbetter versus Goodyear Tire and Rubber Company*, despite the presence of such a litigant, the U.S. Supreme Court in a five to four decision narrowly construed the method for calculating the statute of limitations under Title Seven of the Civil Rights Act in the case involving a claim of discrimination in compensation based on sex.

The effect of the decision was to deny the particular plaintiff in the case redress, despite a jury finding that she had suffered millions of dollars in damages as a result of wrongful discrimination. Now, the Supreme Court did not have the last word on this issue. In 2009 Congress enacted, and the President signed into law, what is known as the Lilly Ledbetter Fair Pay Act of 2009. What the act did was to overturn the Supreme Court's interpretation of Title Seven and replace it with a broader definition that makes it easier for those discriminated against in compensation based on color, race, religion, sex, or national origin to vindicate their rights in court.

Good afternoon, everyone. My name is Peter Nicolas, Associate Dean of the Law School. On behalf of Dean Testy, the entire faculty of the School of Law, and the University of Washington Women's Center - which is a co-host of this event - it's my pleasure to welcome you to a public conversation between Lilly Ledbetter - the courageous litigant in the civil rights struggle that culminated in the act that's named after her - and Eric Schnapper - a long time member of our faculty and an expert on civil rights law and Supreme Court litigation.

Seated directly in front of me is Lilly Ledbetter who managed to make it here today from the East, despite weather related flight cancellations. She really wanted to have an opportunity to speak with you. For those not familiar with the facts of the case, Ms. Ledbetter had worked for nearly 20 years at the Goodyear Tire Plant in Gadsden, Alabama when she discovered, through an anonymous note left in her mailbox, that her pay for those 20 years that she'd been working at Goodyear was significantly less than those of her male counterparts who were doing the exact same work.

Her tireless fight for pay equity protection from the trial court in this case all the way through to Congress, that is an inspiration, and it's the reason we've brought her here today. So I'd like to ask you to please join me in welcoming Ms. Ledbetter here this afternoon.

[applause]

**Peter Nicolas:**

Seated over here to my left, for those who don't know him, is my colleague Eric Schnapper. He's been a member of the University of Washington Law School faculty since 1995. He teaches courses in civil rights, civil procedure, and employment discrimination. Prior to joining the faculty, he spent 25 years as assistant counsel for the NAACP Legal Defense and Education Fund, where he specialized in appellate litigation and legislative activities. His experience before the Supreme Court is overwhelming. He's briefed and argued more cases than most lawyers have read. I think somewhere around the order of 70 cases before the US Supreme Court that he's either briefed or argued, and most recently won three high profile cases. So certain was I that Professor Schnapper was the attorney in this particular case just based on his extensive background in civil rights litigation of this sort, and so certain was I that Ms. Ledbetter had actually won the case - both because her claim seemed so obviously valid, and because I know of Professor Schnapper's enviable track record - that when I was asked to do the introduction initially I didn't really look at the facts I just started writing what I thought sounded good.

So my initial introduction was going to be, behind every civil rights success are two key ingredients, a courageous litigant and a gifted attorney. Then, of course, I found out that she didn't win the case, so I had to revise my introduction. So it was something like, behind some civil rights successes are two key ingredients, a courageous litigant - that's the constant - and a gifted attorney, but perhaps not gifted enough to persuade Justice Kennedy, although blessed with good connections on Capitol Hill.

Then, of course, I found out that Professor Schnapper was not the one involved in the case, only because he had a pre-existing conflict, which led to my final introduction of my esteemed colleague, which is behind every civil rights defeat is a key ingredient, a courageous litigant who should have instead been represented by Eric Schnapper.

[applause]

**Peter Nicolas:**

And with that, it's my great honor to turn the stage over to both Ms. Ledbetter and to Professor Schnapper for this exciting conversation both about the case and the legislative aftermath.

[applause]

**Eric Schnapper:**

Thank you, Peter. I was hoping we could perhaps start with a description from you about what the problems were that had happened over the years. I think that much of the country at times forgets that we really still have problems with discrimination. Tom Perez, who was the head of the Civil Rights Division, was right here about 10 days ago talking about that. So before we get into the history of the case, you could describe what the pay practices were that you finally realized were at play in where you worked.

**Lilly Ledbetter:**

Actually, when I hired in it didn't take long for me to figure out that they had a lot of problems, because a lot of my co-managers, my peers, and then the people above me, they

would say, "You really don't need to be in Goodyear in that job." I said, "Why?" "Well, you're a woman."

I said, "Well what's a woman got to do with it?" Well, I knew that I had problems early on. The other problem was, that I realized very quickly, was I looked around and there were so few women there working in the job that I have, or even in the factory. So I knew that there had been a limit that Goodyear, really basically evidently, only wanted very few, just the required number.

When they left the job and went on to another job, another company, they seemed to like it. That sort of had told me a story. Then there were a lot of things that went on in the job from my superiors' remarks, and cussing, and discriminatory things, that I knew they shouldn't be. That was against the law, that that shouldn't happen. I had a case even based on that at any point in time if I had wanted one.

But I didn't hire in at Goodyear to have a lawsuit. It was never my ambition in life to have a lawsuit. I only wanted the opportunity to work and earn a living for me and my family. That's all I ever wanted. But I realized that maybe I could be a trailblazer, a maverick so to speak, set the record right where a woman could run that job.

**Eric Schnapper:**

Was your impression that the attitude towards women was present throughout management of the plant you were at? Or was it just a couple of the guys? How widespread did it seem to be?

**Lilly Ledbetter:**

It's widespread because even when the plant manager's position turned over, and we got one of the former Gadsden people back in Gadsden, Alabama, he stood up in front of a crowd as large as this one and said, and pointed at me and said, "We don't need women in this factory, because all you do is cause trouble. We just don't need damn women here." That is exactly what he said.

