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by James Kevin MacAlister

I. Introduction

At common law, "an employment contract of indefinite duration, that is, at will, can be legally terminated at the pleasure of either party at any time."[1] In spite of their proclaimed intent to enforce the time-worn axiom, Maryland's appellate courts have recognized that, under the appropriate circumstances, a former at will employee can state a cause of action in contract against the employer who terminated him.[2] With the recognition of these claims will soon come the unenviable task of determining what the former employee's damages should be.

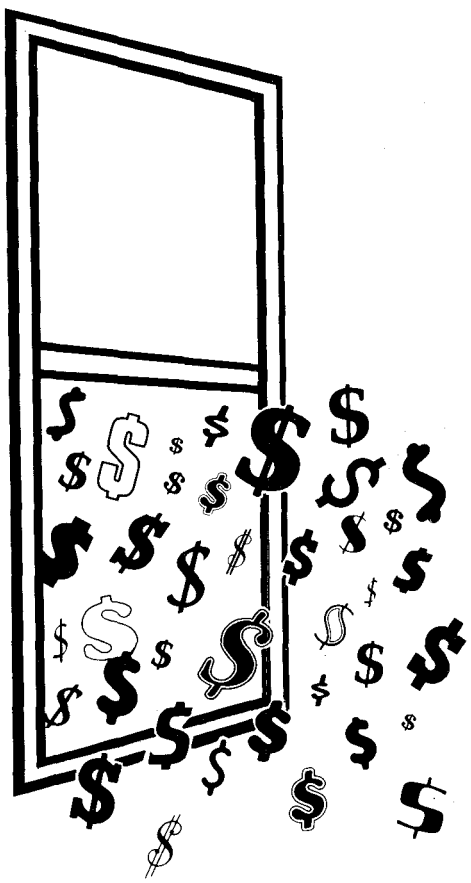
This article addresses a small fraction of the issues raised in the opening paragraph: the employer's exposure to damages for lost future wages. Constructing the proper formula for calculating this exposure begins with a recognition that at will employment is a unique contractual relationship that merits special treatment. Next, a number of the principles that govern awards of damages in contract actions, and damage awards in general, are examined in an effort to determine the proper elements of the formula. Lastly, the formula is applied to the breach of an at will employment contract to demonstrate that lost future wages should not be recoverable.

II. Employment at Will

In spite of the recent chinks in its armor, the employment at will doctrine is alive and well in Maryland.[3] Under this rule of the workplace, an employee hired for an indefinite duration can be fired at any time, for any reason. Thus, it carries with it no promises of job security or tenure, or that dismissal will only be for cause.[4] This, the most common employment relationship, should be contrasted from its two counterparts: the contract for a fixed duration, and more importantly, the life employment contract.

The contract for a fixed duration is precisely what its name implies. Along with its guarantee of fixed tenure, it carries with it an implied covenant that the employee will only be discharged for cause.[5] Because of these guarantees, the courts have held that an employee who is unlawfully dismissed before the end of his term can recover for the lost future wages that would have been paid until the end of that period.[6]

A life employment contract is also self defining. It is the complete surrender by the employer of the right to discharge an employee, except for cause, for the remainder of the employee's life.[7] Because this imports serious consequences, the Maryland judiciary has placed two significant hurdles in the paths of would be life employees. First, it must appear that the employee's duties and salary are set forth in the agreement[8] in terms that are "fixed and definite, with little or no room for misunderstanding."[9] Thus, unlike the at will



employee whose tenure and wages are always subject to change, the life employer and employee must fix all the terms of their bargain at the outset; nothing can be left for future negotiation.

Second, special consideration must have been surrendered by the employee in exchange for the promise of life tenure.[10] This consideration must be in addition to the "services incident to the employment."[11] Thus, merely remaining on the job after being guaranteed life tenure is insufficient consideration for a guarantee of permanent employment.[12] Moreover, resigning a job or incurring a detriment in preparation for accepting a position do not qualify as adequate consideration.[13] Rather, there must be an independent detriment or benefit, such as surrendering a personal injury claim, to qualify as adequate consideration.[14]

When the parties have gone through the rigors of forming a life employment contract, and the employer unlawfully fires the employee, future wages are a proper element of damages.[15] These damages can be measured by resorting to an actuarial table or by compensating the employee as though he had worked until retirement.[16]

III. Contract Damages

The mere breach of a contract by one party does not automatically entitle the nonbreaching party to compensation for all his losses. Instead, a number of rules have been formulated over time to limit the breaching party's exposure to liability. These theories are not only supported by *stare decisis*[17] but by economics as well.

