

EMPLOYER ALERT: In New Jersey's Latest Medical Marijuana in the Workplace Ruling, Employers Must Consider All Applicable Employment Laws, Not Just the Most Obvious One



Article By

[Jay S. Becker](#)

[Ari G. Burd](#)

[Giordano, Halleran & Ciesla, P.C.](#)

[NJ Labor & Employment Law](#)

- [Labor & Employment](#)
- [New Jersey](#)

Thursday, March 28, 2019

Yesterday, in *Wild v Carriage Funeral Holdings, Inc.*, the Appellate Division reinstated a medical marijuana user's lawsuit who had claimed that he was terminated for using medical marijuana outside of the workplace. The plaintiff, who was undergoing treatment for cancer, was lawfully using medical marijuana for pain under the Compassionate Use Medical Marijuana Act.

In granting dismissal in favor of the employer, the lower court held that the Compassionate Use Medical Marijuana Act did not unconditionally protect the use of marijuana by employees and further, did not insulate employees from compliance with the terms and conditions of an employer's reasonable zero-tolerance/drug free workplace policy. However, in reversing and remanding the lower court's decision, the Appellate Division ruled that the matter had been dismissed prematurely, by not taking into consideration other employment laws that may afford protection to the plaintiff, such as the New Jersey Law Against Discrimination ("LAD"), noting in particular that an employer still has a duty to not discriminate based on a disability, and still has a duty to reasonably accommodate a known medical issue such as the

one in this case, cancer. The Appellate Division reinstated the complaint to allow the plaintiff an opportunity to prove disability discrimination and failure to accommodate violations under the LAD.

This ruling does nothing to disrupt the current state of the law, which is that employers still have the right to control what happens in the workplace and may continue to take steps to ensure a safe and healthy workplace for all. As this case demonstrates, issues involving medical marijuana continue to evolve as lawful medicinal marijuana employees are afforded more and more workplace protections. And although a vote on recreational marijuana was just recently withdrawn for failure to garner enough support in the legislature, you can be certain it will be back, creating more questions for employers with respect to marijuana use by employees outside of the workplace.

© 2019 Giordano, Halleran & Ciesla, P.C. All Rights Reserved

Source URL: <https://www.natlawreview.com/article/employer-alert-new-jersey-s-latest-medical-marijuana-workplace-ruling-employers-must>