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Massachusetts Appeals Court Weighs In On Public Policy Exception To General At-Will Employee Termination Clause

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The Massachusetts Appeals Court, in a slip op opinion issued on January 20, 2021, decided that at-will employees **can** be terminated for submitting rebuttal letters pursuant to G.L.c. 149, §52C ("Section 52C"), and cannot avail themselves of the public policy exception to the general rule that an employee at will may be terminated without cause.

In *Terence Meehan v. Medical Information Technology, Inc.*, plaintiff Terence Meehan argued that he was wrongfully terminated in violation of public policy for exercising his statutory right under Section 52C to submit a written letter to be added to his personnel file, explaining his position on information his employer added to the record. The court disagreed, finding that Section 52C did not meet the public policy exception standard.

The court quoted a 2012 Massachusetts Appeals Court decision, explaining that for the exception to apply, "the public policy must be well defined, important, and preferably embodied in a textual law source." *Ryan v. Holie Donut, Inc.*, 82 Mass. App. Ct. 633, 636 (2012). The court further emphasized that "the internal administration, policy, functioning, and other matters of an organization cannot be the basis for a public policy exception." *King v. Driscoll*, 418 Mass. 576, 582 (1994), S.C., 424 Mass. 1 (1996).

Drawing on the above precedent, the court determined that because the statutory language in Section 52C did not place any limits on the context or content of employee rebuttals, and because the rebuttal letters were to be placed in personnel records that were not available to the public, the right to such rebuttals was not sufficiently important or clearly defined to meet the requirements under the public policy exception. Furthermore, the court found that personnel records by their very nature relate to the internal administration of an organization, and as such, are not entitled to the public policy exception.

The dissent argued that the decision effectively abolishes the rebuttal right for at-will employees, since "no employee in their right mind" would risk the retaliation that the majority's decision permits.

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