**Eric Schnapper**

They had no idea how much trouble.

**Lilly Ledbetter:**

They had no idea. No idea.

[laughter]

No idea.

**Eric Schnapper:**

How far back in time was that remark?

**Lilly Ledbetter**

That experience occurred probably in the late '90's. But I hired in there in February of 1979.

**Eric Schnapper:**

What did you ultimately come to understand about what was happening about how much your were being paid and how much for the men were being paid?

**Lilly Ledbetter**

Well, it was a top secret because when I hired in and filled out my withholding statements in human resources the secretary said, "Now you understand that you're to not discuss your pay or you won't work here." And then the training manager who was over the five of us that were hired together, either through promotion or hired in, he said the same

thing.

He said, "Now, Lilly, you understand never discuss your pay with anyone, not even Hill Mayfield, " who at that time was in HR. And I found that to be sort of questionable. Why would he tell me not to discuss it with this man who works in Human Resources. He should have access to it.

That was always a question in my mind, but I never brought it up and never said anything about it. But I was told by two different people never discuss my pay and no one ever did in that factory.

**Eric Schnapper**

One of the, when the controversy about this got to the Supreme Court, one of the points that I think one of the dissenters made and certain was part of the public conversation was that that was not uncommon that a lot of employers certainly discouraged people from talking about how much they made. When the folks in the equal rights community talked about this, one of the things we realized was that although there are statutes that protect you from retaliation for opposing discrimination on the basis of gender, they wouldn't protect you if you asked how much the men were making, because of the way they are written.

Unless the men are actually making more or you're already know the men are making more, if you ask how much the men are making you could be fired for that, legally. So it's a bad, it's a serious loophole in the law.

What did you also come to understand had been going on about salaries and raises over the years you were there?

**Lilly Ledbetter**

Well, when I got the anonymous tip which was my name and three men's name, just first names, base pay, written on that little torn piece of paper, it didn't take me long until it just hit me like a ton of bricks. And I felt so devastated but it also real quick told me how much less I had been earning through the years based on my overtime. See, first line managers at

Goodyear we were paid time and a half, doubt time, triple time depending on the hours and circumstance.

**Eric Schnapper**

That's a really good idea.

[laughter]

**Lilly Ledbetter**

Because we were required to work a lot of hours when my peer had a heart attack, I worked two solid months, 12 hour shifts, every night, several nights a week. And when he took eight weeks of vacation every year, I filled in for him. And it was understood that we just had to work. So that was a lot of overtime hours. And then it also, half way through that night it occurred to me that my retirement is based on what I'm earning, my contributory retirement and my 401K is all based on what I'm earning and today my Social Security as well.

**Eric Schnapper:**

And how did that happen? Was the difference the result of difference in the base pay you started with or raises over the years or some combination or did that become clear through the litigation?

**Lilly Ledbetter:**

OK, my base pay started out the same as the men. And we stayed the same until two years into my tenure. And then Goodyear decided in 1981 that they would go to what they called a "Pay for performance." I called it the old white boys' pay system because they divvied up the money looking back over the years and the records when we got into discovery, my attorney and I. I learned that a lot of years I was paid even below the minimum for that job, which I didn't know. I had no way of knowing. And also it cost me so much for me and my family and how much less my family had to do without and how hard it made my life at my house because of that. But it went way back. I got raises some years, some years I didn't. Some years they seemed good but I had no way of knowing if they were sufficient and what the men were getting.

I had no way of knowing. And my pay started, in 1981 when they went to that "pay for performance" that's when my pay started burying and dropping. In fact, I got one raise once that my boss when he told me about it he laughed. He thought it was funny. He said by the time they get finished out taxes you'll be taking home less than you are now.

And he found it to be funny. I discovered that what had happened through the years after they went to that system, I never got any money hardly after that. And the men continued to get it and when, and you know this, that when an individual's pay gets low you can never catch up.

I mean, you know, I can get 10% and you could be getting 5%, as that male and I still can't catch up, because 10% of hardly nothing is nothing and 5% of a lot is a lot. You know? You

can do the math. I've done it in a lot of different circumstances and you can't catch up once you get out of... And Goodyear did not do regular evaluations.

They only did evaluations in Gadsden when they were having a layoff. When it got time for a cut, if the plant was cutting back they do evaluations and of course, they know exactly how they were going to go because they knew who they wanted to cut.

**Eric Schnapper:**

Looking back over what you learned through discovery, would you get small raises every year? Were there some years you did OK, compared to the men and some years not?

**Lilly Ledbetter:**

No, I never, compared to the men, when we looked at it in discovery, I never measured up. Never. I mean, of course the largest raise I ever got was when they gave me the top performance award in 1996. And my boss said on the stand...See Goodyear tried to say at trial that I was a poor performer. But he said at trial that he only gave me the top performance award because that was the only way he could give me a big, sizable raise. But the judge said, "Oh, so you realized that you were discriminating against her" and that sort of pushed that conversation up.

[laughter]

**Eric Schnapper:**

Did you end up in a situation where men who were hired after you into the work, who you would have trained, also ultimately came to make more than you did?

**Lilly Ledbetter**

Absolutely. In fact, when the judge and the court calculated my two years' back pay, they took the lowest paid person in the tire room where I was working at the time and he had just transferred in from a much lower paying job. He was in quality control, not supervising or managing any production or any people. And he transferred in to that job and he was already making almost \$500 more than I was making.

**Eric Schnapper:**

How did you find your way to the lawyers and into them representing you? Excellent lawyers, by the way.

**Lilly Ledbetter:**

Absolutely.

**Eric Schnapper:**

From the point at which you realized you had this problem how did you find that lawyers that you worked with?

