



Supreme Court Backs Workers

News

5.24.16

The article, “Supreme Court Backs Workers,” featured in *HRE Online*, examined the U.S. Supreme Court recent ruling in the case of *Green v. Brennan* that the statute of limitations for Title VII constructive discharge claim begins on the date of the employee’s notice of resignation, not on the date of the last alleged discriminatory act by the employer.

Melody Rayl weighed in on the case.

According to Melody, the court’s decision is a “bad one” for employers and will likely lead to an uptick in legal claims filed by disgruntled former workers.

“The question that confronted the Supreme Court is important because it goes directly to whether such constructive discharge claims are filed in a timely manner,” she wrote. “Prior to filing suit for discrimination under Title VII, employees must first file a claim with the Equal Employment Opportunity Commission (EEOC) within 180 days ‘after the alleged unlawful employment practice’ occurred, although the time is extended to as much as 300 days if the claim is also filed with a state or local agency authorized to investigate such claims.”

Further, Melody wrote, the Supreme Court’s decision now opens the door for former employees to file constructive discharge claims long after the alleged discriminatory conduct occurred by simply delaying their resignation indefinitely.

Now may be a good time for some legal background, courtesy of Rayl:

What Is A “Constructive Discharge?”

In a claim for constructive discharge, a former employee accuses the employer of engaging in discriminatory or retaliatory conduct that makes the working conditions so intolerable that any reasonable person in the shoes of that employee would feel they have no choice but to quit. In other words, a constructive discharge means a worker is forced off the job by the employer.

The concept of constructive discharge is a sort of legal fiction, allowing workers who claim to have been subjected to particularly egregious workplace treatment, but who have not been fired, to nonetheless resign from the offensive work environment and preserve their right to seek damages in the form of lost wages and benefits.

While the ruling is plainly a win for employees on this front, Melody noted there was one area of the ruling in which employers can take solace:

In the smallest of victories for employers, the Court did acknowledge the limitations period should begin to run when the employee gives notice of resignation rather than on the date the resignation becomes effective.

With respect to Green, the Court found the facts were not sufficiently developed to pinpoint precisely when his notice of resignation occurred. Thus, the Court remanded the case back to the 10th Circuit to determine, as a factual matter, whether he gave notice of his resignation on the date he signed the settlement agreement or nearly two months later when he submitted his retirement paperwork.

All things considered, that's a small victory for employers indeed.

To read the full article, please visit [HRE Online](#).

Please reach out to our [Media team](#) for any news inquiries.

Related People



Melody L. Rayl
Partner
816.460.0201
[Email](#)