The economic argument for limiting the exposure for a breach of contract is known as the efficient breach hypothesis.[18] This theory presupposes that it is economically advantageous for consumers if the manufacturers and suppliers of goods and services can escape unprofitable bargains.[19] In other words, society as a whole benefits when an unprofitable deal is forsaken for a profitable one.

A. Expectation Damages

The hallmark of the efficient breach hypothesis is the notion that the injured party is entitled to claim the benefit of his bargain,[21] or the difference between what was promised and what he actually received. Thus, other than the amorality of repudiating a bargain, an efficient breach benefits all concerned. The breaching party and society as a whole obtain the benefit of the efficient breach, and the non-breaching party receives his profit.[22]

Although it has yet to articulate an efficient breach argument in support of its decisions, the Maryland judiciary has consistently held that a contract plaintiff is entitled to the benefit of his bargain, his anticipated gain.[23] The benefit of the bargain rule serves not only as a tool for determining the plaintiff's damage, but it also serves to limit his recovery to his anticipated gain.

B. Consequential Damages

Although damages are confined to the expectation interest, the non-defaulting party can also recover consequential damages.[24] But, just as it does with benefit of the bargain damages, the law of contracts presupposes that the parties have developed a mutual expectancy of the consequences of their breach. Hence, only those consequential damages that were reasonably foreseeable to all parties at the time of contracting can be recovered.[25] Consequences or contingencies known only to one party are not proper elements of damage. Of course, if one party notifies the other party at the time of contracting that there are unique consequences, the otherwise unforeseeable consequences can become a proper element of damages.[26]

C. Mitigation

As a further limitation on damages, the law of contracts does not allow the injured party to sit idly by while his damages multiply. Rather, it imposes upon him two absolute duties. The first, known as the doctrine of avoidable harms, requires that the injured party make reasonable efforts to avoid aggravating his damages.[27] The second requires that he make reasonable efforts to mitigate or reduce his damages.[28] Because avoidable damages and mitigation are viewed as a defensive issue, the burden of raising and proving the facts is on the defendant.[29]

In the area of employment contracting, the duty to mitigate is quite strict. It requires that the former employee accept comparable employment at a comparable rate of pay "in the same or similar business."[30] Although a failure to mitigate is not fatal to a former employee's claim, any recovery he would have recovered will be reduced by the amount of money that he would have earned, had he taken reasonable efforts to find suitable employment.[31] As the defendant, the employer has the burden of proving these mitigating factors.[32]

D. Punitive Damages/ Emotional Suffering

Lastly, in a further effort to confine damage to the terms of the contract, the courts have determined that punitive damages[33] and damages for emotional distress are not recoverable in contract actions.[34] The absolute ban on punitive damages in contract actions is perhaps the supreme triumph of the efficient breach hypothesis. Fearing that exposure to punitive damages will deter parties from breaching inefficient agreements,[35] the Maryland judiciary has determined that the punitive and deterrent policies that justify awarding punitive damages in general, must be forsaken in contract actions.[36]

IV. The Law of Damages in General

Over the years, a number of limitations have been developed to guide all efforts to recover damages. Primarily, these limitations hold the injured party to the burden of establishing the nature and extent of his loss. In other words, these are not policy-based theories, but standards of proof that all plaintiffs must clear before a finding of fact will be allowed awarding them damages.

