

Order

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CWIK v. Manteno Comm. Fire

11:50 AM  
9:50 AM

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FILED

NOV 30 2022

Shirley M. Benson  
CIRCUIT COURT CLERK

A dismissal with prejudice under Rule 735 ILCS 5/2-615 is proper when the complaint fails to state all cause allegations which amount to a cause of action. The court granted As 2-615 motions to dismiss the complaint and 1st amended complaint w/o prejudice. A now files a 2-615 motion to dismiss the 2nd amended complaint with prejudice.

A argues the complaint is not legally sufficient to state a cause of action under the Whistleblower Statute. A 2-615 motion is based on the pleadings not on the underlying facts. As argue the pleadings fail to state a claim upon which relief may be granted because it fails to identify a state or federal law, rule, or regulation.

§ 15 b of the Whistleblower Act prohibits retaliation against an employee for disclosing information about a violation of a state or federal

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law, rule, or regulation.

Further, Illinois case law holds a whistleblower Act claim cannot stand when a gov't employee complains to his own employer about that employer's misconduct.

Also, the FLSA consistently states retaliatory discharge claims are very limited and narrow exception to the Illinois employment at will doctrine.

It was a probationary employee subject to the employment at will doctrine.

This is II's 3rd bite at the apple. It fails to identify a ~~state~~ disclosure as regarding a state or federal law, rule, or regulation as required by the whistleblower Act.

The failure to identify a state or federal law, rule, or regulation is fatal to the complaint because the ~~2nd~~ ~~3rd~~ ~~4th~~ ~~5th~~ ~~6th~~ ~~7th~~ ~~8th~~ ~~9th~~ ~~10th~~ ~~11th~~ ~~12th~~ ~~13th~~ ~~14th~~ ~~15th~~ ~~16th~~ ~~17th~~ ~~18th~~ ~~19th~~ ~~20th~~ ~~21st~~ ~~22nd~~ ~~23rd~~ ~~24th~~ ~~25th~~ ~~26th~~ ~~27th~~ ~~28th~~ ~~29th~~ ~~30th~~ ~~31st~~ ~~32nd~~ ~~33rd~~ ~~34th~~ ~~35th~~ ~~36th~~ ~~37th~~ ~~38th~~ ~~39th~~ ~~40th~~ ~~41st~~ ~~42nd~~ ~~43rd~~ ~~44th~~ ~~45th~~ ~~46th~~ ~~47th~~ ~~48th~~ ~~49th~~ ~~50th~~ ~~51st~~ ~~52nd~~ ~~53rd~~ ~~54th~~ ~~55th~~ ~~56th~~ ~~57th~~ ~~58th~~ ~~59th~~ ~~60th~~ ~~61st~~ ~~62nd~~ ~~63rd~~ ~~64th~~ ~~65th~~ ~~66th~~ ~~67th~~ ~~68th~~ ~~69th~~ ~~70th~~ ~~71st~~ ~~72nd~~ ~~73rd~~ ~~74th~~ ~~75th~~ ~~76th~~ ~~77th~~ ~~78th~~ ~~79th~~ ~~80th~~ ~~81st~~ ~~82nd~~ ~~83rd~~ ~~84th~~ ~~85th~~ ~~86th~~ ~~87th~~ ~~88th~~ ~~89th~~ ~~90th~~ ~~91st~~ ~~92nd~~ ~~93rd~~ ~~94th~~ ~~95th~~ ~~96th~~ ~~97th~~ ~~98th~~ ~~99th~~ ~~100th~~ ~~101st~~ 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which relief can be granted and therefore the pleadings settle  $\Delta$  to judgment.

~~Identify a state of~~

It had 3 chances to ~~state~~ plead or ~~state~~ disclose of a state or federal law rule or regulation, but failed to do so.

This is not an onerous task. Therefore, the court concludes the plaintiff is unable to do so.

The court further notes TI did not plead disclosure to an outside entity, which is necessary because Illinois law holds a whistleblower claim cannot stand when a government employee is complaining to his own government employer about that employer's alleged misconduct.

The court, for the reasons stated, grants A's 2-15 motion with prejudice.

This order is final and appealable.

Entered: 11.30.22 Judge Andrew Probert