Client News Brief

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California Courts Provide Important Clarifications Regarding Public Employee Whistleblower Claims

August 26, 2025
Number 37

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In two separate back-to-back recent decisions, California courts have given important wins to public employers in defending against employee whistleblower lawsuits under Labor Code section 1102.5.

First, in *Brown v. City of Inglewood* (July 7, 2025) 18 Cal.5th 33, the California Supreme Court determined, for the first time, that elected officials are not "employees" who may sue for retaliation under that whistleblower law.

Second, in *Lampkin v. County of Los Angeles* (July 8, 2025) 112 Cal.App5th 920, the California Court of Appeal found that a whistleblower's action is not "successful" for purposes of an award of attorney's fees if the employer establishes the "same-decision defense" and the relief being sought is not awarded. As attorney's fees can make up a large portion of an employer's liability, this limitation is significant.

These decisions provide guidance regarding the scope of the State's whistleblower law and insights into possible defense strategies for public agencies defending against these lawsuits.

Brown v. City of Inglewood

Wanda Brown, the elected treasurer of the City of Inglewood (City), wrote to City officials alleging that the mayor misappropriated public funds. Brown later sued the City under the California Labor Code section 1102.5, which prohibits retaliation against employees for whistleblowing. The City moved to strike Brown's claim and have the lawsuit dismissed. The trial court denied the City's motion to strike, but the appellate court reversed, finding that although the actions taken against Brown qualify for protection, Brown was not an employee entitled to whistleblower protection under Labor Code section 1102.5. Brown then petitioned for review of her case by the California Supreme Court.

The California Supreme Court affirmed the decision of the Court of Appeal, finding that Brown, as an elected official, was not an employee entitled to whistleblower protection. Although the statute defines "employee," its application to elected officials was unclear, prompting examination of the legislative history and statutory context. The Court found that the legislature intended to protect "rank and file" municipal employees from retaliation from management. The Court reasoned that elected officials answer to the electorate rather than to direct supervisors. Moreover, in related whistleblower

laws, the legislature explicitly distinguishes elected officials from traditional employees, indicating an intentional omission of elected officials from the definition of "employee" in this statute.

Lampkin v. County of Los Angeles

D'Andre Lampkin, a Los Angeles County Sheriff's Department (Department) deputy, stopped a man who he believed was engaging in illegal activities. The man was not breaking the law and was a retired Sheriff's Deputy. For reasons not stated in the court's opinion, Lampkin was subsequently suspended by the Department, his home was searched, and his medical benefits were terminated. Lampkin filed a whistleblower retaliation claim in response to these Department actions.

For whistleblower retaliation claims in California courts, the employee must show that they engaged in protected activity, that they suffered an adverse employment action, and that there was a causal link between the protected activity and the adverse action. If proven, the burden shifts to the employer to show that it would have taken the same adverse action for legitimate, independent reasons. This employer defense is referred to as the "same-decision defense."

At trial, the jury found that Lampkin had proven he was retaliated against, but no damages were awarded, because the Department demonstrated that its actions were justified by independent and legitimate reasons. Lampkin later sought an award of attorney's fees, arguing that he was the prevailing party. The trial court awarded attorney's fees in the amount of $400,000. The County of Los Angeles appealed.

In reversing the trial court's attorney's fee award, the Court of Appeal interpreted "successful action" (entitling a prevailing party to attorney's fees) to mean an action where the plaintiff actually obtained relief and not just a favorable jury finding. The court reasoned that the County's same-decision defense barred an attorney's fees award to Lampkin, because he was not awarded money damages and he was not a prevailing party; thus, Lampkin was not entitled to attorney's fees.

Takeaways

Public agencies should keep in mind that proactively documenting the circumstances and legitimate reasons for employment decisions is paramount to defending various types of employee claims, including whistleblower claims. Consistency in employment decisions is also critical. However, if a whistleblower lawsuit is filed, the decisions in *Brown* and *Lampkin* provide some helpful guidance.

If you have any questions about whistleblower claims against public agencies, please contact the authors of this Client News Brief or an attorney at one of our eight offices located statewide. You can also subscribe to our podcast, follow us on Facebook and LinkedIn, or download our mobile app.