

WeirFoulds Employment Law Hot Takes: Swing and a Miss – Off-Duty Conduct Gone Wrong

November 18, 2025

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The Toronto Blue Jays might have struck out this year (but still delivered an incredible season), but the real foul ball recently came from the stands, and it cost an employee their spot in the lineup.

Just weeks after [we warned](#) that off-duty conduct can have serious professional consequences, Shannon Kobylarczy, a Milwaukee Brewers fan and (now former) legal counsel of a global HR services firm went viral after threatening to “call ICE” on a LA Dodgers fan during a playoff game. The exchange, caught on video and posted online, spread quickly, and within days Ms. Kobylarczy’s employer confirmed that she was “no longer with the organization”. Ms. Kobylarczy’s actions also resulted in her resigning from the board of a local charity and a permanent ban from the Brewers’ ballpark.

Given Ms. Kobylarczy’s role at an HR services firm, this type of conduct directly conflicted with the organization’s values and reputation. The Canadian case law similarly establishes that off-duty conduct can result in employment consequences, up to and including termination for cause where there is a real and substantial nexus between the conduct and the employer’s legitimate interests. Furthermore, having clear policies regarding employee conduct (including, where relevant, off-duty conduct) can minimize the likelihood of employee conduct being called a foul, and strengthen an employer’s ability to take action against an employee for off-side conduct (yes, we mixed sports metaphors in this article).

If your organization could use help reviewing or drafting workplace policies or navigating an employment issue, our team (the WeirFoulds Employment Law Group, not the Jays) is always ready to step up to the plate.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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