BARNES & THORNBURG LLP

ALERTS

Disruptive Minnesota Case Challenges Disclaimers In Employee Handbooks

February 24, 2021 | Minneapolis

Highlights

Minnesota employers have relied on years of court decisions stating they had the right to disclaim any intention to create a contract when drafting employee handbooks

The Minnesota Supreme Court has narrowed that right

A high level of specificity in handbooks for disclaimers, compensation and other benefits will be needed

The Minnesota Supreme Court recently upset what employers had thought was a well-established area of employment law: the ability to draft and issue an employee handbook without inadvertently creating a binding employment contract.

The case, *Hall v. City of Plainview,* resulted from the firing by the city of Plainview of its long-time municipal liquor store manager, Donald Hall. At the time of his termination, Hall had accrued over 1,700 hours of paid time off (PTO). The city's handbook stated that "[w]hen an employee ends their employment with the City, for any reason, 100% of the accrued unused personal leave time will be paid up to 500 hours, unless the employee did not give 'sufficient notice.'"

RELATED PEOPLE

Timothy Y. Wong
Of Counsel
Minneapolis

P 612-367-8725
F 612-333-6798
twong@btlaw.com

Kenneth J. Yerkes
Partner
Indianapolis

P 317-231-7513
F 317-231-7433
ken.yerkes@btlaw.com

John T.L. Koenig
Partner
Atlanta

P 404-264-4018
F 404-264-4033
john.koenig@btlaw.com

David B. Ritter
Partner
Chicago

P 312-214-4862
F 312-759-5646
david.ritter@btlaw.com

The *Hall* case has the potential to be extremely disruptive for Minnesota employers, who have relied on many years' of decisions stating that they had the right to disclaim any intention to create a contract when drafting handbooks, and could do so with general disclaimer language.

The city of Plainview's handbook did not make any allowance for involuntary terminations. It also contained two different "disclaimers" of contractual intent:

The Personnel Policies and Procedures Manual is not intended to create an express or implied contract of employment between the City of Plainview and an employee. The Personnel Policies and Procedures Manual does contain language dealing with the grievance procedure, employee discipline or termination, which the City may choose to follow in a particular instance. These provisions however, are not intended to alter the relationship between the City as an employer, and an individual employee, as being one which is "at will," terminable by either at any time for any reason.

The handbook also stated that "[t]he purpose of these policies is to establish a uniform and equitable system of personnel administration for employees of the City of Plainview. They should not be construed as contract terms."

Prior to his termination, the city sent a letter offering Hall the option to voluntarily resign in lieu of termination. The city stated that if he did so with sufficient notice, it would pay his accrued PTO up to 500 hours. Hall refused and was terminated. He then demanded payment of the full amount of his PTO and the city refused, citing his failure to provide sufficient notice.

Following his termination, Hall filed a lawsuit seeking his entire accrued PTO balance, based on three alternative theories: 1) breach of contract, 2) a statutory claim asking for the full amount of his PTO, and 3) unjust enrichment. The lower court dismissed the contract and statutory claims, and the parties settled the unjust enrichment claim. Hall then appealed dismissal of his claims for PTO.

Minnesota Supreme Court's Analysis

The supreme court considered two issues. First, it looked at the PTO language to determine whether the "promise" it contained was sufficiently definite to create an offer for an employment contract. Because the language contained very specific procedures, and because compensation "goes to the heart" of the employment relationship, the court held that the language was arguably definite enough, and sent the case back to the trial court for trial on that issue.

The second issue, whether "a general disclaimer in an employee handbook stating that the provisions of the handbook are not intended to create a contract necessarily defeats the formation of a contract for every provision in the handbook," was more difficult. After looking at over 35 years of case law precedent, the court held that the issue of "blanket disclaimers" was an open question of law in Minnesota (this will come as a surprise to most human resource and employment law practitioners). The court went on to find that it the disclaimer language was not specific enough to overcome the specific PTO language found elsewhere in the handbook.

