

Client Alert **Employment & Labor**

The NJ Supreme Court Issues a Pair of Pro-Employee LAD Decisions

Employers and Employees Cannot Agree to Shorten LAD's Filing Deadline

New Jersey's Law Against Discrimination ("LAD") is silent as to the limitations period applicable to the filing of LAD claims. In 1993, in *Montells v. Haynes*, the NJ Supreme Court filled in that gap by establishing a two-year limitations period for the filing of such claims. On June 15, in *Rodriguez v. Raymours Furniture Company, Inc.*, the Supreme Court addressed the issue whether an employee is bound by an agreement he/she signed, shortening that time period. The Court ruled that the employee is not.

Under Raymours' job application, applicants agreed to a six-month deadline to file, among other employment-related claims, discrimination complaints against the company, and waived the lengthier LAD statute of limitations. Rodriguez, who was hired after signing such an application, filed a disability discrimination LAD action against Raymours seven months after Raymours terminated him.

Based on the six-month limitations period specified in Rodriguez's signed application, two lower courts dismissed his suit as time-barred. The Supreme Court, allowing the court action to proceed, invalidated the limitations period contained in Raymours' application, reasoning that any contractual shortening of the limitations period would be contrary to the "public and private purposes of LAD – preventing and eliminating

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discrimination.” The Court held “that a private agreement that frustrates the LAD’s public-purpose imperative by shortening the two-year limitations period for private LAD claims cannot be enforced.”

As a result of this decision, employers should review their job applications and other agreements to which they are a party with their employees, to ensure that they do not contain deadlines for the filing of LAD claims which are shorter than the two-year period allowed by LAD.

LAD’s “Marital Status” Protections Apply to Those who are Married, Single, or Transitioning From One Status to the Other

Though LAD prohibits discrimination based on marital status, among other protected characteristics, neither the statute nor its legislative history define what “marital status” means. On June 21, the NJ Supreme Court interpreted that term to include relationships beyond those of married or unmarried individuals.

Robert Smith, whose employment was terminated by Millville Rescue Squad after informing his supervisor that he and his co-worker wife were separated, would not reconcile, and were about to initiate divorce proceedings, filed a civil action, alleging that his termination constituted sex and marital status discrimination prohibited by LAD. The trial court dismissed the marital discrimination claim, concluding that he was terminated because of management’s concern about the likelihood of “an ugly or messy divorce,” which the court held did not give rise to a marital-status-discrimination claim. The Appellate Division reversed, finding that a valid marital discrimination claim had been stated.

In *Smith v. Millville Rescue Squad*, the Supreme Court, in affirming the Appellate Division’s ruling, held that LAD’s marital status discrimination protections extend to employees who are divorced, separated, in the process of obtaining a divorce, planning on marrying, or widowed. According to the Court, “[a] person considering marriage or divorce or confronting the death of a spouse should not fear that a marriage ceremony, a divorce decree, or a funeral would trigger a loss of employment or a promised promotion.” After condemning “stereotypes about the impact [Smith’s] divorce might have on the work performance of him and others,” the Court held that LAD’s purpose would be furthered by including, under the designation of marital status, those who are married, single, or transitioning from one status to the other.

Significantly, the Court reconfirmed that employers are free to adopt anti-nepotism policies, so long as they are not unevenly enforced based on marital status, and further stated that LAD does not prohibit an employer from firing an employee who is engaged in a marital dispute “that has become so contentious that it interferes with his or other employees’ ability to carry out their work.”

Employers are advised to conform the language and application of their marital status discrimination and no-nepotism policies to ensure consistency with the Court’s ruling.

The following attorneys in our Employment and Labor Law Practice Group can assist employers in navigating the new rules and regulations in order to interpret and comply with its provisions.

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