EMPLOYMENT PROTECTION FOR OFF-DUTY MARIJUANA USE: A VERY SMALL SAFETY NET

By Michael C. Subit

Eight states and the District of Columbia have legalized recreational marijuana[1]. Medical marijuana is legal in 30 states and the District of Columbia.[2] Yet in most of these states nothing prohibits an employer from terminating an employee simply for using marijuana at home in accordance with state law regardless of any workplace impact. Until the summer of 2017, employee challenges to adverse employment actions based on marijuana use had uniformly failed. While disability accommodation law offers a promising avenue for protecting the use of medical marijuana in some states, not every state has laws providing coverage. Absent affirmative legislation employers will continue to have free rein to terminate at-will employees simply for using recreational marijuana at home.

[1] Maine, Massachusetts, Colorado, Nevada, Washington, Oregon, California, and Alaska.

[2] The eight that have legalized recreational marijuana plus New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Florida, West Virginia, Ohio, Michigan, Illinois, Minnesota, Arkansas, Louisiana, North Dakota, Montana, New Mexico, Arizona, and Hawaii.

A. Explicit Legislative Employment Protections for Medical Marijuana Use

No state provides explicit employment protections for recreational marijuana. Only nine states provide explicit employment protection for medical marijuana use:

1. Arizona

Arizona prohibits employers from discriminating against or terminating a qualified patient for a "positive drug test for marijuana components or metabolites" unless the employee used, possessed, or was impaired by marijuana on the job or if it would cause the employer to lose a benefit under federal law. Ariz. Rev. Stat. § 36-2813(B).

Employers may designate "safety sensitive" positions and refuse to hire medical marijuana card-holding applicants for those positions. A position is safety sensitive if the employer has a good faith belief it could affect the safety or health of the card-holding employee or others. Such positions include handling food, operating machinery, driving, repairing or monitoring performance of equipment, handling or dispensing medicine, and/or other similarly dangerous or risky tasks. Ariz. Rev. Stat. Ann. § 23-493.

2. Connecticut

Unless required by federal law or to obtain federal funding, no employer may refuse to hire a person, or discharge, penalize or threaten an employee solely on the basis of such person's status as a qualifying patient. Conn. Gen. Stat. § 21a-408p(b)(3). An employer may however

prohibit the use of intoxicating substances during work hours and may discipline an employee for being under the influence during work hours. *Id.*

3. Delaware

Delaware prohibits employers from discriminating against or terminating a qualified patient for a "positive drug test for marijuana components or metabolites" unless the employee used, possessed, or was impaired by marijuana on the job or if it would cause the employer to lose a benefit under federal law. Del. Code Ann. tit. 16, § 4905A(a)(3)(a**).**

4. Illinois

Illinois prohibits employers from penalizing a person solely because of his status as a registered qualifying patient unless failing to do so would cause it to lose a monetary or licensing-related benefit under federal law. 410 Ill. Comp. Stat. 130/40(a)(1).

5. Maine

Maine prohibits employers from penalizing or refusing to employ a person "solely for that person's status as a qualifying patient or primary caregiver" unless it would cause the employer to lose a benefit under federal law. Me. Rev. Stat. tit. 22, § 2423-E(2).

6. Minnesota

In Minnesota an employer may not take adverse action against employees solely on the basis of participation in the medical marijuana program, unless participation would violate federal law or regulations, or cause an employer to lose a monetary or licensing-related benefit under federal law or regulation. Minn. Stat. § 152.32(3)(c).
A positive cannabis drug test cannot automatically be grounds for a refusal to hire or any other adverse employment action. Employers must give employees the opportunity to explain the positive test prior to taking any adverse action. Minn. Stat. § 181.953.

7. Nevada

Nevada requires employers to reasonably accommodate the medical needs of an employee who uses medical marijuana, provided that such accommodation would not pose a threat of harm or danger to persons or property, impose an undue hardship on the employer, or prohibit the employee from fulfilling his or her job responsibilities. Nev. Rev. Stat. § 453A.800(3).

8. New York

An employer may not discriminate against a certified patient solely for the certified medical use or manufacture of marijuana. A "certified patient" is deemed to have a disability, as 3

defined by the New York Human Rights and Civil Rights Laws, and employers must reasonably accommodate the underlying disability associated with the legal marijuana use. New York Health Law, Title V-A, § 3369(2).

