

HR Weekly Podcast
June 11, 2014

Today is June 11, 2014, and welcome to the HR Weekly Podcast from the State Human Resources Division. This week's Podcast deals with a recent case involving alleged retaliation in violation of the South Carolina workers' compensation statute.

Information used to develop this podcast was gathered from an article written by Richard Morgan in the South Carolina Employment Law Letter. Employees alleged in a lawsuit that Columbia Farms, Inc., a chicken processor in Greenville, South Carolina, violated their rights under S.C. Code Ann. § 41-1-80, the workers' compensation statute. That statute prohibits employers from retaliating against employees for instituting good faith workers' compensation proceedings.

At trial, the district court found that Columbia Farms retaliated through its use of a "point system" to enforce the Greenville plant's attendance policy. Under the system, employees who accumulated five points were fired. Employees received points when they failed to follow the attendance policy, and points were subtracted when an employee had thirty days with no new points. If an employee provided Columbia Farms with two days' notice and a medical excuse for an absence, he accumulated no points. If an employee provided a medical excuse but not advance notice, he received one point for each medically excused absence, even if it was longer than one day. Employees received no points for workers' compensation injuries, absences, or approved doctor's visits if they visited the company doctor.

In the lawsuit, two groups of Columbia Farms employees complained about retaliation. The first group received first aid treatment from the plant nurse, sought private treatment when they were denied treatment from the company doctor, and were terminated when the point that they received for their absence placed them above five points, or the "Group I Employees." A second group of employees sustained workplace injuries, were seen by company doctors, and received accommodations for those injuries, or the "Group II Employees." Columbia Farms terminated the Group II Employees after they were found away from their workstation seeking treatment for their injuries.

The district court found retaliation for both groups of employees. Columbia Farms appealed, arguing that there was insufficient evidence that the employees "instituted a workers' compensation proceeding" and that the employees failed adequately to allege a causal connection between the workers' compensation proceeding and their termination.

As to the Group I Employees, the Fourth Circuit Court of Appeals explained that the "instituting" of a workers' compensation proceeding required more than simply receiving treatment for an injury; however, South Carolina law does not require the formal filing of a workers' compensation claim to give rise to a claim for retaliation. For example, an employer's agreement to pay for medical care or the employer's receipt of written notice from a health care provider are enough to give rise to a claim for retaliation. In addition, the Fourth Circuit held that the Group I Employees failed to show that their termination "resulted from" instituting workers' compensation proceedings. Although the Group I Employees received points for receiving medical treatment, the employees failed to show that the point system was a mechanism for retaliation rather than the uniform application of the employer's attendance policy.

For the Group II Employees, the Fourth Circuit affirmed the district court's verdict. Unlike the Group I Employees, the Group II Employees fell at work and were treated by the company doctor. One of the Group II Employees instituted a formal workers' compensation proceeding. Also, a supervisor at Columbia Farms indicated that one of the Group II Employees "would likely be terminated as a result of her injury." Consequently, the Fourth Circuit upheld the district court's verdict as to the Group II employees.

If you have a question about this topic, please contact your HR Consultant at 803-896-5300. Thank you.