

Federal Court Grants Restraining Order Requested by Department of Labor in OSHA Dispute

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PRACTICES OSHA, Labor and Employment

In what is a rare and potentially troublesome development, the Secretary of Labor (SOL) obtained broad injunctive relief limiting how an employer can manage its employees during an OSHA Section 11(c) whistleblower investigation. In other words, the court issued the temporary injunction based on the Department of Labor's allegations *before* deciding whether the employer had actually violated the OSH Act by engaging in unlawful 11(c) retaliation.

The SOL filed a complaint in the United States District Court for the Southern District of Alabama alleging that a manufacturer of car seat cushions (Lear Corp.) violated the OSH Act by threatening, suspending or terminating employees who complained to authorities or participated in investigations regarding the manufacturing plant's safety program. While only one terminated employee complained to OSHA, the SOL sought broad injunctive relief regarding the employer's actions regarding all of its employees, including what they might say about the company in the media. On May 7, 2015, the district court granted the SOL's request to restrain the employer from terminating, suspending, harassing or taking any other adverse employment action against current or former employees who engage with OSHA or otherwise speak publicly about safety concerns.¹

Interestingly, this dispute began when the employer terminated an employee for reaching out to a **key customer** regarding safety complaints. The employer filed a lawsuit in state court for interference with business relations and defamation. The state court granted a temporary restraining order to prevent the employee from further defaming the employer and interfering with the business relationship.

Thus, according to the federal court decision, even if an employer finds that an employee violated company policy or common law by reaching out to clients or customers with disparaging and potentially false safety complaints, the SOL could separately commence litigation and obtain an injunction against that employer if that same employee complains to OSHA of retaliation. The court's restraining order also prevents the employer from filing a similar lawsuit against current or former employees who complain regarding health and safety, leaving the door open for former employees to complain to customers or clients without recourse.

¹ *Sec'y of Labor v. Lear Corporation Eeds and Interiors and Rensol Seating, LLC.*, Civ. A. No. 15-0205-CG-M (S.D. Ala. May 7 2015).