A. Reasonable Certainty

Before any element of damages can be placed before the finder of fact, it must appear that its amount has been established with reasonable certainty.[37] Under this standard of proof, mathematical precision is not required.[38] Rather, the plaintiff need only prove a reasonable basis for determining the extent of his loss. In short, he must show something more than losses based on mere speculation or conjecture.[39] Moreover, even when the damages are uncertain the courts have recognized that a defendant whose breach has "caused a difficulty of proving damage . . . cannot complain of the resulting uncertainty."[40]

In cases where the rule of certainty is fatal to the plaintiff's expectation interest, the courts have recognized that he is entitled to recover reliance damages.[41] These are the total sums expended by the plaintiff in preparation to and in performance of the contract, less, of course, any renumeration received from the breaching party.[42]

B. Lost Profits

Combining many of the rules of contract law and the test of reasonable certainty, the courts have developed a formalized ap-

proach to claims for lost profits. These claims must assert that the defendant's breach caused the loss of profit, and that the defendant should have reasonably foreseen at the time of contracting that the loss of profits would probably result from a breach.[43] Of course, the lost profits must be proven to a reasonable certainty.[44]

In meeting this test of certainty, plaintiffs have been allowed to project their lost future profits from past performance of a business.[45] These projections are only permitted when there is a sufficient history of profit from which a projection can be drawn.[46]

C. Future Harm

There is no presumption of the permanancy of an injury.[47] Thus, the party claiming future harm must offer some basis for concluding that a condition caused by the defendant's wrongdoing is unlikely to change.[48] This requires proof that there be greater than fifty percent chance that future injury will occur.[49] In some instances, this can be accomplished by proof testimony of the injury itself.[50] These cases, however, are limited to instances where the injury itself is outwardly, visibly permanent.[51] Any other injury requires expert testimony supporting its permanency.[52] Although the opinion of the expert can be cast in general terms, it must appear that there is an appropriate foundation to support his conclusion that the injury is a permanent one.[53] A permanent injury must be contrasted from the suffering in the future. Apparently, a lesser standard of proof is required when intangible future suffering is in issue, but the cases applying this reduced standard of certainty have thus far involved only tort claims for intangible losses.[54]

Analysis

To qualify as an element of damages in a suit for breach of an at will employment contract, a claim for lost future wages must survive the gauntlet of rules set forth in the previous section. Not only must it satisfy the economic and legal qualifications imposed by the law of contracts, but it must also meet the standards of proof required to generate an issue of fact. Accordingly, it must be sifted through each element of the formula.

A. The Law of Contracts

Under Maryland's at will employment doctrine, the only certainty that the parties have created is uncertainty. As a matter of law, they have created a relationship in which neither party can count on the other's future performance. In the words of the Court of Appeals of Maryland, their relationship "can be terminated at the pleasure of either party at any time."[55] Thus, the benefit of the bargain is only that the employer will pay the employee for time actually worked.[56]

At least one jurisdiction, however, has awarded lost future wages, reasoning that, but for the defendant's breach, the employee would have remained on the job until retirement.[57] To allow damages for lost future wages for the breach of an at will employment contract is to engage in nothing less than a wholesale judicial rewriting of the contract forged by the parties. Had they wished to secure the employee's tenure, they could have contracted for a fixed period or entered into a life employment contract. But they chose, instead, to select employment for an indefinite term, a relationship that, as a matter of law, promises no security. In other words, if lost future wages become an element of damages, the at will employment contract will be transformed into a life employment contract, in direct contravention of the parties' expectation and intent.[58]

Not only does a recovery of lost future wages in an employment at will case permit a party a benefit that he never bargained for, but it severely inhibits the employer's ability to breach the contract with economic efficiency. Faced with the prospect of having to pay an employee the wages he would otherwise earn over his lifetime with the company, only the foolhardiest employer would terminate any employee other than according to the terms of the contract. And since dismissal for cause is the only ground for lawfully terminating the contract, a more efficient or better qualified employee could not be substituted for an employee who has not committed a grave enough act of misconduct to warrant his dismissal for cause.[59] Accordingly, not only is the employer saddled with the cost of the less efficient employee, but consumers who purchase the goods and services produced by the employee are equally burdened.

B. The Law of Damages

Even if lost future wages can be deemed an element of damages for the loss of at will employment, it is difficult to conceive of how this loss should be measured. Under a simplistic approach applied by several federal courts in so called "front pay" decisions, it is possible to look to the employee's wages before the breach and after the breach.[60] Also, the sales made by retained brokers and salesmen have been used to extrapolate how a former broker or salesman would have performed, but for the employer's breach of duty.[61] This same theory could conceivably be used to predict how a terminated employee would have performed, had he remained with his employer. Lastly, actuarial tables or a mandatory retirement age could be consulted to fix the duration of the loss.[62]

Under Maryland's at will employment doctrine, the only certainty that the parties have created is uncertainty.

