

MAINE'S HIGHEST COURT NARROWS SCOPE OF CONTINUING VIOLATION DOCTRINE IN DISCRIMINATION CLAIMS

Insights
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The Maine Supreme Judicial Court just handed employers a win by narrowing the application of the “continuing violation” doctrine in discrimination claims under the state’s primary anti-bias law. This doctrine permits plaintiffs to bring discrimination claims after the Maine Human Rights Act’s (MHRA’s) two-year statute of limitations expires if those claims are part of a pattern of discrimination. The Law Court’s July 3 decision in *Andersen v. Department of Health and Human Services* held that an employee’s resignation, occurring more than seven months after the last alleged act of harassment and/or discrimination, was too remote to extend the limitations period. What do you need to know about this new standard?

Case Background

Plaintiff was a long-time employee at the Department of Health and Human Services (DHHS) who alleged that her supervisor’s increasingly hostile and punitive behavior created a hostile work environment. As a result, she claimed that she developed anxiety, major depressive disorder, and post-traumatic stress disorder. She took medical leave for mental health treatment in January 2019 and, in June of that year, sought reassignment to a different supervisor or office location as a reasonable accommodation. DHHS denied her request on August 30, 2019, and she resigned the next day.

The plaintiff asserted that the hostile work environment and the denial of her accommodation request amounted to constructive discharge. She filed a disability discrimination claim with the Maine Human Rights Commission and

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received a right-to-sue letter on August 19, 2020. However, she did not file her complaint until August 21, 2021, nearly two years after her resignation.

The Law Court's Decision

The Law Court affirmed a ruling in favor of DHHS, finding that her claim was barred under the MHRA's two-year statute of limitations. The Law Court found that the only two events within the limitations period – DHHS's denial of reassignment and her resignation – were not independently discriminatory and bore no close connection to earlier alleged acts of harassment.

Citing the U.S. Supreme Court's decision in *Nat'l R.R. Passenger Corp. v. Morgan*, 536 U.S. 101 (2002), the Law Court concluded that the plaintiff's seven-month medical leave created a break in the alleged pattern of harassment, severing any causal link between earlier conduct and her resignation. It emphasized that a constructive discharge claim must be closely tied in both time and substance to the discriminatory conduct to extend the limitations period.

The Law Court also clarified that denying a specific accommodation request is not discriminatory when the law does not require the employer to grant the accommodation requested by the employee. In this case, DHHS did not refuse to accommodate the employee's disability when it denied the specific accommodation she requested.

Key Implications for Maine Employers

The Law Court's decision has several important implications for Maine employers, and bolsters their ability to successfully defend allegations of continuing violations outside of the MHRA's limitations period.

- **Narrowing the Continuing Violation Doctrine:** Plaintiffs cannot rely on isolated or untimely events to revive old claims. Leaves or gaps in time between events can sever the continuity needed to use the doctrine.
- **Clarifying Constructive Discharge:** Constructive discharge must follow closely on the heels of discriminatory behavior in order to qualify as an actionable claim. A resignation occurring months later, especially after a break in employment, is unlikely to qualify. The Law Court also affirmed that the denial of a reasonable

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accommodations request is not, on its own, sufficient to establish constructive discharge.

- **Strict Application of Statute of Limitations:** At least one actionable event must occur within the limitations period. Plaintiffs that rely on the continuing violations doctrine to advance stale claims are vulnerable to summary judgment on those claims.
- **Reasonable Accommodation Requests:** Employers are not required to grant every requested accommodation, particularly if not mandated by the ADA or MHRA. Denying a non-mandatory accommodation, like reassignment to a different supervisor or location, does not constitute discrimination or a continuing violation under the MHRA or ADA.

Conclusion

The Law Court's decision in *Andersen v. DHHS* reinforces important litigation defenses for employers. The Court has substantially limited a tactic heavily relied upon by the Plaintiff's bar: using isolated and stale claims to allege continuing violations and expand employers' liability. Employers defending claims under the MHRA should review this decision carefully.

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