

STATE OF MICHIGAN
COURT OF APPEALS

SUSAN P. SHIPMAN,

Plaintiff-Appellant,

and

PATRICE M. UHNARY,

Plaintiff/Counter-Plaintiff,

v

STOUT RISIUS ROSS, INC and GORDON K.
VELLA,

Defendants/Counter-Plaintiffs-
Appellees.

UNPUBLISHED

August 2, 2012

No. 303288

Oakland Circuit Court

LC No. 2009-106112-CZ

Before: K. F. KELLY, P.J., and SAWYER and RONAYNE KRAUSE, JJ.

RONAYNE KRAUSE, J. (*dissenting*)

I respectfully dissent. I agree with the majority's facts and reasoning in all respects except for the majority's conclusion that the employee handbook is enforceable as a contract. I would therefore reverse and remand for further proceedings.

Our Supreme Court has explained that an employee handbook that is unambiguously not intended to be an employment contract may not be enforced as one. *Heurtebise v Reliable Business Computers*, 452 Mich 405, 413-414; 550 NW2d 243 (1996), and *Lyle v Malady*, 458 Mich 153, 169-171; 579 NW2d 906 (1998). The handbooks under discussion in those cases said as much explicitly, but I find it equally significant that, as with the handbook here, they also stated as much implicitly by explaining that either party could terminate their employment at will; they also all stated that the employer could modify the handbook arbitrarily.

I perceive no meaningful difference between those handbooks and the handbook in the case at bar. The fact that the enforceable 2007 Agreement states that employees are subject to the policies contained in the handbook does not, in my view, convert the handbook into an enforceable contract. Likewise, the fact that the 2007 Agreement carves the handbook out as an exception to an otherwise all-encompassing integration clause does not make the handbook enforceable. I would find that the limitation period found in the handbook is therefore not

enforceable; consequently, no contractual limitation period applies. On that basis, I would reverse and remand.

/s/ Amy Ronayne Krause