

Seventh Circuit Limits Scope of Illinois Whistleblower Law

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In its 27-page opinion, the Seventh Circuit affirmed the district court's grant of summary judgment in favor of the defendant on all claims brought by the plaintiff, including but not limited to his wrongful discharge claim under the Illinois Whistleblower Act ("IWA") and his retaliatory discharge claim under Illinois common law.

The plaintiff in the case—James Perez—was a salesperson for the defendant—Staples. Staples fired him for a documented series of performance deficiencies, but Perez claimed his termination resulted, in relevant part, from his refusal to sell a product to New York that was prohibited by New York regulation.

The dispute between the parties turned on the language of the Illinois statute. Under the IWA, "[a]n employer may not retaliate against an employee for refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation."

The parties did not dispute the product sale would violate a New York regulation. However, they disagreed about what the phrase "a State" meant as used in the IWA—that is, whether it referred only to Illinois or any other state when describing a violation of law.

Staples argued neither the IWA nor Illinois common law protected Perez here because his conduct did not involve any violation of Illinois law. In response, Perez argued the above-quoted language—that is, "a State"—meant any state, not just Illinois.

The district court and Seventh Circuit both agreed with Staples.

The courts reasoned other provisions in the IWA use the word "State" to refer specifically to Illinois. They also cited a presumption against extraterritorial effect of the law. The courts noted Illinois did not ban the product like New York did and Perez had otherwise failed to explain how such New York regulation implicated Illinois public policy.

For these reasons, the Seventh Circuit concluded the alleged violation of the New York regulation could not support either the IWA wrongful discharge claim or the retaliatory discharge claim under Illinois common law.

In short, this decision should prove helpful to employers, but only time will tell how it holds up in Illinois state courts, which are the ultimate arbiters of the meaning of Illinois law.