

Illinois Federal Court Grants Employer Summary Judgment on Several Types of Whistleblower Retaliation Claims

Proskauer Whistleblower Defense on July 26, 2023

On May 5, 2023, the U.S. District Court for the Northern District of Illinois granted a defendant-employer's motion for summary judgment on whistleblower retaliation claims, holding that the company demonstrated that it would have terminated Plaintiff's employment even in the absence of any alleged protected activity due to his refusal to cooperate in the company's efforts to confirm that he was fit to return to work after taking a short-term disability leave. [*Del Signore v. Nokia of America Corporation*](#), No. 20 C 4019.

Background

Plaintiff, a former Lab Infrastructure Engineer at the company, which makes equipment used by large telecommunications providers, allegedly noticed a flaw in the performance of a wireless network which resulted in an excess of roaming operations. In the fall of 2017, Plaintiff proposed to create an improved smartphone measurement system to address the issue. Plaintiff alleged that he was initially told his idea was lucrative but subsequently received feedback that the project's business plan needed more work, leading Plaintiff to believe the project was cancelled. Plaintiff then began short-term disability leave in May 2018 for "work-related stress." While on leave, Plaintiff filed two internal ethics complaints, alleging that the delay or cancellation of the project left him suspicious that the company may have been colluding with the wireless carrier to benefit from the inflated measurements of roaming usage by customers.

In September 2018, Plaintiff filed a whistleblower retaliation complaint with OSHA, which was later dismissed. Around the same time, the company, pursuant to its short-term disability policy, requested that Plaintiff submit medical documentation showing that he was either fit to return to work or would be eligible for a long-term disability leave of absence. After Plaintiff refused to provide any of the required documentation or otherwise cooperate, the company terminated his employment upon the expiration of his short-term disability leave. Plaintiff subsequently filed suit, alleging that the defendant-employer terminated him and subjected him to other retaliatory treatment in retaliation for his whistleblower complaint, in violation of SOX, the False Claims Act, the Illinois False Claims Act, and the Illinois Whistleblower Act.

Ruling

After noting that the various statutes under which Plaintiff sued shared the same basic elements, the court granted the company's motion for summary judgment and dismissed all of Plaintiff's claims. The court held that although Plaintiff had adduced sufficient evidence that he had engaged in protected activity and had suffered some materially adverse employment actions, he failed to demonstrate that his protected activity caused the defendant-employer's adverse actions against him. The court noted that the adverse actions upon which Plaintiff relied had either occurred prior to his complaints, or were attributable to his refusal to return to work or provide required medical documentation after his short-term disability leave expired.

Implications

This decision is valuable precedent for employers considering an adverse employment action against an employee who has recently submitted a complaint, as it confirms that whistleblower claims by such an employee may not survive summary judgment if the employer can demonstrate the legitimate, non-retaliatory business reasons for its decision.

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