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# Recent Development: Spacesaver Sys., Inc. v. Adam: An Employment Agreement Containing a For-Cause Provision and an Indefinitive Term of Employment is a “Continuous For-Cause” Contract, Not an At-Will Employment Contract

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## RECENT DEVELOPMENT

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### ***SPACESAVER SYS., INC. V. ADAM: AN EMPLOYMENT AGREEMENT CONTAINING A FOR-CAUSE PROVISION AND AN INDEFINITE TERM OF EMPLOYMENT IS A “CONTINUOUS FOR-CAUSE” CONTRACT, NOT AN AT-WILL EMPLOYMENT CONTRACT.***

**By: Patrick F. Toohey**

The Court of Appeals of Maryland held that the presumption of at-will employment is negated where an employment agreement contains an explicit termination for-cause provision, despite an indefinite term of employment. *Spacesaver Sys., Inc. v. Adam*, 440 Md. 1, 26-27, 98 A.3d 264, 280 (2014). The court further held that the plain for-cause language of the employment agreement, to which the parties mutually assented, created “continuous for-cause” employment, rather than at-will employment or a lifetime employment. *Id.*

Spacesaver Systems, Inc. (“SSI”) was owned and operated by siblings: Carla Adam (“Adam”), Amy Hamilton (“Hamilton”), and David Craig (“Craig”). In 2006, Adam and Hamilton suspected that Craig was stealing from SSI. As a result, SSI’s attorney drafted a new employment agreement for each sibling, which included a provision titled “Termination by the Company For Cause” (“for-cause provision”). By the terms of Adam’s employment agreement (the “Agreement”), SSI could “at any time and without notice, terminate [Adam] ‘for cause.’” The Agreement referenced a “term of this Employment Agreement,” but failed to actually define the term of employment. SSI’s attorney drafted a separate Stock Purchase Agreement, which compelled a terminated employee to sell their stock to the remaining shareholders.

Following execution of the individual employment agreements, Craig resigned and sold his stock to Adam and Hamilton, leaving each with fifty percent interest in the company. Subsequently, Hamilton became dissatisfied with Adam’s sales performance. Hamilton sent Adam a letter expressing her intent to acquire Adam’s SSI stock pursuant to the Stock Purchase Agreement, concluding that Adam’s employment would be terminated. Shortly after, Adam received a second letter from SSI officially terminating her employment.

Adam filed a complaint against Hamilton and SSI in the Circuit Court for Montgomery County, alleging that she was terminated without cause in violation of the Agreement. The circuit court found in

favor of Adam, concluding that the Agreement transformed a previously at-will employment relationship into a lifetime contract because the Agreement's for-cause provision would be rendered superfluous. SSI appealed to the Court of Special Appeals of Maryland, which partially affirmed and partially reversed the circuit court's decision, holding that the Agreement created neither an at-will employment nor a lifetime contract, but a "continuous contract terminable for-cause." SSI filed a petition for writ of certiorari in the Court of Appeals of Maryland, which the court granted.

The court first laid the groundwork for its analysis, noting the interpretation of a contract is subject to de novo review. *Spacesaver*, 440 Md. at 7-8, 98 A.3d 268 (citing *Towson Univ. v. Conte*, 384 Md. 68, 78, 862 A.2d 941, 946 (2004)). Maryland courts consider the language of contracts objectively to determine "what a reasonable person in the position of the parties would have meant at the time [the contract] was effectuated." *Spacesaver*, 440 Md. at 8, 98 A.3d at 268-69 (quoting *Gen. Motors Acceptance Corp. v. Daniels*, 303 Md. 254, 261, 492 A.2d 1306, 1310 (1985)). Where the terms of an agreement are unambiguous, the court will not consider what the parties thought the agreement meant or what they intended it to mean. *Spacesaver*, 440 Md. at 8, 98 A.3d at 268-69 (quoting *Daniels*, 303 Md. at 261, 492 A.2d at 1310). Instead, courts contemplate "the character of the contract, its purpose, and [surrounding] circumstances" to interpret a contract's meaning. *Spacesaver*, 440 Md. at 8, 98 A.3d at 269 (quoting *Calormis v. Woods*, 353 Md. 425, 436, 727 A.2d 358, 363 (1999)).