**Lilly Ledbetter:**

I started asking because I knew that I needed a lawyer that could take my case pro bono that was very good. And because I worked like most middle America families do, paycheck to paycheck and I mean I had a little savings but it wasn't enough to even be a retainer for the lawyer that I got. And I found John Goldfarb in Birmingham and I put together everything that I could find. He was with the firm had a different name at the time, but Bob Wiggins started that firm. I put together everything that I had and when I went to his office, I carried it because I had to sell him on my case.

Because see it just burned in my body. I could not let this go, because when this all occurred with me I was age 60. And I just couldn't let it go. it was not right. That's not right. And to be done the way I had been done, for 19 years and cheat me out of what I had been entitled to under the law, that I had been entitled to under the law that I had earned. I was legally entitled to it, and they gave it to somebody else. I just couldn't let it go.

**Eric Schnapper:**

And when you, well, first went in and started talking to John, was he sympathetic? Was he skeptical? Was he worried about whether he could make a living taking these kind of cases?

**Lilly Ledbetter:**

John is not a sympathetic person. He's all business. And he listened to me, and he said, "Let me look at it." And I believe, if I remember it correctly, I had an appointment to go back. And he said, "I've looked at your case." He said, "I'm going to take it." He said, "Now, you understand that whatever we get, my firm gets 50%." I said, "As far as I'm concerned, you can have it all." I said, to me, it's about what was right. Because I'll tell you this, professor: when I went into this, it was never about the money for me. At that point in my life, I had missed the chance to have that money when I should have had it for my family, and now it was about what was right. I just had to do what was right for me.

**Eric Schnapper:**

And as the case went forward, of course, the early years were involved in discovery. How involved were you in that? I mean did...

**Lilly Ledbetter:**

Very.

**Eric Schnapper**

Did you -

**Lilly Ledbetter:**

[Inaudible 19:31]

**Eric Schnapper:**

Tell me about that.

**Lilly Ledbetter**

A lot of hours were put into that. I had a list of people that I had to call from time to time when I was working, and I called everybody I'd ever worked with asking them to testify on my behalf, trying to get up as much information in addition to what I already had. And I couldn't know - I only ended up, I think I had five people who said they would testify on my behalf. Five. Because all of them would say something to the effect, "Well, I don't think I know anything that would help your case." In other words, "I don't want to be involved."

**Eric Schnapper:**

And the five people that were willing to stand up and [Inaudible 20:18] , were they current employees, or retired workers, or what?

**Lilly Ledbetter**

There were two women who testified on my behalf. One was still working, and I'd say she'd been done probably worse than I had, and she was still working at the time and worked several years after that. And then the other lady had finally given up and sold her service, 22 years in fact with Goodyear. And she was an area manager and left, and she was a supervisor at Honda in Alabama at the time. She took a day's vacation, came to Anniston Federal Court and testified on my behalf. And then the African-American male that was area manager, he took a day off from work and put his suit and white shirt and tie on and came to court, but we never used him. The two women testified, and our attorneys though we had enough, and evidently we did.

And then the union man, he a was retired maintenance man, and after we went from being supervisors to area mangers, we also managed the maintenance craftspeople on their shift. I had to go to engineering school, and I finished second out of all - about 160 management people. And on my shift, I managed the craftspeople, too, and this pipe fitter maintenance fellow came to court to testify on my behalf.

**Eric Schnapper:**

And did you have any contact with the lawyers for the company during this process?

**Lilly Ledbetter**

Only in depositions.

**Eric Schnapper:**

What were they like?

**Lilly Ledbetter:**

They were pretty tough. In fact, in some cases they would ramble on and on and on, like eight and nine o'clock at night. And Mr. Goldfarb would say, "That's enough." And we'd get

up and leave. I mean, they'd be repeating themselves, so we'd just get up and leave.

**Eric Schnapper:**

And tell me about the trial. What was the trial judge's name?

**Lilly Ledbetter**

E. W. Clement. I couldn't have been more lucky to have...

**Eric Schnapper**

No, you could not have been.

**Lilly Ledbetter:**

I know. But in fact, a lawyer told me recently that I was just lucky, that was all it was. But I had a good case, too.

**Eric Schnapper:**

U. W. was - back in the '60s when there were very few African-American lawyers in the South at all, he was one of the few in Alabama. He is - his partner, Oscar Adams, and Jim Baker. And Oscar - worked with him at the [Inaudible 22:39] firm for many years, and Oscar went on the Alabama Supreme court, and Baker, I think, became mayor, didn't he?

**Lilly Ledbetter:**

It might be, I don't know.

**Eric Schnapper:**

Or city attorney. And U.W. became a federal judge. That was an era when, in the '80s - well, I guess you can kind of - in the late '70s, one of the changes in civil rights litigation was that a lot of the stars of the local bar from the '60s and '70s became judges, and we really lost a lot of the strongest lawyers and sort of had to rebuild that system. It was good in many ways, and U. W. was certainly one of the stalwarts.

**Lilly Ledbetter:**

Well, he's one my favorite people now because - not only in my case, but when he retired last January, they ask him in all of his interviews about his 30 years on the bench what his most memorable case was, and he said, "The Ledbetter vs. Goodyear." He said that's the biggest one that stands out in his mind. He said, "I'll never forget it."

**Eric Schnapper:**

And what do you recall of U. W. from the hearings that you were at? I mean, other than the comment that you made, did...

**Lilly Ledbetter:**

I was impressed the first day. In fact, he told the Goodyear attorneys that they needed to get a reasonable offer and go over on the other side and make it, and let's go home. He said, "She's got a case. I've read it." And he said...

**Eric Schnapper:**

...sort of balanced judge that plaintiffs ....

[laughter]

**Lilly Ledbetter**

And he was very fair during the trial, because - just like he was the one who asked about my record, where was my personnel file. He wanted to see some evaluations where I was a poor performer, and some of that background. And then he said, "Oh, you realized that she was being underpaid." And so he was pretty sharp. He came up with a lot of comments like that from the bench. Because - since there are law students in the room...

