

COURT OF APPEALS OF OHIO, FIRST APPELLATE DISTRICT, HAMILTON
COUNTY

Ungerbuehler v. Kelly

2026-Ohio-436 · No. C-250201 · Decided February 11, 2026

SUMMARY

The First District Court of Appeals of Ohio reversed the dismissal on the pleadings of Kayla Ungerbuehler’s claims against her former employers for disability-discrimination-based wrongful discharge and workers’ compensation retaliation. The court held that Ohio’s public policy against disability discrimination may support a common-law wrongful-discharge claim regardless of the employer’s size or whether the worker performed domestic service. It also held that the complaint sufficiently pleaded statutory and common-law workers’ compensation retaliation claims, and remanded the case for further proceedings.

CASE DETAILS

COURT	Court of Appeals of Ohio, First Appellate District, Hamilton County
WRITING FOR THE COURT	Bock, Presiding Judge; Nestor, Judge; Moore, Judge
JURISDICTION	Court of Appeals of Ohio, First Appellate District, Hamilton County
DECIDED	February 11, 2026
DOCKET	C-250201
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Plaintiff appealed a Civ.R. 12(C) judgment on the pleadings dismissing with prejudice her statutory workers' compensation retaliation claim and common-law wrongful-discharge claims based on disability discrimination and workers' compensation retaliation.
STANDARD OF REVIEW	The court reviewed the Civ.R. 12(C) judgment on the pleadings de novo, accepting the complaint's material allegations and reasonable inferences as true and determining whether it was beyond doubt that the plaintiff could prove no set of facts entitling her to relief.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Kayla Ungerbuehler v. James Kelly, Kristen Kelly

TOPICS

disability discrimination

retaliation

workers compensation

motion for judgment on the pleadings

employment law

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the complaint stated a common-law Greeley wrongful-discharge claim based on Ohio's public policy against disability discrimination even though the defendants allegedly employed fewer than the statutory threshold and the plaintiff performed domestic service.
2. Whether a statutory workers' compensation retaliation claim under R.C. 4123.90 requires a viable underlying workers' compensation claim, a workplace injury, or an award of workers' compensation benefits.
3. Whether a common-law wrongful-discharge claim based on the public policy expressed in R.C. 4123.90 may be brought when the employee was terminated before filing, instituting, or pursuing a workers' compensation claim and regardless of whether the underlying claim would ultimately succeed.
4. Whether the plaintiff should have been granted leave to amend her complaint.

HOLDINGS

1. R.C. Chapter 4112 reflects a sufficiently clear public policy against employment discrimination based on disability to support a common-law Greeley wrongful-discharge claim, and R.C. 4112.01(A)'s definitions of employer and employee do not bar such a claim by a domestic-service employee against a small employer.
2. A workers' compensation retaliation claim under R.C. 4123.90 does not require proof of a workplace injury, a viable underlying workers' compensation claim, or an award of benefits; the relevant inquiry is whether the employee pursued workers' compensation rights and was punished for doing so.
3. A common-law Greeley claim may be brought when an employer terminates an employee to prevent the employee from filing or pursuing workers' compensation benefits, even if the employee had not yet filed a claim and regardless of whether the underlying workers' compensation claim would ultimately be successful.
4. The court did not decide the amendment issue because its resolution of the first three assignments of error rendered the fourth assignment of error moot.

KEY QUOTATIONS

"Therefore, we hold that R.C. Ch. 4112 reflects a public policy against employment discrimination on the basis of a person's disability sufficient to justify an exception to at-will employment under the common law."
(¶ 40)

"Therefore, we hold that R.C. 4112.01(A)(3) does not prohibit individuals employed as domestic servants

from bringing Greeley claims.” (¶ 44)

“Rather than focusing on whether an employee’s injury was workplace related, the relevant inquiry for a worker’s compensation retaliation claim is simply “whether a claim was pursued and whether the employee was fired or otherwise punished for doing so.”” (¶ 54)

FACTUAL BACKGROUND

Ungerbuehler worked as a nanny for James and Kristen Kelly from March 2022 through October 2023. After she was injured in a February 2023 car crash while traveling to her work location, she alleged that her ability to walk and bend was substantially limited, that she needed multiple surgeries, and that she notified the Kellys of her intent to pursue workers' compensation. In October 2023, she requested an accommodation of not traveling, was told her hours were being reduced, and was fired two days later. The complaint alleged that the termination was motivated by disability discrimination and retaliation for pursuing or intending to pursue workers' compensation benefits.

