

STATE OF MICHIGAN
COURT OF APPEALS

KIMBERLY HARDY,

Plaintiff-Appellant,

v

ST. JOHN HEALTH,

Defendant-Appellee.

UNPUBLISHED
December 15, 2011

No. 300326
Macomb Circuit Court
LC No. 2009-005715-CD

Before: O'CONNELL, P.J., and MURRAY and DONOFRIO, JJ.

MEMORANDUM.

Plaintiff appeals as of right from a circuit court order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(7) because plaintiff filed the action more than six months after the termination of her employment, contrary to the limitations period to which she agreed when signing her application for employment. We affirm.

Summary disposition may be granted under MCR 2.116(C)(7) when a claim is time-barred by a contractual provision. *Clark v DaimlerChrysler Corp*, 268 Mich App 138, 140-141; 706 NW2d 471 (2005). This Court reviews a trial court's decision on a motion for summary disposition de novo. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

Parties may agree to a shortened limitations period, and if the provision is unambiguous, it must be enforced as written unless it violates the law or public policy, or is unenforceable under traditional contract defenses, including unconscionability. *Rory v Continental Ins Co*, 473 Mich 457, 470; 703 NW2d 23 (2005). In *Clark*, 268 Mich App at 142-145, this Court held that a six-month limitations period in an employment application does not violate public policy and that the plaintiff did not establish that the provision was either procedurally or substantively unconscionable. Plaintiff recognizes that *Clark* controls the disposition of this case, but argues that the dissenting opinion in *Clark* is better-reasoned. We are bound to follow *Clark* and decline plaintiff's invitation to issue a conflict opinion pursuant to MCR 7.215(J)(2).

Affirmed.

/s/ Peter D. O'Connell
/s/ Christopher M. Murray
/s/ Pat M. Donofrio