

Employee May Contract to Shorter Limitations Period for Discrimination Suits, New Jersey Court Holds

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An employee may contract with his employer for a limitations period for filing discrimination lawsuits shorter than that which is prescribed by the New Jersey Law Against Discrimination (“LAD”) (i.e., less than the statutory two years), the New Jersey Appellate Division has held. *Rodriguez v. Raymours Furniture Company, Inc.*, Case No. A-4329-12T3, 2014 N.J. Super. LEXIS 88 (App. Div. June 19, 2014).

The Court upheld a waiver provision in an initial employment application that shortened to six months the two-year statute of limitations for filing claims against the employer. The appeals court also found a subsequent application for promotion, omitting any reference to a shortened statutory time frame, did not override the waiver provision in the initial employment application. In finding this provision to be enforceable, the appeals court affirmed the trial court’s dismissal of the plaintiff’s complaint as time-barred because it was filed after the agreed-upon six-month period.

The Suit

Nine months after his termination, Sergio Rodriguez filed a lawsuit in the Superior Court of New Jersey, alleging his former employer terminated his employment in violation of the LAD and the anti-retaliation provisions of the New Jersey Workers’ Compensation Act. Both statutes have two-year statutes of limitations for bringing claims.

The employer moved to dismiss the claims, arguing that Rodriguez’s complaint was time-barred under the waiver provision in his initial employment application. The court granted the employer’s summary judgment motion and dismissed the complaint as time-barred.

Shortened Period Found Reasonable

The appellate court affirmed, holding the shortened limitation period was reasonable and not contrary to public policy. It explained that:

- (1) the language was prominently set forth in the application, written in bold and in capital letters;
- (2) the language was clear and uncomplicated and thus, clearly and expressly apprised the applicant of the shortened limitation period;
- (3) the plaintiff was permitted to take the application home for review; and
- (4) six months is not unreasonable since employees who elect to bring an LAD claim through the New Jersey Division on Civil Rights (DCR) have to do so within a similar 180-day deadline.

Moreover, the Court found no evidence to show the parties intended a subsequent promotional application completed by Rodriguez superseded or eliminated the agreement to the shorter limitations period in his initial application.

Although a subsequent appeal may follow, the decision underscores the recent trend in New Jersey court decisions enforcing contracts according to their terms between an employer and employee.

If you have questions about this decision, or any other workplace issues, please contact James M. McDonnell, at mcdonnej@jacksonlewis.com, Eric G. Guglielmotti, at gugliel@jacksonlewis.com, in our Morristown office, (973)

538-6890, or the Jackson Lewis attorney with whom you regularly work.

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