1. Amount of Damages: The fallacy of these theories is that they are based on a series of fictions, compiled of compounded "what if's." First, there is the assumption that the employee would have served the remainder of his career with the company. Not only is this assumption rebutted by the mobility of the modern workforce, but it flies in the face of the at will employment doctrine's no-tenure policy.

Second, all three theories assume that, had the employee remained with the company, he would have been the recipient of salary increases and promotions accorded his co-workers. In cases where salary increases were given automatically, perhaps the employer's post termination conduct can serve as a guide for measuring what the lost future wages should be. Also, while it is plausible that a former employee's unblemished record arguably supports the inference that he would have received merit increases given to other employees, it is sheer speculation to assume that promotions actually would have been forthcoming, especially when the employer thought so little of the employee's services that he fired him. Merit raises and promotions are generally the product of the individual's qualities. Thus, comparisons between employees is based on the flawed notion that all employees perform equally.

Even if these postulations could serve as a basis for fixing a dollar amount, the effect of the mitigation requirement has yet to be

considered. As previously indicated, the law of contracts will not allow the terminated employee to sit idly by for the remainder of his career. The effect of the mitigation requirement is that it guarantees that the lost future wages claim will be something less than the amount of wages that would have been paid for the remainder of the employee's life. The "front pay" decisions seize upon mitigation as an important check on unreasonably high verdicts.[63] These decisions, however, decline to explain precisely how the employee's performance at his new job can be predicted with any degree of certainty. Surely, Maryland's law of lost profits would bar the projection of future profit where there is no past performance at the new job from which to project the future loss. At worst, the employer's inability to prove mitigation would preclude his use of that defense. At best, the speculations built into approximating lost future wages would be compounded by the employer's baseless speculations.

Also, the proof of lost future wages and mitigation are based on the false premise that the disparity proven at trial will never change. Perhaps, with the new employment opportunity will come better opportunities, perhaps not. But there is no rational basis for guessing what the future will hold.

2. Duration of Injury: The speculative assumptions outlined above ignore the element of duration. To recover prospective relief, the former employee must show that his injury will continue into the future. Some courts respond to this problem by arguing that the law of personal injury can be used to fix the duration of lost future wages.[64] While Maryland allows lost future wages in personal injury cases, it must appear that the injury has some permanency.[65] Perhaps the most glaringly erroneous assumption of all is that the employee's situation will remain unchanged over the remainder of his career. In other words, the loss of one job is transformed into a permanent disability, without proof that the loss of employment will have definite future consequences. Unlike the unrepairable loss of a hand or foot, the law of employment contracting imposes upon the employee the affirmative duty of healing his wounds and moving on to another employer. Therefore, the assumption that the employee will remain disabled for the remainder of his professional career is as unsupported by the law and by the realities of the job market.

V. Conclusion

Although some states have opted to allow awards for lost future wages for the breach of an at will employment contract, Maryland should side with those jurisdictions that have rejected these claims. The bases for rejecting such claims are not limited to their speculative nature.

Confining the support behind the rejection to lack of proof would surely produce two criticisms. First, that the wrongdoer is allowed to escape liability because he was fortunate enough to inflict an incalculable injury. Second, that lost future wages should at least be awarded until the close of trial. This second solution would certainly cure the uncertainty and duration problems.

To avoid these issues, it is wisest to confront the lost future wages issue for its inconsistency with established principles of contract law. By definition, at will employment creates only the expectation of what its name implies: no guarantee of future employment is reserved or promised. Thus, the employee's expectation interest, which the law of contract strives to compensate, extends only to being compensated for time served.

Thus, while claims for lost future wages attributable to the breach of an at will employment contract are nothing less than the guesses of the parties' witnesses and experts, the speculative damages issue need not be reached. As a matter of contract law, lost future wages are not a proper element of damage.

