

# Workers' Compensation

An Analysis of Trends and Developments in Workers' Compensation Law  
Throughout the United States

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## NJ Supreme Court Voids a Contractually Shortened Statute of Limitations for Discrimination Actions

The NJ Supreme Court has **ruled** that the two-years statute of limitations on employment discrimination action, inclusive of workers' compensation derivative actions, cannot be shortened by a private contractual agreement between an employer and employee.

**"We hold 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."**

**"FN5 To the extent that plaintiff's worker's compensation retaliation claim is derivative of his LAD action, the waiver is inapplicable to that claim as well."**

**RODRIGUEZ v RAYMOURS FURNITURE COMPANY, INC**, \_\_\_ NJ \_\_\_. \_\_\_A.3d\_\_\_ (NJ 2016).  
Decided June 15, 2016

SYLLABUS (This syllabus is not part of the opinion of the Court. It has been prepared by the Office of the Clerk for the convenience of the reader. It has been neither reviewed nor approved by the Supreme Court. Please note that, in the interest of brevity, portions of any opinion may not have been summarized.) Sergio Rodriguez v. Raymours Furniture Company, Inc. (A-27-14) (074603) Argued December 1, 2015 -- Decided June 15, 2016

LaVECCHIA, J., writing for a unanimous Court. In this appeal, the Court addresses whether the Law Against Discrimination (LAD), N.J.S.A. 10:5-1 to -49, which was established to fulfill a public-interest purpose, can be contravened by private agreement. In August 2007, plaintiff Sergio Rodriguez, applied for a job with defendant Raymours Furniture Company, Inc., t/a Raymour & Flanigan. The last page of the job application contained a section which applicants were instructed to read carefully before signing. A portion of that section read, in bolded capital letters, "I agree that any claim or lawsuit relating to my service with Raymour & Flanigan must be filed no more than six (6) months after the date of the employment action that is the subject of the claim or lawsuit. I waive any statute of limitations to the contrary." Plaintiff signed the application and returned it. In mid-September 2007, plaintiff was hired as a Helper, an at-will position. In November 2008, he was transferred to another location and promoted to Driver. Early in April 2010, plaintiff injured his knee in a workrelated accident, requiring surgery and physical therapy. On October 1, 2010, two days after he returned to full-duty work, plaintiff was terminated. Although informed that his termination was due to a company-wide reduction in force, plaintiff asserted that others with less seniority or distinguishing features were retained. On July 5, 2011, nearly seven months after his termination, plaintiff filed a complaint against defendant in Superior Court, alleging, in part, illegal employment discrimination based on actual or perceived disability, in violation of the LAD. Defendant moved for summary judgment based on the waiver provision, asserting that plaintiff's complaint was filed beyond the agreed-upon six-month limitations period. Plaintiff contended, in part, that the provision was unconscionable and unenforceable. The trial court granted summary judgment to defendant, finding that the provision was clear and unambiguous, and that the contractual shortening of the limitations period was neither unreasonable

