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WHISTLEBLOWER STATUTE - NEW YORK

Tipaldo v. Lynn

Court of Appeals of New York - October 22, 2015 - N.E.3d - 2015 WL 6180903 - 2015 N.Y. Slip Op. 07698

Former city employee brought action against municipality and agency decisionmakers in their official capacity for violation of state “whistleblowers’ statute.”

The Supreme Court, New York County, granted summary judgment for defendants and employee appealed. The Supreme Court, Appellate Division reversed and remanded. On remand, the Supreme Court, New York County, after nonjury trial on issue of damages, awarded employee \$175,000 in back pay without interest. Employee appealed. The Supreme Court, Appellate Division, modified the judgment to include prejudgment interest and ordered reinstatement of employee. Defendants appealed.

The Court of Appeals held that:

- Employee made good faith efforts to report misconduct under whistleblower statute, and
- Prejudgment interest was properly awarded.

Good-faith efforts of city employee in manner and timing of his reporting, first informally to his immediate supervisors and then soon thereafter to Department of Investigation, satisfactorily met requirements for reinstatement and compensation for retaliatory action taken by employer, where reporting of violation to internal “appointing authority” would have been futile in that individuals who employee alleged had improperly procured signs in connection with traffic reconfiguration project were Commissioner and First Deputy Commissioner.

Prejudgment interest is generally available to plaintiffs bringing claims under state’s whistleblowers’ statute, since intent of statute is to make plaintiffs whole.

When a statute does not specifically list interest as recoverable, interest may be available when the statute’s legislative intent is to make its victims whole and its language does not limit the recovery available.