**Eric Schnapper:**

Be careful what you say.

[laughter]

**Lilly Ledbetter**

I know. I know. If you say it to a reporter, it will come back to haunt you, too. But for the lawyers in the room, my lawyer is Jewish, Mr. Goldfarb is. So I'm in this rural county in Alabama, and he's not sure exactly how the people, the jurors that come from all over that area, would take him presenting my case. So he brought over one of the partners, reddish complexion, blond-headed fellow, middle-aged, and he fed him all of the information and grilled him. And he wanted to start out doing the questioning. And certain people he would ask me, "Well, how are they? Are they smart? Are they-" this or that." And so he put Mike up there to do the questioning and the interviewing. But later on, he said, "You know, the people down in Anniston, they accepted me pretty well." But he says my case is the only one he's ever won in that county.

[laughter]

So that's why, with Michael, that he's never won one. He said he was quick. He was going to stop coming to Calhoun County.

**Eric Schnapper:**

Yeah. Well, so the trial, [Inaudible 25:58] what - how did the verdict come out, then, at trial? That went your way?

**Lilly Ledbetter:**

Well, they - I'll have to tell you this, too, Professor. They told me - the lawyers did - "Do not make any facial emotion. Don't show any emotion, don't make any comment, don't be beating on the table, and don't holler or clap or anything."

[laughter]

**Lilly Ledbetter:**

"Just keep it low-key and stare at the wall." And so I come out, and I had four cases. It was "No," "No," "No" for the first three, and I mean, my heart was just about to stop beating. And then the last one, which was the pay discrimination, "We find in the plaintiff's favor, \$3.8 million." It was all I could do to sit there and not show emotion and stare at that wall.

[laughter]

**Lilly Ledbetter:**

It was all I could do. I had to sit on my hands, because I mean - I could have just - oof. You know, I was just so thrilled to hear that. And judge U. W. Clement asked the foreman of the jury who had read the verdict to please sit down, and he explained to everybody in the courtroom how there is a cap. My \$3 million suddenly became \$300,000, and that I was only entitled to two years' back pay, and that, they took that lowest paid person and left me with \$60,000 for two years. So I left the courtroom that Friday afternoon with a \$360,000 verdict but the headlines in every paper across the country, CNN, NBC, all of the news media the headlines were "Jacksonville Alabama Woman Awarded \$3.8 million." There was no \$360,000 it was \$3.8 million.

**Eric Schnapper:**

... all relatives you heard from after that.

**Lilly Ledbetter:**

I did. I did. In fact, I heard from my church singer directors. They wanted me to buy the church a bus.

[laughter]

**Eric Schnapper:**

Well, maybe a minivan.

**Lilly Ledbetter:**

I couldn't even afford that one either.

**Eric Schnapper**

Yeah, I know. So and then went up on appeal, the court of appeals ruled against you and then you decided to go on and try to get the Supreme Court to take it. What was that process

like? Usually when it's over in a Court of Appeals, it's over. But they decided to fight on to the Supreme Court.

**Lilly Ledbetter**

You know, I don't think I knew that they had appealed to them until they called and told me that that case was accepted. And Mr. Goldfarb said we've just found out we're going to Supreme Court sometime this next year. And then he said you've got to know this because the news media will be calling.

**Eric Schnapper:**

And they called?

**Lilly Ledbetter:**

They called. They called. All of them.

**Eric Schnapper:**

And who, mostly when cert was stranded or the time of the argument or both?

**Lilly Ledbetter:**

Oh, they called when it was accepted. That's big news in Alabama. This was the first case that I believe Mr. Goldfarb's firm had ever had of their own that went to the Supreme Court.

**Eric Schnapper**

Do you have any particular reactions one way or are there particular reporters that you talked to? Did you have any favorites or people you thought asked good questions or bad questions?

**Lilly Ledbetter:**

Oh, yeah, I know them all now. And they've all been to my home. In fact, after I went to the Supreme Court the "Washington Post" had a reporter, that's his job being in the Supreme Court. He said, "After I heard your case, that needs a face put with it." So he made a trip. He flew into Birmingham, rented a car and drove to Jacksonville and spent the day with me and interviewed and he ran that article in February of '07. And they sent a photographer, an Associated Press photographer, to make the pictures.

**Eric Schnapper:**

And did any other reporters make any particular impression on you in terms of how they understood what was going on or they all seemed pretty much on top of the issues in the case?

**Lilly Ledbetter:**

Most of them were pretty much on top of it. Of course, the day the verdict came out the attorneys, Mike told me. He called me because Mr. Goldfarb was on vacation. He said, "Now Lilly you don't have to talk to the media. Just refer them to us and we'll handle it." Well, I thought about that. And I had give this my best. I did everything that I possibly could. I had not cut it short anywhere and I stayed with it for all those years. My attorneys did a good job. I had nothing to be embarrassed or ashamed of. And I was going to face it head on.

So when NBC called first, I said, "Sure come on in." So they came into my home and we did an interview. I did it with Pete Williams for the, or Brian Williams, for the 6:00 news that evening. And then the next day CNN called. Norman Lear called that night and he sent his TV crew in and we made movies that ran on YouTube for quite some time.

I kept waiting on a movie contract from Norman Lear because he made "All in the Family" and "Jeffersons." [laughter] I just knew I was going to get a movie career out of that, but I didn't. But I had to tell you...

**Eric Schnapper:**

That's the most stunning thing you said.

**Lilly Ledbetter:**

But I have to tell you...

**Eric Schnapper:**

I just can't believe that.

**Lilly Ledbetter**

I have to tell you one thing that's really and I hadn't figured this one out. There may be somebody here and you may can help me. When NBC came, I mean we recorded a lot. When they come they do all of this recording and they take your pictures down off the wall. They moved the coffee table and your house doesn't look the same. So any time you see somebody's house on TV, it might not look like that.