9. Rhode Island

Rhode Island provides that no employer may refuse to employ or otherwise penalize a person solely for his or her status as a medical marijuana cardholder. R.I. Gen. Laws Ann. § 21-28.6-4. Nothing in the law "shall be construed to require an employer to accommodate the medical use of marijuana in any workplace." R.I. Gen. Laws Ann. § 21-28.6-7.

B. Courts Have Upheld Explicit State Protections Against Employer Challenges

So far employers have twice challenged express state employment protections for off-duty medical marijuana use and lost both times.

Callaghan v. Darlington Fabrics Corp., 2017 WL 2321181 (R.I Super. May 23, 2017)

In an opinion that starts with the quotation "I get high with a little help from my friends," a state trial court granted the plaintiff's motion for summary judgment in a case alleging a violation of Rhode Island's medical marijuana statute. The plaintiff, a college student, sought an internship with a textiles manufacturer. She disclosed she had a marijuana card. The company asked her if she was currently using medical marijuana. The plaintiff said she was because she was allergic to other painkillers. The employer said it was unable to hire her.

The court first held the state law provided a private right of action. The court then held that refusing to hire someone because she could not pass a drug test due to medical marijuana use outside the workplace violated state law. The court rejected the employer's argument that the statute's protection for being a medical marijuana card-holder did not cover the actual use of medical marijuana. The court held rather the law permitted employers to discipline employees for coming to work under the influence in a manner that affected job performance.

The court rejected the employer's federal preemption argument.

Noffsinger v. SSC Niantic Operating Co., LLC, --- F. Supp. 3d --- 2017 WL 3401260 (D. Conn. Aug. 8, 2017)

In a case actually about Marinol (which is a legal, synthetic form of marijuana), this federal court upheld Connecticut's statutory employment protections for medical marijuana. The plaintiff had registered as a medical marijuana patient but decided to use Marinol for PTSD. She received a job offer as a recreational therapist at a nursing facility. She showed the company her registration certificate. She told the company she used Marinol only at night. She failed a pre-employment drug test based on cannabis and was terminated.4

The plaintiff brought claims for violation of the CT medical marijuana statute. The employer moved to dismiss largely on federal preemption grounds. It argued that the Controlled Substances Act, the ADA, and the Food Drug and Cosmetic Act all preempted Connecticut's employment protections for medical marijuana use. The employer argued the state law was an "obstacle" to Congressional intent. The district court rejected each of the employer's arguments.

The district court agreed with the employee that the Controlled Substances Act does not regulate employment. While Congress made it a federal crime to use marijuana, Congress did not make it illegal to employ a marijuana user. The court distinguished *Emerald Steel Fabricators Inc. v. Bureau of Labor & Indus.*, 348 Or. 159, 230 P.3d 518 (2010) (see below), on the basis that the Oregon statute did not contain a provision specifically barring employment discrimination.

The court had little trouble dispensing with the employer's argument that the ADA preempted the state statute given the ADA's savings clause, 42 U.S.C § 12201(b). The employer had merely proved the plaintiff could not seek relief under the ADA for the rescission of her job offer. The fact that the ADA allows employers to prohibit the illegal use of drugs at the workplace did not give employers the power to regulate non-workplace activity. "[T]he ADA is not an employer's Magna Carta to engage in drug testing for all employees." Less persuasively, the court rejected the argument that passing a drug test is a "qualification standard" under the ADA because such standards must be related to job performance.

The court held that the state employment protections created a private right of action. The court rejected as "border[ing] on the absurd" the employer's argument that its duty to comply with federal law put the employer outside the statute. "[T]he act of hiring a medical marijuana user does not itself constitute a violation of … any federal, state, or local law."

C. Legalization Per Se Creates No Employment Protections

Every state but Montana has employment at will. That means, of course, that absent contractual for cause protection an employer can terminate an employee for any reason that isn't an illegal reason, or for no reason at all.

