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## Discrimination suit involving furniture company goes to Supreme Court

DECEMBER 1, 2015 LAST UPDATED: TUESDAY, DECEMBER 1, 2015, 1:21 AM

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A lawsuit filed by a former employee of furniture retailer Raymour & Flanigan, saying that the company unfairly limited the time allowed to file accusations of discrimination, has drawn support from the New Jersey Bar Association, and the attention of two trade associations that represent employment attorneys.

The New Jersey Supreme Court will hear arguments today in an appeal by former employee Sergio Rodriguez to overturn an appellate ruling that backed a lower court dismissal of his case against Raymour's Furniture Co. Inc., the Liverpool, N.Y.-based parent company of the Raymour & Flanigan retail chain.

The Bar Association and the National Employment Lawyers Association, a non-profit organization representing 160 employment attorneys whose clients are generally employees, has filed papers opposing the dismissal of Rodriguez's case. The Academy of New Jersey Management Attorneys, which represents employers, backs the appellate court's dismissal.

Each organization filed a friend of the court brief presenting its positions on issues in the case, although they are not officially involved.

The dispute centers on a clause in the Raymour's Furniture job application form Rodriguez signed that states employees have six months after an alleged incident of discrimination to file a lawsuit. State law puts a two-year statute of limitations on such filings, but the appellate court held that "the shortened limitation period is a valid and legitimate subject to be included in an employment contract and has been judicially recognized as such."

The company hired Rodriguez, who lived in Queens, N.Y., and worked for Raymour & Flanigan in Morris County, as a customer delivery assistant in 2007 and promoted him to driver in 2010, court papers say. But he injured his knee the same year, forcing him to be off work for five months. Three weeks after he returned, in September 2010, Rodriguez lost his job as one of 102 workers laid off in a company-wide reduction in force, court papers say.

Nine months later, Rodriguez, of Argentina, who had an eighth-grade education and spoke limited English, sued, saying he was "terminated in retaliation for having filed a workers' compensation claim and was discriminated against based on disability."

The company argued, and the appeals court agreed with the lower court, that the application form clearly stated that if a prospective employee signed the form, the time period in which he or she would be able to file a discrimination claim would be six months, court papers show. And the appeals court rejected his claim that six months is "against any public policy" and an "unreasonable time" in which to file suit.

Rodriguez argues that the appeals court erred by failing to recognize that many job seekers may not have the education to understand what they are signing and "cannot afford the luxury of questioning or disputing" the terms of the employment contract offered.

The bar association, in its brief, said that if the appellate court's ruling stands it would allow employers arbitrary and unreasonable use to significantly curtail the time that an employee has to file suit alleging discrimination.

"Nobody should have the courthouse door closed in his or her face because they were forced to agree to these terms as they seek to work and earn a living," said Thomas H. Prol, president-elect of the bar association, in a written statement explaining why the association offered a position on the case.

The National Employment Lawyers Association said its goal in filing a brief was to protect citizens "from overreaching employers who would force them to waive their most basic civil rights as a condition of obtaining employment."

But the Academy of New Jersey Management Attorneys, which directed most of its arguments against those made by the lawyers' association, said that in the past New Jersey's courts have ruled that contracts that shorten statutes of limitations are "permissible."

"It would be an invasion of the province of the Legislature for this court to ban contractually agreed-upon limitations periods for bringing" claims under New Jersey antidiscrimination law, the academy argued.

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