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Current Developments in Employment Law:
The Obama Years

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U.S. Supreme Court Update: 2009-2010 Term

By

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Employment Cases Decided in the 2009-2010 Term

Lewis v. City of Chicago

(Statute of Limitations – Title VII)

- 2010 U.S. LEXIS 4165 (May 24, 2010).
- 528 F.3d 488 (7th Cir. 2008), *cert. granted*, 2009 U.S. LEXIS 5149 (Sept. 30, 2009), Docket No. 08-974.
- Question Presented:
 - Whether, when an employer adopts an employment practice that allegedly discriminates against African-Americans in violation of Title VII's disparate impact provision, the plaintiff must file an EEOC charge within 300 days after the announcement of the practice, or whether the plaintiff may file a charge within 300 days after the employer's use of the discriminatory practice.
- Syllabus

In 1995, respondent the City of Chicago gave a written examination to applicants seeking firefighter positions. In January 1996, the City announced it would draw candidates randomly from a list of applicants who scored at least 89 out of 100 points on the examination, whom it designated as "well qualified." It informed those who scored below 65 that they had failed and would not be considered further. It informed applicants who scored between 65 and 88, whom it designated as "qualified," that it was unlikely they would be called for further processing but that the City would keep them on the eligibility list for as long as that list was used. That May, the City selected its first class of applicants to advance, and it repeated this process multiple times over the next six years. Beginning in March 1997, several African-American applicants who scored in the "qualified" range but had not been hired filed discrimination charges with the Equal Employment Opportunity Commission (EEOC) and received right-to-sue letters. They then filed suit, alleging (as relevant here) that the City's practice of selecting only applicants who scored 89 or above had a disparate impact on African-Americans in violation of Title VII of the Civil Rights Act of 1964, see 42 U.S.C. § 2000e-2(k)(1)(A)(i). The District Court certified a class -- petitioners here -- of African-

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