ROBINSON & COLE LLP
Labor, Employment & Benefits

No Retaliatory Termination of Employees Who Made False Accusations of Harassment

Kimberly Renner-Wallace and Michelle McCabe, employees of Cessna Aircraft Company, complained to Cessna management that Renner-Wallace had been sexually harassed by her supervisor. When Cessna investigated their complaint, however, it did not find any evidence to support their allegations. Instead, Cessna discovered evidence that Renner-Wallace and McCabe had fabricated the allegations of sexual harassment because they wanted to cause the termination of their supervisor. Accordingly, Cessna fired the two women for breach of trust by falsifying allegations of harassment. Renner-Wallace and McCabe sued Cessna claiming that Cessna illegally retaliated against them for filing their complaint in violation of Title VII. In Renner-Wallace v. Cessna Aircraft Company (3/17/03), the U.S. District Court for Kansas ruled that Cessna had a good faith belief based on objective evidence that the allegations of sexual harassment were false, which provided a reasonable, non-discriminatory basis to terminate the employment of Renner-Wallace and McCabe. Thus, their terminations were not motivated by illegal retaliation.

Distribution of Plan Documents at Employee Meetings Does Not Satisfy ERISA's Disclosure Requirements

Maureen Leyda, the widow of an AlliedSignal employee, claimed that she was entitled to receive benefits under a prior welfare benefit plan because her husband, Charles, never received information regarding changes to the plan. When AlliedSignal changed its benefit plan, it scheduled several meetings for the employees to discuss the plan changes and distributed the new summary plan description, and other plan documents at the meetings. It mailed notices of the meetings to each employee and posted notices about the meetings in the workplace. AlliedSignal did not take attendance at the meetings, but it compiled a list of all employees who were out on sick leave or extended leave, who were traveling, or who notified the human resources department that they had scheduling conflicts, and mailed them the plan information. Although Charles Leyda was at work when the meetings occurred, he did not attend any of the meetings nor did he inform human resources that he had a scheduling conflict, so he did not receive the plan documents.

In Leyda v. AlliedSignal, Inc. (2/28/03) the U.S. Court of Appeals for the Second Circuit ruled that there were many reasons that employees might have missed the meetings and that AlliedSignal should not have assumed that the employees who were on leave, traveling or had notified the human resources department of conflicts were the only employees who failed to receive the plan documents. Noting the relative ease with which AlliedSignal could have taken attendance at the meetings, the appeals court held that AlliedSignal's method of distributing plan documents was not reasonably calculated to result in the actual distribution of plan materials to all employees, and thus violated ERISA's disclosure requirements.

CFEPA Prohibits Discrimination against Individuals Regarded as Having a Disability

Joseph Connor, a 420 pound man, filed a lawsuit claiming that McDonald's Restaurant refused to hire him because it regarded him as being disabled due to his weight, in violation of the Americans with Disabilities Act and the Connecticut Fair Employment Practices Act. McDonald's argued that, as a matter of law, CFEPA does not provide a remedy for someone who is simply "regarded as" being disabled. In Connor v. McDonald's Restaurant (3/17/03), the U.S. District Court for Connecticut acknowledged that the statute does not explicitly address individuals who are regarded as being disabled, but ruled, nonetheless, that CFEPA's protections against discrimination extend to those who are regarded as being disabled.

Employee Whose Illness Arose from Being Disciplined for Sexual Harassment Is Not Entitled to Workers' Compensation Benefits

Tony Daniel, a probation officer with the Michigan Department of Corrections, was suspended for 10 days without pay after an investigation confirmed that he had sexually harassed several women public defenders. A few months after the suspension, Daniel began treatment with a psychologist for depression, and later sought a leave of absence from work. Daniel filed a claim for workers' compensation benefits, claiming that his depression was caused by the sexual harassment allegations and the disciplinary proceedings against him. Because it was Daniel's own misconduct that led to the disciplinary proceedings, the Workers Compensation Appellate Commission denied his claim for benefits, relying on the workers' compensation statute that bars employees from receiving benefits if their injuries arise out of intentional and willful misconduct. Daniel appealed this decision to the Michigan Court of Appeals, which ruled that his actions did not rise to the level of intentional and willful misconduct under the workers' compensation statute, entitling him to benefits. However, in Daniel v. Dept. of Corrections (3/26/03) the Michigan Supreme Court ruled that Daniel's sexually harassing behavior, which led to the disciplinary proceedings, constituted intentional and willful misconduct, determining that he was not entitled to workers' compensation benefits.

DOL Proposes Changes to the FLSA Regulations on Minimum Wage and Overtime Exemptions

On March 31, 2003, the U.S. Department of Labor proposed a rule to revise the regulations issued under the Fair Labor Standards Act implementing the exemptions for minimum wage and overtime pay for executive, administrative, professional, outside sales and computer employees, often referred to as the "white collar" exemptions. Generally, the proposed changes fall into three categories. First, under the current rules, an employee earning at least $155/week can qualify as a "white collar" employee not entitled to overtime; however, the DOL proposes an increase of this minimum salary level to $425/week. Second, the DOL proposes streamlining the tests for determining whether employees fall into the exempt categories by focusing solely on the employees' primary duties. Third, the DOL proposes to allow employers to take deductions from the salaries of exempt employees for full-day absences for disciplinary reasons. The DOL's website offers a summary of the proposed rule, a side-by-side comparison of the current regulations and the proposed regulations, as well as a complete copy of the 39-page proposed rule. The DOL invites the public to submit written comments on the proposed rule on or before June 30, 2003, after which, it will issue a final rule.

EEOC Launches Two New Programs of Interest to Employers

The U.S. Equal Employment Opportunity Commission has established a new web page intended to assist employers in understanding and complying with its investigations. The web page, which is located at www.eeoc.gov, under "Quick Start – Employers," provides useful information, descriptions of the laws enforced by the EEOC, the EEOC's investigative procedures, the EEOC's mediation program, and the EEOC's outreach, education and technical assistance programs.

The EEOC also launched a new voluntary mediation pilot program. Under this pilot program, the EEOC may refer discrimination charges filed by employees back to the employer's internal dispute resolution program. To qualify for this pilot program, the employer's internal dispute resolution program must meet the following criteria: participation by its employees is voluntary and is free to the employee; the program is well-established, with clearly written procedures; the program addresses all claims and relief under EEOC-enforced statutes; and settlements obtained must be in writing and enforceable in court.

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