

Rutan & Tucker Client Scores Big Victory In Wrongful Termination Case Involving More Than 200 Employees With Invalid Social Security Numbers

In January, an arbitrator dismissed a class-action grievance filed by a union on behalf of over 200 employees who had been fired because they had furnished invalid social security numbers to our client, the employer. The Union argued that our client lacked just cause to terminate these employees. The Union tried to exploit conflicting laws and cases, arguing that these laws prevented the employer from taking any action.

For example, the Social Security Administration has historically admonished employers that they cannot make adverse inferences or take adverse employment action in response to social security number mismatches. IRS regulations also counsel against adverse inferences, yet the Internal Revenue Code makes it a crime for an employer knowingly to use an invalid social security number. Likewise, the immigration laws require an employer to accept facially valid work authorization documents, and they prohibit adverse actions based on national origin or citizenship status, but they also make it a crime to continue employing individuals if the facts and circumstances would lead a reasonable person to infer illegal status. At stake was possible reinstatement of 236 employees, plus back pay that could have exceeded several million dollars. Thus, our client was damned by the Union if it fired the individuals, and it was damned by civil and criminal tax and immigration penalties if it didn't fire them.

A few days before the arbitration, the arbitrator granted our client's motion to dismiss the case because the Rutan team demonstrated that the Union had failed to process the grievance properly. This dismissal resulted in a complete victory for our client, and it also saved the client the additional expense of the arbitration, including the continued delays, distractions, and risks.

In addition to the risks of the arbitration, the termination of such a large number of employees had exposed our client to unwanted media attention, which followed after protestors began making defamatory accusations of racism in weekly protests targeting our client's employees and customers. Our client separately sued to stop the defamation. The court recently agreed that our client had presented substantial evidence that the defamatory statements about our client were not true, and it rejected an attempt to dismiss the case. As a result, the weekly protests against our client have stopped.

Rutan attorneys Mark Payne, Jim Morris and Chris Heikus-Weaver represented our client in the class-wide arbitration proceeding, and Rutan attorneys Mark Payne, Steve Goon and Chris Heikus-Weaver are representing our client in the pending defamation case.