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2002 Survey of Rhode Island Law: Cases: Employment Law

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Employment Law. *Nassa v. Hook-SupeRx, Inc.*, 790 A.2d 368 (R.I. 2002). Injury to an employee's reputation is not an injury for which compensation is available under the Workers' Compensation Act. Therefore, the Act does not bar a defamed employee from prosecuting a common law claim seeking damages for an alleged injury to his reputation.

FACTS AND TRAVEL

Richard T. Nassa was an assistant vice president of real estate for Hook-SupeRx (Hook).¹ Two of Hook's employees, a vice president and a construction manager, told several of Hook's employees and outside property owners looking to do business with Hook that Nassa required a "kickback" from property owners before they would be able to procure a lease with Hook.² Nassa claimed that as a result of these false claims, Hook both damaged his reputation and fired him, causing him to lose wages.³ Nassa filed a superior court action against Hook and several codefendants alleging that, among other things, they had defamed him.⁴ The defendants argued that the Workers' Compensation Act's (WCA) exclusive-remedy provision barred the claims, and moved for partial judgment on most of the pleadings.⁵ The motion justice granted defendants' motion and dismissed several of the counts, including the defamation count.⁶ Nassa appealed, challenging only the court's dismissal of the defamation counts.⁷

ANALYSIS AND HOLDING

The issue in this case was a question of first impression in Rhode Island: does the exclusive-remedy provision of the WCA bar work-related defamation claims filed by employees against their employers?⁸ Section 28-29-20 of the WCA, the exclusive-remedy provision, provides "The right to compensation for an injury under chapters 29-38 of this title, and the remedy for it granted by those

1. *Nassa v. Hook-SupeRx, Inc.*, 790 A.2d 368, 370 (R.I. 2002).

2. *Id.*

3. *Id.*

4. *Id.*

5. *Id.* (citing R.I. GEN. LAWS § 28-29-20 (2000)).

6. *Id.*

7. *Id.*

8. *Id.* at 369.

chapters, shall be in lieu of all rights and remedies as to that injury now existing"⁹

Defendants argued that the Rhode Island Supreme Court had previously held that intentional infliction of emotional distress and invasion of privacy claims were subject to the WCA's exclusive-remedy provision.¹⁰ Therefore, the defendants argued, work-related defamation claims were also subject to the WCA's exclusive-remedy provision.¹¹ The supreme court agreed that there are some instances where the WCA provides benefits for an employee's disabling mental injury,¹² however, they wrote, there are certain work-related "intangible" injuries, such as discrimination, that do not fall within the WCA's exclusive-remedy provision because the injury is unrelated to the employee's capacity to perform his employment-related duties.¹³ The court found defamation to be one such injury.¹⁴

Defamation, the court wrote, robs the employee of his good name in the community and adversely affects the employee's fitness to conduct business without affecting their capacity to mentally or physically do the work required of them.¹⁵ Therefore, a defamed person may maintain the physical and mental capacity to carry out his job duties, yet maintain a common-law defamation claim for his injured reputation.¹⁶ Accordingly, the court held that "the WCA was not enacted to redress such 'intangible injuries' to reputation, nor would it 'serve as a deterrent' in that regard."¹⁷ In such a case, the employee is free to bring a defamation suit at common law.¹⁸

CONCLUSION

Damage to an employee's reputation does not fall within the Workers' Compensation Act's purview and no Workers' Compensa-

9. *Id.* at 371 (quoting R.I. GEN. LAWS § 28-29-20 (2000)).

10. *Id.* at 372.

11. *Id.*

12. *Id.* at 373.

13. *Id.* at 374.

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.* (quoting *Folan v. State Dep't of Children, Youth, & Families*, 723 A.2d 287 (R.I. 1999)).

18. *Id.*

tion Act remedy is available to compensate such an injury. Under these circumstances, the employee is free to bring a defamation suit at common law to redress such wrongs.

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