

Illinois Court Revives Whistleblower Act Claim Of Employee Who Was Fired Following Fine

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Say an employee makes a report to a government inspector of an alleged violation of the law, but the government agency already knows of the violation – is the employee still protected from retaliation by his employer under the [Illinois Whistleblower Act](#)? A trial court judge in central Illinois did not think so, and granted an employer's motion to dismiss on the pleadings. But on appeal, the Illinois Appellate Court reversed, ruling that the language of the Whistleblower Act focuses on what the employee reasonably believed, not on what the government agency knows or could discover.

In [Willms v. OSF Healthcare System](#), the Plaintiff-employee, the maintenance director at a health care facility, alleged that his employer fired him after the facility was fined for its failure to correct the slope of a newly installed sidewalk to comply with regulations for access for individuals with disabilities. An inspector from the Illinois Department of Public Health told the maintenance director that the sidewalk slope was off by about one inch and gave a deadline for it to be corrected. The maintenance director, whose job duties include maintenance but not construction work, informed his supervisor of the issue and the deadline for it to be corrected. When the deadline came and went without the work being completed, and the inspector stopped by to

check, the maintenance director told the inspector that he knew the sidewalk was out of compliance and had not been fixed. The admission led to a fine of \$33,600 and an order that the correction be made immediately. Thereafter, the Plaintiff-employee was fired and his termination letter specified that poor performance related to the fine was the reason.

In finding in favor of the Plaintiff-employee on appeal and ordering a remand for further proceedings, the Court noted that there is no language in the Whistleblower Act that requires the employee to be the first or only source of the disclosure to the government in order to gain protection from retaliatory discharge under the Act. The Court indicated that the legislature could have, but did not, include such a requirement, in contrast to specific language that appears in the [Illinois Whistleblower Reward and Protection Act](#) (the Illinois False Claims Act) requiring that the claimant be the original source.