

LEGAL UPDATES IN HR

Albany-Capital Region IPMA-HR

September 18, 2015

Kenneth S. Weinstock, Esq.
Kainen, Escalera & McHale, P.C.
Hartford, CT
kweinstock@kemlaw.com

SUPREME COURT

First Amendment

Public employee forced to testify under oath and through a subpoena engages in First Amendment speech even where the speech relates to the employee's public employment.

Lane v. Franks, ___ U. S. ___, 134 S.Ct. 2369 (June 19 2014)

SUPREME COURT

Wages and Overtime

Warehouse employees are not entitled to compensation for time spent going through employer required security screenings.

Integrity Staffing Solutions v. Busk, ___ U. S. ___; 135 S.Ct. 513 (December 9, 2014)

SUPREME COURT

Retirement Benefits

Retirement benefits do not vest for a lifetime unless a collective bargaining expressly states such an intention.

M&G Polymers USA, LLC v. Tackett, ___ U. S. ___; 135 S.Ct. 926 (January 25, 2015)

SUPREME COURT

Pregnancy Discrimination

The Pregnancy Discrimination Act requires an employer to accommodate a pregnant employee's work restrictions when it makes the same accommodations for non-pregnant employees with temporary conditions.

Young v. United Parcel Service, Inc., ___ U. S. ___; 135 S.Ct. 1338 (2015)

SUPREME COURT

EEOC Conciliation

The EEOC's conciliation efforts are defenses that an employer can raise in court.

*Mach Mining v. EEOC, ___ U. S. ___; 135 S.Ct. 1645
(2015)*

SUPREME COURT

Religious Discrimination

An employer's lack of actual knowledge of an applicant's need for a religious accommodation is not necessary where the possible need for an accommodation was a motivating factor in the decision making.

EEOC v. Abercrombie & Fitch Stores, ___ U. S. ___; 2015 U.S. LEXIS 3718 (June 1, 2015)

DISCRIMINATION

Evidence of poor performance around the time an employee files a discrimination claim is evidence that can defeat the employee's claim.

Gibson v. Geithner, 776 F.3d 536 (8th Cir. January 9, 2015)

RACE DISCRIMINATION

Police officer who accidentally shot himself, left a shot gun in his car and could not account for a fake \$100 bill has no race discrimination claim.

Underwood v. City of Moultrie, ___ F.Supp. 3d ___,
2014 U.S. Dist. LEXIS 126193 (M.D. Ga, July 24,
2014)

DISABILITY

An employee's inability to get along with co-workers, even if such behavior is caused by ADHD, is not a disabled individual.

Weaving v. City of Hillsboro, 763 F.3d 1106 (9th Cir. August 15, 2014)

DISABILITY

An employee must submit appropriate medical documentation to prove an alleged disability and cannot rely on a self-diagnosis.

Felkins v. City of Lakewood, 774 F.3d 647 (10th Cir. December 19, 2014)

DISABILITY

An employer did not violate the ADA when it terminated a hearing impaired employee for threatening co-workers and conducting personal business during work hours.

*Curley v. City of North Las Vegas, 772 F.3d 629
(9th Cir. December 2, 2014)*

SEXUAL HARASSMENT

An employer that issues more harsh discipline to one participant in an office affair may face a claim of sex discrimination.

Orton-Bell v. Indiana, 759 F.3d 768 (7th Cir. July 21, 2014)

RETALIATION

Waiting six days to fire an employee, after deciding to do so, during which time the employer received an EEOC charge, could be retaliation.

Ledbetter v. Good Samaritan Ministries, ___ F.3d ___
(7th Cir. February 6, 2015)

FAMILY AND MEDICAL LEAVE

An employer did not violate the FMLA when it terminated employee on FMLA where the employee was seen playing football with her children, working in the yard and engaging in other physical activities.

Dalpiaz v. Carbon County, 760 F.3d 1126 (10th Cir. July 25, 2014)

SOCIAL MEDIA

Nurse properly terminated and denied unemployment benefits for Facebook post stating he wanted to “slap the ever-loving bat snot” out of a patient and he would not respond to the patient’s call button.

Talbot v. Desert View Care Center, 2014 Idaho LEXIS 172 (Idaho Sup. Ct. June 20, 2014)

SEXUAL HARASSMENT

Forced “motorboating” leads to \$567,000 in liability.

Gist v. Galveston County, Docket No. 12-cv-1159 (D. Tex. March 21, 2014)