[laughter]

Well, we got through with the interview and the guy who was doing the filming, he said, which is a freelance crew out of Birmingham. He said, "We really need you to go in the kitchen and act like you're starting a cake." He said, "Now you really don't have to make a cake. He said, just act like it." I looked at him and I said, I've just lost \$3.8 million and you want me to make a cake? I don't think so.

[laughter]

[applause]

So we settled. We poured out a pot of coffee that my husband had just made so I could

make a pot of coffee. I made a pot of coffee for 'em and that was on the TV. That night it was on national news, NBC. The next day, CNN...

**Eric Schnapper:**

Didn't they sort of miss the point of the statute?

[laughter]

**Lilly Ledbetter:**

I think they did. [laughs] I could never figure the out, unless they just wanted to put the woman back in the kitchen.

[laughter]

You know, well the next day, CNN and it's the same two freelance guys. We really got to be good friends. They just kept coming. Well, they came back. And so they said, "Well we can do the cake yesterday so you can do the cake today. I'm sure you're up to it today."

I said, "Hope. No cake today at my house."

He said, "Well, you can't do the coffee thing. We did that yesterday for NBC." He said, "You got a teapot?"

I said, "Well, sure." So I put it kettle on and I boiled some water and I made a cup of tea. And I drunk it on the camera.

[laughter]

And then he said, "Well, you got to go get the mail." And I said, "That's going to be a long walk. We're at the post office. We have a box."

[laughter]

He said, "Well," he looked out and he said, "Oh, you got a paper box. You all got two of them." So he made my husband carry the papers back out and they get me on camera going out to get the papers. I told him that really add a lot to it. And then when Norman Lear called, he sent the same two people.

[laughter]

**Eric Schnapper:**

Have you taught them how to cook yet?

**Lilly Ledbetter**

[laughter] No.

**Eric Schnapper**

Well you know I want to go back in time a little bit. Were you at the court when the [Inaudible 33:55] case was ordered?

**Lilly Ledbetter:**

Yes. My husband had just had cancer surgery and was unable to travel. They took the left side of his face off, grafted his skin from his right leg and I left him at home with home health care. They came every day and checked on him and my daughter and I traveled to Washington and was in the Supreme Court.

**Eric Schnapper:**

What was that like?

**Lilly Ledbetter:**

Well, they read Ledbetter vs. Goodyear and after that it was nothing personal. It was always the case, the case and the law and there was nothing ever about... You would have been not even know there was a human being involved, to tell you the truth.

**Eric Schnapper:**

Which particular Supreme Court justice did you have in mind when you said that?

**Lilly Ledbetter:**

Five of them.

**Eric Schnapper:**

Five.

[laughter]

**Lilly Ledbetter:**

Guess which five?

**Eric Schnapper:**

Did you have any impressions about particular members of the Court from the questions that were asked?

**Lilly Ledbetter**

Yes. Chief Justice Roberts made the statement toward the end that why if they let this case go forward, they would be people coming back out of the woodwork to file lawsuits. Well, they never had. And these cases, as you well know, they're extremely hard to prove. And

most people don't do them because of that. It's hard to get them into court. It's hard to get a jury trial. And I'll tell you a quick little thing about my jury. The reason that they said no, no, no and I lost the age discrimination case was the fact that one of the jurors had somewhere to go that Friday night and they lived a distance away and they wanted to get out of court and they didn't want to come back on Monday.

So they just said no, no, no, no, and put all the award in one pot, so to speak. So you get those kind of things with jurors. But Justice Roberts seemed to think that if that was way they should rule on the case was so that they wouldn't be other cases coming out. And the government's attorney said that Equal Employment Commission had supported my case all the way through the levels, the circuit.

Until we get to Washington and then they write, they get on the other side and argue on Goodyear's behalf.

**Eric Schnapper:**

For most people if they lose in the Supreme Court it's the end of the line, not for you. There was another branch of government available to you and I think as extraordinary as this experience was in the courts your experience with Congress was really quite exceptional. How many times did you testify up there?

**Lilly Ledbetter**

Four. I testified twice before the House and twice before the Senate, and that's extremely hard on an individual, because when I got there the first day to testify before the House, a Mr. Mollen was there, and he was a lawyer who represented the United States Chamber of Commerces. And he kept-you would have thought we were in court, in trial. He kept bringing up how bad I was, what a poor performer, how I said I had had this sexual advancement from this man in earlier years in another case, and then he said, "But that man's dead. I wonder what he'd say if he was here today."

He just kept bringing it up, but every time he would bring up something, I would get the chairman's attention to let me clarify what he had just said, and when he'd shoot me down, I'd put it right back to him, and the second time he came, when he left, he said, "I hope I never go up against you again."

[Audience laughter]

And the next two times, he never came back. They had to find somebody new each time, and none of them liked going up against me, because I knew my case. I knew I was right, and I knew the law. I'd spent too many hours with Mr. Goldfarb not to know that. And I was not going to let them tell these people something that was not true. There was one of the female senators from California that put back to the lawyer that was arguing against me, "Why did they keep her for 19 years if she was such a poor performer?" She said, "When I ran a business and I had a poor performer, I got rid of them, and I didn't wait 19 years to do it!"

[Audience laughter]

So that made a point.

**Eric Schnapper**

What was your sense about the hearings? Were they just going through the motions? Did the members of the committees really seem engaged in trying to figure out the issues?

**Lilly Ledbetter**

They were engaged. In fact, I would have people, both Democrats, both Republicans, that would give me their card after the hearings and tell me if I needed any help, to call them. They understood, and they were trying to get to the truth. The first committee I testified before was Congressman George Miller, who's House and Labor Committee. The next time I went back, I've forgotten the man who chaired that one, and then when I went to the Senate I testified before Ted Kennedy's committee, and that was an eye-opener for everybody there, and the room was just packed with law students. There was not even any standing room left.

