

Jacobs Law Group News

Business Lawyers and Litigators

June 2006

Special Alert to Employers of less than 5 Employees

Forget what you may have been told about how Pennsylvania's Human Relations Act does not apply to you. In a decision that significantly advances the rights of employees, the Pennsylvania Superior Court has announced that although that Act specifically states that it does not apply to employers of 4 or fewer employees, the state Constitution does, and the damages available under the Constitution for wrongful discharge can be more lucrative to plaintiffs.

While this ruling does not eliminate the longstanding employment at-will principle, which permits an employer to discharge an employee at any time for any reason that is not statutorily prohibited (color, religion, etc.), this ruling does limit the at-will doctrine. As a result, the courts are now open to more suits resulting from employee discharges.

In the recent case of *Weaver v. Harpster Financial* the Superior Court found that Pennsylvania's Human Relations Act constituted a clear mandate of public policy against sex discrimination. Small employers, whose overall impact on the economy is miniscule, are still bound by the public policy enunciated in that state statute even though the statute's explicit language specifically exempts small employers from its terms.

The court reasoned that since there can be no legal injury without a remedy, the Human Relations Act must be the remedy: "It is difficult to believe that the Legislature would first define certain acts as illegal via both the Constitution and statute, thus establishing a public policy unequivocally condemning such conduct, and then remove all judicial recourse for the victims of that conduct."

Therefore, where an employee is prevented from bringing a sexual discrimination suit under the Human Relations Act only because his or her employer has less than four employees, there is now a public policy exception to the at-will employment doctrine that permits these employees to sue in court under the state Constitution..

Phone: 215-569-9701
Fax: 215-569-9788

e-mail: info@jacobslawpc.com

Web: www.jacobslawpc.com