

Employment Law: Equitable Tolling

McDonald v. Antelope Valley Community College District

Facts: Plaintiff complained of discrimination in a letter to the Vice Chancellor of Human Resources, followed by a formal administrative complaint with the Chancellor's Office in November of 2001. The Chancellor's Office informed Plaintiff that she could also file a FEHA complaint with the Department of Fair Employment and Housing at any time. Plaintiff filed a DFEH complaint on October 11, 2002 and filed suit in the Superior Court on October 24, 2003. Defendant filed a motion for summary judgment, arguing that Plaintiff's complaint was untimely because equitable tolling did not apply to Plaintiff's voluntary pursuit of her complaint with the Chancellor's Office prior to filing her complaint with the DFEH. The superior court granted the motion, and the Court of Appeal reversed.

Holding: Affirmed. The FEHA does not preclude equitable tolling during the voluntary pursuit of internal administrative remedies. The Legislature has demonstrated the intent to increase the common law remedies available to employees for employment discrimination. Where the purpose of equitable tolling is met, the promotion of resolution of employee grievances through internal administrative procedures, equitable tolling should be applied.

Torts: Strict Liability

Arriaga v. CitiCapital Commercial Corp.

Facts: An employee was injured when his finger became entangled in a glue spreading machine. Originally, JLA Credit Corporation had entered into a finance lease with AVP, Ltd. Klor Machinery sold the machine to JLA who took title to the machine, paid for it, and leased it to AVP. Klor shipped the machine directly to AVP. While in possession of the machine, AVP removed one corner of a safety guard. Near the end of the lease term, AVP entered into an agreement to sell the machine to Orepak, Plaintiff's employer. Orepak wired the purchase amount to CitiCapital Commercial Corp., the successor in interest to JLA. Orepak took possession of the machine, after which Plaintiff was injured. Plaintiff filed a Complaint, contending that CitiCapital was strictly liable for his injuries because CitiCapital was instrumental in placing the machine in the stream of commerce. CitiCapital prevailed on its motion for summary judgment, which was filed on the basis that it was a finance lessor only, and not part of the chain of commerce.

Holding: Affirmed. Strict liability does not apply to a party that only acts as a finance lessor and merely provides funding. Further, CitiCapital was outside the original chain of distribution and is not liable as an entity instrumental in placing the product in the stream of commerce.

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Case Law Review

Table of Contents

Labor Law: Overtime Payments

Sullivan v. Oracle Corporation
U.S. Court of Appeal, Ninth Circuit
Case No. 06-56649, November 6, 2008

School Districts: 39 Month List

Tucker v. Grossmont Union High School Dist.
California Court of Appeal, Fourth Dist.
Case No. D05266, November 20, 2008

Torts: Prescription Drugs

Conte v. Wyeth, Inc., et al.
California Court of Appeal, First Dist.
Case Nos. A116707, A117353
November 7, 2008

Employment Law: Equitable Tolling

McDonald v. Antelope Valley Comm. Coll. Dist.
California Supreme Court
Case No. S153964, October 27, 2008

Torts: Strict Liability

Arriaga v. CitiCapital Commercial Corp.
California Court of Appeal, Fifth Dist.
Case No. F052419, November 3, 2008

Labor Law: Overtime Payments

Sullivan v. Oracle Corporation

Facts: Defendant is a Delaware Corporation with its principal place of business in California. Plaintiffs are employed by Defendant as Instructors. Instructors are required to travel throughout the United States, including California, to perform work for Oracle. The Plaintiffs resided in Colorado and Arizona, but worked in California from 2001 through 2004. None of the Plaintiffs worked more than 33 days in California in any given year. Plaintiffs filed a Complaint alleging claims for violation of the Labor Code and California's Unfair Competition Law for failing to pay overtime wages for the days they worked in California, and a third claim for failing to pay overtime throughout the United States. Defendant filed a motion for summary judgment and argued that California labor laws do not apply to non-residents who work primarily in other states. The District court granted summary judgment.

Holding: Reversed in part. California's Labor Code applies to work performed in California by nonresidents of California. The Ninth Circuit applied California state law, where the Supreme Court has previously ruled that California's employment laws govern all work performed within the state, regardless of the residence or domicile of the worker.

School Districts: 39 Month List

Tucker v. Grossmont Union High School Dist.

Facts: Plaintiff was hired by Defendant in 1996 as the Director of Maintenance and Operations and eventually became the Director of Operations, Safety, and Special Projects. In 2004, the District asked a Fiscal Crisis and Management Team to review its classified management structure. The team recommended eliminating Plaintiff's position to reduce expenditures, and Plaintiff was laid off effective in April 2005. The same month, Plaintiff applied for the position of Maintenance Manager, which was in a lower class than Plaintiff's previous position. The job was given to an individual who applied from outside of the District. Plaintiff petitioned for writ of mandate, stating that the District violated his right to reemployment under Education Code § 45298, which places a laid-off employee on a reemployment list for 39 months, giving them preference over new applicants. The superior court found that § 45298 does not limit reemployment to a job within a particular classification. In order to exercise his right for reemployment, Plaintiff must apply for an available position and satisfy the qualifications promulgated by the District for that position.

Holding: Affirmed. Plaintiff has preferential reemployment rights over any new applicants to available positions for which he applies, and for which he is qualified.

Torts: Prescription Drugs

Conte v. Wyeth, Inc., et al.

Facts: Plaintiff developed tardive dyskinesia, a debilitating and incurable neurological disorder. She alleges that she developed the condition after taking metoclopramide for almost four years. The name brand form of the drug, Reglan, is manufactured by Wyeth, Inc. Plaintiff only used the generic version of the drug. Plaintiff claimed that the Wyeth knew or should have known of the tendency of doctors to prescribe the drug for long periods of time, even though it had only been approved for 12 weeks of use. Plaintiff filed a Complaint alleging that she was injuriously exposed to metoclopramide due to Wyeth's dissemination of false, misleading, and/or incomplete warnings about the drug's side effects. The court granted the summary judgment motion filed by Wyeth on the ground that a name-brand manufacturer does not owe a duty of care to users of generic versions of the drug, which are manufactured by other companies.

Holding: Reversed. The common law duty to use due care by a name-brand prescription drug manufacturer when providing product warnings extends to both consumers of its product and those whose doctors foreseeably rely on the name-brand manufacturer's product information when prescribing a drug, even if the generic form of the drug is ultimately used to fill the prescription.