



EMPLOYERS TO BE TESTED IN THEIR WORKPLACE MARIJUANA USE POLICIES

The passage of the legalization of marijuana in 2012, on top of the expansion of medical marijuana in Colorado, left employers with many questions about their legal authority to have and enforce drug-use related workplace policies. Decisions by Colorado Courts have favored employer rights. But, that could change.

Last week, the Colorado Supreme Court announced that it will review the case of a fired medical marijuana patient. The case involves a medical marijuana patient who was employed by Dish Network. The employer maintains a strict policy against drug-use and the employee, Brandon Coats, lost his job for using marijuana off the clock.

Last spring, the Colorado Court of Appeals ruled that an employer can terminate an employee who tests positive for marijuana, even if the employee was using the marijuana while not on the job.

During the 2013 Legislative Session, the NCLA served in the lead role on behalf of the Colorado business community by passing clarifying legislation in light of the passage of Amendment 64 which specifically gave employers full discretion and authority in the types of workplace drug policies they possess noting that legalization did not extend to use on, or off, the job.

Troubling to the business community in the Supreme Court review of the Coats v. Dish Network case is the expanded question they intend to answer: whether the Colorado constitution gives medical marijuana patient a right to cannabis. Although this case is related to medical marijuana, the implications of the answer could mean the right to cannabis outweighs the rights of the employers in medical marijuana and the leap to recreational isn't very far beyond.

The Colorado business community is organizing to provide an amicus brief to the Colorado Supreme Court defending the employer right to its workplace policies, to hire and to fire.