# New Jersey Supreme Court Rules That Employers Cannot Shorten Time Period To Sue For Discrimination Claims

**Client Advisories**

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Earlier this week, the New Jersey Supreme Court ruled that employers cannot enforce agreements with their employees to shorten the time period for which those employees can sue them for claims of unlawful discrimination. In this milestone decision, the Court in *Rodriquez v. Raymours Furniture Company, Inc.* found that employees -- who even voluntarily sign agreements to shorten the statute of limitations for discrimination claims - are not bound by those agreements, simply as a matter of public policy. New Jersey employers who have tried to lessen the time period for their employees to sue, by either a formal agreement or in job applications, now face the reality that those agreements are useless. Even more troubling for employers is that the Court also suggested that employment agreements entered into without any room for negotiation may not always be enforceable.

The *Raymours* decision evolved from what has become a standard tool for many employers nationwide. In happier times, the plaintiff, Sergio Rodriguez, filled out and signed an employment application for Raymours Furniture. That employment application included a clear, specific clause that said that Rodriguez agreed that any lawsuits against Raymours had to be filed within six months of the alleged wrongful act. The plain intention of this clause was to shorten some of the applicable statutes of limitations for employment claims, which in New Jersey include a two-year statute of limitations for claims of harassment or discrimination under the New Jersey Law Against Discrimination ("LAD") and a one-year statute of limitations for whistleblower claims under the Conscientious Employee Protection Act ("CEPA"). When Rodriguez was fired, he filed a lawsuit claiming that he was terminated because of his disability, in violation of the LAD. However, Rodriguez did not file his lawsuit until seven months after he was fired.

At the trial court and appeals court levels, the employer successfully argued that the six-month limitations period was enforceable, and Rodriguez's claim was dismissed because it was filed one month too late. In doing so, those lower courts looked at the plain and unmistakable language in the employment application, and relied on earlier New Jersey Supreme Court decisions that both allowed employees to sign voluntary agreements, as

well as earlier cases upholding the long-recognized doctrine in New Jersey that statutes of limitations could be shortened by agreement of the parties. However, when this decision was appealed to the New Jersey Supreme Court, with much fanfare and numerous interest groups weighing in, those rulings were reversed. The Court held that employers cannot use job applications or voluntary agreements with their employees to shorten the LAD's two-year limitations period. Given that Rodriguez had sued within seven months, the case was remanded back to the trial court for the case to be litigated.

The basis for the Supreme Court's decision was simple --- the public policy of the LAD. The Court realized that overturning what was a consensual agreement between an employee and an employer was contrary to prior case law, including its own. However, the Court relied upon the significant public policy behind the LAD, of eradicating discrimination, to find that such an agreement with an employee was unenforceable. So, without even delving into the deeper issues of did the employee understand what he was signing, or did the employer force the employee to sign the agreement, the Court issued a bright-line rule that employers and employees cannot agree to shorten the LAD's statute of limitations to less than two years.

The Court placed particular emphasis on the LAD's alternate enforcement scheme, which allows employees to seek relief either in court or administratively through the New Jersey Division on Civil Rights ("DCR"). According to the Court, the fact that an employee can seek relief with the DCR up to six months after the alleged discriminatory conduct meant that Raymours' six-month limitations period was eliminating that as an effective avenue for redress. The Court also looked to the many amendments to the LAD since it was enacted, all of which expanded employees' rights. In the end, the Court concluded that private parties could not agree to shorten this time period to sue, by virtue of the unique and expansive protections afforded by the LAD.

Lastly, the Supreme Court also implied in the Raymours decision that employees may be able to challenge employment-related agreements, depending on the circumstances under which the employees signed those agreements. For over a decade, employers have had their employees sign agreements as part of a job application, such as an arbitration agreement that forces all employment disputes to be arbitrated, rather than be heard in Court. In this case, however, the Court suggested that these agreements (depending on the terms and circumstances of signing) may not always be enforceable, if an entry-level employee or applicant had no ability to modify or alter the agreement's terms and if any important public policy is involved. The Court held that, at least in the context of shortening the limitations period, the fact that the employee had to sign it in order to be considered for the position made the agreement unenforceable. Although the Court did not state that this modified its earlier decisions as to arbitration agreements contained in employment applications, it plainly shows an intent going forward to narrowly interpret any similar agreement that employees must sign in order to apply for a position or to keep a job. Employers who have any type of agreements embedded within their job applications, or required on the first day of work, should evaluate whether those agreements are still enforceable.

If you have questions about this important decision, please contact any member of Archer's Labor Group in Haddonfield, N.J., at (856) 795-2121, in Princeton, N.J., at (609) 580-3700, in Hackensack, N.J., at (201) 342-6000, in Philadelphia, Pa., at (215) 963-3300, or in Wilmington, Del., at (302) 777-4350.



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