

# M.D. Pennsylvania Grants Summary Judgment on SOX Retaliation Claim

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On April 12, 2021, the U.S. District Court for the Middle District of Pennsylvania granted a defendant-employer's motion for summary judgment on a SOX whistleblower retaliation claim, holding that the company demonstrated that it would have terminated Plaintiff's employment even in the absence of any alleged protected activity as part of a broad reduction-in-force (RIF). [Wickens v. Rite Aid Hdqtrs. Corp.](#), No. 19-cv-02021.

## Background

Plaintiff, a former in-house attorney at the company, allegedly learned in early 2017 that several vice presidents sold their stock in the company shortly before a merger with a competitor was publicly announced, and internally reported his concern that they had engaged in insider trading. The company terminated Plaintiff's employment in January 2018 and Plaintiff subsequently filed suit, alleging that his employment was terminated in retaliation for his report, in violation of Section 806 of SOX.

## Ruling

The court granted the company's motion for summary judgment and dismissed Plaintiff's SOX claim. Notably, the court did not consider whether Plaintiff had adequately established a *prima facie* case. Instead, the court focused on its conclusion that the company had established that it would have terminated Plaintiff in the absence of any protected activity as part of a RIF that resulted in the elimination of over 80 positions.

## Implications

This decision strengthens defendants' ability to prevail on causation grounds where a purported whistleblower's employment was terminated in connection with a RIF.

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