

August 2007 - Article Published in Lifestyles Magazine

Illinois Whistleblower Act and Claims of Retaliation

by: Joette S. Doran, J.D.

The Illinois Whistleblower Act, enacted in 2004, provides that an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a state or federal law, rule or regulation. Recently, the 7th Circuit Federal Court considered two cases which addressed whether an employee fired for making an internal complaint about company wrongdoing was protected by the Act. In one case, the employee claimed she was terminated after she complained internally to her supervisor and CEO about a rat infestation. In another case the employee claimed retaliatory discharge for complaining to company executives about alleged mold problems in a plant that manufactures sterile therapy bottles for use by respiratory patients. In analyzing those cases, the court considered whether a solely internal complaint to the company which results in termination constitutes a violation for retaliatory discharge under the Act.

To determine whether a cause of action existed, the court looked to the language of the Whistleblower Act which requires disclosure to a government or law enforcement agency. Based on this language the court determined that merely making an internal complaint does not suffice to constitute a violation of the Act. The court reasoned that an employee has a cause of action for retaliatory discharge under the Act only if the employee has revealed the information he or she reasonably believes discloses a violation of law or regulation to some government or law enforcement agency. Where the employee has revealed this information only to the employer, there is no cause of action for retaliatory discharge. Accordingly, to state a cause of action under the Whistleblower Act for retaliatory discharge, the employee must make the complaint to a government or law enforcement agency as an internal complaint will not suffice under the Act. For further information, please visit our web site at www.joettedoran.com.

This article is not intended as legal advice. You should consult with an attorney for individual advice regarding your own situation.

MS. DORAN IS LICENSED IN ILLINOIS, ALL ILLINOIS FEDERAL COURTS AND IS A MEMBER OF THE FEDERAL TRIAL BAR. SHE IS THE PAST CHAIRPERSON OF THE EMPLOYMENT LAW COMMITTEE FOR THE NORTHWEST SUBURBAN BAR ASSOCIATION AND IS THE PAST PRESIDENT OF BARRINGTON AREA PROFESSIONAL WOMEN.