

THE
NATIONAL LAW REVIEW

High Court Allows Employees To Charge Ahead

Wednesday, June 19, 2019

Why This Matters

Earlier this month, the U.S. Supreme Court unanimously ruled that federal courts can hear discrimination claims under Title VII of the Civil Rights Act even if workers don't first bring them to the U.S. Equal Employment Opportunity Commission ("EEOC") or state enforcement agencies. Title VII is a federal law that prohibits employers from discriminating against employees on the basis of sex, race, color, national origin, or religion.

In [Fort Bend County v. Davis](#), Justice Ruth Bader Ginsburg, writing on behalf of the Court, held that Title VII's requirement that workers give the EEOC (or a comparable state enforcement agency subject to a "worksharing" agreement with the EEOC) a chance to resolve their claims before bringing them in court is not "jurisdictional." This means that courts need not dismiss workers' lawsuits if they bring Title VII claims in court without first filing a charge with the EEOC.

Employers who timely raise a plaintiff's failure to file an EEOC charge are still entitled to dismissal of the claim, though employers may forfeit this defense by not timely raising it.

In light of the Supreme Court's decision in *Fort Bend County*, an employer faced with a Title VII lawsuit brought by an employee should quickly determine whether the employee first filed a charge with the EEOC and/or a state enforcement agency. If not, the employer should timely bring the employee's failure to do so to the court's attention.

As of now, the *Fort Bend County* decision does not apply to cases filed under state non-discrimination laws and filed in state court. For example, prior to filing any such cases in California, employees must file a charge with the state's Department of Fair Employment and Housing ("DFEH"). State courts, however, may adopt the Supreme Court's reasoning in *Fort Bend County*. That remains to be seen.

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