The question arose whether statutes legalizing medical marijuana implicitly prohibited employers from terminating employees for engaging in conduct that complies with the state law. Many medical marijuana statutes contain language stating that qualified patients are not to be subject to any penalty or sanction, or denied any right or privilege due to their use of medical marijuana. Some statutes also state that there is no duty upon employers to accommodate the on-site use of medical marijuana, suggesting that there might be a duty to accommodate the off-site use of medical marijuana. So far no court has held that these provisions are sufficient to prohibit termination because of the at-home use of medical marijuana in accordance with state law, even where it is conceded the employee's use of marijuana had no job impact.5

Ross v. RagingWire Telecommunications, Inc., 42 Cal. 4th 920, 174 P.3d 200, 7 Cal. Rptr. 3d 382 (2008)

In *Ross* a divided California Supreme Court held that the sole purpose of California's medical marijuana law was to protect patients from criminal prosecution and that the law did not address the employment relationship in any manner.

RagingWire had offered Mr. Ross a job as a lead systems administrator. It required him to pass a pre-employment drug test. Mr. Ross told the clinic administering the test that he had a physician's recommendation for the medical use of marijuana. He began working. A few days later, his drug test came back positive. RagingWire then terminated Mr. Ross. He sued claiming disability discrimination and wrongful termination in violation of public policy. He argued that California's medical marijuana law, entitled the Compassionate Use Act, had implicitly amended the state's disability discrimination act to preclude his termination.

The California Supreme Court rejected his claim by a vote of five to two. California voters had enacted the Compassionate Use Act in 1996. At the time of Mr. Ross's termination in 2001, California's medical marijuana law made no mention whatsoever of employers or employment. Given this, the *Ross* majority held that "[n]othing in the text or history of the Compassionate Use Act suggests that the voters intended the measure to address the respective rights and obligations of employers and employees." The majority reasoned that "the question before us is not whether the voters had the power to change employment law, but whether they actually intended to do so. . . . The Compassionate Use Act [] simply does not speak to employment law." Instead, the *Ross* majority held that the voters' sole purpose in enacting the Compassionate Use Act was to protect medical marijuana users from state criminal prosecution.

Johnson v. Columbia Falls Aluminum Co., LLC, 350 Mont. 562 (2009) (unpublished)

Plaintiff used marijuana at the recommendation of a physician in accordance with Montana's Medical Marijuana Act (MMA). His employer terminated him after testing positive for marijuana in violation of company policy and the union's collective bargaining agreement. Plaintiff sued and alleged, among other claims, that the employer's action violated the MMA. The Montana Supreme Court held that the MMA does not provide a private right of action. The court relied on the provision of the statute not requiring employers "to accommodate the medical use of marijuana in any workplace."

Roe v. TeleTech Customer Care Mgmt. LLC, 171 Wash. 2d 736, 257 P.3d 586 (2011)

The plaintiff suffered from debilitating migraine headaches. Her symptoms included chronic pain, nausea, blurred vision, and sensitivity to light. To treat the migraines, Ms. Roe and her doctors experimented with traditional medicines for more than a year before she was authorized to use medical marijuana. Indeed, Ms. Roe and her doctors tried six different over-the-counter medications and four different prescription medications before she sought 6

authorization to use medical marijuana. None of these medications effectively treated her migraines and many caused adverse side effects. Ms. Roe's physician eventually advised her to discontinue all use of over-the-counter medicines to treat her migraines.

Ms. Roe's condition grew more severe. She began having incapacitating migraines on a daily basis. These migraines left her unable to work, study, sleep, walk, or interact with her husband or children. She then obtained a medical marijuana authorization. Medical marijuana was far more effective than any other treatment Ms. Roe had tried for her migraines. Her migraine headaches largely disappeared. She used marijuana in such small doses that it had no side effects. It did not negatively affect her ability to work or take care of her children. Ms. Roe never used marijuana in front of her children. Taking a small amount of medical marijuana at night in her own home enabled Ms. Roe to be gainfully employed.

Ms. Roe was hired as a customer service consultant. The position's duties were to answer incoming calls and e-mails promptly, provide concise quality customer service in a professional and courteous manner, and interact with fellow team members. When Ms. Roe learned that she would have to take a drug test, she informed the employer that she used medical marijuana at home and that she had a medical authorization to do so. She tested positive for THC. The employer let her work for a week while it decided whether to terminate her. When it did, she sued for wrongful termination in violation of (1) the state's Medical Use of Marijuana Act ("MUMA") and (2) Washington public policy. MUMA expressly protects qualifying patients from being "penalized in any manner, or denied any right or privilege" as a result of using medical marijuana in accordance with the Act. RCW 69.51A.040(1). In 2007 the Legislature added the following italicized language to the statute: "Nothing in this chapter requires any accommodation of any *on-site* use of marijuana in any place of employment, in any school bus, or on any school grounds, or in any youth center, *in any correctional facility, or smoking of marijuana in any public place*. . . ."

