



Sep 01, 2016

Categories:
[Publications](#)

Authors:
[Kathleen \(Katie\) Biggs](#)
[Wright](#)

Kentucky Appeals Court Gives Important New Protections to Managers

The Kentucky Court of Appeals issued a rare “published” decision on Friday granting a new protection for those who manage employees in Kentucky. In *Cowing v. Commare*, the Kentucky Court of Appeals determined that individual managers cannot be sued under Kentucky’s employment discrimination laws.

Impact

This is a significant victory for two reasons. First, it severely limits the personal liability of individual supervisors for routine employment decisions that they must make on a daily basis. Second, it forecloses a strategy often used by plaintiffs to avoid federal court.

Facts

Plaintiff, Charles Cowing, was an aircraft mechanic at Lockheed Martin. Andy Commare was a supervisor at Lockheed Martin, although he was not Cowing’s supervisor. Cowing fell and took a medical leave of absence. Eventually, Cowing was released to return to work, but with lengthy work restrictions relating to his ability to squat, stand, lift, walk, and move while rotating at the midsection. When Cowing returned to work, Commare saw him working in the hangar. He told Cowing that he needed to be cleared by the Medical Office and Human Resources first. After a series of discussions and meetings, Lockheed Martin determined that it could not accommodate Cowing’s work restrictions.

Decision

Cowing filed suit against both Lockheed Martin and Commare in state court. Cowing alleged that Lockheed Martin had discriminated against him and that Commare had “aided and

abetted” Lockheed Martin’s alleged discrimination by blocking his return to work from medical leave.

Lockheed Martin and Commare asked the trial court to dismiss Commare from the case, arguing that Commare’s actions could not be separated from Lockheed Martin’s employment decisions based on the “intra-corporate conspiracy doctrine.” The trial court accepted this argument, and the Kentucky Court of Appeals agreed. The Court of Appeals reasoned that this “doctrine is the logical extension of our rules that ‘a corporation can only act through its agents’ and that a conspiracy involves ‘two or more persons.’”

Conclusion

Unless this decision is reversed by the Kentucky Supreme Court, Kentucky employees are limited to pursuing their discrimination claims against their employer. They may not sue their managers.

Frost Brown Todd, LLC was privileged to represent Lockheed Martin and Andy Commare in this litigation.

If you have any questions about the decision in *Cowing v. Commare* or its implications for Kentucky employers, please contact [Katie B. Wright](#), or any attorney in Frost Brown Todd’s [Labor and Employment Practice Group](#).

© 2026 FBT Gibbons LLP. May be considered attorney advertising in some jurisdictions.