

## **U.S. Supreme Court Takes Divergent Paths on Job Bias**

Supreme Court trims ADA, extends time for some Title VII claims

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In two simultaneous job discrimination decisions, the U.S. Supreme Court has taken divergent paths, providing a clear, pro-employer rule in one and a not-so-clear rule in the other that promises to test employment lawyers and lower courts.

The rulings involved the Americans with Disabilities Act (ADA) and Title VII of the Civil Rights Act of 1964. They were the last of the major job discrimination challenges in the Court's current term, one notable for the large number of such cases. And of the two decided on June 10, the not-so-clear result under Title VII -- the nation's broadest anti-discrimination statute -- likely will have the most practical impact on litigation.

The Supreme Court, in a 5-4 decision by Justice Clarence Thomas, basically said yes and no. *National Railroad Passenger Corp. v. Morgan*, No. 00-1614.

Amtrak's Supreme Court counsel Roy Englert of Washington, D.C.'s Robbins, Russell, Englert, Orseck & Untereiner, says the holding on discrete acts will be "very useful to employers" and will clear up tremendous variation in lower courts.

But he calls the Court's view of hostile-environment claims troublesome. "I think for employees to take advantage of that part of the opinion, you have to have a real honest-to-goodness hostile-environment claim," he says. "I hope there won't be much manipulation to make things hostile environments that are not."

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