Despite this, the Washington Supreme Court held that the plain language of MUMA "does not provide a private cause of action for discharge of an employee who uses medical marijuana, either expressly or impliedly, nor does MUMA create a clear public policy that would support a claim for wrongful discharge in violation of such a policy." The majority held that the statute did not require employers to accommodate the off-site use of medical marijuana either before or after the 2007 amendments. The majority ruled that the statutory language prohibiting a qualified patient from being "penalized" did not apply to private employers. The majority further held that MUMA did not imply a cause of action against a private employer.

The majority rejected a state law wrongful discharge claim because marijuana remains illegal under federal law.7

One Justice dissented and would have allowed the plaintiff's wrongful discharge in violation of public policy to go to the jury. He also called for a legislative fix.

Casias v. Wal-Mart Stores, Inc., 695 F.3d 428 (6th Cir. 2012)

Plaintiff used marijuana in accordance with Michigan's Medical Marijuana Act (MMMA) to treat a brain tumor. Wal-Mart terminated his employment after he tested positive for marijuana in violation of the company's drug policy. The MMMA states that a lawful user of medical marijuana cannot be "denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau. . . ." Mich. Comp. Laws § 333.26424(a). Relying on this provision, the plaintiff sued Wal-Mart for wrongful termination. The Sixth Circuit dubiously held MMMA does not regulate private employment because the word "business" in the statute modifies "licensing board."

Savage v. Maine Pretrial Services, Inc., 58 A.3d 1138 (Me. 2013)

Plaintiff was terminated after she applied to open a registered medical marijuana dispensary. She sued her employer and alleged her termination violated the Maine Medical Use of Marijuana Act (MMUMA). The Supreme Judicial Court of Maine held that the MMUMA did not provide a private right of action against employers. Despite the inclusion of the word "business" in the MMUMA, the statute provides only protections from government sanction to those who engage in authorized conduct under the act, including using, prescribing, dispensing, and administering marijuana.

D. Off-Duty Conduct Statutes May Not Provide Employment Protections Either

A number of states have off-duty conduct laws that prohibit employers from discharging employees for off-duty, off-premises lawful conduct. Unless the statute makes clear the "lawfulness" of the employee's conduct depends only on state law, the statute may provide no protection for medical or recreational marijuana use in accordance with state law.

Coats v. Dish Network, LLC, 350 P.3d 849 (Colo. 2015)

The employee argued that using medical marijuana in compliance with state law but in violation of federal law was a "lawful activity" under the Colorado off-duty conduct statute. The Colorado Supreme Court unanimously held that statute's prohibition on termination "due to the employee's engaging in any lawful activity off the premises of the employer during nonworking hours" did not embrace activity unlawful under federal law. A dissenting judge at the court of appeals had reasoned that "lawful" meant "lawful under Colorado law."

E. Disability Accommodation: An Avenue Still Open

Initially, challenges to terminations based on medical marijuana did not fare any better under state reasonable accommodation law than they did under state medical marijuana 8

legalization laws. Recent decisions out of Rhode Island and especially from the Massachusetts Supreme Judicial Court ruling in favor of employees based on reasonable accommodation claims may signal a change in judicial receptivity to such arguments.

Johnson v. Columbia Falls Aluminum Co., LLC, 350 Mont. 562 (2009) (unpublished)

Relying on the provision of the state medical marijuana statute not requiring employers "to accommodate the medical use of marijuana in any workplace," the court held that the Montana Human Rights Act does not require an employer to excuse a positive drug test caused by medical marijuana used in accordance with state law.

