Circuit Court for Baltimore City
Case No. 24-C-17-001750

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1217

September Term, 2017

CRYSTAL BUTTERWORTH

v.

LMB UNLIMITED, LLC, d/b/a
KONSTANT FOOD

Meredith,
Wright,
Raker, Irma S.
(Senior Judge, Specially Assigned),
JJ.

Opinion by Raker, J.

Filed: October 4, 2018

This case concerns the discharge of an at-will employee, allegedly because she did not appear for work timely on December 24, 2014, but instead attended a final peace order hearing as a respondent pursuant to § 3-1505 of the Maryland Code's Courts & Judicial Proceedings Article in the District Court of Maryland sitting in Baltimore County.[1] This appeal arises from the judgment of the Circuit Court for Baltimore City, which granted the motion of appellee, LMB Unlimited, LLC, d/b/a Konstant Food, to dismiss the amended complaint of appellant Crystal Butterworth alleging a civil cause of action for wrongful discharge. Appellant presents two questions for our review:

> "(1) Did the circuit court err in dismissing [appellant's] amended complaint for wrongful discharge?
>
> (2) Did the circuit court err by engaging in improper fact-finding in resolving a motion to dismiss?"

We shall answer the first question in the affirmative, and hold that a clear public policy mandate exists in the State of Maryland which protects employees from employment termination when the employee appears as a respondent for a final peace order hearing after being served by the sheriff with a temporary peace order and notice to appear. We need not answer the second question. We will reverse the judgment of the circuit court and remand the case for further proceedings.

[1] Unless otherwise indicated, all subsequent statutory references herein shall be to Md. Code Ann., Cts. & Jud. Proc Article ("CJ").

I.

In December of 2014, appellant was an at-will employee of appellee, located at 400 W. Lexington Street, Baltimore, Maryland. Appellant had been an employee of appellee for 43 years and worked as a manager in 2014. On December 17, 2014, the District Court of Maryland sitting in Baltimore County entered a temporary peace order against appellant. The order had been entered at an *ex parte* hearing, at the request of appellant's son's girlfriend, who had been living at appellant's residence.

On the night of December 17, 2014, a deputy sheriff from the Baltimore County Sheriff's Office served appellant with a copy of the temporary peace order and the attached Notice to Respondent. The temporary peace order barred appellant from entering her own home and stated that the hearing for the final peace order would be held on December 24, 2014, at 9:00 a.m. in the District Court of Maryland sitting Baltimore County. The notice from the District Court also stated, *inter alia*:

> "Violation of this Temporary Peace Order may be a crime or contempt of court or both, and result in imprisonment or fine or both.
>
> **In order to respond to the allegation(s) contained in the Petition, you must appear in court at the Final Peace Order hearing as notified on page 1 of this Temporary Peace Order**. If at the hearing the Court finds by a preponderance of the evidence that a prohibited act occurred within 30 days before the filing of the Petition, and is likely to occur in the future, the Court may issue a Peace Order against you, whether you appear or fail to appear. . . .
>
> If you fail to appear in court and a Final Peace Order is issued against you, you may be served by first class mail at your last known address with the Final Peace Order and all other notices concerning the Peace Order. The Peace Order

> will be valid and enforceable whether you are or are not in court and whether you do or do not actually receive it. . . .
>
> Each party may be represented by an attorney at the Peace Order hearing. Due to the emergency nature of the hearing, however, the hearing may be held even if a party requests more time to obtain an attorney."

(Emphasis added). The Temporary Peace Order also included this notice: "NOTICE TO ALL PARTIES: Please bring all photos, documents and other evidence that you may have with you to court on your hearing date."

