

Massachusetts Supreme Judicial Court Recognizes Wrongful Discharge Claim for Employees Exercising Rebuttal Rights under Personnel Record Statute

Written by Christopher Feudo, Christian Garcia

December 21, 2021

On December 17, 2021, the Supreme Judicial Court of Massachusetts (SJC) held that an employee has a cause of action against an employer for wrongful discharge where the employer terminates the employee for exercising the right to file a rebuttal to a document in the employee's personnel record under the Massachusetts Personnel Record Statute. The SJC concluded in *Meehan v. Medical Information Technology, Inc.* that the employer's conduct under these circumstances would violate the public policy exception to at-will employment. As such, Massachusetts employers should exercise caution before terminating an employee who has exercised these rebuttal rights.

In *Meehan*, the defendant employer placed the plaintiff employee, a sales representative employed on an at-will basis, on a performance improvement plan in July 2018. The plaintiff objected and exercised his right under the Personnel Record Statute to submit a rebuttal to the performance improvement plan, which the employer was then required to maintain as part of the plaintiff's personnel record. On the same day the employer received the rebuttal, it terminated the plaintiff. The plaintiff then sued the employer for wrongful discharge in violation of public policy, one of the limited recognized exceptions to Massachusetts' general at-will employment rule. The trial court granted the employer's motion to dismiss the lawsuit after concluding that an employee's right to file a rebuttal under the Personnel Record Statute was "not a sufficiently important public policy" because it merely "involves matters internal to an employer's operation."

On appeal, the SJC found that the lower court committed an error in minimizing the significance of the Personnel Record Statute. It held that exercising an employment right provided by statute gives rise to a wrongful termination claim. Because the plaintiff asserted rights provided to him by the Massachusetts Legislature, the SJC reasoned, he could sue his employer for wrongful discharge where his termination was a result of his rebuttal, so long as the rebuttal concerned the plaintiff's disagreement with the personal improvement plan. The cause of action, however, is not without limits. The SJC noted that an employer may lawfully terminate an employee where the employee's rebuttal contains "threats of personal violence, abuse, or similarly egregious responses."

The *Meehan* decision makes clear that an employer cannot terminate an employee on the basis of the employee's decision to file a rebuttal in their personnel records. Accordingly, in addition to complying with the strictures of the Personnel Record Statute, Massachusetts employers should think twice about terminating an employee in close proximity of the employee's exercise of rights afforded by the Personnel Record Statute.

RELATED PRACTICES

■ [Labor & Employment](#)

This communication is intended for general information purposes and as a service to clients and friends of Foley Hoag LLP. This communication should not be construed as legal advice or a legal opinion on any specific facts or circumstances, and does not create an attorney-client relationship.

United States Treasury Regulations require us to disclose the following: Any tax advice included in this document was not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.

Attorney advertising. Prior results do not guarantee a similar outcome. © 2017 Foley Hoag LLP. All rights reserved.

