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U.S. Supreme Court Update: Employment Law

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REVIEW OF THE SUPREME COURT'S EMPLOYMENT CASES (2007-2008 TERM),
and A PREVIEW OF THE COMING TERM (2008-2009 TERM)

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The Supreme Court ruled by a 7-2 vote, that a worker claiming age bias in the workplace may start a case before the Equal Employment Opportunity Commission only if he or she spells out more than a bare allegation of discrimination and the name of the employer. A “charge” necessary to open a case, the Court concluded, must include enough substance so that it be “reasonably construed” as a request for EEOC to take action to protect the workers’ rights or to settle a dispute over those rights. Largely deferring to EEOC’s views of what might constitute a “charge,” and thus start legal time lines to running, the Court said the proper test is whether an objective observer examining what the complaining worker has filed is enough to ask the agency “to activate its machinery and remedial processes.”


The ruling concluded that the material submitted in this case did constitute a “charge.” The Age Discrimination in Employment Act — the anti-bias law at issue in the specific case — requires a worker to file a timely charge of bias with EEOC before bringing a lawsuit to pursue the claim. The charge must be filed within 180 days after the act of discrimination occurred, unless the state where the incident arose has its own age bias law, in which case the time limit is 300 days. The worker must wait 60 days after filing a charge before suing in court.

The specific case involved a group of employees of Federal Express Corp., the delivery company, claiming that the company engaged in discrimination against its older employees. One worker filed an intake questionnaire at EEOC making he claim, but did not treat it as if it were a formal charge. EEOC did not treat it as the filing of a charge, and did not start an investigation. Wednesday’s ruling, however, concluded that the worker in filing the paper at EEOC had come close enough to EEOC’s filing requirements to constitute a “charge” under ADEA.

At the close of the Court’s opinion, after making some criticism of EEOC for the way it handled its charge-filing process, Justice Kennedy suggested that “to reduce the risk of further misunderstandings by those who seek its assistance, the agency should determine, in the first instance, what additional revisions in its forms and processes are necessary or appropriate.”

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