

## Medical Marijuana Users Get Smoked By High Court Of Colorado

June 17, 2015 | [Employment Discrimination, Currents - Employment Law](#)

Becoming the first state to decide the much-anticipated issue, the Colorado Supreme Court unanimously held that a statute barring the termination of workers for engaging in lawful activities outside of work does not prevent employers from firing an employee for failing a drug test, despite having a state license to smoke marijuana for medical purposes. The reason: smoking marijuana is still unlawful under *federal law*. The case, *Coats v. Dish Network*, can be found [here](#). The plaintiff – a quadriplegic customer service representative for Dish Network who obtained a state license to use marijuana to help control muscle spasms – argued that he was unlawfully discharged under Colorado’s “lawful activities” statute because the state had deemed his admitted outside-of-work usage lawful. Rejecting the plaintiff’s argument that “lawful” meant “lawful under Colorado state law,” the Colorado Supreme Court found that the plain language of the statute was not so limited. The Court held that “lawful” conduct – unadorned by any qualifiers – must be lawful under both state and federal law. This decision, the first of its kind, is likely to be influential in similar cases across the country. While the plaintiff’s facts were certainly sympathetic in this situation, it’s difficult to argue that “lawful” doesn’t mean “lawful” under both state and federal laws (hence the unanimous decision). While there are no guarantees (and this decision is only controlling in Colorado), the obvious takeaway here is that companies with zero-tolerance drug policies in states with similar legalized marijuana and “lawful activities” statutes can rest a bit easier with at least one state supreme court decision squarely in their corner.

### RELATED PRACTICE AREAS

Arbitration and Grievances  
EEO Compliance  
Labor and Employment  
Workplace Culture 2.0

### RELATED TOPICS

Colorado  
drug policies  
Termination