EEOC Must Abide By 300-Day Rule In Pattern And Practice Case, Says New Jersey Federal Court

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Although federal courts are divided on the issue, recent case law seems to be trending toward holding the Equal Employment Opportunity Commission (EEOC) accountable for complying with the normal requirement under Title VII and the Americans with Disabilities Act (ADA) that administrative charges must be filed within 300 days (or 180 days where there is no state agency equivalent to the EEOC) of the discriminatory event.

In the latest case to weigh in on the issue, the District of New Jersey dismissed all potential claims regarding allegedly discriminatory terminations occurring before the 300-day limit. In *EEOC v. Princeton Healthcare System*, the EEOC brought a pattern and practice suit on behalf of a class of employees who allegedly suffered disability discrimination under PHS's no-leave policy when employees did not qualify for leave under the Family and Medical Leave Act, which resulted in numerous terminations for attendance violations. PHS argued that the 300-day limit was applicable, while the EEOC asserted that the limit applied only to private litigants.

After acknowledging a split among various districts, the court found that the plain language of the statute setting out the limitation applied to both private litigants and the EEOC. "If Congress intended to make an exception for the EEOC to revive stale claims . . . it should have said so."

The EEOC next argued that even if the 300-day limit applied, the continuing violation theory saved the older claims. This equitable theory states that "[w]hen a defendant's conduct is part of a continuing practice, an action is timely so long as the last act evidencing the continuing practice falls within the limitations period; in such an instance, the court will grant relief for the earlier related acts that would otherwise be time barred." The Supreme Court, however, has limited this theory and held that "discrete discriminatory acts are not actionable if time barred, even when they are related to acts alleged in timely filed charges." Here, the District of New Jersey found that the allegedly unlawful terminations were discrete events that occurred on identifiable dates, and thus the continuing violation theory did not apply. Accordingly, the court limited the pattern and practice class action to terminations that occurred within the 300-day window.

Although these arguments may or may not be viable depending on the jurisdiction wherein a lawsuit is brought, this case provides another example of the importance of procedural rules when litigating discrimination charges and lawsuits. The rules exist for a reason, and smart employment counsel will know when and how to insist on their enforcement.

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