

Immunity Granted for First Time under Defend Trade Secrets Act

APRIL 13, 2018

For the first time, a whistleblower has been granted protection under the immunity provision of the Defend Trade Secrets Act (DTSA). See *Christian v. Lannett Co., Inc.*, No. CV 16-963, (E.D. Pa. Mar. 29, 2018). The grant of immunity arose out of a discrimination lawsuit in which the whistleblower—a terminated manager—brought claims against her former employer under various federal statutes. The employer countered with various causes of action, including a claim under the DTSA. In its DTSA counterclaim, the employer alleged, among other things, the terminated manager had retained company trade secrets and made improper disclosure of some of those secrets to her attorney, through a company laptop, and disclosed those trade secrets in violation of the DTSA. The court found this disclosure, which was made pursuant to a court order, to be consistent with DTSA's immunity provision, which allows a whistleblower to disclose trade secrets "in confidence... to an attorney ... solely for the purpose of reporting or investigating a suspected violation of law." See 18 U.S.C. §1833(b). Therefore, the court granted immunity to the terminated manager.

TIP: Companies should be aware of the whistleblower protections provided by the DTSA when considering filing a claim based on disclosure.

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