Ross v. RagingWire Telecommunications, Inc., 42 Cal. 4th 920, 174 P.3d 200, 7 Cal. Rptr. 3d 382 (2008)

The majority held that an employee could not state a claim under California's disability discrimination statute because the act does not require employers to accommodate the use of illegal drugs. The majority found this principle in the statute's allowance of employers to condition an offer of employment on the results of a medical examination.
The dissenting justices would have found that state law required accommodation of the plaintiff's disability which created his need to use marijuana. They found no support for the proposition that "a requested accommodation can never be deemed reasonable if it involves off-duty conduct away from the jobsite that is criminal under federal law, even though that same conduct is expressly protected from criminal sanction under state law."
The dissenters rejected any claim of undue hardship from the accommodation. "Tolerating plaintiff's doctor-approved marijuana use would [not] jeopardize its ability to contract with state agencies or to obtain federal funding. Both state and federal drug-free workplace laws are concerned only with conduct *at the jobsite.*"

Emerald Steel Fabricators, Inc. v. Bureau of Labor & Indus., 348 Or. 159, 230 P.3d 518 (2010)

Emerald Steel involved a disability discrimination claim brought under Oregon's state anti-discrimination law. The state Bureau of Labor and Industries ("BOLI") brought the action on behalf of an employee who was terminated after disclosing that he used medical marijuana in compliance with the Oregon Medical Marijuana Act. The employee had been hired on a temporary basis as a drill press operator for Emerald Steel. Emerald Steel was considering hiring the employee on a permanent basis and required him to take a drug test. He informed his supervisor that he had a "registry identification card" and used medical marijuana in compliance with the Oregon Medical Marijuana Act. One week later the supervisor fired him. BOLI filed charges against Emerald Steel alleging that the company violated state anti-discrimination law by terminating the employee because of his disability and by failing to accommodate his disability. 9

The Oregon Supreme Court rejected BOLI's disability discrimination argument by a vote of five to two. Oregon's employment discrimination law provides that the statute's protections from disability discrimination "do not apply to any . . . employee who is currently engaging in the illegal use of drugs if the employer takes action based on that conduct." The term "illegal use of drugs" is defined to mean:
any use of drugs, the possession or distribution of which is unlawful under state law or under the federal Controlled Substances Act, as amended, but does not include the use of a drug taken under supervision of a licensed health care professional, or other uses authorized under the Controlled Substances Act or under other provisions of state or federal law.

The majority concluded that the Oregon Medical Marijuana Act "affirmatively authorizes the use of marijuana for medical purposes, and, as a statutory matter, brings the use of marijuana for medical purposes within one of the exclusions from the 'illegal use of drugs' in ORS 659A.122(2)." However, the majority went on to hold that "to the extent ORS 475.306(1) authorizes the use of medical marijuana the Controlled Substances Act preempts that subsection." As a result, the majority reasoned that no effective state law authorized the use of medical marijuana and, therefore, the employee was engaged in the "illegal use of drugs." The majority ruled that federal law did not preempt state decriminalization of marijuana.

The majority did not foreclose the possibility that the legislature could write a differently-worded statute that could require employers to reasonably accommodate disabled employees who used medical marijuana to treat their disabilities, which would not be preempted by federal law. Rather, the majority emphasized that its opinion "arises from and is limited to the laws that the Oregon legislature has enacted."

As the dissent noted, nothing in the state's MMA permits or requires a violation of the Controlled Substances Act or affects its enforcement. The fact that Oregon "authorized" the use of medical marijuana in certain circumstances did not interfere with federal criminal law enforcement. The mere fact that state law permits conduct that federal law prohibits does not trigger preemption. The dissent also noted the MMA repeatedly uses the word "authorize" in provisions that the majority did not invalidate.

Roe v. TeleTech Customer Care Mgmt. LLC, 171 Wash. 2d 736, 257 P.3d 586 (2011)

The plaintiff did not bring a reasonable accommodation/disability discrimination claim because at the time Washington followed federal law in narrowly defining "disability." In a footnote, the majority noted on its website the state Human Rights Commission had stated in a policy statement "it would not be a reasonable accommodation of a disability for an employer to violate federal law, or allow an employee to violate federal law, by employing a person who uses medical marijuana." The agency said it would not investigate claims of discrimination due to medical marijuana use because federal law prohibits marijuana possession.10

In another footnote, the majority held that "[n]othing in MUMA prohibits an employer from choosing to accommodate an employee's use of medical marijuana."
The dissent suggested that the Washington Law against Discrimination would require employers to accommodate the medical marijuana as a form of disability accommodation.