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nor against public policy. Plaintiff appealed, and the Appellate Division affirmed. *Rodriguez v. Raymours Furniture Co.*, 436 N.J. Super. 305 (App. Div. 2014). Although the panel found that the employment application amounted to a contract of adhesion, it determined that it was enforceable in light of its clear, unambiguous language and the ample time plaintiff had to review it. The panel further held that, absent a controlling prohibitory statute, parties may modify a statute of limitations if, as here, the shortened time period is reasonable and does not violate public policy. The Court granted plaintiff's petition for certification. 220 N.J. 100 (2014). HELD: 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. 1. New Jersey's decisional law respects that private interests are intertwined with the public interests furthered by the LAD. Here, the Appellate Division focused on the general principle of the existence of a broad right to contract, but it did not sufficiently assess the public-interest purpose of the LAD, which seeks unequivocally to eradicate discrimination against any of New Jersey's inhabitants. To enforce the LAD and further this goal, the Legislature created a division now known as the Division on Civil Rights (DCR), where aggrieved parties can file discrimination complaints. In 1979, the LAD was amended to also provide for a right of action in Superior Court. Because the LAD is silent as to a limitations period for LAD claims, the Court, in *Montells v. Haynes*, 133 N.J. 282 (1993), found that a two-year limitations period comported with the purpose of the LAD and provided needed uniformity among claims. In the twenty-three years since *Montells*, the Legislature has registered tacit approval of the two-year period by failing to take legislative action disavowing it. (pp. 14-20) 2. To pursue relief under the LAD, a person alleging discrimination can file a complaint with the DCR within six months of the cause of action or file a direct suit in the Superior Court within two years. Permitting an aggrieved party to first bring a claim to the DCR furthers important public policies, such as the settlement of litigation through 2 alternative dispute resolution and the prosecution of alleged discrimination. However, although the DCR process is intended to provide more timely resolution than an action in Superior Court, the Legislature recognized that this goal may not always be met. Consequently, an injured party may withdraw its DCR complaint at any time before the DCR makes a final decision and proceed instead in Superior Court. This allows a litigant to potentially use both forums, subject to the outer limit of the two-year limitations period for court actions. (pp. 20-23) 3. This cases raises a question of first impression. Although the issue arises in a private action, this matter, like all LAD actions, also advances and fulfills the legislatively declared public interest in the elimination of discrimination. Because, more than two decades after *Montells*, the two-year limitations period is woven into the fabric of the LAD, a contractual shortening of the period must be examined for its substantive impact to determine if it is impliedly prohibited by the LAD scheme. The availability of two avenues of relief in the event the administrative process extends too long reflects the Legislature's understanding that public policy requires a lengthier period of time to obtain LAD relief. Its tacit approval of the two-year limitations period accommodates these two avenues. Consequently, a shortening of that period undermines and thwarts the legislative scheme by effectively divesting the aggrieved party of the right to pursue an administrative remedy. Additionally, since claimants may not immediately be aware of their cognizable claims, shortening of the period will effectively eliminate claims and frustrate the public policy of uniformity and certainty. Conversely, the shortened period may also compel attorneys to file premature LAD actions. Finally, the two-year period also allows an employer the opportunity to protect itself and promote the eradication of discrimination by investigating and resolving complaints before an LAD claim is filed. (pp. 24-28) 4. While New Jersey law recognizes that an individual may agree by contract to submit a statutory LAD claim to alternative dispute resolution, the contract must nevertheless be examined to ascertain whether substantive rights have been precluded. Here, the contractual shortening of the limitations period effectively foreclosed plaintiff's substantive right to utilize all available avenues of relief since there was not enough time to choose to begin with a filing with the DCR. In light of the interplay between the LAD's administrative remedy and the right to file in Superior Court, as well as the joint public and private interests advanced by a claim pursued in either forum, contractual shortening of the two-year limitations period for a private action is contrary to public policy. The DCR remedy must remain accessible and vibrant, and the anti-discrimination public policy to be fulfilled through LAD claims may not be contractually curtailed. Thus, the waiver provision here is unenforceable. This decision is rooted in the unique importance of New Jersey's LAD and the necessity for its effective enforcement. The Court notes that at least two other states have deemed similar provisions contrary to public policy. (pp. 28-32) 5. Although the Court's holding is not derived from consideration of plaintiff's unconscionability argument, it adds that courts may refuse to enforce unconscionable contracts or discrete contract provisions. In the instant matter, because the provision at question was contained within an employment application and plaintiff could not bargain, the contract was one of adhesion, containing

LaVECCHIA, J., writing for a majority of the Court. In this appeal, the Court considers whether the 2011 suspension of State pension cost-of...

indicia of procedural unconscionability. Because further analysis would require consideration of, among other factors, the public interests affected by the contract, had this matter been analyzed through the prism of an unconscionability analysis, the Court would have reached the same outcome based on the anti-discrimination concerns expressed in the LAD. (pp. 32-34) The judgment of the Appellate Division is REVERSED. CHIEF JUSTICE RABNER; JUSTICES ALBIN, PATTERSON, and SOLOMON; and JUDGE CUFF (temporarily assigned) join in JUSTICE LaVECCHIA's opinion. JUSTICE FERNANDEZ-VINA did not participate.

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