Notes

[1] *Adler v. American Standard Corp.*, 291 Md. 31, 35, 432 A.2d 464, 467 (1981).

[2] This action can be for abusive discharge, *see Adler*, 291 Md. at 43 (an at will employee can recover damages in tort or contract for abusive discharge); *Leese v. Baltimore County*, 64 Md. App. 442, 467, 478, 497 A.2d 159, 172, 178 (1984) (employee elected to sue his former employer in contract for abusive discharge); or there can be the breach of an at will employment contract, *see Dahl v. Brunswick Corp.*, 277 Md. 471, 356 A.2d 221 (1976); *Staggs v. Blue Cross of Maryland*, 61 Md. App. 381, 486 A.2d 798, *cert. denied*, 303 Md. 295, 493 A.2d 349 (1985).

[3] *See, e.g., Leese*, 64 Md. App. 442; *Moniodis v. Cook*, 64 Md. App. 1, 494 A.2d 212, *cert. denied*, 304 Md. 631, 494 A.2d 239 (1985); *Townsend v. L.W.M. Management, Inc.*, 64 Md. App. 55, 494 A.2d 239 (1985); *Staggs*, 61 Md. App. at 381; *Beye v. Bureau of National Affairs*, 59 Md. App. 642, 477 A.2d 1197, *cert. denied*, 301 Md. 639, 484 A.2d 274 (1984).

[4] *Adler*, 291 Md. at 35; *C & P Telephone Co. v. Murray*, 198 Md. 526, 536, 84 A.2d 870, 874 (1951).

[5] *Locke v. Sonnenleiter*, 208 Md. 443, 453-54, 188 A.2d 509, 514 (1955); *Atholwood Development Co. v. Houston*, 179 Md. 441, 19 A.2d 706 (1941); *Wandell Chocolate Co. v. Goldsmith*, 142 Md. 148, 120 A. 372 (1923); *McGrath v. Marchant*, 117 Md. 472, 83 A. 912 (1912); *Baltimore Baseball Club v. Pickett*, 78 Md. 375, 28 A. 279 (1874); *Jaffray v. King*, 34 Md. 217, (1871).

[6] *Lemlich v. Board of Trustees*, 282 Md. 495, 505, 385 A.2d 1185, 1191 (1978); *Volos, Ltd. v. Sotera*, 264 Md. 155, 174-76, 286 A.2d 101, 111 (1972); *Atholwood Development Co.*, 179 Md. at 446.

[7] *Pullman Co. v. Ray*, 201 Md. 268, 94 A.2d 266 (1953); *C & P Telephone Co. v. Murray*, 198 Md. 526, (1951); *Heckler v. Baltimore & Ohio R. Co.*, 167 Md. 226, 173 A.2d 12 (1934); *Baltimore & Ohio R. Co. v. King*, 168 Md. 142, 176 A. 626 (1935).

[8] *Pullman Co.*, 201 Md. at 272; *C & P Telephone Co.*, 198 Md. at 534; *Heckler*, 167 Md. at 231.

[9] *Baltimore & Ohio R. Co.*, 168 Md. at 149 (quoting *Arentz v. Morse Dry Dock Repairs Co.*, 164 N.E. 342, 344 (1978)).

[10] *C & P Telephone Co.*, 198 Md. at 533.

[11] *Page v. Carolina Coach Co.*, 667 F.2d 1156, 1158 (4th Cir. 1982) (applying Maryland law).

[12] *Id.*

[13] *Id.*

[14] *C & P Telephone Co.*, 198 Md. at 534.

[15] *Pierce v. Tennessee Coal, I & R Co.*, 173 U.S. 1, 12-16 (1899).

[16] *Id.*

[17] *See infra* note 23.

[18] E. Farnsworth, Contracts § 12.3 (1983).

[19] Strausberg, *A Roadmap Through Malice, Actual or Implied: Punitive Damages in Torts Arising Out of Contracts in Maryland*, 13 U. Balt. L. Rev. 275, 293 n. 113 (1984).

[21] E. Farnsworth, *supra* note 18, § 12.3; Linzer, *On the Amorality of Contract Remedies–Efficiency, Equity, and the SECOND RESTATEMENT*, 81 Colum. L. Rev. 111, 115-16 (1981).

