

Alarm Company Did Not Violate Public Policy for Firing in Response to State Inquiry

Alarm & Security Services Industry Alert

Hinshaw Alert | 2 min read

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An employee of an Oklahoma alarm company regularly worked through his lunch period. After some informal internal complaints were rejected, the employee contacted the Oklahoma Department of Labor (ODOL) to inquire whether employees were entitled to pay for work performed during lunch break periods. A co-worker informed management of the employee's call, and the employee was later fired. The employee sued in federal court alleging that the employer had unlawfully deducted time for lunch breaks when he was actually working, in violation of the Fair Labor Standards Act (FLSA), and claimed that he was wrongfully discharged in violation of Oklahoma public policy for contacting the ODOL. The federal court asked the Oklahoma Supreme Court to issue an opinion regarding the state law claims. The Oklahoma Supreme Court recognized that an employee might have a claim for retaliatory or wrongful discharge where he or she makes a complaint or charge with the ODOL, or otherwise refuses his employer's demand to act in a way that is unlawful or contrary to recognized public policy. However, the employer's refusal to pay wages for work performed during meal periods, when work was not authorized, did not rise to the level of misconduct required to be actionable. Nor did the employee's call to the ODOL constitute the sort of "whistle blowing" activity normally required for a retaliatory discharge claim to lie. However, the question before the Oklahoma Supreme Court, as asked by the federal district court, was somewhat ambiguous, requiring it to be reformulated in this case. Nonetheless, employers must be careful not to retaliate against employees who contact government agencies for assistance or to inquire about their rights under state or federal law.

Reynolds v. Advance Alarms Inc., No. 2009 OK 97 (OK Dec. 15, 2009)

For more information, please contact [Philip R. Kujawa](#) or your regular [Hinshaw attorney](#).

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