

(PRACTICE AREA)
Employment Law and Litigation

Home Health Care Company Prevails In Wrongful Termination Lawsuit

SITUATION

Following a history of poor performance and misconduct, a home health care agency fired a field nurse for violation of its “no gossip” policy. The former employee sued in San Diego Superior Court for whistleblower retaliation and wrongful termination in violation of public policy for complaining about various violations of the Health and Safety Code, the Medicare regulations, and Title 22 of the California Code of Regulation.

CHALLENGES

This was a factually complex case with disputes over the nature of the “complaints” made, which ran the gamut from staffing levels, patient supplies, technology and tools, to standard operating procedures, as well as the actual reasons for the employee’s termination.

PROCESS

At summary judgment, the employer argued that the former nurse did not actually characterize the issues as safety-related or otherwise unlawful conduct, and thus, her “complaints” were not protected activity. The trial court granted summary judgment and denied the employee’s request for leave to amend the complaint. The employee appealed both the summary judgment and denial of leave to amend.

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