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The US District Court for the District of Connecticut recently found in favor of Palumbo Trucking ("Palumbo") on a Motion for Summary Judgment resulting in the dismissal of a three-count wrongful termination lawsuit brought by former employee Ronald Pakutka.[1]

Pakutka alleged three counts of wrongful termination as violations of the Surfaced Transportation Assistance Act,[2] the regulations of the Connecticut Department of Energy and Environmental Protection ("CT DEEP"), and the regulations of the Federal Motor Carrier Safety Administration ("FMCSA"). He claimed that Palumbo retaliated against him for complaining about safety and environmental violations. More specifically, under the CT DEEP regulations, Pakutka alleged violations of the CT DEEP regulations by reason of Pakutka's supervisor's alleged improper disposal of liquid waste from trailer washing bays. