

Truck Driver Wins STAA Whistleblower Claim Against Retaliatory Employer

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It is not uncommon for commercial truck drivers to encounter unforeseen delays or obstacles that make the on-time delivery of their product impossible without violating the U.S. Department of Transportation's hours of service regulations, which limit the number of consecutive hours a commercial motor vehicle driver can drive in one day. While reasonable minds would agree that complying with federal regulations is the proper choice under these circumstances, employers often insist that the driver continue his drive in violation of the law or face termination. Fortunately for employees, the [law protects against such retaliation](#). A recent case involving NFI Interactive Logistics Inc. highlights those protections.

The NFI Interactive Logistics Case

NFI Interactive Logistics Inc. ("NFI") is a New Jersey-based commercial trucking company. On Aug. 15, 2012, NFI dispatched one of its drivers to deliver a truckload of water from Northborough, Mass. to Jersey City, N.J. Due to weather, traffic and unforeseen motor vehicle accidents, the driver's trip took longer than normal. Given the delays he faced, the FTI driver worried that he may not make it to Jersey City in time without violating the hours of service regulations.

To ensure compliance with the law and avoid an accident, the driver devised a solution to deliver the water on time without violating the hours of service regulations. In particular, the driver proposed delivering the water to a closer facility in Kearny, N.J. and arranging for a different NFI driver to deliver it to the final destination in Jersey City. Though NFI initially objected to the driver delivering the water to the closer facility, NFI and the customer ultimately approved the new arrangement, under which the water arrived in Jersey City on time. Even though the driver's plan achieved the dual objectives of complying with the law and making an on-time delivery, NFI terminated the driver the next day for insubordination.

The STAA Whistleblower Complaint

Subsequently, the driver filed a whistleblower complaint with the U.S. Department of Labor's Occupational Safety and Health Administration ("OSHA"), alleging that FTI unlawfully terminated him in retaliation for raising safety concerns in violation of section 405 of the Surface Transportation Assistance Act ("STAA").

Enacted in 1982 amid an uptick of deaths, injuries and property damage due to commercial motor vehicle accidents, the STAA was designed to more uniformly and comprehensively address concerns about the surface transportation industry. The STAA's anti-retaliation provisions, codified in Section 405, were included in recognition that transportation industry employees are often best suited to identify safety violations but are susceptible to threats to their employment for cooperating with government agencies. It protects employees who make a complaint or participate in an investigation pertaining to a violation of commercial motor vehicle safety regulations, as well as employees who

refuse to drive their trucks because they reasonably believe that doing so will violate a U.S. commercial motor vehicle safety, health, or security regulation, standard or order.

The case of the FTI driver highlights these protections. After completing its investigation of the FTI driver's complaint, OSHA issued its findings and concluded that reasonable cause existed to believe that NFI terminated the driver for his protected activity. Significantly, as a result of its findings, OSHA is ordering FTI to reinstate the driver, pay him more than \$276,000 in back wages and damages, and take other corrective action.

In sum, this case is an important reminder of the critical need for commercial truck drivers to uphold federal regulations governing their industry and of the broad legal protections for employees who face retaliation when they take steps to make sure their employers comply with these laws.