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WHISTLE BLOWING - WASHINGTON

Hockett v. Seattle Police Department

Court of Appeals of Washington, Division 1 - May 6, 2024 - P.3d - 2024 WL 1985784

Police sergeant who was exposed to excessive levels of carbon monoxide in patrol vehicle garage sued city and police department, alleging claims for negligence, failure to accommodate in violation of the Washington Law Against Discrimination (WLAD), and whistleblower retaliation in violation of the Seattle Municipal Code.

The Superior Court entered jury's \$1,325,000 judgment for sergeant, and denied defendants' post-trial motion for judgment as a matter of law and motion for reconsideration. Defendants appealed.

The Court of Appeals held that:

- Sergeant satisfied the exhaustion requirement for a retaliation claim by filing a sufficient and timely administrative whistleblower complaint, and
- Defendants failed to make timely and sufficient objections to administrative finding that sergeant's whistleblower complaint was sufficient to state a claim for retaliation.

Police sergeant satisfied the exhaustion requirement for a retaliation claim under the Seattle Municipal Code by filing a sufficient and timely administrative whistleblower complaint; sergeant's administrative complaint alleged that, after he had reported his concerns about excess levels of car exhaust in the patrol vehicle garage to his superiors, police department personnel began mocking him by calling him derogatory names and writing his name on a whistleblower pamphlet, and placing a picture in his office calling him "institutionalized," the complaint alleged ongoing harassment and thus was filed within 180 days of when sergeant reasonably should have known of the retaliation, and the city's ethics and elections commission executive director found the complaint sufficient.

City and police department failed to make timely and sufficient objections to administrative finding that sergeant's whistleblower complaint was sufficient to state a claim for retaliation; if the city or department disagreed with the determination or believed it to be unclear, they were required to plead a claim for relief from or review of the determination, but they instead waited over a year until trial was about to begin to assert the argument that sergeant had failed to exhaust his administrative options before pursuing a private cause of action in superior court.