The court of appeals began its analysis by examining the common law presumption of at-will employment, or employment that may be terminated *at the will* of either party at any time. *Spacesaver*, 440 Md. at 13, 98 A.3d at 271. The court concluded that the presumption acts as an aid in contract interpretation, rather than a limit on freedom of contract; there is nothing in the common law doctrine that prohibits an understanding between the parties from rebutting the presumption of at-will employment. *Id.* at 13, 98 A.3d at 271-72 (citing *McCullough Iron Co. v. Carpenter*, 67 Md. 555, 557, 11 A. 176, 178 (1887)). The court then recognized two categories of employment contracts that would rebut this presumption: those with definite duration and those with clear termination for-cause provisions. *Spacesaver*, 440 Md. at 15, 98 A.3d at 273. Failure to show that the Agreement falls into either of these categories would render Adam's cause of action meritless. *Id.*

To categorize Adam's employment, the court contemplated the nature of the Agreement. *Spacesaver*, 440 Md. at 15, 98 A.3d at 273.

In doing so, the court placed emphasis on the clear for-cause language in the Agreement's termination provision. *Id.* at 16, 98 A.3d at 273. The court indicated that although the Agreement had an indefinite employment term, *either* a definite employment term *or* a for-cause provision would independently rebut the at-will presumption. *Id.* (citing *Conte*, 384 Md. at 80, 862 A.2d at 948). Although this conclusion was dicta in *Conte*, the court noted that several other jurisdictions have adopted a similar rule. *Spacesaver*, 440 Md. at 16, 98 A.3d at 273-74 (citing *Bell v. Ivory*, 966 F. Supp. 23 (D.D.C. 1997); *Gladden v. Ark. Children's Hosp.*, 292 Ark. 130, 136 (Ark. 1987)). Thus, the Agreement's clear for-cause termination provision removed the at-will employment presumption. *Spacesaver*, 440 Md. at 17, 98 A.3d at 274.

After concluding that the Agreement did not create an at-will employment relationship, the court addressed the indefinite nature of the Agreement to draw a distinction between lifetime contracts and continuous for-cause contracts. *Spacesaver*, 440 Md. at 18, 98 A.3d 275. Continuous for-cause contracts remain in effect until the employee is terminated for cause or incompetence, whereas a lifetime contract is often an informal, oral guarantee of permanent employment. *Id.* at 20, 98 A.3d at 276. Further, the court expressed the general reluctance to enforce lifetime contracts based on lack of definiteness and formality. *Id.* at 23, 98 A.3d at 278. However, the court recognized the slight overlap between the two types of contracts, noting that even a "so-called lifetime contract only continues to operate as long as the employer remains in business and the employee remains capable of working." *Id.* at 21-22, 98 A.3d at 276-277 (quoting *Chesapeake & Potomac Telephone Co. of Baltimore City v. Murray*, 198 Md. 526, 533, 84 A.2d 870, 873 (1951)).

The court articulated that employment contracts containing for-cause provisions are definite, even though they lack a "typical durational term." *Spacesaver*, 440 Md. at 20, 98 A.3d at 275 (quoting *Spacesaver*, 212 Md. App. at 442, 69 A.3d at 506)). The court reasoned that the Agreement's "operative terms are expressed [in writing], or in the case of the employment's durational term, omitted – definitively," which eliminated the uncertainty of future termination. *Spacesaver*, 440 Md. at 24, 98 A.3d at 278. Therefore, because the termination for-cause provision of the Agreement was clear and each of the parties assented, the court held that the Agreement was a formal employment contract best characterized as "continuous for-cause." *Id.* at 27, 98 A.3d at 280.

Finally, the court cautioned that its holding was not a departure from the common law presumption of at-will employment. *Spacesaver*, 440 Md. at 25, 98 A.3d at 279. Rather, the presumption is defeated only “when the parties explicitly negotiate and provide for a definite term of employment or a clear for-cause provision.” *Id.* In this case, SSI’s attorney could have kept Adam’s employment at-will by omitting the for-cause provision or by including an express at-will provision. *Id.* Instead, Adam’s attorney included the explicit for-cause provision in the Agreement. *Id.*

In *Spacesaver*, the Court of Appeals of Maryland drew a distinction between at-will employment and continuous for-cause employment. In doing so, the court encourages the drafters of employment contracts, who intend the particular contract to be at-will, to specifically include an at-will provision in the language of the contract. Practitioners should be aware that where an employment contract fails to specify a definite term *and* fails to include a clear for-cause provision, Maryland courts will construe the contract as at-will. This decision illustrates Maryland’s longstanding common law approach to contract formation and interpretation, affirming that clear and concise language will often prevail.