

EMPLOYMENT REMAINS AT WILL IN NEW YORK

It has long been the law in New York that absent an agreement fixing a term for the employer/employee relationship or otherwise limiting the employer's rights, employment is "at will" in the State of New York. That means that employers may terminate employees at any time, with or without notice, for any reason or no reason (as long as the actual reason is not an unlawful one). Of course, the flip side is that an employee at will may leave his job without giving any notice whatsoever. A recent decision from highest court in the State of New York confirmed the state of the law.

In Smalley v. The Dreyfus Corp., No. 19 (Feb. 12, 2008), five investment managers whose employment contracts indicated that they were at will employees, sued their employer for what they alleged to be wrongful termination. The theory of the plaintiffs' case was that notwithstanding their status as employees at will, the employer had made representations to them that limited its right to terminate them. The plaintiffs claimed that they heard rumors that their employer was considering merging their department with another company the employer purchased. After repeatedly confronting management with the rumors, the plaintiffs were allegedly reassured that the merger would not occur. According to their complaint, when the plaintiffs made additional inquiries in April of 2004 regarding resurfaced rumors about the merger, management allegedly reassured them that the merger was "off the table" and the team would remain intact for at least another year. Towards the end of 2004, the employer merged the two groups and a few months later, the employer fired the five investment managers. The investment managers sued, claiming that they relied on the no-merger promises when they accepted employment with the company and when they refused job offers from other potential employers. The Court of Appeals affirmed the lower court's decision to dismiss the complaint. The court upheld the provisions in the plaintiffs' contracts indicating that they were employees at will and could be terminated at any time. It was unreasonable, the court stated, for the plaintiffs to rely on any alleged promise not to terminate them.

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This decision highlights the importance of careful drafting of employment agreements to protect the broadest rights possible for the employer.

Employers who wish to protect their right to terminate employees without notice or cause should have a qualified employment attorney review their pertinent employment related documents such as offer letters, handbooks and employment agreements to ensure that they have not inadvertently waived or limited this important right.



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