



SCOTUS Ruling Helps Plaintiffs Get Second Bite At The Apple Through Supplemental State Claims

Insights

1.22.18

In a 5 to 4 decision, the U.S. Supreme Court ruled today that any statute of limitations applicable to an employee's state law claims are suspended during the pendency of a federal lawsuit in which the state law claims are included. This decision gives employees additional time to refile claims in state court once a federal court declines to decide them.

As a result, employers may be stuck in state court re-litigating issues previously litigated years before in federal court. By granting these plaintiffs a second bite at the judicial apple, the Supreme Court (SCOTUS) has made life more challenging for employers defending workplace law claims in court (*Artis v. District of Columbia*).

Time Goes Ticking Away: Facts Of The Case

This case began when Stephanie Artis was terminated from her position with the District of Columbia Department of Health on November 15, 2010. More than 13 months later, on December 16, 2011, she filed a federal lawsuit in the D.C. district court alleging gender discrimination in violation of a federal statute. Artis also alleged three claims arising under District of Columbia law: retaliatory termination, retaliation, and wrongful termination. On June 27, 2014, the district court entered judgment in favor of the employer on her federal claim and refused to exercise supplemental jurisdiction over Artis' state law claims.

Artis re-filed her state-law claims in the Superior Court of the District of Columbia 59 days later, on August 25, 2014. The employer moved to dismiss Artis' claims on the ground that they were time-barred under federal procedural law. Specifically, the statute in question (28 U.S.C. §1367(d) reads: *"The period of limitations for any claim asserted under [supplemental jurisdiction] . . . shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period."*

The employer wanted the court to adopt what is known as the "grace-period approach," contending that the three-year statute of limitations applicable to Artis' state law claims continued to run during the pendency of the federal litigation. Under the employer's theory, the claims would then be time-barred because Artis had not re-filed in state court within the 30-day grace period provided under the procedural statute.

Artis disagreed. She wanted the court to interpret section 1367(d) to follow the “stop-the-clock approach,” which would mean that the statute of limitations applicable to her state law claims would be completely suspended during the pendency of her federal case. She contended that she had 30 days from the dismissal of her federal case, plus the 23 months remaining on the state limitations period, to refile her claims in state court. Under this theory, Artis would have been able to file her state law claims all the way through July 2016—nearly *six years* after her November 2010 termination.

Lower Court Proceedings: What Does “Tolling” Actually Mean?

The courts below examined the text of the statute, the legislative history, and legislative intent to figure out what the word “tolling” means – does it pause the statute of limitations, or does it provide a grace-period? The lower court adopted the grace-period method advanced by the employer and interpreted § 1367(d) to create a 30-day period for litigants to file an action in state court when a federal court lacks jurisdiction. Since Artis filed her lawsuit in state court 59 days after her federal lawsuit was dismissed, she was 29 days too late and couldn’t pursue her state law claims. Artis wasn’t satisfied there, so she appealed the ruling.

In April 2016, the District of Columbia Court of Appeals affirmed the lower court decision, determining that the grace-period approach was what exactly what § 1367(d) calls for. The appeals court reasoned that the language in the statute was ambiguous, and therefore it examined the legislative history to derive the intent of the statute: to provide speedy resolution of civil disputes, and to prevent the loss of claims where the statute of limitations on a state law claim runs while the supplemental claim is pending in federal court.

In the appeals court’s view, the statute was meant to reflect the recommendation of the American Law Institute, which contended that litigants should be provided with relief from time-barred actions only if the claim was timely filed in federal court *and* refiled in state court within 30 days after dismissal, absent a longer state rule. Thus, applying the grace-period approach, Artis’ state law claims were time barred. Once again not satisfied, Artis took her issue to the highest court of the land. The Supreme Court agreed to hear her case given that courts around the country were split regarding the issue of what “tolling” actually means.

SCOTUS Decides Ticking Clock Doesn’t Doom Plaintiffs’ Supplemental State Claims

Today’s decision by the SCOTUS, authored by Justice Ginsberg, disagrees with the lower courts; it rejects the grace-period approach and instead adopts the “stop-the-clock” approach. The Court reasoned that “a stop-the-clock rule is suited to the primary purposes of limitations statutes: ‘preventing surprises’ to defendants and ‘barring a plaintiff who slept on his rights.’”

In adopting the stop-the-clock interpretation of section 1367(d), the Court examined the actual text of the statute and the ordinary meaning of the word “toll”—to hold in abeyance or suspend. The Court noted that its decisions use the words “toll” and “suspend” interchangeably, and that the grace-period interpretation has never been ascribed to the word “tolled” in any federal statute. The five-justice majority also rejected the employer’s argument that the stop-the-clock approach raises

Justice majority also rejected the employer's argument that the stop-the-clock approach raises federalism concerns, referencing an earlier Supreme Court decision from 2002 which explicitly held that section 1367(d) did not exceed Congress' enumerated powers.

It is now clear that section 1367(d) suspends the statute of limitations for a claim arising under state law once it is filed in federal court. This means that, absent a state law providing otherwise, plaintiffs have the time remaining on the statute of limitations period applicable to their state law claims *plus* the 30-day window provided under section 1367(d) to refile their state law claims—the same ones previously filed in federal court—once a federal court declines to exercise supplemental jurisdiction over those claims.

What This Means for Employers

By holding that Artis could proceed with her state law claims, the Court effectively extended the statute of limitations applicable to those claims. The wider effect of this decision is that employees can now potentially obtain a second bite of the apple by refiling claims in state court several years after they were originally filed in federal court.

As a result, employers may be forced to expend significant resources and costs defending claims involving the same or similar issues which were already litigated years before in federal court. Knowing all of this, employees could take advantage of the situation and assert a “cost-of-defense” approach during settlement negotiations, hoping to bolster their leverage by threatening a time-consuming and expensive battle. Further, employers could experience the common challenges relating to defending claims based on events which occurred many years prior to the initiation of the state court litigation, including the fading of witnesses' memories and the destruction of documentary evidence.

For more information on how this decision could impact your business, contact your regular Fisher Phillips attorney.

This Legal Alert provides an overview of a specific Supreme Court case. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

Related People





Adam F. Sloustcher
Regional Managing Partner
214.220.8304
Email



Sarah Wieselthier
Partner
908.516.1064
Email

Service Focus

Litigation and Trials