

# Law of the Workplace

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**CLIENT ALERT**

## **U.S. Supreme Court Rules Unions can Waive Employee Statutory Rights in a Collective Bargaining Agreement**

Yesterday the U.S. Supreme Court provided union employers who, under the new labor-friendly Obama administration face several pro-union pieces of legislation, with a much-needed shot in the arm. In 14 Penn Plaza LLC v. Pyett, the Supreme Court held that, as a matter of law, employers and unions may include in their collective bargaining agreements ("CBA") the requirement to arbitrate statutory claims.

In 14 Penn Plaza, the union filed grievances, both contractual and statutory, claiming that 14 Penn Plaza reassigned its members' jobs due to their age in violation of the Age Discrimination in Employment Act of 1967 ("ADEA"). After the initial arbitration hearing, however, the union withdrew the ADEA claims, and the arbitrator later denied all of the contractual claims. After the union withdrew the ADEA claims, the union members filed a lawsuit in federal court against 14 Penn Plaza LLC for ADEA violations. 14 Penn Plaza LLC filed a motion to compel arbitration claiming that the parties' CBA required the union members to submit the ADEA claims to binding arbitration.

The district court denied the motion relying on the U.S. Supreme Court decision of Alexander v. Gardner-Denver Co., 415 U.S. 36 (1974) and the Second Circuit decision of Rogers v. New York University, 220 F.3d 73 (2d Cir. 2000). The Second Circuit followed affirming the district court's decision explaining that under Gardner-Denver "a collective bargaining agreement could not waive covered workers' rights to a judicial forum for causes of action created by Congress."

The Supreme Court reversed the lower courts' decisions stating "that a collective-bargaining agreement that clearly and unmistakably requires union members to arbitrate ADEA claims is enforceable as a matter of federal law." In so holding, the Supreme Court reasoned that employment-related discrimination claims amount to "conditions of employment" subject to mandatory bargaining under the National Labor Relations Act.

Remarkably, the Court's decision overturns several cases finding that a CBA could not waive union members' rights to litigate statutory claims in a federal judicial forum. Moreover, any employment-related discrimination claim, and not just age claims, can be waived. Given the 14 Penn Plaza decision, union employers should now seek to include a provision to arbitrate employment-related discrimination claims during their next round of contract negotiations.

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This material is intended to provide you with information regarding a noteworthy legal development. It should not be regarded as a substitute for legal advice concerning specific situations in your operation. If you have any questions or would like additional information on this topic, please contact our Firm at (860) 727-8900 or [www.siegeloconnor.com](http://www.siegeloconnor.com).

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