

Recent Employment Law Opinions — April 2008
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Retaliation – preemption by Labor Relations Management Act

Smith v. Simmons Bedding Co., No. 05-07-00823-CV, 250 S.W.3d 200 (Tex. App.—Dallas Apr. 14, 2008, pet. filed)

This opinion holds that an employer’s assertion of a collective bargaining agreement does not automatically make a retaliatory discharge claim preempted under the Labor Relations Management Act.

Plaintiff was injured on the job and underwent surgery for her injuries. Following her surgery, she was placed on an approved leave of absence. Later, Plaintiff contended that her doctor released her to work without restrictions. Simmons had conflicting information and did not allow Plaintiff to return to work at that time. Plaintiff then filed a grievance under the collective bargaining agreement. A few months later, Plaintiff took another job, and when Simmons learned of this fact, it terminated her for taking other employment in violation of the collective bargaining agreement.

After Plaintiff filed her suit for retaliatory discharge, the employer asserted that her claim was preempted because the employer’s actions were justified by the collective bargaining agreement. The court of appeals rejected that assertion, holding that just because actions are justified by a collective bargaining agreement, the claim is not automatically preempted. Following the Fifth Circuit’s decision in *Jones v. Roadway Exp, Inc.*, 931 F.2d 1086 (5th Cir. 1991), the court observes that although a collective bargaining agreement may justify the employer’s actions, if retaliation is a factor in the discharge, then there is no preemption. The court holds that the Plaintiff’s claim in this suit was not preempted because it was possible for her to prove her retaliation claim based upon reasons independent of the collective bargaining agreement.

Employment agreement – breach of fiduciary duty – Delaware law

Pride Internat’l, Inc. v. Bragg, No. 01-07-00188-CV (Tex. App.—Houston [1st Dist.] April 3, 2008, no pet.)

This is a suit by a former CEO for failure of the company to pay him all the severance benefits he asserted were due under his employment agreement. Significantly, the evidence showed that the CEO interpreted the agreement differently when he was CEO with respect to other similar claims than after he left the company and was making his claim.

Because the CEO took different positions, the company counterclaimed for breach of fiduciary duty—asserting that the CEO had breached his fiduciary duty by failing to disclose his new-found interpretation while he was still CEO.

Applying Delaware law to the employment agreement, the court holds that the CEO's interpretation was not supported by the contract. Further, with respect to the employer's breach of fiduciary duty claim, the court holds that the employer had no claim because the company's directors were already aware of the conflicting interpretations of the employment agreement because of prior claims made. In addition, the court held that the CEO's views regarding the interpretation of the employment agreement are his own and he had no duty to disclose those private views.