

Employment and Labor Law State-by-State Compendium

All views, opinions and conclusions expressed are those of the authors, and do not necessarily reflect the opinion and/or policy of DRI and its leadership.



The Voice of the Defense Bar

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DRI Mission, Diversity Statements

DRI is the international membership organization of all lawyers involved in the defense of civil litigation. DRI is committed to: enhancing the skills, effectiveness, and professionalism of defense lawyers; anticipating and addressing issues germane to defense lawyers and the civil justice system; promoting appreciation of the role of the defense lawyer; and improving the civil justice system and preserving the civil jury.

DRI is the international membership organization of all lawyers involved in the defense of civil litigation. As such, DRI wishes to express its strong commitment to the goal of diversity in its membership. Our member attorneys conduct business throughout the United States and around the world, and DRI values highly the perspectives and varied experiences that are found only in a diverse membership. The promotion and retention of a diverse membership is essential to the success of our organization as a whole as well as our respective professional pursuits. Diversity brings to our organization a broader and richer environment, which produces creative thinking and solutions. As such, DRI embraces and encourages diversity in all aspects of its activities. DRI is committed to creating and maintaining a culture that supports and promotes diversity in its organization.

New Jersey

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Is there a state anti-discrimination statute?

Yes. The New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, *et seq.* (the NJLAD), enacted in 1945, prohibits discrimination, in employment, based upon race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, sex, disability or perceived disability, atypical hereditary cellular blood trait, or because of service in the Armed Forces.

Unlike Title VII of the Civil Rights Act of 1964, the NJLAD arguably allows liability against individual supervisors under an aiding and abetting theory. *Herman v. Coastal Corp.*, 348 N.J. Super. 1 (App. Div. 2002); *Failla v. City of Passaic*, 146 F.3d 149 (3d Cir. 1998). For purposes of aiding and abetting liability under the LAD, "...the individual must willfully and knowingly associate himself or herself with the unlawful act, and seek to help the act succeed. The defendant must share the same intent as the one who actually committed the offense." *Herman*, 348 N.J. Super. at 253 (citation omitted). Hence, "a supervisory employee's omissions, acquiescence, passivity or other failure to act" are insufficient to establish individual liability. *Caldwell*, 918 F. Supp. at 971 (citations omitted).

Actions filed under the NJLAD are governed by a two-year statute of limitations. This limitations period is not found in the text of the NJLAD, itself, but, rather, is a product of common law conclusion that NJLAD claims are most similar, in kind, to causes of action for personal injury (which, in New Jersey, are governed by a two-year statute). See *Montells v. Haynes*, 13 N.J. 282 (1993).

If so, are damages capped?

No. Damages are uncapped under the NJLAD. See *Baker v. National State Bank*, 801 A.2d 1158 (N.J. App. Div. 2002). For information concerning the cap on civil penalties for violations of the NJLAD, see N.J.S.A. 10:5-14.1a.