Senator Kennedy's staff had put together big charts like this, and it had on them what Justice Roberts said in confirmation hearings, and on the next chart it would have what he had actually done, and how he ruled. The same thing for Justice Alito, and I mean, there were comments there...People would say, they don't even look like the same two people, compared to what they said they'd do, and how they had ruled.

Senator Kennedy asked a lawyer that was there that time arguing against me and my case. He called him by name, and he said "Why are you here today on that side?"

And he said, "I don't understand, Senator Kennedy, what do you mean?"

He said, "Well, you used to work for the Equal Employment Commission, and now you've taken the opposite side because they support her." And the man never said another word. That was the last thing that man said, and he never talked again. But the Chamber of Commerce is who sends those people in.

**Eric Schnapper:**

Then this proceeded to become an issue in the presidential campaign.

**Lilly Ledbetter:**

Absolutely.

**Eric Schnapper:**

What was it like watching that? Did the same freelance reporters come back to your house again?

**Lilly Ledbetter:**

They did!

[Audience laughter]

**Eric Schnapper:**

What did you move on to? Sherry?

[laughter]

**Lilly Ledbetter**

They've learned I'm not doing a cake! They have learned that. But this has really been a life-changing event. I learned early on, or I thought that this was just a deep Southern problem, and I found out very quickly it's national, across this country, and then it's international.

First, I learned that it's not only in first-line managers. It's all over the country, with college professors, women who hold Doctorates earning half what the men are earning.

Medical doctors, I met a doctor in New York...and I've got letters at my house from all over the country, and then last March I got an invitation to go to Rome, Italy for six days, all expenses paid. I just have to come and tell my story and share it with them. They're union, and they're people, and they're women who's facing struggles the same way.

Of course, I had lost my husband by then, so I carried my Washington lawyer-- Mr. Goldfarb couldn't go, so he didn't get paid either--Kevin Russell, who argued in the Supreme Court, so I called Kevin and he went.

We stayed six days, and I was so well-received. I was supposed to have two free days, but I ended up working one of them, to go to a TV station. I made film recordings that would be shown to 18 million people. The second day I was in Rome, the front page of the paper was my picture. The total front page was my picture, looking into a mirror, so it was like two of me.

[laughter]

**Eric Schnapper:**

I'm sure that's the way it felt to the Chamber of Commerce.

**Lilly Ledbetter:**

Probably to Goodyear too! I've wondered if they didn't end up at a few of their board meetings saying, "Boy, we should have had her selling tires."

[laughter]

**Eric Schnapper:**

Too late!

**Lilly Ledbetter**

Too late.

**Eric Schnapper:**

I know we want to have some time for questions, but...What would you have the law students here take away from the experience you've had, in terms of what their responsibilities are, what they should aspire to, in the careers that lie ahead for them?

**Lilly Ledbetter**

I think to have the dedication to do what's right, and to follow the law for the interest of the person. It would be a great occupation to be a lawyer and to do that. One thing that I learned about Mr. Goldfarb: I had always heard that lawyers would just out-and you hear the media saying that today, in fact, they said, the lawyers--this was going to be a...what'd they call it...besides a field day...

**Eric Schnapper**

Lawyers' Full Employment Act.

**Lilly Ledbetter**

Right. OK.

**Eric Schnapper:**

We keep trying to pass that...

**Lilly Ledbetter:**

They talked about that. Well, that's not true in all lawyers. There may be some like that, I don't know. But I can tell you from a personal standpoint, Jon Goldfarb is not that kind of lawyer. He did not get one dime out of my case. His firm, they got a lot of money in my case, too.

**Eric Schnapper:**

He paid out of his own pocket my first plane ticket to go to Washington to testify before the Congress. That's the kind of lawyer I had. He paid for my plane ticket to go, and he was going to pay for me a room that night, and I said, "No sir, I can handle that." And I paid for my meals. That's the kind of person he is, and he went to the White House, his wife bought him a \$1,000 plane ticket to get to Washington that day, because it was just a spur-of-the-moment. And he was cleared to go to the White House, and he told us, "My goal is to get you out of there, "talking about me, "and to get you some money left to leave those three grandsons."

And he negotiated my book deal, he didn't get a dime out of it. I've not got any either, it's a lot of bull...

[laughter]

**Lilly Ledbetter**

I'm really a good moneymaker, I'll tell you. I guess I get in the wrong one, it's subtraction, but, he did negotiate me a good book deal, I still have my movie contract, so if it ever gets that far...He's never got a dime. I can call him anytime I want to. When my husband passed away, I looked up that night in the receiving line, and there he came, after a long day of taking depositions.

But I had always heard that lawyers didn't think that way and didn't feel that way about their clients, but I think you do. You just really have to do that. And he and I will be friends for a long time, because he had two children added to his family in that time, because I started in 1999 with him, and then we went all the way to '07 before we got the verdict.

And then I continued to work on this and he was sitting behind me the first time I testified in Washington.

**Eric Schnapper:**

Sounds like a model to which we can all aspire.

**Lilly Ledbetter**

Yeah.

**Peter Nicolas**

We're going to do some questions now. I think the people would like you to go to the mic to ask so we'll have a recording. We'll pass on the mic I think. I'll repeat the question maybe a little bit. Go next. Go ahead.

**Man 1**

Did you ever find out who left you the anonymous note?

**Lilly Ledbetter:**

No, and I'll tell you this. It could have been a union person, because the workers were unionized. And when I hired in one of the training parts after learning all the management styles and the Goodyear corporate people and everything, we had to physically work the jobs to learn what it would be like for our people who was working for us. And they saw the men did, the mainly the men, that I would work and they respected that and they called me Miss Lilly from day one. And it could have been a union person, because a lot of times they looked out for my back.

