

Small Print Weighs Big

1.28.15

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In June of last year, the Appellate Division of the Superior Court issued what many considered a surprising decision. In *Rodriguez v. Raymours Furniture Corporation*, 436 N.J. Super 305 (App.Div. 2014) the court held that the two year statute of limitations for claims of retaliatory discharge and disability discrimination can be modified by agreement.

In August 2007 Mr. Rodriguez submitted an application for employment with Raymour & Flanigan. Just above the application signature line the applicant is advised to read the application carefully, that it will become part of his employment record. It went on to say, in all capital letters that “any claim or lawsuit relating to my service with Raymour & Flanigan must be filed no more than six (6) months after...the subject of the claim or lawsuit.” It specifically waived any contrary statute of limitations.

On April 5, 2010, Rodriguez was injured on the job. He returned to unrestricted duties on September 28, 2010. On October 1, 2010, he was laid off, along with 101 others, as part of a reduction in force. Rodriguez claimed retaliation for filing a workers’ compensation claim and discrimination because of his disability. He filed suit nine months after the alleged wrongful termination. His suit was dismissed because of the six month limitation.

The court thoroughly examined several legal issues involved. Among the more critical, the court determined:

1. The application that created the six month limitation was a contract of adhesion, it was part of a non-negotiable form;
2. The two year statute of limitations can be modified if the limitation period is reasonable and does not violate public policy;
3. The provision was not unconscionable. It was set forth in large type, clearly, and Rodriguez was under no time pressure to sign (he took it home before signing). Therefore, notwithstanding that it was an

adhesive provision, it was enforceable.

As I said at the outset, many were surprised at this result, but stay tuned, the New Jersey Supreme Court has agreed to review the decision.

