

## Ron Polly and Alex Barfield Win Summary Judgment in Employment Case

**July 12, 2010**

Jefferson Circuit Court in Louisville, Kentucky

Ron Polly and Alex Barfield won a motion for summary judgment on behalf of a defendant employer immediately prior to the start of trial in Louisville, Kentucky. The case involved a truck driver who sued his former employer after he was terminated for failing a drug test. The employer's policy allowed employees who self-reported drug use to attend treatment programs and be returned to duty upon successful completion of treatment. The plaintiff, who was in treatment under these conditions, relapsed and tested positive for drugs during treatment, but then successfully completed the program before the employer was made aware of the positive drug tests. Upon becoming aware of the positive drug tests, the employer terminated the employee pursuant to its drug test policies. The employee sued, claiming that the employer's policies constituted a contractual and promissory guarantee that he could return to work once he completed the treatment program, regardless of any positive drug tests or relapses during treatment.

The Jefferson Circuit Court judge initially granted summary judgment in March 2010 on three of Plaintiff's four claims. As to the remaining promissory estoppel claim, the judge determined that the employer's policies constituted promises, and that a jury should decide whether the plaintiff detrimentally relied on those promises. With trial set for July 12, 2010, the plaintiff made his own motion for summary judgment on the estoppel claim and asked the court to direct liability prior to trial. Immediately prior to jury selection, the judge denied the plaintiff's motion for summary judgment; granted a motion to reconsider her earlier ruling on the employer's motion for summary judgment; and granted the employer's motion on the remaining promissory estoppel claim to dismiss the entire case.

### **ATTORNEYS**

Alex M. Barfield

Ronald G. Polly, Jr.

### **PRACTICE AREAS**

Labor & Employment