**Woman 1**

What are your thoughts when the law finally got passed?

**Lilly Ledbetter:**

It's the same law that was on the books prior to the ruling in my case because the Supreme Court decided instead of interpreting the law they would just make some law. And that's what Justice Ginsberg challenged Congress to change it back. She said they didn't understand what it was like in the real world and I agree. People don't stand around the watercooler discussing pay for several reasons but it's back just like it was, but I'm told in Alabama that I'm probably the only Alabamian with a bill named for them. And I'm in a good place to find this out. I'm told that there's possibly less than 30 nationally, named after an individual.

**Eric Schnapper:**

That's very possible.

**Lilly Ledbetter:**

There's very few bills that's ever named for a person. And I didn't know that. and to me that is very... That's an honor. That puts me in the history books. And it's a very humbling thing to accept. And I am so grateful for that. I don't have any money, though. But OK.

[laughter]

That's OK. Next question.

**Woman 2:**

I'm going to ask you, who has been the most inspirational person in your life, because you had to have a lot of inspiration and a lot of guts and strength to do what you did? First of and have this job and do this every day and work under all these conditions, but then to resolve to move forward with this action and to see it through.

**Lilly Ledbetter:**

You're right. I was my parents. I was an only child. And we lived in rural Alabama. I grew up in rural Alabama. I was born in a two room house. And I had to walk five, four or five miles, to even catch a bus when I started to school, to get to school. And my mother would walk with me because it was sort of a scary way. There was no houses. I had to walk all this distance. But growing up my mother meant that I would learn the work ethic and what it meant to do a day's work to earn some money.

So my grandfather farmed and in the spring I'd have to chop cotton and in the fall I had to pick cotton. I hated it. Oh, I hated it. Burnt my hands and it was hot and the bees was out there and I didn't like it, but when I weighed up my cotton at the end of my day, I'd better have what I should have or I was in trouble.

And when we didn't have cotton to work in we would do gardening. I'd have to get up at 6:00 and go to that garden and we'd pick vegetables all day and sit on the porch and break beans and fix them. I learned an appreciation of doing a good job and doing it the best I could and I was taught education would open any door that I ever wanted to open.

So I give my parents credit for that. Now I didn't think at the time my mother was too smart,

but today she's very smart.

[laughter]

### Woman 3

First I just wanted to say thank you for having the courage to fight as hard as you did because I know how important the work that you have done is for so many of us here, for all of us here, men and women. Nobody [Inaudible 50:14] discrimination and your story is absolutely amazing, of all the work you did. You also mentioned when you were talking and I completely agree with you but I'm curious from your perspective the concept of saying how hard it is to even get your case through the door, to have a case if you go anywhere or anything like that, to prove your case.

Are there things that you would like to see changed in the law that you said just went back to what it was before, that would make it easier for somebody who is in your situation that so many women are in where they are discriminated against because of pay or other reasons and any ideas you think would be better to make changes?

### Lilly Ledbetter:

There is one thing, now that you mention it. In your case for example, if you were working and you go file a charge with EEOC it's recorded and that follows you the rest of your life. In other words prospective employers can find out if you've ever filed a charge. And what we women get is a new title. We're the trouble maker or that bitch. That's what they refer to us and I've been called that many times.

But also on the other hand that doesn't bother me as long as I'm doing what's right. But that's why so many of the younger women at Goodyear that was in their 40s would quit and leave and go get another job. And I don't blame them. I probably would have done that, too, because it will follow you for the rest of your career once you do that.

And it would be nice if there would be a way that that could be sealed, you know, and never would follow you. Then more people would step out. They asked the girl who testified on my behalf at trial, "Why did you never complain?"

She said, "I was a divorced mother with a blind, handicapped son, working paycheck to paycheck and I couldn't afford to miss one and I knew if I even asked about my pay I wouldn't work there anymore." But the next thing that I've got on my agenda once we get Paycheck Fairness passed and Tom Harkin's bill, I want to see those caps come off the \$300,000 that was put on in 1991 by Congress to seal. Because a person like myself who's lost 19 years of earnings and you can't go back further than two.

I think there is a possibility of three if it's fraudulent or something like that. but two usually, even with that is all that's accepted as what I'm told. And there's nothing in the law that allows an individual to re-gain any of those lost retirements or even the benefits. In fact, Congress tried to pass a bill that could just give me credit for that \$60,000 back on my Social Security back to the time of when I started drawing Social Security but that didn't fly either.

So it's hard to get... That's another point that needs to be made here is it's extremely hard to get something changed, a law changed in Congress, too. And I stayed in Washington practically for a year and a half. The National Women's Law Center would fly me up there and pay for my lodging and my day would run something like: I would start out at 5:00 in the morning on taking calls from radio people driving into work, taking calls and then I'd do that for two hours.

Then I would get dressed and do an NPR radio and then I would go up to the Congress building to start with and then to the Senate and we would have appointments one right after the other. Back to back and we would call on most of you usually get to see are the assistants. Sometimes you get to see the Senator or the Congressman but most of the time it's the assistant, until you get a bill with your name on it and then you get in and see them all and see Harry Reid if you want to.

[laughter]

That's been a big eye-opener for me this last time I was in Washington working on Paycheck Fairness, I could get into see Harry Reid and do a news report. It just opened a lot of doors. But that needs to be changed for women and see when my husband died in '08 I became another statistic in this country. I'm now a widow. My income dropped more than 50% the date of his death at my house, but my utilities and all the household expenses went up. And my income from Goodyear will never change. It's locked into a certain amount. Social Security is not giving any raises in two years. So my income is not going up. And that's what women in the country are living with. I'm just the tip of the iceberg. Yes, ma'am?

