

CLIENT ALERT

Supreme Court Holds EEOC Charge Is Not a Jurisdictional Prerequisite to Title VII Court Action (But It Is Still Mandatory)

JUNE 5, 2019

On June 3, 2019, the U.S. Supreme Court ruled that a federal court has jurisdiction over a Title VII action notwithstanding the plaintiff's failure to exhaust administrative remedies by filing a charge with the Equal Employment Opportunity Commission (EEOC). *Fort Bend County, Texas v. Davis*, No. 18-525 (U.S. June 3, 2019). Title VII's administrative exhaustion requirement remains a "mandatory claims processing rule," and a plaintiff who fails to comply will face dismissal of his or her Title VII claims absent waiver or forfeiture by the defendant. But Title VII defendants must be vigilant to raise timely objections based on plaintiffs' failures to exhaust administrative remedies, as the nonjurisdictional character of those objections means they can be forfeited.

The *Fort Bend* decision is just the latest in the Court's recent efforts to "ward off profligate use" of the term "jurisdiction." "Jurisdiction" in this context refers to the federal courts' subject matter jurisdiction—that is, their authority to adjudicate disputes. Arguments against subject matter jurisdiction can never be waived or forfeited—they can be raised by the parties (or the court itself) at any time, even on appeal. Mandatory claims processing rules, by contrast, do not address whether a court has authority to adjudicate a dispute, but rather "promote the orderly progress of litigation by requiring that the parties take certain procedural steps at certain specified times." If properly and timely raised, mandatory claim-processing rules must be enforced by the court. However, objections based on a mandatory claims processing rule may be forfeited or waived if a party waits too long to raise them or knowingly relinquishes the right to do so.¹

In *Fort Bend*, Lois Davis filed a charge with the EEOC during her employment with Fort Bend County, alleging that she was subject to sexual harassment and retaliation for reporting the harassment. While Davis's EEOC charge was pending, her employment was terminated as a result of what Davis claimed to be religion-based discrimination. Davis did not file a new EEOC charge, or amend her existing EEOC charge, to assert religion-based discrimination. She eventually received a right-to-sue letter from the EEOC, and in January 2012 filed suit in federal district court against Fort Bend County, alleging retaliation for reporting sexual harassment and discrimination based on her religion.

In February 2016—after four years of litigation and a round of appeals that went all the way to the Supreme Court—Fort Bend County asserted for the first time that Davis's religion-based discrimination claim should be dismissed because she had failed to file a charge with the EEOC with respect to that claim. The district court agreed, holding that Title VII's administrative exhaustion requirement was jurisdictional and could not be waived despite the County's delay in raising the objection. The Fifth Circuit reversed, however, holding that the administrative exhaustion

requirement was not jurisdictional, and that Fort Bend waived any defense based on Davis’s failure to exhaust by not raising the argument sooner in the litigation.

On Monday, the Supreme Court affirmed, holding that Title VII’s administrative exhaustion requirement was not jurisdictional. The Court noted that federal courts exercise jurisdiction over Title VII actions pursuant to the general grant of jurisdiction of civil actions involving federal law (found at 28 U.S.C. § 1331), and Title VII’s own jurisdictional provision (found at 42 U.S.C. §2000e–5(f)(3)). Title VII’s administrative exhaustion requirement is located in other sections of Title VII, and not in Title VII’s jurisdictional provision. Those other sections of Title VII, the Court reasoned, “do not speak to a court’s authority” and instead “speak to . . . a party’s procedural obligations” in maintaining suit. The Court thus concluded that “Title VII’s charge-filing requirement is a processing rule, albeit a mandatory one, not a jurisdictional prescription delineating the adjudicatory authority of courts.”

In light of the *Fort Bend* decision, defendants in Title VII cases must be more attuned to whether the plaintiff has satisfied administrative prerequisites to filing a court action. Title VII defendants should raise any administrative deficiencies at the earliest time practicable—ideally at the pleading stage. Defendants must also take care to avoid inadvertently admitting inaccurate allegations in a complaint concerning the timeliness of the plaintiff’s complaint or the plaintiff’s compliance with the administrative filing requirements. Provided that Title VII defendants remain vigilant and timely raise a plaintiff’s noncompliance, there should be little change in the litigation of Title VII actions as a result of the Court’s decision.

¹ The *Fort Bend* Court reiterated the Court’s prior stance that it would “reserve[] whether mandatory claim-processing rules may [ever] be subject to equitable exceptions.”
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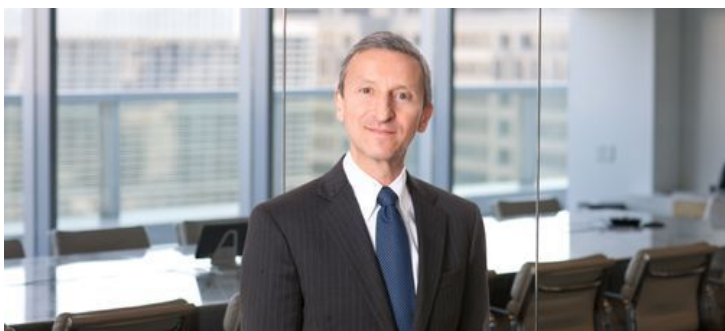
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