

EMPLOYMENT LAW

A L E R T

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

Federal Judge Scolds Employer for Making Juror Use Vacation Time

February 27, 2007

A United States District Court Judge strongly scolded an employer, which twice tried to force its employee to use vacation time for the time spent serving on a jury. While the company ultimately apologized and guaranteed the court of its change in policy, the employer received much negative attention (and the expense of defending itself in a contempt proceeding) for initially taking a position that was not in accordance with Tennessee law. (In re Heritage Propane, E.D. Tenn. February 6, 2007).

The employee was called to serve in the “jury pool” during a court term. The employee initially served nine days of jury duty, and the company charged his vacation pay accrual for this time. The employee complained, and a court officer notified the company that it likely violated both federal and Tennessee law in doing so. The company responded that it was not aware of the law and said it would restore the vacation days. Later, when the employee served another six days during the same jury term, the company again charged him vacation days. The second time prompted the court to set a hearing, to tell the company that it must appear and to explain why it should not be held in contempt of court.

At that hearing, the court noted that the employer’s conduct was “contemptuous” but that the employer’s apology to the employee and to the court and its guarantees of compliance precluded a factual finding of contempt. The Court noted that any form of reprisal, including the elimination of employee benefits, for jury service interferes with the integrity of the judicial system, fosters disrespect for the rule of law and jeopardizes our country’s national policy of providing a fair cross section of the community on juries.

Employers should remember that federal law prohibits an employer from retaliating in any way against an employee for his/her jury service, essentially meaning that employees must be allowed the time off when called to serve. Furthermore, Tennessee (like many states) also requires that the time off for jury service be paid time.

As this case well shows, any attempt to charge any paid benefit accrual for such time is prohibited and does not sit well with the judges.

REMINDER TO TENNESSEE EMPLOYERS: In Tennessee, not only do employers have to provide time off to employees for jury service, but also the employer must pay the employee his or her “usual compensation” for actually serving on the jury and time spent traveling to and from such jury service.

If you have any questions about the matters described in this Employment Law Alert please contact one of the Bass, Berry & Sims attorneys in the Labor and Employment Practice Area referenced at the end of this Alert.

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