#### **Woman 4''**

I do want to thank you very much, to some extent it is astonishing and I guess to some extent certainly not at all astonishing that we are still discussing all of this in 2010. And I couldn't agree more with you that obviously good will is not an aberration and this is widespread. Since, as I think your story demonstrates very well, the law is both a forceful tool, but also has its limits. What are ways do you think we can all do or society as a whole can do to make it less of a problem. And I do hope they make your movie because I think that would be one great way of making the story go out, even more so.

#### **Lilly Ledbetter:**

Well, one thing that we need to do in this country is, and a gentleman in the audience you get it, that's what I like. The men are getting it now. And that'll have more support across the United States from men, because even young men who are not married they'll say: I've got a sister and in my family at my house, we have to take up and help her pay her bills because she's divorced and she has a child and she works two jobs, but she can't keep them up on what she makes. Two minimum wage jobs. And you can't make it in this country and you know that. So the men understand it and I had a lot of support in my home town which is a small college town from retired professors who are in their 80s. They would write and say they have granddaughters and they have granddaughters-in-law and their wife used to work and not be paid and now she's still living the effects of it.

So the men understand it and it's like what the president said when he signed the bill. It's a family affair. If the women and minorities are paid what they've earned then the families have better housing, better food, and are better educated. And it betters the community, the

state and therefore the country.

I don't understand it seems so simple to me. But what we need to do is each time you see or hear like Paycheck Fairness probably will come up sometime this month is call the senators. It's already past the house. It needs to go through the Senate. It needs to pass. And then President Obama will sign it because he helped draft that or worked on it when he was still a senator.

**Eric Schnapper:**

Would you say what the Paycheck Fairness is?

**Lilly Ledbetter**

Go ahead.

**Eric Schnapper:**

No, I'm asking you.

**Lilly Ledbetter:**

Me. OK. Oh, it affords an individual the right to ask what they're making and how they stand with their peers without being retaliated against. It also allows them to stand around and discuss their pay with a coworker without retaliation and if they should be retaliated then they have a legal leg to fall back on. And you know you should be able to do that. And what happens and I look back on this in my life. How did I, I considered myself fairly intelligent. Why did I get caught in this? But I was busy having an American dream. I had a good job, I thought. I was earning good wages. I have a son. I have a daughter. And they were playing Little League and doing Scouts and going to church and being educated and making those plans for the future.

I got caught up in living a life every day and I didn't think about the big picture. You really have to think about the big picture and the family and consider it because whatever you have today will go with you for the rest of your life. I tell young audiences today that their retirement starts the first day they go to work.

**Eric Schnapper:**

Any other questions? Way in the back, yes?

**Woman 5**

Did you ever find out if Goodyear will changed their policy?.

**Lilly Ledbetter**

Oh, no. No, no, they did not change their policy. Everybody I understand who was in management either African American or female got a \$1,000 a month raise. In fact, when I was in Washington for the Inauguration somebody from Akron, Ohio sent me word. They

appreciated the raise I got them.

[laughter]

**Woman 6**

What was the actual discrepancy or difference in pay of the three men who were in that note and you did the same jobs? Did that come out in discovery?

**Lilly Ledbetter:**

I didn't hear...

**Eric Schnapper:**

How much more did the men making than you were in the note?

**Lilly Ledbetter**

30 and 40%.

**Woman 6**

Wow.

**Lilly Ledbetter**

It was presented at trial. In fact, they took a few of the men, not every one of them and had it up on a big four by eight white board in black letters. I mean, it was so obvious and then they handed out handout sheets to the jurors with that on it and it'll be part of the book, too. I probably in the book will use some of the check stubs showing the overtime, because I had a lot of overtime and it's just a heart breaker.

**Eric Schnapper:**

Well, for the law school and for all of us, I can't thank you enough for taking the time to come be with us and share your story. I think we all walk out of here proud to have talked with you, ashamed that we haven't done a fraction of what you have and aspire to do more.

**Lilly Ledbetter**

May I also share something else with our audience, too. One thing if you ever get a person with a case. One thing you remember is what they go through when they go through the office, too. Because when I started my case I told my husband why file the charge we would be in it eight years because I'd read enough about cases that I knew it took a long time. And I said if I start we'll be in it that long because I'm not a quitter. I'll have to see it through. And he agreed with me and he supported me right up to the time of his death. But there would be nights that I would be up because I worked night shift and I'm still a night person. He would walk into the den and I'd be reading or doing something. He's say, "Lilly, are you sure you know what you're doing?"

He was referring to that case. Because if I lost there was a judgment and Goodyear did bill me for \$3,165 after the Supreme Court. The Birmingham attorney sent it to the media and the Washington attorney sent it to law school. So I've not heard from the bill, but what I'm saying is I could have been billed for the full amount of their legal expense, because they had a judgment of something. I didn't quite understand that. I missed that in my law schooling. [laughs] On that one, but...

**Eric Schnapper:**

You didn't miss much.

**Lilly Ledbetter:**

But it's really hard on an individual to carry a case this far and it's hard on your family. I mean, it's extremely hard. The only thing that we owned basically was our home. So we discussed putting it all in his name, so if Goodyear came after me they couldn't get that. And if they got the retirement, you know, so be it. They didn't have much. But it's really, really hard. And I'll tell you your neighbors, your church people, your so-called friends they kind of get on the other side, too. So you are in the boat with just a few people, just a few. And so when you get some clients later on just remember that. I was very fortunate to have the attorneys that I did.

I really was because it was so hard to stay up. But I just wanted to share that because so many groups don't understand how hard it is to go through something like this.

**Eric Schnapper**

I must admit, I didn't. Anyway, we're very fortunate to have you here today and I think we'll long remember the many lessons you have shared with us and try, each in our own way, to the extraordinary example that you have set for us all.

**Lilly Ledbetter**

Thank you.

[applause]