

EMPLOYMENT LAW UPDATE

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Edward Almada v. Allstate Insurance Co.
02 C.D.Ops. 2686
C.A.9 (Ariz.), 2002.

Unambiguous at-will statement in employment agreements and employee manuals preclude plaintiffs from establishing the existence of a promise not to terminate but for good cause.

By Douglas J. Melton and Jason A. Geller

In a case that reiterates the value of clear and unambiguous “at-will” statements in offer letters and employee manuals, the Ninth Circuit Court of Appeals recently ruled that such statements precluded a plaintiff from establishing the existence of a contract not to terminate but for good cause.

Allstate hired plaintiff Edward Almada in 1967 pursuant to an offer letter which stated “either you or Allstate have the right to terminate this agreement upon mailing to the other, at his or its last known address, written notice of termination . . . This document contains the whole agreement between you and Allstate and it shall not be altered or amended except by an agreement in writing signed by you and by Allstate’s authorized manager.”

Moreover, Allstate’s employee manual contained a prominent disclaimer that employment at Allstate was “terminable at the will of either Allstate or an employee with or without notice and with or without cause.”

In October 1996, two of Almada’s former secretaries alleged that he had sexually harassed them. Almada denied the allegations and Allstate commenced an investigation. After investigating the allegations and interviewing the parties, Allstate corporate security concluded that Almada had made unwelcome advances and had sexually harassed his former secretaries. Allstate terminated Almada’s employment in January 1997. Almada sued Allstate alleging breach of employment contract.

The trial court granted Allstate’s motion for summary judgment, holding that Almada was an at-will employee (and, in the alternative, that even if Almada could be terminated only for cause, that standard was met if Allstate believed in good faith that Almada had committed sexual harassment). Almada appealed.

The Court of Appeals affirmed summary judgment, observing that Allstate’s initial offer letter, issued over thirty years earlier, articulated the essence of an at-will agreement, *i.e.*, that both

parties had the right to terminate the employment relationship simply upon notice to the other. The court observed that the employment agreement was modified in writing on several occasions, without any change in the at-will provision.

The court also observed that the Allstate employee manual contained both a prominent disclaimer that the manual was “not a statement of contractual rights” and that employment at Allstate was “terminable at the will of either Allstate or an employee with or without notice and with or without cause.” The court reasoned that “in the face of this clear disclaimer, no reasonable trier of fact could have concluded that the manual modified the provisions of Almada’s at-will contract.

This case re-emphasizes the critical importance of clear and unambiguous at-will statements in offer letters and employee manuals. All California employers should review their written agreements with employees, and their employee manuals, to ensure that similar statements are present.

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