

Six-Year Statute of Limitations Applies to Violations of Minnesota Drug Testing Law

By Kathryn J. Russo on August 1, 2013

Thanks to our colleague V. John Ella for this post:

The Minnesota Supreme Court has ruled that a claim for wrongful discharge under Minnesota's Drug and Alcohol Testing in the Workplace Act ("DATWA") is subject to a six year statute of limitations. Because DATWA, codified at Minn. Stat. Section 181.951 et seq., does not contain an explicit limitations provision, the applicable limitations period has long been uncertain. In *Sipe v. STS Manufacturing, Inc.*, No. A11-2082 (July 31, 2013), the Court ruled that claims under DATWA fall under the state's six-year statute of limitations for actions, "upon a liability created by a statute, other than those arising upon a penalty or forfeiture or where a shorter period is provided by section 541.07." The Court held that the exception provided in section 541.07 of Minnesota statutes, which would have resulted in a two-year limitation period, did not apply, thereby overruling a decision from the Minnesota Court of Appeals.

The decision is important for employers doing business in Minnesota because it increases exposure for lawsuits under DATWA. Compliance with Minnesota's drug and alcohol testing requirements is already very difficult. Employers must have a written policy in place that meets strict criteria. The law also provides that employees who test positive for drugs or alcohol for the first time must be allowed to attend treatment and to return to work if they successfully complete a treatment program. Damages for technical non-compliance can include lost wages, reinstatement, emotional distress, attorney's fees and punitive damages. Employers in Minnesota should take this occasion to review their drug and alcohol testing policies and procedures for compliance.

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