

Minnesota Drug Testing Law Does Not Apply to Employees Working Outside Minnesota

By Kathryn J. Russo on August 21, 2014

[Thanks to our colleague V. John Ella for this post](#)

A federal court in Minnesota has ruled that Minnesota's Drug and Alcohol Testing in the Workplace Act (DATWA), Minn. Stat. Sections 950-957, does not apply to employees who work or are applying to work outside the state of Minnesota. *Olson v. Push, Inc., No. 14-1163 (ADM/JJK) (D. Minn. Aug. 19, 2014)*. In *Olson*, the plaintiff resided in Minnesota and accepted an offer of employment in West Virginia from Push, a Wisconsin-based company. Push originally asked Olson to submit to drug testing at a clinic in Wisconsin. For convenience purposes, however, it allowed him to be tested in Minnesota. Push determined that the drug test result was "too diluted" and terminated his employment. Under DATWA, Olson would have had the right to a confirmatory test, and possibly treatment, before termination, as well as many other protections, so he brought a lawsuit challenging the termination of his employment. Push argued that DATWA did not apply and moved to dismiss the complaint.

Olson pointed to the language of the statute, which defines "employee" as "a person . . . who performs services for compensation, in whatever form, for an employer." "Employer," in turn, is defined as "as a person or entity located or doing business in this state and having one or more employees[.]" Although Push conceded it did business in Minnesota, it argued that, in the absence of extra-territorial language, DATWA must be interpreted as governing only in-state activity. The court agreed, noting the general presumption against the extra-territorial application of a state's statutes, as well as the Commerce Clause of the U.S. Constitution. It held that it would be "unreasonable to construe the phrase 'doing business in' as a broad, stand-alone qualification that applies to any employer who conducts any amount of business in Minnesota, regardless of where the employment is taking place." Finally, the court noted that "although Olson's interpretation of the definition of 'employer' might appear facially sound, it invites absurd or unjust results when DATWA's requirements are viewed as a whole."

The decision is a rare bit of good news for employers who might be facing lawsuits under this strict Minnesota statute.