

FEDERAL COURT CARVES NEW PATH FOR PHILADELPHIA EMPLOYERS TO DEFEAT WORKPLACE CLAIMS

Insights
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A recent federal court decision provides a new pathway for Philadelphia employers to defeat certain workplace discrimination claims. In the February 13 decision of *Lee v. Bay, LLC*, District Court Judge Joshua Wolson from the Eastern District of Pennsylvania held that a plaintiff failed to exhaust her administrative remedies under Philadelphia's local ordinance against discrimination – the Philadelphia Fair Practices Ordinance (PFPO) – because she failed to also file a complaint with the local-level administrative agency. By ruling that her PFPO claim should be dismissed because of this misstep, employers may now have another avenue to challenge such discrimination claims. What do you need to know about this ruling?

Claims Dismissed for Failure to Abide by Technical Rules

Dr. Chosen Lee brought discrimination claims against the medical marijuana company where she had worked as a pharmacist. Bay LLC terminated her employment at the outset of the pandemic in March 2020 when it went through a round of emergency downsizing. Lee alleged that Bay discriminated against her by firing her for her anxiety related to having to work in public during the early days of the health crisis. She brought claims under the PFPO, the Pennsylvania Human Relations Act (PHRA), Title VII, and the Family and Medical Leave Act (FMLA).

Similar to Title VII and the PHRA, individuals are required to pursue administrative exhaustion of their PFPO claims before proceeding to court. Simply put, they must file claims

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Todd Alan Ewan

Partner

610.230.2140



Deniz Uzel Reilly

Partner

610.230.6102

under these and some other statutes with the respective agency in order to preserve their right to go to court.

As is typical of plaintiffs in discrimination suits, Lee dual-filed her charge of discrimination with the federal-level Equal Employment Opportunity Commission (EEOC) and the state-level Pennsylvania Human Relations Commission (PHRC). Lee did not, however, file a claim with the local-level Philadelphia Commission on Human Relations (PCHR). Given her failure to file a claim with this local-level agency, Judge Wolson determined that Lee failed to exhaust her administrative remedies for her PFPO claims. Judge Wolson specifically emphasized that “an administrative complaint before the PHRC does not satisfy the exhaustion requirement” under the PFPO because that city ordinance “has no provision to permit dual-filing with another agency.”

Lee argued that she should be excused from filing with the local-level PCHR because she had filed a complaint with the state-level PHRC. She reasoned that “nothing in the PFPO limits the right of an injured person to recover damages under any other applicable law or legal theory,” [citing to the city code](#). The court found this argument unpersuasive. It noted that:

- the PFPO does not provide for exhaustion when someone files with the PHRC; and
- the city code does not preserve claims under the PFPO.

The court then went on to conclude that the language of the PFPO was clear and unambiguous – there is no ability to exhaust the administrative requirements of the PFPO by filing with the PHRC – and therefore her claim should be dismissed.

A Change of Perspective in the Eastern District

Judge Wolson’s opinion is notable because it declined to follow prior Eastern District decisions that deemed the PFPO to be ambiguous. Most recently in 2017, for example, [that same district court held](#) that a plaintiff’s filing with the state-level agency (in that case the PHRC) was sufficient to exhaust administrative remedies under the local-level PFPO.

In light of Judge Wolson’s decision, plaintiffs will no longer be able to rely on filing with the PHRC or EEOC for

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administrative exhaustion of their PFPO claims. This decision provides employers with another avenue of attack whenever they face PFPO claims.

Beyond Philadelphia Employers: What All Employers Should Know

While this decision primarily affects employers who do business in the City of Philadelphia, its implications are far-reaching. Many local labor and employment statutes and ordinances have similar requirements to the PFPO, requiring workers to first file a claim with the local agency in order to exhaust remedies there before the individual can have their day in court. The *Lee* decision presents additional grounds for employers to consider when assessing claims for dismissal (or summary judgment) where a claimant has not followed proper administrative exhaustion protocols.

Employers with cases containing claims under the PFPO or any other local ordinance should be sure to review the plaintiff's exhaustion efforts at the local level. This case provides you a new reason to assess whether grounds exist to attack those due to plaintiff's failure to exhaust administrative remedies.

Conclusion

If you have questions about this case or administrative exhaustion defenses, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our Philadelphia office](#). We will continue to monitor further developments and provide updates on this and other workplace law issues, so make sure you are subscribed to [Fisher Phillips' Insight System](#) to gather the most up-to-date information.