

“LAD FROM A TO Z”

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I. AN OVERVIEW OF THE LAW AGAINST DISCRIMINATION STATUTE, N.J.S.A. 10:5-1 ET SEQ.

A. To whom does the LAD apply?

1. Protected Entities
 - (a) People seeking employment and people already employed.
 - (b) Independent contractors not “employees”
2. Regulated Entities
 - (a) Employers
 - (b) Unions
 - (c) Employment agencies
3. Regulated Conduct
 - (a) For Employer
 - (b) For Union
 - (c) For Employment Agency
 - (d) For “Any Person”

B. Protected Classes Under the LAD (from A to Z...well, S)

1. Age
2. Ancestry
3. Armed Forces
4. Atypical Hereditary Cellular or Blood Trait
5. Color
6. Creed
7. Handicap
8. Marital Status
9. National Origin
10. Pregnancy
11. Race
12. Reprisal/Retaliation
11. Sex
12. Sex-Plus
13. Sexual Orientation

C. Statute of Limitations Issues

1. Depends on venue
 - (a) DCR – 180 days
 - (b) EEOC – 300 days (usually)
 - (c) Civil Action – 2 years
2. Applying the “continuing violation theory”

D. Proving Discrimination

1. Disparate Treatment
2. Disparate Impact
3. Mixed Motives

E. Overcoming Common Defenses

1. Legitimate reasons for termination
2. Duty to mitigate damages

F. Damages

1. Back Pay
2. Front Pay
3. Compensatory Damages
4. Emotional Distress Damages
5. Punitive Damages
6. Attorneys Fees and Costs
7. Injunctive relief – when warranted

G. Maintaining a CEPA Claim and LAD Claim

1. Pleading a separate factual predicate for a CEPA claim

H. Interrelation with Federal Law

1. Federal Pre-Emption
 - (a) ERISA context
 - (b) ADEA context
 - (c) Dealing with claims by Federal Employees
2. LAD vs. Title VII, ADA, and ADEA

II. RECENT DEVELOPMENTS IN THE LAW AGAINST DISCRIMINATION

A. Nini v. Mercer County Community College, 202 *N.J.* 98 (2010)

1. The NJLAD's "over 70 exception" applies to initial hiring decisions, but not to contract renewals.

B. Other Developments and Pending Legislation