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Here is a glimpse at some recent cases decided by the Federal and State courts regarding the rights and obligations of employers and employees in Minnesota taken from Marshall Tanick's recent monthly columns on employment law in ***Bench & Bar*** *magazine.*

Keeping an eye on Developments in Employment Law for Employers and Employees

STANDING SURVIVES FOR CHALLENGE TO SCHOOL-UNION CONTRACT

Eighth Circuit Upholds Taxpayer Claim

Taxpayer standing; suit against school district survives. A provision in a union contract between teachers and a school district granting 100 days annually of paid leave to work on political activities is subject to a taxpayer challenge. Reversing a ruling of U.S. District Court Judge Jerry Blackwell in Minnesota, the Eighth Circuit Court of Appeals, by a 2-1 vote, held that residents and taxpayers in the Anoka Hennepin School District, the state's largest, have standing to challenge the provision on First Amendment grounds as well as under the state Public Taxpayer Labor Relations Act**.** A dissenting judge opined that the taxpayers lacked standing because they did not show any illegal expenditures by the school district. ***Huizenga v. Independent School District, No. 11, 2025*** WL 2302432 (Minn. Ct. App, Aug. 11, 2025)(nonprecedential).

Seizure restriction from working; perception of disability. A railroad employee was barred from work for five years due to the employee's view that a non-job related brain injury created a risk of future seizures was entitled to pursue a claim under the Americans with Disabilities Act (ADA). The Eighth Circuit reversed a lower court ruling on grounds that the employer's restriction constituted an actionable "perception" of disability. ***Meza v. Union Pacific Railroad Co., 144*** F.4th 1115 (8th Cir. 2025).

Disability discrimination; class claimants can proceed. A pair of dismissals of disability discrimination class action claimants were reversed by the Eighth Circuit.

An employee who challenged a railroad's fitness-for-duty policy was tolled while he filed a charge with the Equal Employment Opportunity Commission (EEOC) and received a right-to-sue letter following a narrowing of a certified class. Since he was not "unambiguously excluded" from the class, the employee is entitled to remain in the case after the class was ultimately certified. ***Hess v. Chicago Pacific Railroad,*** 139 F.4th 974 (8th Cir. June 12, 2025).

Another railroad employee was allowed to toll the limitations period on the same grounds since he was "plausibly" within the certified class, warranting tolling of the limitations period while he filed an EEOC charge and was given a right-to-sue letter. ***Palmer v. Union Pacific Railroad Co.,*** 139 F.4th 970 (8th Cir. June 12, 2025).

Vicarious liability; lack of foreseeability. A retail cell phone employee who disseminated on social media private sexual images on a customer's private phone did not invoke the doctrine of vicarious liability to hold the employer liable in a civil action by the customer. Affirming summary judgment by the Blue Earth County District Court, the Court of Appeals held that because the misconduct did not occur within the scope and course of conduct and was not foreseeable, the employer was not liable. ***Strahan v. Boone,*** 2025 WL 1793834 (Minn. Ct. App, June 30, 2025)(nonprecedential).

Disability discrimination; no impairment found. A failure to identify a specific mental or physical impairment was fatal to a disability discrimination claim by an employee of the Department of War, formerly known as the Department of Defense. The Eighth Circuit affirmed dismissal of a wrongful termination lawsuit under the Rehabilitation Act, 29 U.S.C. § 701, et seq., as well as race and gender discrimination and harassment, which did not rise to the level of "severe or

pervasive” to be actionable under Title VII Of the Civil Rights Act. ***Yelder v. Hegseth***, 2025 WL 2373355 (Minn. Ct. App, Aug. 15, 2025)(nonprecedential).

Whistleblowing; burden-shifting test applies. The three-part burden shifting test used in discrimination cases is applicable in whistleblower cases. The Court of Appeals, affirming a ruling of the Clay County District Court, upheld application of the standard of ***McDonnald-Douglas v. Green,*** 411 U.S. 792 (1973), uppholding the trial court’s dismissal of the whistleblower lawsuit and that the claimant failed opt overcome his municipal employer’s proffered reason for his discharge. ***Olds v. City of Moorhead,*** 2025 WL 2373355 (Minn. Ct. App, Aug. 15, 2025)(non-precedential).

Unemployment compensation; repeated absences bars claim. A machine operator fired due to repeated absences lost his application for unemployment compensation benefits. The Court of Appeals upheld a determination of disqualifying “misconduct” by an Unemployment Law Judge (ULJ) with the Department of Employment and Economic Development (DEED). ***Xiong v. Quality Extrusion,*** 2025 WL 2389415 (Minn. Ct. App, Aug. 18, 2025)(nonprecedential).

Unemployment compensation; multiple misconduct. Although one of many alleged instances of employee misbehavior was not proven, an employee lost his employer compensation claim due to a series of other improprieties. Because of the “multiple incidents” of misconduct found by an Unemployment Law Judge (ULJ), the Court of Appeals affirmed denial of beverages in "misconduct" grounds. ***Chongtoua v. Bdot Learning Center, 2025*** WL 1794168 (Minn. Ct. App, June 30, 2025)(nonprecedential).

Workers Compensation; direct claim by employee. An injured employee is entitled to bring a direct claim for medical expenses relating to an on-job injury that was by the employee’s health insurance paid prior to a determination that the injury was compensable under the Workers’ Compensation Act. The Supreme Court affirmed a determination of the Workers Compensation Court of Appeals, while reinstating a portion of the compensation judge’s order denying intervention by the health insurer for failure to timely intervene. ***Brunner v. Post Consumer Brands***, 2025 WL 2233446 (Minn. Ct. App, Aug. 6, 2025)(nonprecedential).

ATTORNEY ADDRESSES ASSORTED APPEALS

St. Louis Park Seniors

Rotary Club

Marshall H. Tanick of the law firm of MEYER NJUS TANICK LINDER & ROBBINS, P.A., addressed an assortment of appellate cases decided this year by the U.S. Supreme Court in his annual “Nine for Nine” PowerPoint presentations. He reviewed the High Court’s recent rulings from left to right at the St. Louis Park Seniors (left), the Golden Valley Rotary Club (right), the BOND organization of Brandies along with his wife, ***Cathy Gorlin*** (bottom left), and the Edina-based Ham ‘N Eggs business group (bottom right). His presentations also included a review of appeals currently pending before the justices to decide in 2026.

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