

Court of Appeals (Western Section) Overturns Trial Court in Retaliatory Discharge Case *VanCleave v. Reelfoot Bank*

When can a bank discharge an employee in a “right to work” state like Tennessee? The Court of Appeals, sitting in Jackson, has overturned the Circuit Court for Weakley County in a case that may be of interest to our bank clients. The full opinion can be found at 34 TAM 52-6 (October 30, 2009) or by clicking [here](#).

The plaintiff in this case was employed by Reelfoot Bank. The plaintiff was asked by a customer to open an account in a manner that the plaintiff believed was illegal. The plaintiff refused to open the account and shortly thereafter was terminated by the bank. The plaintiff employee filed suit against the bank, asserting claims of common law and statutory retaliatory discharge. After discovery, the bank filed a motion for summary judgment, which was granted by the trial court in favor of the bank. The trial court found that the plaintiff failed to state a claim under either theory because the purported violation of the various statutes and regulations cited by the plaintiff employee did not implicate an important public policy or an illegal activity affecting the public health, safety or welfare. The trial court also found that the plaintiff employee, in refusing to open the requested account, had no intent to further the public good, but sought only to protect the bank. The employee appealed and the Court of Appeals reversed the trial court, finding that some of the statutory provisions at issue implicate important public policy and can constitute the basis for a retaliatory discharge claim.

The laws and regulations in question? **The Bank Secrecy Act, the USA PATRIOT Act, and various consumer privacy laws.**

While you can generally terminate an employee at will for any reason as long as the discharge is not discriminatory, the Court of Appeals refused to uphold a discharge in this case where the employee could demonstrate that she was fired for enforcing the Bank Secrecy Act.

If you have any questions or if we can provide any additional information or assistance, please contact [Katie Edge](#) at kedge@millermartin.com or 615-744-8400.

The opinions expressed in this bulletin are intended for general guidance only. They are not intended as recommendations for specific situations. As always, readers should consult a qualified attorney for specific legal guidance. Should you need assistance from a Miller & Martin attorney, please call 1-800-275-7303.

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