



No More Working for the Weekend: Colorado Statutes of Limitations No Longer Extended if Limitations Period Ends on Weekend or Court Holiday

In an opinion that is of profound importance to all litigators and clients, the Colorado Court of Appeals recently held that many, if not most, statutes of limitations are not extended if the limitations period ends on a weekend or court holiday. In *Gomez v. Walker*, the Court of Appeals was faced with the question of whether section 2-4-108(2), C.R.S., extends the statute of limitations found at section 13-80-101, C.R.S. to the “next business day when the limitations period ends on a Saturday, Sunday, or legal holiday.”

In a lengthy opinion focused largely on the text of the two statutes, the *Gomez* court answered that issue in the negative. *Gomez* is a personal injury case involving an auto accident that occurred on June 15, 2016. The parties agreed that three years from the date of the accident was June 15, 2019, a Saturday. Gomez waited until the following Monday, June 17, 2019, to file her complaint. The defense moved to dismiss on the basis of the statute of limitations and Gomez argued that section 2-4-108(2), C.R.S., extended her statute of limitations to June 17. The district court initially denied the motion but later granted the defense’s “renewed motion to dismiss” after the Court of Appeals released its opinion in *Morin v. ISS Facility Services, Inc.* The district court found the *Morin* decision obligated it to dismiss the complaint as untimely.

On appeal, although the Court of Appeals disagreed that *Morin* was on point, it ultimately affirmed the conclusion that Gomez’s complaint was filed too late based on the Court of Appeals’ reading of the two statutes at issue. The statute of limitations that was in dispute in *Gomez* (section 13-80-101, C.R.S.) states that certain actions, including personal injury actions “arising out of the use or operation of a motor vehicle”, “shall be commenced within three years after the cause of action

accrues, and not thereafter.” Gomez contended that section 2-4-108(2) applied to extend her statute of limitations to June 17 because it states: “If the last day of any period is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.”

While the *Gomez* court noted that it is “tempting to give effect to both statutes by simply applying the language of section 2-4-108(2) to extend Gomez’s three-year limitations period – which ended on a Saturday – to the next date that was not a Saturday, Sunday, or legal holiday,” it resisted that temptation. The Court of Appeals found that “plain meaning” of the phrase “and not thereafter” in section 13-80-101 “is that the action cannot be filed after the three-year anniversary of the date the cause of action accrued.” In addition, the *Gomez* panel found that to read section 2-4-108(2) to extend this statute of limitations would either make the phrase “and not thereafter” redundant or read it out of section 13-80-101 completely. So, the Court of Appeals found that the statutes could not be harmonized and, because section 13-80-101 is more specific and enacted later, section 13-80-101 controls.

The practical effect of the *Gomez* opinion is that all statutes of limitations in Colorado that contain the phrase “and not thereafter” are not extended even if the limitations period expires on a Saturday, Sunday, or legal holiday. The ramifications of this ruling cannot be understated given how many types of cases are subject to statutes of limitations that contain the phrase “and not thereafter.” To provide a short, illustrative list, the following types of cases now have statutes of limitations that expire on weekends and legal holidays and cannot be extended, including contract cases; fraud, misrepresentation, concealment, or deceit cases; breach of trust and breach of fiduciary duty cases; Uniform Consumer Credit Code (UCCC) cases; replevin cases; most tort actions; most wrongful death cases; cases brought against any public or governmental entity or employee thereof; actions to recover arrears of rent; and actions to recover a liquidated debt or an unliquidated, determinable amount of money.

Given the breadth of this list, and although the Colorado Supreme Court could still reverse the Court of Appeals, lawyers and their clients now cannot wait until the next business day if their limitations period ends on a weekend or legal holiday. Instead, they must now either file on the weekend or holiday or file their case before the weekend or holiday. Otherwise, they risk having their case dismissed as untimely.

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