

PUBLICATION

California Court Applies Unclean Hands Doctrine to Bar Wrongful Discharge Claim of Undocumented Worker

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The California Court of Appeals decided in an unpublished opinion this month that a worker who presents false documents to an employer is barred from claiming wrongful discharge under state discrimination laws and public policy. The Court based its ruling on the "unclean hands" doctrine and held that where an immigrant fraudulently presents documents to claim work eligibility, the worker cannot then sue for wrongful termination from a job he or she was never entitled to in the first place.

In this case, a woman was hired by the employer as an assembly worker. She presented a false social security card and permanent resident card. After several months of employment, the employee was diagnosed with cancer and requested medical leave. The employer claimed that it granted her requests for leave, but subsequently fired her and five others because of a downturn in business. The employee claimed that she was denied leave and was fired for being sick. She then sued for wrongful termination under state discrimination laws and public policy. The Court barred her suit because she had "unclean hands." In other words, her own violation of immigration laws that are a "government-imposed employment qualification" prevented her from bringing suit for wrongful termination. The opinion stated that "the parties are in pari delicto . . . '[i]n equal fault; equally culpable or criminal' . . . Under the doctrine of unclean hands, '[a] court will neither aid in the commission of a fraud by enforcing a contract, nor relieve one of the two parties to a fraud from its consequences, where both are in pari delicto.'"

How We Can Help

Baker Donelson's Immigration Team regularly counsels employers on I-9 compliance. We perform private audits of I-9 documents, prepare compliance programs, and train managers and workers in implanting those programs. We evaluate particular questionable documents and situations. We help employers participate in the Immigration and Customs Enforcement ("ICE&") "Basic Pilot" program. We defend sanctions actions by ICE for paperwork and "knowingly hire" violations of I-9 rules. We work with our strong Litigation Department to bring and defend claims against competitors based on employment of unauthorized aliens.