

Realty Advisory Board on Labor Relations, Incorporated

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Bulletin

April 7, 2009

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To: Owners and Managing Agents of Commercial and Residential Buildings and Contractor Members

SUBJ.: Supreme Court decision (14 Penn Plaza –vs- Pyett)

On April 1, 2009, the Supreme Court decided 14 Penn Plaza vs. Pyett in favor of the petitioner, 14 Penn Plaza, a member of the Realty Advisory Board on Labor Relations, Inc. (“RAB”), holding that the arbitration provision in the RAB negotiated contractors’ collective bargaining agreement (“CBA”) which clearly and unmistakably requires union members to arbitrate claims under the Age Discrimination in Employment Act (“ADEA”) is enforceable under federal law. The other negotiated contracts (2007 Apartment Building Agreement, the 2008 Commercial Building Agreement and the RAB Security Officers Agreement) contain the same provision.

The Court held that a contractual term stating that ADEA claims must be resolved in arbitration “easily qualifies” as a condition of employment subject to mandatory bargaining under the National Labor Relations Act. Because the ADEA does not preclude arbitration of claims brought under the statute, there was no legal basis for the Court to strike down the arbitration clause in this collective bargaining agreement, which was freely negotiated by the Union and the RAB. The Court noted that its prior skepticism regarding arbitration was based on a misconceived view of this alternative dispute mechanism that the Court has since abandoned. The Court found that any concern that a Union may subordinate an individual employee’s interests in favor of collective interests cannot be relied on to introduce a qualification into the ADEA that is not found in the text of the law.

This decision by the Supreme Court impacts all the RAB negotiated industry wide collective bargaining agreements, and any claims of discrimination alleged by a Union represented building service worker should be referred to arbitration and should not be litigated in Court.

The RAB fully supported the appeal of this case to the Supreme Court and worked closely with our counsel, Proskauer Rose, in handling the issue. Please contact the RAB office if you have any questions regarding the decision of the Supreme Court.
