

Tort of Wrongful Discharge

In early 2009, the Oklahoma Supreme Court has changed Oklahoma law on wrongful discharge public policy torts. See, *Shirazi v. Childtime Learning Center, Inc.*, 2009 OK 13. This development may, particularly in the private sector, increase the number of cases brought in state court involving discrimination allegations under the Oklahoma Anti-Discrimination Act (OADA). OADA is found at 25 O.S. Section 1302. See also, *Kruchowski v. Weyerhaeuser Company*, 2008 OK 105.

Prior to this case, Oklahoma courts had limited the application of the Burk tort claim exception to the at-will employment doctrine when a former employee was asserting a traditional discrimination claim that violated federal law. Included are discrimination claims based on race, color, religion, sex, national origin, age and handicap.

The Burk public policy tort, which is a limited public policy exception to the terminable-at-will rule, was created by the Oklahoma Supreme Court in *Burk v. K-Mart*, 770 P.2d 24 (Okl. 1989). In *Burk*, the Court recognized a “narrow class of cases” in tort in which the discharge is “contrary to a clear mandate of public policy as articulated by constitutional, statutory or decisional law.” This was originally defined as where an employee is discharged for: (1) refusing to act in violation of an established and well-defined public policy; or, (2) performing an act consistent with a clear and compelling public policy. The *Burk* Court described its decision as serving the “cause of equity as well as the interests of the marketplace.”

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