On December 18, 2014, appellant informed appellee's management that she was required to be in court on December 24, 2014 to attend the final peace order hearing. At that time, appellee told appellant to have the hearing postponed, reminding her that the hearing date, December 24, 2014 (Christmas Eve), was appellee's biggest sales day of the year. On December 18, 2014, appellant visited the Baltimore City Sheriff's Office, where she was served with another copy of the temporary peace order and the attached Notice to Respondent. Appellant asked the sheriff's deputies if her hearing could be postponed and was told that a peace order hearing could not be postponed. She told her employer that the hearing on December 24, 2014 could not be postponed. Nevertheless, appellee scheduled appellant to begin working at 7:00 a.m. on December 24, 2014.

On December 24, 2014, appellant attended the Final Peace Order hearing.[2] Following the hearing, she reported to appellee for work but was sent home because she

[2] We were advised at oral argument that the District Court did not issue a final peace order.

was late. On December 27, 2014, appellee's management telephoned appellant and terminated her employment with the company.

Appellant filed suit against appellee in the Circuit Court for Baltimore City, alleging that appellee wrongfully terminated her when it fired her solely for complying with what she alleged was a court order requiring her to appear at the final peace order hearing as a party to that hearing. Appellant alleged that such a termination of an at-will employee violated "clearly mandated public policy of the State of Maryland" that "prohibit[s] employers from firing and/or sanctioning employees who are required and/or instructed by the courts to appear in civil and criminal proceedings." She further alleged in her Complaint that the public policy against discharging such employees "is reasonably discernable from Maryland's statutory policy," including CJ § 9-205.[3]

Appellee filed a motion to dismiss the Complaint and argued that there is no public policy that prohibited firing an at-will employee who failed to report to work. Appellee asserted that CJ § 9-205 applies solely to an employee who appears as a witness in a proceeding in response to a *subpoena* and was not applicable to a respondent in a

[3] CJ **§ 9-205. Depriving witnesses of employment; penalty.**
(a) An employer may not deprive an employee of the employee's job solely because of job time lost by the employee as a result of:
(1) The employee's response to a subpoena requiring the employee to appear as a witness in any civil or criminal proceeding, including discovery proceedings; or
(2) The employee's attendance at a proceeding that the employee has a right to attend under § 11-102 or § 11-302 of the Criminal Procedure Article, or under § 3-8A-13 of this article.
(b) An employer that violates subsection (1) of this section may be fined not more than $1,000.

final peace order hearing, as was the case here, where no subpoena had been issued by the court. Further, appellee argued that in order to state a claim for wrongful termination in Maryland, there must be a clear mandate of public policy that is clearly articulated in a statute, and here, there was no statute supporting appellant's claim. In opposition to appellee's motion, appellant argued that there is a clear public policy mandate that an employer may not terminate an at-will employee because that employee complied with an order of court "to attend any civil or criminal proceeding."

The circuit court held a hearing at which appellant urged the court to find that the public policy that is reflected in a particular statute can be broader than the specific terms of the statute. Following that hearing, the court entered a written ruling in which the court found that the Temporary Peace Order and Notice to Respondent "d[id] not ***compel*** [appellant's] attendance at the [Final Peace Order] hearing," as that form "is not a subpoena within the meaning of Md. Rule 3-510."[4] Further, the court found that the Amended Complaint did "not provide a sufficient factual predicate for determining whether any declared mandate of public policy was violated and is therefore insufficient to state a cause of action for wrongful discharge . . ." The court granted appellee's motion to dismiss the Complaint and dismissed all claims against appellee. Appellant filed a timely notice of appeal.

[4] It would be form over substance to find that, had appellant engaged an attorney, and that attorney caused a subpoena to issue for her appearance, that she would have been protected, but that her appearance pursuant to the sheriff's notice did not protect her from termination.

II.

