



Client: Catholic-Affiliated Hospital

Venue: United States District Court for the Southern District of New York

Result: Summary judgment granted to the hospital defendants, agreeing that a prospective employee's objection to the Ethical and Religious Directives for Catholic Health Care Services ("ERDs") was not a protected activity and cannot form the basis of a religious discrimination case.

Victory for Catholic-Based Hospital Systems Across the Country

Garfunkel Wild, P.C. won a significant and precedent-setting victory for its client, and other Catholic-affiliated hospitals across the country, in a case that challenged the use of the Ethical and Religious Directives for Catholic Health Care Services ("ERDs") in Catholic-affiliated hospitals.

The ERDs are a widely-disseminated code of conduct that Catholic healthcare facilities across the nation have followed for years. Nevertheless, in *Giurca v. Good Samaritan, et al*, the plaintiff, a psychiatrist, objected to a Catholic not-for-profit health system's requirement that its employees adhere to the ERDs. The plaintiff was offered a full-time position Bon Secours Charity Health System ("Bon Secours") but declined, choosing to work elsewhere. At the time, he asked questions about the ERDs and noted that he did not want to sign a contract that required that he adhere to the ERDs. Over a year later, he again approached Bon Secours personnel about working at one of its hospitals, Good Samaritan Hospital, and soon thereafter applied to yet another affiliated hospital. This time, he was told there was no job available in response to his first inquiry, and he was rejected in response to his second. Plaintiff sued, claiming that he was discriminated against and blacklisted from employment for asking about the ERDs.

On a motion to dismiss, the Court largely dismissed Plaintiff's claims as deficient, holding the ERDs "are statements of how the signor will conduct his medical practice while employed by the hospital, not a statement of religious belief" and cannot form the basis of a religious discrimination claim. As the Court explained, "all Plaintiff was required to do was to say that he agreed to comply with the ERDs at work; he was not required to say he personally agreed with the ERDs or the views of the Roman Catholic Church. . . He remained entirely free to disagree with and disregard the directives of the Church in his personal life."

Furthermore, "[t]o the extent he believed the Agreements required him to state that he would be bound by Church doctrine in general, that is an implausible reading." That belief "is an idiosyncratic, subjective misreading of the contract, which is secular conduct, not a bona fide religious belief."

A limited retaliation claim survived the motion to dismiss. Following discovery, our clients moved for summary judgment dismissal, arguing, among other things, there was no evidence to support Plaintiff's claim that he reasonably believed he was opposing religious discrimination by asking about the ERDs.

On January 18, 2023, the Court granted summary judgment to the hospital defendants, agreeing that Plaintiff's questions about the ERDs were not a protected activity. The Court expressly called the ERDs a "code of conduct" and reflected on its decision on the motion to dismiss. Upon reflection, the Court held that "Plaintiff's objection to the ERDs cannot be a protected activity because it was not objectively reasonable for Plaintiff to think he was protesting an employment practice made illegal by Title VII" of the Civil Rights Act of 1964. As the Court determined, "[b]ecause there was nothing in the ERDs or the [Bon Secours'] contract, read objectively reasonably, that conflicted with Plaintiff's (or anyone's) religious beliefs, a reasonable person in Plaintiff's position could not regard them as an unlawful employment practice. . . his protest would not constitute protected activity because it was based on an objectively unreasonable misreading of the employment contracts."

With this decision and the ruling on the motion to dismiss, Catholic institutions that require adherence to the ERDs now are armed with a federal court decision to fend off the prospect of a religious discrimination-related claim.