

Whistleblower Topic of the Week: Can a Company Sue a Whistleblower?

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FEDERAL COURT DISMISSES EFFORT BY COMPANY TO SUE WHISTLEBLOWER

Whistleblowers perform a unique public service when they inform authorities that a company is violating the law by stealing money from the government.

Commonly, in order for a whistleblower to support allegations of fraudulent activity, he or she must bring company documents to the authorities.

Companies, of course, don't like this and fear whistleblowers doing that very thing.

Increasingly companies engaging in fraud are trying to deter this sort of whistleblower action by bringing claims against whistleblowers themselves. When a whistleblower is litigating a [False Claims Act](#) case, this is often done with the filing of a counterclaim by the company.

Such counterclaims variously allege that the whistleblower violated a company confidentiality or non-disclosure agreement, breached a general duty of loyalty and otherwise acted in an unlawful manner by taking "company information" and giving it to the government.

A recent decision by a federal court in [Illinois](#) rejected such an effort. In *United States ex rel. Cieszyski v. LifeWatch Servs.* (N.D. Ill. May 9, 2016) the court addressed a standard confidentiality agreement containing standard language whereby an employee agrees not to "disclose" and "confidential information" of the company to "any person not employed" by the company.

In the case, the whistleblower had not provided company information to anyone besides his counsel and the government. And the whistleblower did not needlessly take company information unrelated to the fraud. The court dismissed the company's claims.

As the court in *LifeWatch* rightly observed, allowing companies to sue their employees who report fraud to the government undermines whistleblower laws, like the False Claims Act, and permits billions of dollars in fraudulent activity across various sectors of our economy to continue uninterrupted.

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