Before this Court, appellant argues that the trial court erred in dismissing her Complaint because appellee violated a clear mandate of public policy by terminating her for missing work in order to attend a final peace order hearing. To summarize appellant's argument, she maintains that a peace order under CJ § 3-1505 is a very serious matter, with serious direct and collateral consequences, and that a respondent in such a matter has a statutorily expressed legal right to appear and be heard at such proceeding. CJ § 3-1505(a) expressly provides: "**A respondent shall have an opportunity to be heard on the question of whether the judge should issue a final peace order**." (Emphasis added). She points out that the court may order a respondent to refrain from entering the residence of the petitioner for up to six months, order respondent to participate in counseling or mediation, and order either party to pay filing fees and costs of any proceeding under that subtitle. She argues that the District Court's temporary peace order falls within the definition of "subpoena," that she was required to appear at the December 24th final peace order hearing, and that appellee's termination of her employment violated CJ § 9-205. Alternatively, she argues that because she had a legal right under CJ § 3-1505(a) to appear and challenge the allegations of a peace order petition, it was unlawful to terminate her for exercising that legal right.

Appellee argues that, because appellant was an at-will employee, it had the legal right to terminate appellant for any reason or no reason at all, and that the narrow "public policy" exception to that general rule does not apply here. Appellee maintains that if the

General Assembly had intended to protect a party's attendance of a peace order hearing, it could well have included protection for that conduct and that hearing in statutes and particularly in CJ § 9-205. Appellee maintains that "[Appellant] did not allege that a subpoena was directed to her, that she responded to a subpoena, or that her job time lost was due to her 'response to a subpoena requiring [her] to appear as a witness' at the Final Peace Order hearing." Hence, appellee argues, the trial court properly dismissed the wrongful discharge claim. Appellee argues that there is no clear, unambiguous, particularized pronouncement of public policy by constitution, statute, or judicial decision protecting the conduct in question and that the District Court's notice here is *not* a subpoena as defined in Maryland law. In addition, appellee argues that appellant's reliance on the Maryland Declaration of Rights and various statutes should not be considered by this Court because she failed to raise these alleged sources of public policy in her Amended Complaint or to argue these bases below.[5]

III.

CJ § 3-1501 *et seq*. governs the issuance of peace orders. Pursuant to the statute, the District Court may issue a peace order upon a finding that the respondent committed

[5] We have reviewed the Complaint and the transcript of the circuit court hearing on the Motion to Dismiss and are satisfied that appellant's Complaint and her arguments presented at the hearing were broad enough to encompass appellant's arguments raised in this appeal.

any of the following acts against the petitioner within 30 days before the filing of the petition:

> "(i) An act that causes serious bodily harm;
> (ii) An act that places the petitioner in fear of imminent serious bodily harm;
> (iii) Assault in any degree;
> (iv) Rape or sexual offense under §§ 3-303 through 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;
> (v) False imprisonment;
> (vi) Harassment under § 3-803 of the Criminal Law Article;
> (vii) Stalking under § 3-802 of the Criminal Law Article;
> (viii) Trespass under Title 6, Subtitle 4 of the Criminal Law Article; or
> (ix) Malicious destruction of property under § 6-301 of the Criminal Law Article."

CJ § 3-1503(a)(1).

A petition must be filed in the District Court, which has exclusive original jurisdiction for peace order proceedings. CJ § 4-401(14). Under CJ § 3-1504, a court may issue a temporary peace order as follows:

> "(a)(1) If after a hearing on a petition, whether ex parte or otherwise, a judge finds that there are reasonable grounds to believe that the respondent has committed, and is likely to commit in the future, an act specified in § 3-1503(a) of this subtitle against the petitioner, the judge may issue a temporary peace order to protect the petitioner.
>
> (2) The temporary peace order may include any or all of the following relief:
>
> (i) Order the respondent to refrain from committing or threatening to commit an act specified in § 3-1503(a) of this subtitle against the petitioner;
> (ii) Order the respondent to refrain from contacting, attempting to contact, or harassing the petitioner;
> (iii) Order the respondent to refrain from entering the residence of the petitioner; and

> (iv) Order the respondent to remain away from the place of employment, school, or temporary residence of the petitioner.
>
> (3) If the judge issues an order under this section, the order shall contain only the relief that is minimally necessary to protect the petitioner.
>
> (b)(1) Except as provided in paragraph (2) of this subsection, a law enforcement officer immediately shall serve the temporary peace order on the respondent.
>
> (2) A respondent who has been served with an interim peace order under § 3-1503.1 of this subtitle shall be served with the temporary peace order in open court or, if the respondent is not present at the temporary peace order hearing, by first-class mail at the respondent's last known address."

