

Butts v. CSU Board of Trustees - Retaliation and Retreat Rights

In a retaliation and retreat rights case decided by the California Court of Appeal on April 23, 2014, the higher court upheld the jury verdict in the lower court in favor of the employer on the plaintiff's retaliation claim, but reversed the lower court's dismissal of her retreat rights claim.

Plaintiff Sheila Butts appealed to the California Court of Appeal regarding the lower court's dismissal of her claim for "retreat rights" after her employer, the California State University ("CSU"), at Dominguez Hills, terminated her management employment position.

Ms. Butts had been an employee at CSU for over 20 years in a non-managerial position, for which she had obtained permanent status as a CSU employee. On applying for the management position in the Alumni Relations Office, she understood that management positions were "at will," meaning that she could be terminated "with or without cause." She further understood that if the position did not work out for her, that she could "retreat back" to her non-managerial position, which, unlike the management position, had the civil service bargaining unit's protection of only being terminated "for cause." Nevertheless, Ms. Butts felt confident she would be successful in the management position. She obtained the management promotion in 2003 and worked in the position for several years.

Unfortunately for Ms. Butts, for various reasons, the management position did not work out well for her and she blamed her employer for her lack of success in the position, filing race, gender, and age discrimination claims with the EEOC against her employer. Her work situation worsened, resulting in termination from her management position in mid-2008. Ms. Butts felt she lost this position as a result of filing the discrimination complaint. When she sought to retreat back to her former non-managerial position, CSU denied her request and she was terminated from the university altogether.

Ms. Butts then sued in superior court for discrimination, retaliation, and denial of her retreat rights. However, prior to the case going to the jury, she dismissed her discrimination claims, the court ruled that she was not entitled to retreat rights, and only the retaliation claim was presented to the jury. The jury found that she had not proven her retaliation claim, and delivered its July 10, 2012 verdict in favor of the employer. She subsequently filed an appeal, seeking to reverse the judgment.

On appeal, the higher court upheld the jury's verdict in favor of the employer on the retaliation claim. However, the court ruled that the plaintiff, Ms. Butts, was entitled to have her claim for retreat rights heard on its merits and that the lower court erroneously dismissed her claim without giving her that opportunity. Therefore, the Appellate Court reversed that portion of the verdict and sent it back to the lower court to allow Ms. Butts the opportunity to present her claim for retreat rights back to her prior non-managerial position with CSU.

California Minimum Wage Increase

This is a reminder to employers that effective July 1, 2014, California's minimum wage increases from \$8 per hour to \$9 per hour. The increase not only applies to non-exempt, hourly workers, but also to workers in various exempt, salaried positions subject to minimum wage requirements.

Note: The City and County of San Francisco's minimum wage rate increased to \$10.74 per hour, effective January 1, 2014.

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