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New Florida Ruling Allows Workers to Plead Discrimination Against Small Employers

"This appellate court ruling is a victory for employees in Miami-Dade County who are being discriminated against and are now not restricted from pursuing their rights," said Chad E. Levy, a plaintiffs attorney.

By Michael A. Mora | June 17, 2022



Third DCA Judges Thomas Logue, Eric Wm. Hendon, and Monica Gordo. (Credit: Courtesy photos)

A Florida appellate court ruled that Miami-Dade employers who have at least five employees can face a cause of action from one of their workers.

That means AutoZone Investment Corp., the largest U.S. realtor of aftermarket automotive parts, will face a lawsuit in Miami-Dade County in which one of its former employees, Andre White, called out the corporation for alleged verbal abuse its employees subjected him to due to his sexual orientation.

And—regardless of the ultimate outcome for White—this appellate ruling is a gamechanger for those alleging discrimination claims against Miami-Dade employers, if the business fits the same staffing criteria.

“The ruling means you’re going to have an enforceable cause of action that otherwise was questioned by the law before this point,” plaintiffs counsel Chad Levy said. “I’ve had very good claims of people who have really been discriminated against before, but they had maybe nine employees, and there was nothing we could do.”

‘Victory for Employees’

Miami Dade County Court Judge Lourdes Simon. (Credit: AM Holt)

At issue on appeal was whether White had a private cause of action to sue his employer, even though the Miami-Dade County store had less than 15 employees, but more than five employees, said Levy and Diane Perez, a partner at Levy & Levy and a solo practitioners in Fort Lauderdale and Miami, respectively.

“This appellate court ruling is a victory for employees in Miami-Dade County who are being discriminated against and are now not restricted from pursuing their rights,” Levy said. “We were surprised when the trial court dismissed it because the statutory language was pretty clear.”

Laurie M. Riley, a partner at Jones Walker in Miami who represented AutoZone Investment Corp., did not respond to a request seeking comment.

The dispute, in this case, was based on a complaint White made to the AutoZone corporate office, only to find out that the corporation placed him on leave and subsequently terminated his employment, according to details in the appellate opinion.

However, later on, the Miami-Dade Commission on Human Rights found that White had a right to sue his employer under Chapter 11A, section 11A-28(10) of the Miami-Dade County Code. The commission enacted Chapter 11A to prevent discrimination in several circumstances, including discrimination in housing, credit and financing

practices and employment.



Chad E. Levy, left, and Diane P. Perez, right, solo practitioners in Fort Lauderdale and Miami. (Credit: Courtesy photos)

But soon after White sued AutoZone, the corporation filed a motion to dismiss, and argued that Chapter 11A did not provide a private cause of action for employment discrimination.

Miami-Dade County Court Judge Lourdes Simon agreed with AutoZone's reasoning, leading her to dismiss the lawsuit with prejudice.

But the trial court ruling was short-lived.

Third DCA Judges Thomas Logue, Eric Wm. Hendon and Monica Gordo ruled in the opinion that the plain language of the statute clearly established that an aggrieved individual may pursue a private cause of action under the county code.

"Section 11A-28(10)(b) explicitly states a court may issue orders or provide affirmative relief 'in a private enforcement proceeding under this Article,'" the Third DCA ruled. "Read together, this expressly creates a guideline for private enforcement of the employment discrimination chapter of the ordinance."

Now, Levy and Perez will present their case before Simon.