With exceptions, a temporary peace order is effective for up to seven days after it is served upon the respondent, CJ § 3-1504(c), and a hearing to determine whether the court will issue a final peace order "shall be held no later than 7 days after the temporary peace order is served on the respondent." CJ § 3-1505(b)(1)(ii). The statute provides in § 3-1505(a): "A respondent shall have an opportunity to be heard on the question of whether the judge should issue a final peace order." If the respondent does not appear at the hearing on the final peace order, the court may proceed with the hearing despite the respondent's absence, as provided in C.J. § 3-1505(c)(1):

> "(c)(1) If the respondent appears for the final peace order hearing, has been served with an interim peace order or a temporary peace order, **or** the court otherwise has personal jurisdiction over the respondent, the judge:
>
> (i) May proceed with the final peace order hearing; and
>
> (ii) If the judge finds by a preponderance of the evidence that the respondent has committed, and is likely to commit in the future, an act specified in § 3-1503(a) of this subtitle against the petitioner, or if the respondent consents to the entry of a peace order, the court may issue a final peace order to protect the petitioner."

(Emphasis added). A final peace order may include any or all of the following relief:

> "(i) Order the respondent to refrain from committing or threatening to commit an act specified in § 3-1503(a) of this subtitle against the petitioner;
> (ii) Order the respondent to refrain from contacting, attempting to contact, or harassing the petitioner;
> (iii) Order the respondent to refrain from entering the residence of the petitioner;
> (iv) Order the respondent to remain away from the place of employment, school, or temporary residence of the petitioner;
> (v) Direct the respondent or petitioner to participate in professionally supervised counseling or, if the parties are amenable, mediation; and
> (vi) Order either party to pay filing fees and costs of a proceeding under this subtitle."

CJ § 3-1505(d).

Any relief granted in a final peace order shall be effective for the period stated in the order, not to exceed 6 months. CJ § 3-1505(f). Although the District Court has exclusive jurisdiction over a peace order proceeding, the statute provides specifically that "a petitioner is not limited to or precluded from pursuing any other legal remedy." CJ § 3-1502(a).

IV.

In considering an appeal from a dismissal based upon a to failure to state a claim upon which relief may be granted, we take as true all well-pleaded facts and allegations in the complaint and all reasonable inferences that may be drawn therefrom. *Yuan v. Johns Hopkins Univ.*, 452 Md. 436, 448–49 (2017). We view these facts in the light most favorable to the non-moving party and find that the court may dismiss the complaint

"only if the allegations and permissible inferences, if true, would not afford relief to a plaintiff, *i.e.*, the allegations do not state a cause of action for which relief may be granted." *Id*. at 449. We review statutory or regulatory interpretations *de novo*. *Id*. "The viability of a legal cause of action is clearly a question of law which . . . this Court shall review *de novo*." *Wholey v. Sears Roebuck*, 370 Md. 38, 48 (2002). *Accord King v. Marriott Int'l. Inc.*, 160 Md. App. 689, 699 (2005) ("Whether appellant has satisfied her burden of proving that her termination violated a compelling mandate of public policy, is a question of law.").

