



Workplace Whistleblower

Perspectives on whistleblower situations that employers frequently face

OSHA Orders Asphalt Paving Company to Pay Nearly \$1 Million and Reinstate Foreman and Two Drivers in Whistleblower Complaints

By Ada W. Dolph and Craig B. Simonsen

The Occupational Safety and Health Administration (OSHA) recently flexed its muscle, *announcing* a nearly \$1 million damages award and reinstatement for a foreman and two truck drivers against an asphalt paving company accused of terminating them in retaliation for filing separate OSHA complaints asserting that they had been directed to violate the U.S. Department of Transportation's *mandated hours of service* for commercial truck drivers.

Notably, one of the drivers was terminated after he refused to sign an affidavit that the asphalt paving company attempted to obtain to defend against the OSHA complaint filed by the foreman, who was the first of the three employees to be terminated. Along with being ordered to reinstate the three employees to their former positions with all pay and benefits, the company was ordered to pay \$953,916 in damages, including \$243,916 in back wages to the drivers, \$110,000 in compensatory damages, and \$600,000 in punitive damages.

This award follows a recent OSHA announcement (see our prior *blog post*) that it was increasing its efforts to coordinate enforcement with the Federal Motor Carrier Safety Administration (FMCSA) of the Surface Transportation Assistance Act (STAA)'s whistleblower anti-retaliation and anti-coercion provisions, although it is not clear whether this award is a product of that increased coordination. What remains clear is that increased coordination between OSHA and affiliated agencies will likely result in an increase in whistleblower complaints.

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Seyfarth Shaw LLP Workplace Whistleblower | September 4, 2014

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