
Sixth Circuit Holds that Employers Cannot Use Employment Agreements to Shorten Limitations Periods for Title VII Claims

By Vincent C. Sallan / Oct 31, 2019

Before an employee files a lawsuit alleging discrimination under Title VII, they must follow a comprehensive EEOC investigation and mediation process. This process aims to both bring the employer into compliance and resolve the employee's complaints short of litigation. The EEOC's pre-suit process can take upwards of six months to complete. Only after receiving a right-to-sue letter from the EEOC can an employee file his or her Title VII lawsuit.

Many employers attempt to shorten the amount of time employees have to file Title VII lawsuits through employment agreements or applications. In *Logan v. MGM Grand Detroit Casino*, a recent case involving a matter of first impression, the Sixth Circuit Court of Appeals held that those types of provisions are no longer enforceable.

The plaintiff in *Logan* was a cook at MGM's Detroit casino. When Logan joined MGM in 2007, she agreed to a six-month limitations period for "any claim or lawsuit arising out of [her] employment with, or [her] application for employment with, MGM Grand[.]" Logan eventually resigned from MGM in December 2014. Logan alleged she was constructively discharged due to sex discrimination by MGM.

After Logan went through the EEOC pre-suit process, she sued MGM for discrimination under Title VII in the Eastern District of Michigan. That lawsuit was filed 440 days after Logan resigned from MGM. MGM moved to dismiss Logan's complaint, arguing that Logan's lawsuit was barred under the six-month limitations period in her employment agreement. The district court agreed and dismissed Logan's lawsuit. Logan appealed that decision.

On appeal, the Sixth Circuit reversed the district court's dismissal, finding that the mandatory EEOC pre-suit process that an employee must follow before they can file a lawsuit alleging a Title VII violation—which typically takes longer than six months—is incompatible with a shortened limitations period. The Sixth Circuit specifically noted that Title VII's statutory limitations period was a "non-waivable substantive right." Also important to the Sixth Circuit's reasoning were prior cases discussing Title VII's remedial nature, which is "national in scope and require[s] uniform enforcement." Importantly, this ruling does not extend beyond an employee's Title VII claims: employers and employees can still agree to shortened limitations periods for other claims, such as for breach of an employment agreement.

Employer Takeaways

This ruling has wide-ranging implications for employers dealing with Title VII discrimination, retaliation, or harassment claims, and could have implications for other similar statutes with right-to-sue requirements such as the Americans with Disabilities Act:

1. Employers should review their employment applications and agreements, handbooks, and other key documents to ensure they do not include limitations periods shorter than 180 days (or 300 days in certain "deferral jurisdictions").
2. If these documents do contain shorter limitations periods, employers should take note that, at least within the Sixth Circuit and barring a particularly unique set of facts or circumstances, they cannot use those limitations periods to defend against a Title VII claim and should reassess their strategy for handling these claims moving forward.

Should you have any questions concerning labor or employment law matters, please contact Vincent Sallan vsallan@clarkhill.com or any other member of Clark Hill's labor and employment business unit team.