

Sixth Circuit Strikes Down Contractually Shortened Limitations Period for Claims Under ADA, ADEA

By Emily M. Petroski and Franceska N. Edinger

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The statute of limitation periods in the Americans with Disabilities Act (ADA) and the Age Discrimination in Employment Act (ADEA) give rise to substantive, non-waivable rights rendering a contractually shortened limitation period unenforceable, the U.S. Court of Appeals for the Sixth Circuit has held. *Thompson v. Fresh Products, LLC*, No. 20-3060 (Jan. 15, 2021).

The Sixth Circuit has jurisdiction over Kentucky, Michigan, Ohio, and Tennessee.

Previously, the Sixth Circuit held that a contractual provision that shortens the time for bringing a suit under Title VII of the Civil Rights Act is unenforceable because, “where statutes ... contain their own limitations periods, the limitation period should be treated as a substantive right” that may not be waived. *Logan v. MGM Grand Detroit Casino*, 939 F.3d 824, 829 (6th Cir. 2019). The objective of this decision was to encourage pre-suit cooperation with the Equal Employment Opportunity Commission (EEOC) and ensure uniform application of Title VII across jurisdictions. (A charge must be filed within 180 days, or 300 days in certain jurisdictions, after the adverse employment action.) In *Thompson*, the Court expands *Logan’s* restrictions on shortened statute of limitations agreements to include cases brought under the ADA and ADEA.

The Court reasoned that, because the language of the ADA expressly incorporates Title VII’s procedures, limitations period, and remedies (*see* 42 U.S.C § 12117(a)), the ADA’s time limitation is similarly a substantive right that cannot be waived.

Likewise, the ADEA contains provisions that embody the Court’s objective in the *Logan* decision. The ADEA includes an independent statute of limitations period, emphasizes the importance of the cooperative process with the EEOC, and provides that any right or claim under the ADEA cannot be waived unless it is knowing and voluntary. Based on these considerations, the statute of limitations in the ADEA also cannot be shortened by contract, the Court ruled.

Employers should consider reviewing any statute of limitations language in their employment applications or handbooks to ensure compliance.

If you have questions about *Thompson* or other legal developments, please contact a Jackson Lewis attorney.

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Meet the Authors



Emily M. Petroski

Principal and Office Litigation
Manager
Detroit 248-936-1922
Email



Franceska N. Edinger

Associate
Detroit 248-936-1926
Email

Practices

General Employment Litigation

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