



Workplace Whistleblower

Perspectives on whistleblower situations that employers frequently face

New Jersey Supreme Court to Review Federal Preemption of Whistleblower Claims

By Ada W. Dolph and Howard M. Wexler

Last October, we [blogged](#) on the New Jersey Appellate Division's decision in *Puglia v. Elk Pipeline, Inc.*, No. A-5273-12T4, 2014 WL 5042053 (N.J. Super. App. Div. Oct. 10, 2014), in which the court found that a union employee's Conscientious Employee Protection Act (CEPA) whistleblower claims implicating provisions of the governing collective bargaining agreement were preempted by federal labor law. On February 3, 2015, the New Jersey Supreme Court granted certiorari on that precise issue: "Are plaintiff's [CEPA] claims preempted by federal law because they required interpretation and analysis of the terms of the parties' collective bargaining agreement?"

Puglia, as we noted previously, involved an employee who alleged that his employer retaliated against him after he made a wage complaint by laying him off a public works project before other employees with less seniority. The appellate court affirmed the trial court's findings that resolving the employee's CEPA claims would require the court to interpret the parties' collective bargaining agreement, which, as is customary, addressed employee wages, pay rates, overtime, and seniority.

Together with *Lippman v. Ethicon, Inc.*, which we blogged about [here](#), *Puglia* makes two CEPA cases before the New Jersey Supreme Court which could have significant implications for New Jersey employers. *Lippman*, in which oral argument was just heard, is likely to be issued first and could forecast a ruling in *Puglia*. We will continue to keep you posted on these legal developments.

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