William A. Nolan
Partner
Columbus

P 614-628-1401
F 614-628-1433
bill.nolan@btlaw.com

Mark S. Kittaka
Partner
Fort Wayne, Columbus

P 260-425-4616
F 260-424-8316
mark.kittaka@btlaw.com

Keith J. Brodie
Partner
Grand Rapids

P 616-742-3958
F 616-742-3999
keith.brodie@btlaw.com

Peter A. Morse, Jr.
Partner
Indianapolis, Washington, D.C.

P 317-231-7794
F 317-231-7433
pete.morse@btlaw.com

Scott J. Witlin
Partner
Los Angeles

P 310-284-3777

Parsing the disclaimer language in the policy, the court found that the "language of this provision is aimed at preserving the City's ability to terminate an employee at its sole discretion; it has no bearing on the issue of payment of accrued PTO." The court further stated that the handbook's "broad and general contract disclaimer language in the Handbook's introduction, in the context of the entire Handbook and the relationship between the City and its employees, is ambiguous as to the applicability to the PTO policy."

The court reasoned that allowing a general disclaimer to overcome specific language made no sense from a legal or common-sense perspective: "The City's interpretation of the general disclaimer language in the introduction creates a conflict with the detailed and concrete explanation of the City's unilaterally imposed policy to compensate employees who have performed work for the City with accrued PTO when their employment ends."

The court concluded "that the general disclaimer language in the Handbook's introduction – the provision 'to establish a uniform and equitable system of personnel administration' – does not unambiguously mean that Hall has no contractual entitlement to payment for accrued PTO…." It went on to note that employers could still have some flexibility with their handbooks: "employers are not rendered helpless by our decision…well-drafted, specific disclaimers can prevent the formation of contractual rights stemming from employee handbook provisions, including provisions concerning PTO. Employers can and should include more than boilerplate 'no contract' disclaimers in their employee handbooks, both for their own benefit as well as for the benefit of their employees…."

Finally, Hall attempted to claim that Plainview had violated the Minnesota statutes because it failed to pay the entire amount of accrued PTO. He argued that the statutes create an independent claim for PTO, above and beyond his contract claim. Fortunately for employers, the court rejected this claim. It reiterated that the Minnesota statute governing penalties for failure to pay wages promptly does not create an independent right to recover a particular wage, but only sets time limits for payment which are otherwise owed (as here, by a contract for PTO).

Now, with *Hall* as the precedent, it seems a high level of specificity will be required in handbooks for disclaimers, as well as for provisions relating to compensation (and possibly benefit provisions) in order to avoid accidently creating a contract.

In light of *Hall*, it would be prudent for Minnesota employers to carefully review their employee handbooks, and to work with their human resource professionals and legal counsel to update the language accordingly.

To obtain more information, please contact the Barnes & Thornburg attorney with whom you work or Tim Wong at 612-367-8725 or twong@btlaw.com.

You can also contact another member of the Labor and Employment Department:

Kenneth J. Yerkes, Chair
317-231-7513

John T.L. Koenig, Atlanta

F 310-284-3894
scott.witlin@btlaw.com

Michael Palmer
Partner
South Bend, Grand Rapids, Chicago

P 574-237-1135
F 574-237-1125
michael.palmer@btlaw.com

RELATED PRACTICE AREAS

Labor and Employment

404-264-4018

David B. Ritter, Chicago
312-214-4862

William A. Nolan, Columbus
614-628-1401

Mark S. Kittaka, Fort Wayne
260-425-4616

Frank T. Mamat, Detroit Metro
947-215-1320

Keith J. Brodie, Grand Rapids
616-742-3978

Peter A. Morse, Indianapolis
317-231-7794

Scott J. Witlin, Los Angeles
310-284-3777

Michael P. Palmer, South Bend and Elkhart
574-237-1139