Weekly Wright Report (2/12/18)

NO DUTY TO SUPPORT A STEP-CHILD…OR IS THERE?

By Michelle Gomola

Although Maryland law does not generally recognize a duty for a step-parent to provide support for a step-child, a recent Court of Special Appeals case suggests that a step-parent may create a duty to support their step-child by their actions. In *Chassels v. Krepps* (2017) the Court held that any duty to the stepchild needed to flow from Step-Dad, in his personal capacity. A duty can arise by statute, contract or operation of a special relationship. Additionally, in some circumstances a stepparent may assume a duty through his actions if he interjects himself into a prior agreement and, in claims for purely economic loss, there is an "intimate nexus" between the parties.

In *Chassels*, although Step-Dad had no contractual duty to his Step-Child, when he took over the family finances and represented to the Step-Child's biological father that he would fulfill Mom's obligation to maintain the life insurance policy, he may have created such an "intimate nexus" between himself and his Step-Child that gave rise to a duty to keep Dad informed about his and Mom's compliance with her obligation or at least a duty not to conceal any decision to cease compliance. The Court remanded the case to the trial court for further proceedings. Stay tuned for whether the Court forces Step-Dad to pay a form of support for his Step-Child.

BEWARE OF MICRO-AGGRESSIONS

By Don Walsh

More often than not, discrimination claims are excused because the alleged offender claims they did not realize what they said or did was offensive or that perhaps the recipient misinterpreted the circumstances. These types of "micro-aggressions," i.e., "brief and commonplace daily verbal, behavioral, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or negative racial slights and insults" are getting a closer review by the Courts. Recently, a federal court in Pennsylvania found that an employer's "subtle" discriminatory comments could support an inference of discrimination. Comments such as references to a woman's "new husband" being able to support her if she was fired, noting the distance the woman lived from her job with no appreciation that this had no impact for a male employee, and commenting on a woman's ability to be single and raise four children all contributed to this finding by the Court. *Rosencrans v. Quixote Enterprises, Inc.*, (M.D. Pa. January 19, 2018).

Although the plaintiff lost her claims because she could not link these subtleties to the decision makers in her employment decision, the Court's recognition of the impact in its analysis of such

"micro-aggressions" are likely to play a greater role in future reviews of conduct. Developing a more socially aware workforce is key to avoiding such missteps. Good handbooks are only one part to this effort. Workforce training is a more proactive and effective tool.

EEOC – LGBTQI

By Jimmy Constable

In 2013, an employee was forced to leave his employment allegedly due to sexual orientation discrimination. The employee filed a complaint with the Equal Employment Opportunity Commission (EEOC) alleging that the termination was covered by Title VII prohibiting job discrimination based on a person's sex, which includes sexual orientation. The EEOC agreed and awarded the employee over $50,000.00.

The employee was subject to harassment from the start of employment was harassed due to his status as LGBT – a victim of sexual comments, slurs, intrusive questions, among other things. His reports and complaints to the owner were ignored. The harassment did not end and the employee voluntarily left the job to avoid further mistreatment.

Apparently, the employer had a handbook that contained an anti-harassment policy which included prohibition of harassment based on sexual orientation. While the handbook existed, the employee was not allowed to read it or obtain a copy. Furthermore, the policy was never enforced. On top of that, the employer did not offer training to its workforce. When attempts to settle the matter were unsuccessful, EEOC filed a suit alleging violation of Title VII.

There is currently a split in the federal courts on whether Title VII prohibits discrimination on the basis of sexual identity or orientation. On the one hand, the Seventh Circuit has ruled that sexual orientation claims are covered by Title VII. *Hively v. Ivy Tech Community College*, (7th Cir 2016). On the other hand, the Eleventh Circuit refused to extend Title VII to LGBT discrimination. *Evans v. Georgia Regional Hospital, (11th Ci, 2017)*. Now it will be up to the Supreme Court.

In the meantime, employers must be very wary that other Circuits may follow the example of the Seventh Circuit and the EEOC. Employers must have a zero-tolerance policy, must enforce the policies consistently and train supervisors and managers.