Curry v. MillerCoors, Inc., 2013 WL 4494307 (D. Colo. Aug. 21, 2013)

Plaintiff had an authorization to use medical marijuana in Colorado but was fired after testing positive for marijuana in violation of the company's written drug policy. Plaintiff claimed disability discrimination under Colorado law. The district court granted the company's 12(b)(6) motion in an opinion containing at least three legal errors.
First the court looked to Colorado cases allowing termination for using medical marijuana that did not raise a claim of disability discrimination. Second, the court analyzed whether the Colorado state law required an employer to accommodate an employee's use of medical marijuana at home by looking to ADA cases involving prescription drug use that created actual impairment in the workplace. Third, the court held that "a termination for misconduct is not converted into a termination because of a disability just because the instigating misconduct somehow relates to a disability." Tenth Circuit law is to the contrary. *Doebele v. Sprint/United Mgt. Co.*, 342 F.3d 1117 (10th Cir. 2003).

Callaghan v. Darlington Fabrics Corp., 2017 WL 2321181 (R.I. Super. May 23, 2017)

After first holding that RI's medical marijuana statute prohibited employers from rejecting an applicant based non-workplace use, the court went on to hold that the state statue prohibiting disability discrimination also protected her actions. The state statute against disability discrimination did not require the employee prove she was a "qualified individual with a disability." Therefore, the court did not have to decide whether the reference to "illegal use of drugs" as a permissible qualification standard applied to a drug lawful under state law but illegal under federal law.
The court rejected the employer's federal preemption argument.

Barbuto v. Advantage Sales & Marketing, LLC, 477 Mass. 456 (2017)

The plaintiff used medical marijuana at home to treat her Crohn's disease. She was offered an entry-level sales and marketing position. The company required her to take a drug test. She worked one day and then was fired. The company told her that "we follow federal law, not state law." The employee claimed handicap discrimination in violation of state law, violation of the state marijuana law, and wrongful termination in violation of public policy. A trial judge granted the employer's motion to dismiss. The Supreme Judicial Court unanimously reversed.11

The court held the plaintiff was a "handicapped person" due to her Crohn's disease. The court rejected the employer's claim her use of a drug illegal under federal law rendered an accommodation facially unreasonable under state law. The court relied on language in the state medical marijuana law prohibiting the denial of "any right or privilege" on the basis of medical marijuana use. The court further held that by providing that there was no duty to accommodate the on-site medical use of marijuana, the legislature intended accommodation of off-site use.

The court held that "where a handicapped employee needs medication to alleviate or manage the medical condition that renders her handicapped, and the employer fires her because company policy prohibits the use of this medication, the law does not ignore the fact that the policy resulted in a person being denied employment because of her handicap."

The employer could prove undue hardship by showing the use of marijuana by an employee would violate an employer's contractual or statutory obligation and thereby jeopardize its ability to conduct its business. The court gave transportation companies and federal government contractors as employers who could take advantage of this defense.

The court declined to provide a private cause of action under the state law marijuana act or a wrongful termination given the remedy under discrimination law. The defendants did not argue federal preemption.

F. Marinol: Different Drug, Different Rules?

Marinol is synthetic marijuana. It also contains THC but is reportedly much less effective than medical marijuana in treating illness. However, Marinol is not illegal. Doctors may lawfully prescribe Marinol. Legally, Marinol cases should be analyzed just like any other prescription drug case, rather than as a medical marijuana case.

Currie v. Beatrice Keller Clinic, 493 Fed. Appx. 855 (9th Cir. Aug. 22, 2012)

The plaintiff was denied employment after failing a screening drug test as a result of a prescription Marinol. The employer requested that Currie show he had a prescription but he failed to do so. Currie alleged that the clinic discriminated against him because he was HIV positive. However, the court held that the failure of the drug test was a legitimate, nondiscriminatory reason for the employer's decision. The court noted that the employee did not request an accommodation based on his disability but merely claimed that the employer had been "too rigid in requiring a prescription to explain his positive drug test." "Currie's failure to produce a prescription did not result from his HIV status."

Noffsinger v. SSC Niantic Operating Co., LLC, --- F. Supp. 3d --- 2017 WL 3401260 (D. Conn. Aug. 8, 2017)

As discussed above, this case upheld Connecticut's employment protections for medical marijuana use against a variety of preemption challenges. The court's entire opinion was arguably *dicta* as Marinol is legal and the plaintiff had a prescription for it.