MARSHALL & MELHORN
Reporter

LABOR & EMPLOYMENT *Update*
August, 2017

Sixth District Court of Appeals Enforces 180-Day Limitations Period Contained in Employment Application

On July 28, 2017, the Sixth District Court of Appeals ruled that a 180-day limitations period on filing "any lawsuit arising out of my employment" contained in an employment application was valid and enforceable, and barred employment discrimination, wrongful discharge, and intentional infliction of emotional distress claims filed in court more than 180 days after termination.

Most employment-related legal claims are subject to a statutory or common law limitations period of far more than 180 days. For example, the limitations period on employment discrimination claims filed under Ohio law is six years.

In the past, federal courts within the Sixth Circuit (i.e., Michigan, Ohio, Kentucky and Tennessee) have ruled that a 180-day time limit contained in an employment application is reasonable and enforceable. See, for e.g., Thurman v. DaimlerChrysler, Inc., 397 F.3d 352 (6th Cir. 2004).

Now, an Ohio Court of Appeals reached this same conclusion in Fry v. FCA US, LLC, 2017-Ohio-7005. The Sixth District Court of Appeals affirmed the trial court's decision dismissing the complaint based on the 180-day limitations period contained in the employment application signed by the employee.

The Court of Appeals reasoned in part:

- The company and employee entered into a valid "contract" upon the employee's execution of the company's standardized employment application form, including 180-day time limit on filing "any lawsuit arising out of my employment."

- The "contract" was not "unconscionable" because the court concluded that the terms contained in the employment application did not unreasonably favor the company, and because the court rejected the employee's argument that he had no meaningful choice when he entered into the "contract."

The lesson to employers is clear. A properly worded 180-day time limit contained in an employment application is likely to be enforced in federal and Ohio courts if a current or former employee files a court action against the employer more than 180 days after an alleged adverse action. However, in unionized settings, union representatives may object to the inclusion of such a time limit, and demand bargaining over the inclusion of such a time limit in an employment application.

Please contact a member of our firm's labor and employment law practice group in the event you have questions about revising your company's employment application form to take full advantage of the above-referenced court decisions.

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