

Freedom Of Speech: Aide Sues For Retaliation, Nursing Home Conditions Are A Matter Of Public Concern.

A nursing-home staff member's position as restorative aide was eliminated.

She responded by trying to circulate a petition among professional staff and residents at the nursing home asking for a meeting with management.

Management responded by suspending her and then terminating her. She sued for wrongful termination, alleging that her Constitutional right to Freedom of Speech had been violated.

The Superior Court of Connecticut refused to dismiss the case and ruled that it should be heard and decided by a civil jury.

Speaking Out On Issues of Public Concern Cannot Be Object of Employer Retaliation

The court set the guidelines for how the jury was going to consider the evidence.

Was this essentially a private dispute between an employer and an employee over the employee's job title, description, duties, pay, benefits, schedule, etc.? If so, it is not a matter of public concern.

The First Amendment to the US Constitution does not pertain to freedom to express one's views on purely private issues.

Or did it actually involve the issue of the quality of care at the nursing home?

The court did rule that as a general rule the quality of care that residents receive in nursing homes, or in a particular nursing home, is a matter of public concern. An employee cannot be subjected to reprisals for speaking out, or trying to speak out, on a matter of public concern. If an employee is subjected to such unlawful retaliation, the employee would have the right to file a civil lawsuit for wrongful termination.

The task for the jury will be to sort out just what was going on. Was it just an argument between the aide and her former boss or did it really have something to do with the larger issue of the quality of care for the residents? **Young v. Trinity Hill Care Center, 2006 WL 1461166 (Conn. Super., May 11, 2006).**