



The Perennial Employment Battle --- “Employment at Will” versus “Discrimination”

The employer wants to fire an employee... what are the risks?

Colorado is an “employment at will” state. Any employee can leave for any reason or no reason. Any employer can terminate an employee for any reason or for no reason.

With some limitations:

Some of the limits are that an employer cannot terminate an employee **BECAUSE** he or she is in a protected class. Protected classes are:

- age (over 40)
- sex
- race
- religion
- color
- citizenship
- alienage
- national origin
- disability

There are other limitations on the concept of “employment at will.” For example, a company cannot fire an employee **BECAUSE** he or she made a claim for worker’s compensation, or **BECAUSE** he or she reported some harassment or was a “whistle-blower” and reported the company for some other reason.

So is a company safe if they have some other legitimate reason for firing the employee? Any employee can make a claim that the company fired them for a prohibited reason. The question is then what evidence does the company have that there were other reasons for terminating their employment, and what evidence does the employee have. Companies often fail to keep good records, to document actions or issues, to protect themselves from these types of claims.

Documentation may save your business. Setting and following policies and education for employees may be the thing that keeps you out of court. Think of it like taking a pill every day to prevent a really awful health problem!

Minor & Brown can help you through the maze of employment issues. (Dated: January 2010)

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