With respect to claims of wrongful termination, we observed in *King*: "In order to establish wrongful discharge, the employee must prove by a preponderance of the evidence, that (1) she was discharged; (2) her discharge violated a clear mandate of public policy; and, (3) there is a nexus between the employee's conduct and the employer's decision to fire the employee." *Id.* The element of the cause of action that is at issue in this case is whether appellee's discharge of appellant because she attended the final peace order hearing "violated a clear mandate of public policy." *Id.* In the instant case, we must decide whether the public policy of this State protected appellant's legal right and interest in appearing at the final peace order hearing and protected her from having to make the Hobson's choice of either failing to appear at the hearing and risking the entry of the final peace order (with all the attendant consequences) or losing her job.

In *Yuan*, 452 Md. at 450–51, Judge Clayton Greene, writing for the Court of Appeals, provided the following overview of the public policy exception:

"'The common law rule, applicable in Maryland, is that an employment contract of indefinite duration, that is, at will, can be legally terminated at the pleasure of either party at any time.' *Adler v. Am. Standard Corp.*, 291 Md. 31, 35, 432 A.2d 464, 467 (1981). 'The doctrine was born during a laissez-faire period in our country's history, when personal freedom to contract or to engage in a business enterprise was considered to be of primary importance.' *Suburban Hosp., Inc. v. Dwiggins*, 324 Md. 294, 303, 596 A.2d 1069, 1073 (1991). However, there are limitations to the at-will employment doctrine. This Court has recognized the competing interests in at-will employment including the employer's interest in terminating an employee without reason and an employee's and society's interest in ensuring employees are not terminated in violation of public policies. *Adler*, 291 Md. at 42, 432 A.2d at 470. According to Maryland law, there is a public policy exception to the at-will employment rule for wrongful termination 'when the motivation for the discharge contravenes some clear mandate of public policy[.]' *Adler*, 291 Md. at 47, 432 A.2d at 473.

[F]ew courts have flatly rejected the notion that the wrongful discharge of an at will employee may give rise to a cause of action for damages. Where courts differ is in determining where the line is to be drawn that separates a wrongful from a legally permissible discharge. This determination depends in large part on whether the public policy allegedly violated is sufficiently clear to provide the basis for a tort or contract action for wrongful discharge. *Adler*, 291 Md. at 42, 432 A.2d at 470–71.

For an at-will employee to establish wrongful termination 'the employee must be discharged, the basis for the employee's discharge must violate some clear mandate of public policy, and there must be a nexus between the employee's conduct and the employer's decision to fire the employee.' *Wholey v. Sears Roebuck*, 370 Md. 38, 50–51, 803 A.2d 482, 489 (2002) (citations omitted). This Court held:

'The truth is that the theory of public policy embodies a doctrine of vague and variable quality, and, unless deducible in the given circumstances from constitutional or statutory provisions, should be accepted as the basis of a judicial determination, if at all, only with the utmost circumspection.

> The public policy of one generation may not, under changed conditions, be the public policy of another.'
>
> *Adler*, 291 Md. at 46, 432 A.2d at 472 (quoting *Patton v. United States*, 281 U.S. 276, 50 S.Ct. 253, 74 L.Ed. 854 (1930)). Courts may rely on 'prior judicial opinions, legislative enactments, or administrative regulations' as the chief sources of public policy and the 'declaration of public policy is normally the function of the legislative branch.' *Adler*, 291 Md. at 45, 432 A.2d at 472. We have recognized that the tort of wrongful discharge is decided on a case-by-case basis. *Id.* ('We have always been aware, however, that recognition of an otherwise undeclared public policy as a basis for a judicial decision involves the application of a very nebulous concept to the facts of a given case, and that declaration of public policy is normally the function of the legislative branch.')."

The Court of Appeals has also held that the courts are not confined "to legislative enactments, prior judicial decisions or administrative regulations when determining the public policy of this State." *Adler*, 291 Md. at 45; *Watson v. Peoples Security Life Ins.*, 322 Md. 467, 480–81 (1991).

