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LEGAL ALERT



Legal Alert: Ohio Supreme Court Limits Public Policy Wrongful Discharge Claims

1/14/2008

The Ohio Supreme Court recently issued a decision clarifying that at-will employees in Ohio do not have a common-law action for wrongful discharge merely because they were discharged while receiving workers' compensation benefits. See *Bickers v. W&S Life Insurance Co.*, 2007 Ohio 6751 (Ohio 2007). This decision limits the Court's 2003 decision in *Coolidge v. Riverdale Local School Dist.*, which had been interpreted to permit an employee to sue an employer for wrongful discharge in violation of public policy when the employee is discharged for non-retaliatory reasons while receiving workers' compensation benefits. Under *Bickers*, at-will employees are limited to filing claims for retaliatory discharge under the Ohio Workers' Compensation Act.

Bickers was an at-will employee who was discharged while receiving temporary total disability benefits related to a workers' compensation claim. *Bickers* sued, claiming, among other things, that she was discharged while receiving temporary total disability benefits in violation of public policy. She relied on *Coolidge* in support of this argument.

Coolidge involved the discharge of a public school teacher while receiving temporary total disability benefits related to a workers' compensation claim. The teacher was employed under a contract governed by state law relating to the employment of teachers, which required "good and just cause" for termination. The Ohio Supreme Court held that if *Coolidge* could show that her discharge contravened public policy expressed in the Workers' Compensation Act, she would have established that her discharge was without good and just cause under the state law governing the employment of teachers. It also stated that "an employee who is receiving temporary total disability compensation pursuant to R.C. 4123.56 may not be discharged solely on the basis of absenteeism or inability to work, when the absence or inability to work is directly related to an allowed condition."

Subsequently, some courts interpreted the holding in *Coolidge* to expand the public policy exception to the state's employment at-will doctrine. In *Bickers*, however, the Court limited the holding in *Coolidge* to considerations of whether "good and just cause" supports the termination of an employee protected by the state's law governing the employment of public school teachers.

Additionally, the court in *Bickers* specifically held that "the constitutionally sanctioned, and legislatively created, compromise of employer and employee interests reflected in the workers' compensation system precludes a

common-law claim of wrongful discharge in violation of public policy when an employee files a workers' compensation claim and is discharged for non-retaliatory reasons.”

Employers' Bottom Line:

The decision in *Bickers* does not eliminate an employer's potential liability for discharging employees who have filed workers' compensation claims. Instead it clarifies that an employee who believes he or she has been discharged in retaliation for filing a workers' compensation claim can only file a retaliatory discharge claim under the Workers' Compensation Act. The Act imposes certain notice and filing requirements and limits the remedies available to a plaintiff whose retaliation claim is successful. The decision in *Bickers* is significant because it should stem the flood of public policy wrongful discharge claims filed in the wake of *Coolidge*.

If you have any questions regarding this decision or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you usually work.