Who can be Liable for Violation of the NYC Anti-Discrimination Laws? An Update

February 16, 2021

Plaintiffs in employment discrimination lawsuits have tried to sue in New York City because its anti-discrimination laws have been labelled the "most progressive in the nation." Courts that interpret the NYC Human Rights Law have found its scope to be broader than corresponding NYS and federal anti-discrimination laws.

Last week in *Doe v. Bloomberg, L.P.* (Feb. 11, 2021), the New York Court of Appeals determined to cabin the scope of these laws. The Court of Appeals held that a putative "employer" cannot be held vicariously liable for a violation of the New York Human Rights Law based on his or her status as an owner and officer of the Company.

Under the New York Human Rights Law, an employer may be held directly and vicariously liable for discrimination. But the term "employer" is not defined. Using past precedent and the wording of the statute, the majority concluded that where a plaintiff's employer is a business entity, the shareholders, agents, limited partners, and employees of that entity are ***not*** employers within the meaning of the City HRL [Human Rights Law]. Rather, those individuals may incur liability only for their own discriminatory conduct, for aiding and abetting such conduct by others, or for retaliation against protected conduct." (At 10).

This is an important decision for limiting the group of defendants who can be liable for discrimination or retaliation in the workplace. It also is important in preventing suits that may be filed to obtain a settlement by naming the owner or principal shareholder or limited partners for alleged discrimination by a downstream manager.