

[Subscribe to List](#)[View Past Issues](#)[RSS](#)[translate](#)[+1](#)[Like](#)[Comment](#)

Maine Supreme Court Clarifies Disability Law Issues

## **The Bennett Law Firm**

### *Client Update*

Trusted Advisor to Management for 50 Years

Labor Relations ~ Employment Law ~ Business Litigation



## **MAINE SUPREME COURT CLARIFIES IMPORTANT DISABILITY LAW ISSUES UNDER MAINE HUMAN RIGHTS ACT: COURT SETS FILING PERIOD TRIGGER LIMITS AND CONFIRMS INTERACTIVE PROCESS NOT REQUIRED UNDER STATE LAW**

### **STATUTE OF LIMITATIONS**

Under Maine law, a claim of disability discrimination under Maine's Human Rights Act (MHRA) must be brought within two years of the alleged discriminatory act. An employer's denial of a disabled employee's request for a reasonable accommodation is a discrete act of alleged discrimination from which the applicable statute of limitations period begins to run, similar to a termination, a refusal to transfer, or a failure to promote. For purposes of the MHRA, it is well settled that the limitations period begins to run when an employee receives unambiguous and authoritative notice of an employer's alleged discriminatory decision.

In a recent decision, Maine's highest Court clarified the meaning of a discrete act of disability discrimination in the context of an employer's denial of an employee's renewed request for accommodation. Depending on the circumstances, an employer's denial may trigger a new violation from which a new limitations period begins to run.

[Subscribe to List](#)[View Past Issues](#)[RSS](#)[translate](#)

+1



Like

0

[Comment](#)

### **Renewed Request for Accommodation Based on the Same Circumstances**

The Court confirmed that an employer's denial of an employee's renewed request for an accommodation is not a discrete act that triggers a new limitations period when the denial is the result of the employer's unwillingness to reverse a previous allegedly discriminatory decision and the circumstances have not changed.

### **Renewed Request for Accommodation Based on Changed Circumstances**

Where a significant and material change of circumstances occurs involving either the employee's disability or the employer's ability to accommodate the disability, and the employee makes a new request for a reasonable accommodation based upon such a change in circumstances, an employer's subsequent denial of that request is a new discrete act of discrimination that establishes a starting point for a new two-year statute of limitations period.

**What does all this mean for employers?**

Even where an employer's initial decision to deny an accommodation request is beyond the two-year statute of limitations, renewed accommodation requests may subject the employer to a new or even multiple claims of disability discrimination. Therefore, on each occasion an employer is faced with a renewed request for accommodation, it must determine whether there is a significant and material change in circumstances, whether to its own ability to accommodate or to the employee's disability.

**INTERACTIVE PROCESS NOT REQUIRED BY MHRA**

[Subscribe to List](#)[View Past Issues](#)[RSS](#)[translate](#)[+1](#)[Like](#)

0

[Comment](#)

**MHRA does not impose a duty upon an employer to engage in an interactive process with a disabled employee to identify reasonable accommodations. Rather, the MHRA provides the employer an affirmative defense to a discrimination claim regarding a failure to accommodate. Under the MHRA an employer may avoid damages when it can demonstrate good faith efforts, in consultation with the disabled employee, to identify and make reasonable accommodations.**

**What does all this mean for employers?**

**Whether a disability discrimination claim is brought pursuant to federal or state law, the interactive process comes into play. Employers may use this process both to comply with its duty under federal law and thus avoid a potential claim or to establish its defense under the MHRA and thus defeat a potential claim.**

**If you need assistance with these or other employment and labor law issues, please contact either Peter Bennett ([pbennett@thebennettlawfirm.com](mailto:pbennett@thebennettlawfirm.com)), Rick Finberg ([rfinberg@thebennettlawfirm.com](mailto:rfinberg@thebennettlawfirm.com)), or Joanne Simonelli ([jsimonelli@thebennettlawfirm.com](mailto:jsimonelli@thebennettlawfirm.com)).**

[follow on Twitter](#) | [friend on Facebook](#) | [forward to a friend](#)

Copyright (C) 2012 The Bennett Law Firm - All rights reserved.

[unsubscribe from this list](#) | [update subscription preferences](#)

[Subscribe to List](#)

[View Past Issues](#)

[RSS](#)

[translate](#)

 [+1](#)

 Like <sup>0</sup>

[Comment](#)

[unsubscribe from this list](#) | [update subscription preferences](#)

The Bennett Law Firm, P.A. · P.O. Box 7799 · Portland, ME 04112-7799

