BARNES & THORNBURG LLP

Shortened Limitations Agreements For State Law Claims Remain Viable In Michigan

February 10, 2021 | Labor And Employment

Grant T. Pecor
Partner

Donald P. Lawless
Partner

For many years, it has been a best practice in employment law to include shortened limitations period agreements as part of employment applications, handbook acknowledgements or employment agreements. These agreements shorten applicable statutes of limitations on any claim employees might subsequently bring to six months or shorter, as provided by law.

Recently, the federal Sixth Circuit Court of Appeals covering Michigan again confirmed that this is not allowed for certain federal employment claims. Its Jan. 15, 2021, decision in *Thompson v. Fresh Products, LLC* held that the shortened statute of limitations period included in handbook acknowledgement was not enforceable against claims under the federal Americans with Disabilities Act (ADA) or the Age Discrimination in Employment Act. Before that, in September 2019, the Sixth Circuit confirmed in *Logan v. MGM Grand Detroit Casino* that the statute of limitations for claims under the federal Title VII of the Civil Rights Act of 1964 could not be contractually shortened.

However, last month in *McMillon v. City of Kalamazoo*, the Michigan Court of Appeals enforced the shortened limitations period included in an employment application and upheld the dismissal of the plaintiff's claim of discrimination under Michigan's Elliott-Larsen Civil Rights Act. In that decision, the court upheld a nine month limitations period to pursue claims arising out of the employee's employment that waived contrary limitations periods.

RELATED PRACTICE AREAS

Employment
Labor and Employment

RELATED TOPICS

Michigan
Employment Law
Statute of Limitations

These type of agreements remain alive and well when it comes to state law claims in Michigan. If you have employees in Michigan, a shortened statutory limitations period for state law claims still makes sense. Employers should consider having employment counsel shorten limitations periods by agreement, if they have not already done so.