PROCEDURAL HISTORY

Ungerbuehler sued her former employers, alleging disability-discrimination wrongful discharge, statutory workers' compensation retaliation under R.C. 4123.90, and common-law wrongful discharge in violation of public policy against workers' compensation retaliation. The Hamilton County Court of Common Pleas granted the defendants' motion for judgment on the pleadings and dismissed the complaint with prejudice, denying leave to amend as futile. The Court of Appeals sustained the first three assignments of error, held the fourth moot, reversed, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The cause is remanded to the Hamilton County Court of Common Pleas for further proceedings on Ungerbuehler's complaint.

CASES CITED

- Hill v. Schildmeyer, 2024-Ohio-3261, ¶ 1 (1st Dist.)
- Vandemark v. Reder, 2026-Ohio-50, ¶ 10 (1st Dist.)
- Maternal Grandmother, ADMR v. Hamilton Cty. Dept. of Job and Family Servs., 2021-Ohio-4096, ¶ 7
- Wells Fargo Bank, N.A. v. Horn, 2015-Ohio-1484, ¶ 13
- Anderson v. BancOhio Natl. Bank, 1985 Ohio App. LEXIS 9437, *1 (1st Dist. Nov. 27, 1985)
- Fancher v. Fancher, 8 Ohio App.3d 79, 83 (1st Dist. 1982)
- York v. Ohio State Hwy. Patrol, 60 Ohio St.3d 143, 144 (1991)
- State ex rel. Midwest Pride IV v. Pontious, 1996-Ohio-459, ¶ 21

- Collins v. Rizkana, 1995-Ohio-135, ¶¶ 13, 20, 29, 32, 34-35
- Kulch v. Structural Fibers, 1997-Ohio-219, ¶ 61
- Greeley v. Miami Valley Maintenance Contrs., 49 Ohio St.3d 228, 233-234 (1990)
- Losch & Assocs. v. Polonczyk, 2016-Ohio-4950, ¶ 13 (1st Dist.)
- Painter v. Graley, 70 Ohio St.3d 377, 383-384 (1994)
- Gallimore v. Children's Hosp. Med. Ctr., 67 Ohio St.3d 244, 253 (1993)
- Dohme v. Eurand Am., Inc., 2011-Ohio-4609, ¶ 24
- White v. Sears, Roebuck & Co., 2005-Ohio-5086, ¶ 13 (10th Dist.)
- Hazlett v. Martin Chevrolet, Inc., 25 Ohio St.3d 279, 280 (1986)
- Dworning v. City of Euclid, 2008-Ohio-3318, ¶ 27
- Helmick v. Cincinnati Word Processing, 45 Ohio St.3d 131, 135 (1989)
- Pflanz v. City of Cincinnati, 2002-Ohio-5492, ¶ 66 (1st Dist.)
- Caplinger v. Uranium Disposition Servs., LLC, 2009 U.S. Dist. LEXIS 9950, *16 (S.D. Ohio Feb. 11, 2009)
- Miracle v. Ohio Dept. of Veterans Servs., 2019-Ohio-3308, ¶ 15
- State v. Williamson, 2022-Ohio-185, ¶ 31 (9th Dist.)
- Hardy v. P&G Co., 2011-Ohio-5384, ¶ 10 (1st Dist.)
- Onderko v. Sierra Lobo, Inc., 2016-Ohio-5027, ¶¶ 25, 35-40
- Industrial Commission of Ohio v. Gintert, 128 Ohio St. 129, 131 (1934)
- Rajeh v. Steel City Corp., 2004-Ohio-3211, ¶ 37 (7th Dist.)
- Parrish v. Cavaliers Holding, 2019-Ohio-89, ¶¶ 10-11 (8th Dist.)
- Ruckman v. Cubby Drilling, Inc., 1998-Ohio-455, ¶ 7
- Sutton v. Tomco Machining, Inc., 2011-Ohio-2723, ¶¶ 1, 14, 22
- Rowe v. Hoist & Crane Serv. Group, 2022-Ohio-3130, ¶ 40 (8th Dist.)
- McGree v. Gateway Healthcare Centre, L.L.C., 2019-Ohio-988, ¶ 12 (8th Dist.)
- Troxel v. Granville, 530 U.S. 57, 66 (2000)

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