[22] *See* Strausberg, *supra* note 19, at 293 n. 113.

[23] *Pennsylvania Thresherman & Farmer Mut. Cas. Ins. Co. v. Messenger*, 181 Md. 295, 301-02, 29 A.2d 653, 657 (1943); *Hammaker v. Schleigh*, 157 Md. 652, 663, 147 A. 790, 797 (1929); *Abott v. Gatch*, 13 Md. 314, 332-33, 71 Am. Dec. 635, 639 (1859); *Dialist v. Pulford*, 42 Md. App. 173, 179, 399 A.2d 1374, 1379 (1979);

[24] *Addressograph-Pluttigraph v. Zink*, 273 Md. 277, 286-88, 329 A.2d 28, 34 (1974).

[25] *St. Paul at Chase v. Flrs. Life Insur.*, 262 Md. 192, 247, 278 A.2d 12, 38 (1971); *Macke Co. v. Pizza of Gaithersburg*, 259 Md. 479, 488-89, 270 A.2d 645, 650 (1970).

[26] C. McCormick, Damages, at 571 (1935).

[27] *Hindler Creamery Co. v. Miller*, 153 Md. 264, 272, 138 A. 1, 4 (1927).

[28] *Atholwood Development Co. v. Houston*, 179 Md. 441, 446, 19 A.2d 706, 709 (1941).

[29] *Sergeant Co. v. Pickett*, 285 Md. 186, 203, 401 A.2d 651, 660 (1979).

[30] *Lemlich v. Board of Trustees*, 282 Md. 495, 505 A.2d 1185, 1191 (1978). *See generally* S. Williston, A Treatise on the Law of Contracts § 1359 (3d ed. W. Jaeger 1968) (describing factors taken into account).

[31] *Atholwood Development Co.*, 179 Md. at 446, 19 A.2d at 709 (1941).

[32] *Volos, Ltd. v. Satera*, 264 Md. 155, 176, 286 A.2d 101, 112 (1972).

[33] *H & R Block v. Testerman*, 275 Md. 36, 44, 338 A.2d 48, 52 (1975); *see also Haslam v. Pepsi Cola Co.*, 117 LRRM 2950 (D. Mich. 1984) (employment contract); *Novosel v. Nationwide Mut. Ins. Co.*, 118 LRRM 2779 (W.D.Pa. 1985) (employment contract).

[34] *Monge v. Beebe Rubber Co.*, 316 A.2d 549 (N.H. 1974); *Sea Land Services, Inc. v. O'Neal*, 297 S.E.2d 647 (Va. 1982).

[35] *See General Motors Corp. v. Piskov*, 281 Md. 627, 637, 381 A.2d 16, 22 (1977).

[36] *See generally* Strausberg, *supra* note 19, at 292-94.

[37] *Jones v. Malinowski*, 299 Md. 257, 268-69, 473 A.2d 429, 435 (1984); *Empire Realty Co. v. Fleisher*, 269 Md. 278, 284, 305 A.2d 144, 147 (1973); *M & R Builders v. Michael*, 215 Md. 340, 349, 138 A.2d 350, 354 (1958); *Natl. Micrographics v. Oce-Indus*, 55 Md. App. 526, 536, 465 A.2d 862, 867 (1983); *Suburban Trust Co. v. Walker*, 44 Md. App. 335, 348, 408 A.2d 758, 766 (1979).