In *Adler*, the Court of Appeals made clear that the public policy exception to the common law at-will termination rule is a very narrow exception.[6] The *Adler* Court, 291 Md. at 45, quoted the following passage from Court of Appeals's opinion in *Md. Nat'l*

[6] In *Adler*, the Court of Appeals pointed out that the absolute right of the employer to discharge an employee is limited by Maryland statutes. *Adler v. Am. Standard Corp.*, 291 Md. 31, 35 (1981). *See, e.g.*, Md. Code, Labor and Employment, § 5-604 (employee may not be discharged for involvement in the enforcement of Maryland's Occupational Safety and Health Act); § 9-1105 (unlawful to discharge an employee for filing a workmen's compensation claim); Md. Code, Commercial Law, § 15-606 (unlawful to discharge employee whose wages are subjected to attachment under certain circumstances); CJ §§ 8-105, 8-401 (unlawful to discharge employee for time lost because of jury service).

Cap. P. & P. Comm'n v. Wash. Nat'l Arena, 282 Md. 588 (1978). Writing for the Court, Judge Levine observed:

> "Nearly 150 years ago Lord Truro set forth what has become the classical formulation of the public policy doctrine that to which we adhere in Maryland:
>
> 'Public policy is that principle of the law which holds that no subject can lawfully do that which has a tendency to be injurious to the public, or against the public good, which may be termed, as it sometimes has been, the policy of the law, or public policy in relation to the administration of the law.'
>
> . . . But beyond this relatively indeterminate description of the doctrine, jurists to this day have been unable to fashion a truly workable definition of public policy. Not being restricted to the conventional sources of positive law (constitutions, statutes and judicial decisions), judges are frequently called upon to discern the dictates of sound social policy and human welfare based on nothing more than their own personal experience and intellectual capacity . . . Inevitably, conceptions of public policy tend to ebb and flow with the tides of public opinion, making it difficult for courts to apply the principle with any degree of certainty."

282 Md. at 605–606 (citations omitted).

We find instructive the Court of Appeals's application of the public policy exception in *Watson*, 322 Md. 467 (1991). In that case, an employee of an insurance company was terminated after she filed suit against a more senior employee of the company asserting that he had made unwanted sexual advances that culminated in assault and battery. *Id.* at 469–70. The Court of Appeals held that if the jury found that the alleged conduct was the basis for her termination, that would support a cause of action for the tort of wrongful discharge, stating: "We hold that it is contrary to a clear mandate of public policy to discharge an employee for seeking legal redress against a co-worker for

workplace sexual harassment culminating in assault and battery." *Id*. at 480–81 (footnote omitted). The Court noted that statutory language was not the *sole* source of public policy, and stated: "The clear mandate of public policy which Watson's discharge could be found to have violated was the individual's interest in preserving bodily integrity and personality, reinforced by the state's interest in preventing breaches of the peace, and reinforced by statutory policies intended to assure protection from workplace sexual harassment." *Id*. at 481. The Court observed: "The right to bring a civil action based on the apprehension of an offensive bodily contact has been traced in the common law to 1348 or 1349." *Id*. at 482.

In *Yuan,* 452 Md. at 462, the Court of Appeals explained that *Watson* had "held that the interest in preserving bodily integrity was a sufficiently clear public policy basis to raise a claim of wrongful termination for employees who reported conduct involving sexual harassment that amounts to assault or battery," and had "found a wrongful termination claim based on public policy would support the employee's tort damages claim because the public policy was clearly discernable and the violation of the policy was otherwise unremedied." The Court's reliance in *Watson* upon the history of the common law prohibition of unwanted touching as a basis for finding a "clear mandate of public policy" illustrates that the prohibition against retaliatory firing need not be spelled out in a statute that is evidence of the public policy protecting the employee.

Appellant contends that appellee terminated her employment because she attended the final protection order hearing where she was the respondent who had been served

with a notice of the hearing, and that she had a legal, statutory right to appear at that hearing. According to appellant, the allegations in her Complaint were sufficient to support a claim that appellee's termination was wrongful and violated Maryland public policy. We agree.

