

Marital Property Settlement: Court Values Nursing License At \$32K.

Because the husband and the wife were not able to agree amicably to a property settlement in connection with their divorce, the matter had to be decided in court.

The New York Supreme Court, Appellate Division, pointed out that marital property includes intangible as well as tangible assets whose fair value must be computed.

The husband's civil service pension was an asset of the marriage. The wife's nursing license likewise was a marital asset, the court ruled.

She interrupted her schooling while the children were young, then went back to school leaving him as the sole support of the family.

All things considered, in the property decree the court put a value of \$32,000 on the wife's nursing license. Milteer v. Milteer, 2004 N.Y. Slip Op. 02556, 2004 WL 736977 (N.Y. App., April 5, 2004).

Reasonable Accommodation: Court Says Employee Cannot Pick Supervisor.

A nurse was promoted to unit manager supervising seventy-eight subordinates. Trouble with her own supervisor, however, took her off the job with clinical depression her psychiatrist related to her job.

The Court of Appeal of California, in an unpublished opinion, ruled she was not entitled to return to her same position with the hospital required to appoint a different supervisor.

Reasonable accommodation does not necessarily mean giving a disabled employee whatever the employee asks for, if it will impose an undue hardship on the employer. The hospital was paying for vocational rehab and had offered her other less stressful positions. Ceazan v. Saint John's Hosp. & Health Ctr., 2004 WL 788201 (Cal. App., April 13, 2004).

Misconduct: Supervisor Tolerated Violations, Court Finds No Justification For Termination.

A registered nurse temporarily lost her childcare for two weeks and had to leave work to pick up her child.

The nurse spoke with her charge nurse. The charge nurse told her she would have to combine her lunch break and her two other daily paid breaks and use that time to go pick up her child.

The charge nurse told her she would also have to make arrangements with other staff nurses to cover her patients while she was absent from the floor picking up her child.

The charge nurse also expressly told her she did not have to clock out while she left to pick up her child, notwithstanding the facility's strict policy set forth in the employee handbook requiring all employees to clock out any time they left the premises.

Misconduct justifying termination is willful or wanton disregard of the employer's interests as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of an employee.

Repeated violations of explicit policies, after several warnings, are usually required before an employee can be terminated.

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This went on for four days, until a supervisor just back from vacation noticed the nurse was absent and had not clocked out and started the process of having her terminated.

The District Court of Appeal of Florida ruled under the circumstances there was no legal justification to terminate the nurse for cause.

Normally a repeated, deliberate, intentional violation of an employer's express policy of which the employee has been made aware is grounds for termination for cause. However, the court said, when a violation of policy is expressly tolerated by a supervisor the employer cannot abruptly turn around and fire an employee without notice. Cooksey-James v. Unemployment Appeals Comm., __ So. 2d __, 2004 WL 590389 (Fla. App., March 26, 2004).