

Release Valid Under OWBPA Where Plaintiff Was Given Appropriate Time to Consider It, Notwithstanding He Signed It Immediately Due to His Own Poor Financial Condition

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After the plaintiff signed a severance agreement and release, he brought suit against his former employer under both the Age Discrimination in Employment Act (ADEA) and Title VII. The plaintiff claimed the release was invalid because, although it provided him with the statutory periods for review and revocation required by the Older Workers Benefit Protection Act (OWBPA), he claimed he was forced to sign it immediately because his employer refused to pay his salary while he took the time the law provided to consider it.

Moroni v. Penwest Pharmaceuticals Co., 2009 WL 3335504 (D.N.J., October 13, 2009) – After the plaintiff signed a severance agreement and release, he brought suit against his former employer under both the Age Discrimination in Employment Act (ADEA) and Title VII. The plaintiff claimed the release was invalid because, although it provided him with the statutory periods for review and revocation required by the Older Workers Benefit Protection Act (OWBPA), he claimed he was forced to sign it immediately because his employer refused to pay his salary while he took the time the law provided to consider it.

The district court upheld the release, finding that the plaintiff was essentially claiming economic duress, which requires a wrongful threat to preclude a claimant from exercising his free will. The court found the plaintiff had offered no evidence of such a threat and stated, “[n]othing in the ADEA requires an employer to continue to pay a terminated employee during [the] consideration period.”

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