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LEGAL ALERT



## Legal Alert: Supreme Court Finds CBA Requires Arbitration of ADEA Claims

4/2/2009

The U.S. Supreme Court has held that an arbitration provision in a collective bargaining agreement (CBA), which clearly and unmistakably requires union members to arbitrate Age Discrimination in Employment Act (ADEA) claims, is enforceable as a matter of federal law. See *14 Penn Plaza LLC v. Pyett* (April 1, 2009). The Court's 5 to 4 decision reiterates its prior holding in *Gilmer v. Interstate/Johnson Lane Corp.* that nothing in the ADEA precludes arbitration of age discrimination claims.

The Court's ruling overturns the decision of the Second Circuit, which held that the CBA's arbitration provision was unenforceable with regard to the employees' ADEA claims. The Court rejected arguments that *Gilmer* does not apply in the collective bargaining context, holding that nothing in the law suggests a distinction between the status of arbitration agreements signed by an individual employee and those agreed to by a union representative. "This Court has required only that an agreement to arbitrate statutory antidiscrimination claims be 'explicitly stated' in the collective-bargaining agreement."

Addressing Justice Souter's dissenting opinion, which argued that discrimination claims such as those under Title VII and the ADEA are different from the rights guaranteed under a CBA, the majority opinion emphasized that agreeing to arbitrate Title VII and ADEA claims is not the same as agreeing to waive the substantive rights guaranteed by those laws. "Thus . . . the voluntary decision to collectively bargain for arbitration does not deny those statutory antidiscrimination rights the full protection they are due."

The Court further held that the CBA's arbitration provision is fully enforceable under the *Gardner-Denver* line of cases. In *Alexander v. Gardner-Denver Co.*, the Court held that arbitration under a CBA did not preclude the employee's Title VII discrimination lawsuit because the arbitration provision did not specifically address Title VII claims. The Court held that *Gardner-Denver* and the line of cases following it do not control the outcome of this case because, unlike those cases, the CBA involved in *14 Penn Plaza* expressly covered both statutory and contractual discrimination claims.

If you have any questions regarding this decision or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you usually work.