

Alaska Supreme Court Upholds \$479,000 Wrongful Termination Verdict

Opinion addresses important concepts for wrongful termination claims filed by union employees

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The Alaska Supreme Court issued a new opinion on April 15, 2011, in the case of *Alaska Airlines et al. v. Chang-Craft*, in which it upheld a \$479,000 wrongful termination verdict for a union employee.

Facts

Deborah Chang-Craft worked for Alaska Airlines as a customer service agent. A co-worker, William Cameron, invited Chang-Craft to see his “new baby” and proceeded to use her computer to show her a gun. Chang-Craft told Cameron to leave her alone. Cameron later contended that Chang-Craft also said, “It’s a good thing I do not have a gun or else I would use it.”

Management interviewed Cameron the next day about the altercation. Cameron allegedly reported that Chang-Craft had threatened to shoot fellow employees. No one interviewed Chang-Craft or discussed the circumstances with her. Instead, a manager yelled for Chang-Craft and told her that she was being suspended. Chang-Craft collected her things from her personal locker. Leaving the building, she stated, “I am not stepping foot inside this [expletive] place again.” Alaska Airlines terminated Chang-Craft.

Chang-Craft grieved her termination. Three shop stewards represented her at a Step One level grievance with Alaska Airlines. Alaska Airlines denied the grievance. A follow-on Step Two level grievance was also denied. The union then appealed for arbitration. However, four months later the union notified Chang-Craft that it had tentatively decided to withdraw her grievance after “reviewing the facts of your grievance, the contract language and any prior arbitration awards which would be applicable to your case.” No evidence was ever produced that the union had actually reviewed any facts or any prior arbitration awards.

Chang-Craft retained counsel to respond to the union’s tentative decision. The union advised that it would re-open the matter. However, 15 months later, the union switched gears again and advised both Alaska Airlines and Chang-Craft that it would not proceed with her grievance. The union never explained its decision. One shop steward later testified that she did not think that the union had fairly represented Chang-Craft.

Chang-Craft filed suit alleging wrongful termination. She also alleged a defamation claim against Cameron because his report that she had threatened to shoot employees was presumably the cause of her termination.

Trial court

Chang-Craft’s expert witness on damages estimated her loss as exceeding \$500,000, most of which was related to lost travel benefits. Alaska Airlines moved for a directed verdict because it argued that Chang-Craft had failed to prove a necessary element of her case; specifically, that the union had breached its “duty of fair representation.” The trial court denied the motion. The jury returned a verdict in Chang-Craft’s favor, and awarded her damages exceeding \$479,000.

Alaska Airlines moved for a judgment notwithstanding the verdict, again arguing that Chang-Craft had not shown that the union had breached its duty of fair representation. The trial court denied this motion, too. Alaska Airlines appealed.

Opinion

The Alaska Supreme Court affirmed. It noted that federal labor law governs analysis of wrongful termination claims based on a breach of a collective bargaining agreement. An employee must exhaust grievance procedures. If suit is filed, an employee must show that the union breached its duty of fair representation. This is a stringent standard. A union breaches its “duty of good faith” *only* when it acts with bad faith or in an arbitrary or discriminatory manner.

Although it is a tough standard to meet, the Court concluded that the union had breached its duty of fair representation because it acted in an arbitrary manner. The union did not “explain how or why” it decided to withdraw Chang-Craft’s grievance. There was no evidence that it actually studied any facts or reviewed any prior arbitration decisions. Instead, it had “processed her grievance in a perfunctory manner.” The Court emphasized that unions must actually investigate grievances and may not egregiously disregard a union employee’s rights, particularly where the severe sanction of termination is involved.

The Court also upheld the damage award, holding that there was a reasonable basis for the award, and denied other relief sought by Alaska Airlines on appeal.

Lessons

The Court’s opinion and the underlying verdict emphasize several key points:

- Alaskan juries and courts will expect employers to conduct fair and reasonable investigations. That should ordinarily include giving the concerned employee an opportunity to explain any alleged misconduct.
- Employers should think carefully before imposing severe sanctions, and should work with their in-house or retained counsel before making any final decisions.
- Employers should not assume that union processes will satisfy the duty of fair representation standard.
- Employers governed by a “just cause” standard should recognize that the analysis applied here may also apply to their termination or discipline cases.
- Wrongful termination damages can take interesting twists and turns. It is far more than simply lost wages (back pay or front pay). It can and will include benefits, and will include “special perks,” such as the travel vouchers that Chang-Craft lost as a result of her termination.

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