

Employee's Statute of Limitations Win Should Not Deter Employer Use of Arbitration Clauses

Description

Partridge Snow & Hahn Partner and Employment & Labor Chair, [Alicia J. Samolis](#), was recently [featured](#) in both *Rhode Island Lawyers Weekly* and *Massachusetts Lawyers Weekly* for her commentary on a recent employment law decision issued by a District Court within the First Circuit Court of Appeals. The case arose after defendant IBM Corp. laid off a group of employees, one of whom, plaintiff Michael Rumsey, claimed age discrimination. Rumsey had signed an agreement requiring individual mandatory binding arbitration of all claims and had also agreed to file any arbitration demands within 300 days.

Rumsey thereafter filed an EEOC claim within the 300-day filing period but did not initiate the arbitration. Instead, Rumsey waited until the EEOC issued a right-to-sue letter, which would have allowed him to file a lawsuit in court within 90 days had he not signed the arbitration clause. Only then – more than four years after the claim arose – did Rumsey demand arbitration.

The defendant argued that the demand for arbitration was untimely. The Court disagreed, saying that arbitration claims could not shorten the statute of limitations. Ms. Samolis was quoted extensively about the decision, stating:

“Administrative agencies have a huge caseload and, despite their best efforts, need a long time to issue decisions as to probable cause and corresponding right-to-sue letters,” Samolis said. “This lag causes employers a disproportionate amount of prejudice because, during the delay, employees that are witnesses often leave their employment, becoming uncooperative or unavailable.”

“While there is no dispute that employees still have the right to pursue an agency action despite an arbitration provision,” Samolis said, “there is no legitimate reason why an employee who timely files an EEOC action cannot also contemporaneously file a timely arbitration action.”

“Allowing employees to wait to arbitrate claims until so many years after the claim arises just provides another way for employees and employee-side plaintiffs’ attorneys to game the system,” she added.

Despite the decision being disappointing to employers, it should not deter employers from using arbitration agreements. While certain provisions in arbitration agreements may not always be enforceable, such as the provision attempting to shorten the statute of limitations, the employer in this case was still in a stronger position than it would have been without an arbitration agreement. Without arbitration, the employee would have proceeded in court– a far more costly, time consuming and public forum. Nor should the decision discourage employers from doing things like attempting to shorten a statute of limitations as the court simply did not enforce the deadline and did not invalidate the whole provision.

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