



Coalition of Bar Associations of Color

**RESOLUTION IN SUPPORT OF THE CIVIL RIGHTS ACT OF 2008
AND THE LEDBETTER FAIR PAY ACT**

WHEREAS the Coalition of Bar Associations of Color (CBAC), organized in 1993, is a coalition created to act as a collective voice for issues of common concern to its member organizations; and

WHEREAS the member organizations of the Coalition of Bar Associations of Color are the Hispanic National Bar Association (HNBA), National Asian Pacific American Bar Association (NAPABA), the National Bar Association (NBA), and the National Native American Bar Association (NNABA); and

WHEREAS the Coalition of Bar Associations of Color believes that civil rights protections embodied in the Civil Rights Act of 1964 are necessary to a functioning democracy; and

WHEREAS the Coalition of Bar Associations of Color believes that civil rights protections embodied in the Civil Rights Act of 1964 are necessary to achieve equality for all people in the United States; and

WHEREAS Title VI of the Civil Rights Act of 1964 and the regulations promulgated through it prohibit federally funded entities from discriminating on the basis of race, both intentionally and in effect; and

WHEREAS despite the Title VI's prohibition of conduct that has the effect of discriminating on the basis of race, the Supreme Court in *Alexander v. Sandoval*, 532 U.S. 275 (2001) held that private individuals may only seek redress to prove intentional discrimination, leaving millions of individuals in the United States without a right to remedy violations under Title VI; and

WHEREAS Title VII of the Civil Rights Act of 1964 prohibits discrimination—including discrimination in wages paid to employees—by covered employers on the basis of race, color, religion, sex or national origin; and

WHEREAS under Title VII of the Civil Rights Act of 1964 employees who seek to challenge an employers practice under Title VII must file a complaint with the Equal

Employment Opportunity Commission (EEOC) within a statutorily prescribed period of time, either 180 or 300 days, depending upon the state, "after the alleged unlawful employment practice occurred"; and

WHEREAS the EEOC interprets Title VII to allow challenges based on discriminatory pay each time a paycheck is received; and

WHEREAS despite the Title VII's prohibition of discriminatory conduct, and the EEOC's guidelines, the Supreme Court in *Ledbetter v. Goodyear Tire & Rubber Co.*, 127 S.Ct. 2162 (2007) refused to adopt the EEOC's interpretation, and instead, strictly construed the time period to bring pay discrimination claims under Title VII, holding that the complaint should have been filed as soon as the discriminatory pay decision was actualized; and

WHEREAS the Coalition of Bar Associations of Color believes that the outcome in *Ledbetter* is fundamentally unfair to victims of pay discrimination who try to seek a remedy under Title VII; and

WHEREAS the Coalition of Bar Associations of Color believes that the outcome in *Ledbetter* immunizes employers from liability for their discriminatory conduct after the statutory time limit has passed, and ignores the continuing discriminatory impact resulting from the initial unlawful act and takes away victims' recourse against continuing discrimination; and

THEREFORE BE IT RESOLVED that the Coalition of Bar Associations of Color *supports* legislation—the Civil Rights Act of 2008 (H.R. 5129 & S. 2554 and the Ledbetter Fair Pay Act (H. R. 2831 & S. 1843) --restoring the civil rights protections in Titles VI and VII of the 1964 and correcting the Supreme Court's decisions in *Sandoval* and *Ledbetter*.

CERTIFICATION

WE, the duly-elected Presidents of the Hispanic National Bar Association (HNBA), National Asian Pacific American Bar Association (NAPABA), National Bar Association (NBA), and National Native American Bar Association (NNABA), hereby certify that the foregoing Resolution was duly enacted by a duly-noticed meeting of the Coalition of the Bar Associations of Color Board of Directors.



HNBA
HISPANIC NATIONAL BAR ASSOCIATION
HNBA



NNABA

Victor M. Morquez
President, Hispanic National Bar Association

5/15/08
Date

Vanita M. Banks
President, National Bar Association

5/15/08
Date

Heather Dawn Thompson
President, National Native American Bar Association

5/15/08
Date

President, National Asian Pacific American Bar Association

Date