

THE MONTANA SUPREME COURT EXPANDS THE WRONGFUL DISCHARGE ACT (WDA)

BY JACK HOLSTROM, MACo/JPIA PERSONNEL SERVICES ADMINISTRATOR

The Montana Wrongful Discharge From Employment Act provides that an employer can discharge an employee for "good cause". One of the Act's definitions of "good cause" is a reasonable job-related ground for dismissal based on a failure to satisfactorily perform job duties.

In Andrews v. Plum Creek Manufacturing, 305 Mont. 194 (June 2001) Kim Andrews began working at Plum Creek's Evergreen plywood mill in 1992. Within 6 months, Plum Creek transferred her to an office clerk position. The employee whom she was to replace trained her over a ten-day period. In 1998, an audit of her work was conducted and it was discovered that there was a significant amount of missing cash, cash and checks did not match invoices, and deposit slips did not comport with other documents. Plum Creek decided to remove Kim from the clerk position because of her poor performance and offered her production jobs in the mill. She refused, and, a few months later, filed a wrongful discharge action against Plum Creek.

The District Court granted Plum Creek's motion for summary judgment and Kim appealed to the Supreme Court. In her appeal, Kim argued that Plum Creek could not have "good cause to discharge her for failure to perform job duties when Plum Creek had failed to properly train her, had not evaluated her performance, and had not established procedures for the proper performance of her job. Plum Creek responded by arguing that the plain language of the Wrongful Discharge Act provides that failure to satisfactorily perform job duties is "good cause" to discharge an employee, regardless of who is at fault for that failure.

The Montana Supreme Court bought Kim's argument and reversed the District Court. In effect, the Court expanded the whole concept of "good cause" to terminate for failure to satisfactorily perform job duties to include arguments and evidence relating to whose fault it was that the employee did not perform satisfactorily in the job. Now, the discharged employee can argue that it was the employer's fault he/she did not do well in the job and can use inadequate training, supervision, or failure to evaluate and warn as excuses.

What this case means is that you as a supervisor must make certain that you properly train, supervise, and evaluate your employees and must warn them if they are not performing satisfactorily