
Tenth Circuit Court of Appeals Finds Against Employee Who Made Verbal Settlement Agreement

Despite the Headline, This case is a red flag for Employers: The headline sounds as though Walmart won the battle, since the Court found against the Employee. However, in an attempt to win a case, it may have lost a war that other employers might not have wanted it to fight for them.

Walmart and the Employee, Walters, had a settlement conference and by the end of the conference, the employee agreed to terms. However, when the written settlement document was presented, Walters refused to sign.

Walters, a 56-year-old African-American man, had alleged that Walmart discriminated against him on the basis of race, age, disability, and gender. Approximately 18 months after he sued the superstore chain, the parties -- both represented by counsel -- reached a purported settlement agreement during a court-ordered settlement conference. Walters claimed that he had been misled by his own attorneys when they told him that his Social Security and workers' compensation claims would be at risk if he did not sign the original agreement. (The attorneys deny his claim.) Within the week, he'd decided he could not accept the agreement. He fired his attorneys and proceeded with his own handling of the matter.

Because settlement agreements are contracts, "issues involving the formation and construction of a purported settlement agreement are resolved by applying state contract law." Here, Oklahoma law governed the agreement.

The Tenth Circuit concluded that the district court did not err in finding that Walters and Walmart established the essential elements of a contract under

Oklahoma law. As the district court noted, the "Settlement Terms" document signed by Walters evidenced the parties' intent to effectuate a defined settlement. Walters was not in a position to repudiate the agreement even if he was later unhappy with its terms.

Under Oklahoma law, settlement agreements, which may be oral or written, are controlled by "the rules of offer and acceptance and of mutual assent which control any issue of contract formation." The consent of the parties must be free, mutual, and "communicated by each to the other." A party generally may not repudiate a settlement agreement absent fraud, duress, undue influence, or mistake.

Furthermore, the court found that in this proceeding there was inadequate evidence that Walters' attorneys misled him, or that the allegedly misleading statements would have affected the settlement. However, it is possible that he could still make a separate claim against his attorneys in a malpractice action.

What This Means to Counties

Beware of going to settlement conferences unprepared. Make sure you have seen or discussed all the fine print of any possible settlement proposals with your assigned attorneys, and make sure that the representatives for the conference have full authority. And most importantly, make sure that there is some sort of written document of the key terms and conditions that the parties have agreed to before you leave the conference if you want it to stick.