

## Automation Alley Newsletter

March 2011

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### Court Provides Employers with Guidance on Disciplining Employees Registered to Use Medical Marijuana

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When the Michigan Medical Marijuana Act ("MMMA") became law in 2008, Michigan employers were left wondering how the Act would affect their ability to maintain a drug-free workplace. Specifically, would the MMMA prevent an employer from disciplining or discharging an employee who violated company policy by testing positive for marijuana if the employee had a medical marijuana registry card? After two years of uncertainty, Michigan employers have finally received some much needed guidance.

In *Casias v. Wal-Mart Stores, Inc.*, an employee injured at work was required by company policy to take a drug test. The employee had a medical marijuana registry card, which he showed to the testing staff and his supervisor. After testing positive for marijuana, Wal-Mart fired the employee for violating the company's drug-use policy, which did not provide an exception for medical marijuana use. The employee claimed that his discharge under the company's policy violated the MMMA and he sued Wal-Mart for wrongful termination.

A federal judge dismissed the employee's lawsuit earlier this month. The judge ruled that the law does not regulate private employment decisions because the MMMA does not "create a special class of civil protections for medical marijuana users." An employer can discipline or discharge an employee for using marijuana, medical or otherwise, if such use violates the employer's policies. Accordingly, the MMMA does not require employers to revise their current policies regarding employee marijuana use.

Although this decision is the first from either a federal or state court to address the MMMA's effect on private employment, it will likely not be the last. We will advise of any new developments, and in particular watch for any decisions in Michigan state courts.

If you have any questions regarding this E-News Bulletin, please contact your Butzel Long attorney or the authors of this E-news Bulletin.

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