Posttraumatic Latefiling Syndrome

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Statutes of limitations serve an important purpose in litigation. They require that claimants come forward with their claims quickly, while witnesses and documents are still available to confirm or refute the claim. They prevent defendants from being unfairly surprised by claims that are many years old which, among other things, makes it feasible for insurance carriers to underwrite liability claims. Most statutes of limitations for common law claims such as negligence, intentional torts, and defamation are a year, or two or three. Statutes of limitations for harassment and discrimination claims in the employment context are even shorter. Claims brought under Title VII of the Civil Rights Act of 1964 must be filed, in the form of a charge of discrimination with the Equal Employment Opportunity Commission, within 180 days of the incident at issue, or within 300 days in those states in which a state civil rights enforcement authority exists. There are also requirements that civil lawsuits be filed within a prescribed period following receipt of notice of termination of the EEOC's handling of the charge. Plaintiffs who fail to file their discrimination charges or civil lawsuits on time sometimes attempt to excuse their late filing by claiming to have suffered some mental disability during the time period when the charge should have been filed. Traditionally, courts have rejected such excuses, but two recent cases have departed from that trend, and these cases, unfortunately, suggest that more may soon follow.

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