

Florida's Fourth District Issues First Appellate Decision Expressly Adopting Business Judgment Rule in Employment Discrimination Cases

August 31, 2023

Earlier today, Florida's Fourth District Court of Appeal released *Francois v. JFK Medical Center Limited Partnership*, which affirmed the trial court's grant of summary judgment in favor of the hospital based on the application of the business judgment rule. The hospital terminated the plaintiff as a result of his use of excessive force against a patient. The plaintiff disagreed, claiming that he was fired in retaliation for a workers' compensation claim. The plaintiff, therefore, brought a workers' compensation retaliation claim against the hospital pursuant to section 440.205, Florida Statutes. The hospital successfully moved for summary judgment, arguing that the business judgment rule precluded the plaintiff's claim. Using case law from the Eleventh Circuit Court of Appeals, the hospital framed the issue as: A plaintiff is not allowed to recast an employer's proffered nondiscriminatory reasons or substitute his business judgment for that of the employer. Provided that the proffered reason is one that might motivate a reasonable employer, an employee must meet that reason head on and rebut it, and the employee cannot succeed by simply quarreling with the wisdom of that reason. The Fourth District agreed with both the trial court and the hospital and expressly adopted the business judgment rule. The court noted that, although some decisions had implicitly accepted it, "[n]o case from this Court has explicitly applied the business judgment rule to an employee's discrimination or retaliation claim." Not only is this decision significant for its holding that the "business judgment rule applies in workers' compensation retaliation cases," but it also paves the way for the application of the business judgment rule in other causes of action in Florida where a plaintiff argues that the employers' actions are retaliatory and pretextual.

The authors represented the hospital in both the trial court and the appeal that resulted in the Francois decision.

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