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Ninth Circuit: Oregon Whistleblower Statute Applies to Internal Reports by Employees

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On March 21, 2017, the Ninth Circuit Court of Appeals determined that Oregon’s whistleblower statute protects private employees from retaliation for internal reports of possible violations of law. This is the first case to hold that internal verbal complaints by an employee are a protected activity under the statute.

In *Brunozzi v. Cable Communications, Inc.*, a cable installation technician verbally complained to his immediate supervisors on several occasions that the company’s overtime formula, which was calculated using piece-rate wages, did not compensate him properly. His final complaint was made two days before he was terminated. The technician sued the company for violating federal and state overtime laws and for unlawful retaliation under ORS 659A.199 based on his internal complaints. ORS 659A.199, enacted in 2009, prohibits a private employer from retaliating against an employee who has, in good faith, “reported information that the employee believes is evidence of a violation of state or federal law.”

In an issue of first impression, the Ninth Circuit considered whether the statute protects internal reports to supervisors as well as external reports to authorities. Noting that the language of the statute is broad and places no limit on the individual to whom the employee’s information must be reported, the court held that the Oregon legislature intended to provide whistleblower protections for good faith reports of violations of law to either an external or internal authority.

In light of this decision, employers should be extremely cautious when disciplining employees who have lodged qualifying internal complaints or reports.