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## **‘Continuing Violations’ Doctrine No Longer Overcomes Statute of Limitations**

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The Michigan Supreme Court recently issued a decision that abolishes the “continuing violations” doctrine of *Sumner v Goodyear Tire & Rubber Co*, 427 Mich 505; 398 NW2d 368 (1986), holding that the doctrine is inconsistent with the language of the statute of limitations, MCL 600.5805(1) and (10).

In *Garg v Macomb County Community Mental Health Services*, Docket No. 121361 (2005), the plaintiff brought an employment discrimination claim against the defendant under Michigan’s Civil Rights Act, alleging that she was denied promotions and treated poorly based on her national origin and in retaliation for engaging in activities protected under the act.

The defendant moved for partial summary disposition, arguing that the three-year period of limitations set forth in MCL 600.5805(1) and (10) barred some of her allegations. The trial court denied the defendant’s motion, relying upon the “continuing violations” doctrine from *Sumner*.

The jury found that the plaintiff was not discriminated against because of her national origin but found that the defendant retaliated against her because she opposed sexual harassment and/or filed a discrimination complaint.

The Michigan Court of Appeals affirmed the jury’s verdict, holding that the “continuing violations” doctrine allowed the plaintiff to introduce factual allegations that were more than three years before her lawsuit to support her claims and that the evidence sufficiently supported her claims.

The Michigan Supreme Court reversed the Michigan Court of Appeals. Applying the basic rules of statutory interpretation, the Michigan Supreme Court held that nothing in the plain language of MCL 600.5805(1) or (10) permits a plaintiff to recover for injuries that fall outside the limitations period. Rather, the court explained, the plain language simply states that a plaintiff “shall not” bring a claim for injuries outside the limitations period. This plain language, the court concluded, evidences the legislature’s intent that a plaintiff may not bring a lawsuit for employment acts that accrue beyond the three-year period of limitations period in MCL 600.5805(1) and (10).



Further, the court held, evidence of employment acts that occurred outside the three-year statute of limitations period is inadmissible to support a timely claim under MCL 600.5805(1) and (10). This is because, the court explained, admitting such evidence to support a timely claim would “essentially resurrect the continuing violations doctrine through the back door.”

This decision is important because it abolishes a doctrine that has been in existence to overcome statutes of limitations in not only workplace discrimination claims but other arenas as well. The Michigan Supreme Court’s interpretation of MCL 600.5805(1) and (10) will transcend any claim to which these statutes apply and prohibit a party to bring an action based on evidence outside the time period or admit evidence outside the time period to support a timely claim.