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Labor & Employment Update

Supreme Court Approves Arbitration of Age Claims

By: Thomas R. Bagby

The U.S. Supreme Court recently approved the required arbitration under a collective bargaining agreement (“CBA”) of age discrimination claims brought under the federal Age Discrimination in Employment Act (“ADEA”). 14 Penn Plaza LLC v. Pyett, No. 07-581 (U.S. April 1, 2009). In doing so, the Supreme Court determined that a provision in a CBA that clearly and unmistakably requires union members to arbitrate discrimination claims is enforceable under federal law.

The union and a multiemployer bargaining association for the New York City real estate industry entered into a CBA that required union members to submit all claims of employment discrimination, including ADEA claims, to binding

arbitration under the CBA’s grievance and dispute resolution procedures. The lower courts refused to enforce the provisions of the CBA that required union members to arbitrate ADEA claims.

The Supreme Court held that the lower courts were wrong in refusing to enforce the arbitration clause in the CBA. Because the union and the employer association freely negotiated the provision requiring the arbitration of employment discrimination claims, courts were not free to interfere with this bargained-for provision. In requiring arbitration, the Court relied on the fact that the CBA provision clearly and unmistakably requires union members to arbitrate age discrimination claims.

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