



Florida EMPLOYMENT

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Law Letter

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PUBLIC EMPLOYERS

Florida Civil Rights Act damages limited to \$100k in public sector

In a decision of great importance to state agencies, counties, and subdivisions of state government, a Florida appellate court has ruled that a \$100,000 cap in the Sovereign Immunity Tort Law (a Florida law that allows persons to sue state and governmental agencies for injuries but limits recovery) applies to all damages that an employee can recover under the Florida Civil Rights Act (FCRA).

Facts

Jeffery Gallagher was employed by Manatee County. He filed suit under the FCRA against the county, claiming gender discrimination and retaliation. The case proceeded to trial, and a jury returned a verdict in his favor. The jury awarded him back pay of \$20,000 and compensatory damages (for both discrimination and retaliation) of \$230,000. In addition, he was awarded attorneys' fees of \$291,743.75 and costs and expenses of \$18,282.50. The total verdict awarded to him was \$560,026.25.

After the jury returned its verdict, however, the county asked the trial court to limit Gallagher's damages to \$100,000. The court ruled that his attorneys' fees, court costs and expenses, compensatory damages, and back pay were all subject to the \$100,000 cap in Florida's Sovereign Immunity Tort Law.

The FCRA provides that punitive damages awarded mustn't exceed \$100,000. Such damages are awarded to punish an employer — to send a message that its conduct won't be tolerated. In private-sector cases, most courts have interpreted the \$100,000 cap to apply only to punitive damages. In those cases, employees have received back pay, front pay, and attorneys' fees and costs *in addition*

to punitive and compensatory damages. Since there's no mention of a cap on compensatory damages, most employment lawyers believe that the remedies available to an employee under the FCRA are greater than under federal discrimination laws, which cap both compensatory and punitive damages.

The damage provisions in the FCRA also state that "the total amount of recovery against the state and its agencies and subdivisions shall not exceed the limitation as set forth in [the Sovereign Immunity Tort Law]." That law provides that the state, state agencies, and political subdivisions won't be liable to pay a claim or a judgment by any one person that exceeds the sum of \$100,000. Punitive damages aren't available against public employers under the Sovereign Immunity Tort Law.

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Appeals court's decision

Gallagher appealed the trial court's decision, arguing that the \$100,000 cap applied only to his compensatory damages award and not to the other awards he received. The court of appeals disagreed. In the Sovereign Immunity Tort Law, the Florida Legislature stated that the "total amount of recovery" should be limited to \$100,000. The court reasoned that the words "total amount of recovery" referred to all elements of the monetary award an employee could obtain against a governmental agency. The court recognized that its decision placed great limits on the rights of fired employees, but it believed that the legislature made that decision when it limited suits against the government. *Jeffrey Gallagher v. Manatee County*, Case No. 2D04-3724 (Fla. 2d DCA, February 1, 2006).

Significance for employers

Limiting an employee's total recovery to \$100,000 will reduce employment suits in the public sector. As you see in this case, the attorneys' fees were the largest part of the verdict. Employment litigation is expensive. It isn't uncommon for attorneys' fees for employees to reach into six figures. When a lawyer representing a fired employee realizes that the total award is limited to \$100,000, that will affect the lawyer's decision to represent the employee. Quasi-governmental authorities will want to review their status to decide if they want to be recognized as a governmental agency that's covered by the Sovereign Immunity Tort Law.

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