[38] *Harrison v. Baltimore City*, 247 Md. 583, 590, 234 A.2d 135, 139 (1967); *John B. Robeson v. Gardens*, 226 Md. 215, 227, 172 A.2d 529, 534-35 (1961).
[39] *Charles Co. Broadcasting v. Meares*, 270 Md. 321, 332, 311 A.2d 27, 34 (1973).
[40] *National Micrographic v. Oce-Indus*, 55 Md. App. 526, 538, 465 A.2d 862, 868 *cert. denied*, 298 Md. 395 (1984).
[41] *Wartzman v. Hightower Prods., Ltd.*, 53 Md. App. 656, 456 A.2d 82 (1983) *cert. denied*, 296 Md. 112 (1983); *Dialist v. Pulford*, 42 Md. App. 173, 399 A.2d 1374 (1979).
[42] *Wartzman*, 53 Md. App. at 86.
[43] *Impala Platinum v. Impala Sales*, 283 Md. 296, 330, 389 A.2d 887, 907 (1978); *Macke Co.*, 259 Md. at 488-89; *Stuart Kitchens, Inc. v. Stevens*, 248 Md. 71, 74, 234 A.2d 749, 751 (1967); *M & R Builders v. Michael*, 215 Md. 340, 346, 138 A.2d 350, 353 (1958); *Della Ralta, Inc. v. Am. Better Comm. Developers*, 38 Md. App. 119, 139, 380 A.2d 627, 639 (1977).
[44] *Feinberg v. Geo. Wash. Cemetery*, 226 Md. 393, 399, 174 A.2d 72, 75 (1961); *Della Ralta*, 38 Md. App. at 143.
[45] *Macke Co.*, 259 Md. at 489.
[46] *Id.* at 491.
[47] *See Mt. Royal Cab Co. v. Dolan*, 166 Md. 581, 585, 171 A. 854, 856 (1934).
[48] *Straughan v. Tsouvalos*, 246 Md. 242, 257, 228 A.2d 300, 310 (1967).
[49] *Pierce v. Johns-Manville Sales Corp.*, 296 Md. 656, 666, 464 A.2d 1020, 1026 (1983).
[50] *Sim-Kee Corp. v. Hewitt*, 13 Md. App. 296, 301-02, 282 A.2d 525, 527-28 (1971).
[51] *Straughan*, 246 Md. at 257.
[52] *Raines v. Boltes*, 258 Md. 325, 331-33, 265 A.2d 741, 745 (1970).
[53] *Davidson v. Miller*, 276 Md. 54, 62, 344 A.2d 422, 427 (1975) (there must be testimony that injury is permanent to a medical certainty); *Craig v. Chenoweth*, 232 Md. 397, 401, 192 A.2d 78, 80 (1963) (expert's testimony was flawed because he alluded only to a mere possibility of permanent injury); *Kujawa v. Balt. Transit Co.*, 224 Md. 195, 203-04, 167 A.2d 96, 101 (1961) (mere possibility is insufficient – medical proof is required).
[54] *Hughes v. Carter*, 236 Md. 484, 487, 204 A.2d 566, 568 (1964).
[55] *Adler*, 291 Md. at 35.
[56] *American Motor Ins. v. A.W.L. Adv. Agency*, 253 Md. 654, 665-66, 254 A.2d 191, 197-98 (1969).
[57] *Sea-Land Services, Inc.*, 297 S.E.2d at 652.
[58] *Gram v. Liberty Mutual Insurance Co.*, 461 N.E.2d 796, 798 (Mass. 1984); *Kravetz v. Merchants Distributors, Inc.*, 440 N.E.2d 1278, 1281 (Mass. 1982); *Bennett v. Eastern Rebuilders, Inc.*, 279 S.E.2d 46, 49 (N.C. App. 1981).
[59] *See Bright v. Ganas*, 171 Md. 493, 503, 189 A. 427, 431 (1937) (not every wrongful act by employer is sufficient cause).
[60] *See, e.g., E.E.O.C. v. Prudential Savings & Loan Ass'n.*, 763 F.2d 1166, 1173 (10th Cir. 1985).
[61] *Nat'l. Micrographics*, 55 Md. App. at 536-38; *Della Ralta Realty, Inc.*, 38 Md. App. at 140-41.
[62] *E.E.O.C.*, 763 F.2d at 1173.
[63] *Whittlesey v. Union Carbide Corp.*, 742 F.2d 724, 728 (2d Cir. 1984); *Maxfield v. Sinclair Intern*, 766 F.2d 788, 796 (3d Cir. 1985); *Koyen v. Consolidated Edison Co. of New York, Inc.*, 560 F. Supp. 1161, 1168-69 (S.D.N.Y. 1983).
[64] *Whittlesey v. Union Carbide Corp.*, 742 F.2d at 728-29; *Koyen*, 560 F. Supp. at 1168-69.
[65] *Mt. Royal Cab Co.*, 166 Md. at 585.

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