

planations, coupled with the timing of Melvin's termination, are enough evidence from which a reasonable jury could infer Melvin was terminated because she qualified for workers' compensation benefits."

Case Commentary

The Eighth Circuit ruled that Car-Freshener's discharge of Melvin after she filed a Workers' Compensation claim, standing alone, is not proof positive of retaliation.

Case Questions

1. Do you agree with the court's decision?
2. Should the proximity in time be sufficient to establish a prima facie case of retaliation requiring Car-Freshener to retort with a legitimate justifiable reason?
3. Can you propose an ethical solution to this dilemma?

Case 21.2

Michael J. French v. American Airlines

2009 U.S. Dist. LEXIS 48654 (U.S. District Court Utah Central Division)

The issue is whether American Airlines committed fraud with regard to its employee's Workers' Compensation claim and whether a federal court has jurisdiction over the case.

STEWART, UNITED STATES DISTRICT JUDGE.

Plaintiff Michael French, a former ramp worker with American Airlines ("Defendant"), is suing American for damages caused by American's alleged fraudulent handling of his Workers' Compensation claim.

Plaintiff's Workers' Compensation claim arises from an injury on December 20, 2004. Plaintiff alleges he was loading heavy luggage onto a plane when he felt something in his back pop and felt pain in his middle back, just below his shoulder blades. In January of 2005, Plaintiff sought medical treatment for his lower back injury. On February 4, 2005 Plaintiff left work complaining of numbness in his arm and foot. In April of 2005, Plaintiff complained of neck pain and began receiving medical treatment for that pain.

On May 13, 2005, Plaintiff filed an application for hearing before the Utah Labor Commission. The Administrative Law Judge concluded that Plaintiff had demonstrated medical causation for the lower back injury, but not for the neck injury.

Plaintiff argues that his two cases represent two distinct causes of action: civil rights violations and fraud in the first case and employment discrimination in the second case.

Plaintiff asserts that Defendant committed mail fraud, Workers' Compensation fraud, Social Security fraud, and identity fraud. As fraud alone is not a basis for federal jurisdiction, this Court's jurisdiction over a fraud claim can only be derived from diversity of citizenship amongst the parties. In diversity actions, the Court will apply the substantive law of the forum state. To allege fraud under Utah law, Plaintiff must allege that "a false representation of an existing material fact [was] made knowingly or recklessly for the purpose of inducing reliance thereon, and there [was] reasonable reliance resulting in the plaintiff's injury."

Here, Plaintiff alleges that Defendant attempted to fraudulently avoid paying on his claim by intentionally filing his claim late, filing his claim in the wrong state with the wrong insurance

claim, they are barred by the exclusivity of Plaintiff's fundamental grievance procedure between Defendant's alleged retaliation claim, Plaintiff's claim remains barred. "The Utah Workers' Compensation Act means that where the Act imposes a permanent disability, the Act provides that it is the course of or arising out of a covered injury. Thus, Defendant's alleged Act, and private actions for those failures. Further, Plaintiff asserted in his Verdict with the wrong insurance company versus Workers' Compensation decision by Appeals Board.

Thus, because Plaintiff has failed to show a causal link between Plaintiff's injury, and because the Utah Workers' Compensation Act, Plaintiff has failed to state a claim against American Airlines.

Case Commentary

The Utah District Court, Central Division, stated that if the evidence denied due to improper handling by an Appeals Board.

Case Questions

1. Do you agree with the court's decision?
2. Do you believe the Utah Appeals Board was correct?
3. What would be an ethical resolution?

Jesse Maxwell v. AIG Domestic Claims

893 N.E.2d 791, 2008 Mass. App. LEXIS 97

The issue is whether AIG's intentional punishment amounted to malicious prosecution and interference with contract.

On October 8, 2000, while working at a retail store, Jesse Maxwell, injured his shoulder, neck, and back. He promptly reported the injury to Bay State