Here, we find a clear mandate of public policy in the language of the statute governing peace orders that provides in CJ § 3-1505(a): "**A respondent shall have an opportunity to be heard** on the question of whether the judge should issue a final peace order." (Emphasis added). This is clearly an important right, and the consequences of being unable to attend the hearing are potentially severe. In appellant's case, because she shared her residence with the petitioner, appellant could have been ordered "to refrain from entering the residence" for six months. And, although a more sophisticated respondent might have been able to seek a postponement, the court was not obligated to provide one, and the notice served on appellant warned that, due to the emergency nature of these proceedings, "the hearing may be held even if a party requests more time to obtain an attorney."

Although we do not agree with appellant's argument that her termination was prohibited by CJ § 9-205(a)(1), we do agree that that statute is indicative of a clear public policy that persons who are directed to appear for court proceedings should not face the loss of employment if they comply with that direction. Appellant claims that the temporary peace order constitutes the *same* power as a subpoena, and therefore, the termination of her employment was in violation of that statute. *See* CJ § 9-205(a)(1)

("An employer may not deprive an employee of the employee's job solely because of job time lost by the employee as a result of . . . [t]he employee's response to a subpoena requiring the employee to appear as a witness in any civil or criminal proceeding . . ."). Appellant argues that the temporary peace order served upon her by the deputy sheriff constituted a court order compelling her presence in court for the final peace order hearing in the same manner as a subpoena. We are not willing to go so far. The notice of the final peace order hearing served upon appellant by the deputy sheriff is not a subpoena as defined by Md. Rule 1-202(bb), which defines a subpoena as "a written order or writ directed to a person and requiring attendance at a particular time and place to take the action specified therein."

Nevertheless, the phrasing of the temporary peace order and notice, including the enumerated consequences of failing to appear for the final peace order hearing, is such that attendance is, as a practical matter, required given the potentially severe consequences of failing to appear. And the language in both the temporary peace order and the accompanying Notice to Respondent was couched in mandatory terms: "In order to respond to the allegation(s) contained in the Petition, you must appear in court at the Final Peace Order hearing as notified on page 1 of this Temporary Peace Order." "[B]ring all photos, documents and other evidence that you may have with you to court on your hearing date." The document that was served upon appellant by the deputy

sheriff is a first cousin to a subpoena, and, to a layperson, the functional equivalent of one.[7]

A respondent in a final peace order hearing has the statutory legal right to be present, and indeed, has a compelling legal interest in attending. The consequences of failure to appear are grave, including *inter alia*, entry of a final order encompassing loss of access to a residence for up to 6 months, potential criminal sanctions for violation of the peace order, a monetary fine, and civil collateral consequences from the fact that a peace order has been entered.

We conclude that the public policy underlying the specific provisions of CJ § 3-1505(a) and CJ § 9-205 precludes an employer from discharging an employee for attending a final peace order hearing. We discern in those statutes a clear mandate of public policy applicable to appellant: that an employee should not be forced to choose between the two undesirable alternatives of risking the entry of a final peace order in her absence and losing her continued employment.

We emphasize that we find here only that there is a clear expression of public policy precluding employee termination solely for attendance at a final peace order hearing. In cases where this required element of the tort is met, a plaintiff's right of

[7] A subpoena is "a written order or writ directed to a person and requiring attendance at a particular time and place to take the action specified therein." Md. Rule 1-202(bb). "A subpoena shall be issued by the clerk of the court in which an action is pending[.] . . . [E]very subpoena shall be on a uniform form approved by the State Court Administrator." Md. Rule 3-510(b)-(c).

recovery will depend upon proof of the other required elements of the cause of action. We take no position on whether appellant was actually terminated solely for attending the hearing or any causal connection between the hearing and her termination. Appellant must still meet her burden of proof and satisfy the remaining elements of her cause of action.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY REVERSED AND REMANDED FOR TRIAL. COSTS TO BE PAID BY APPELLEE.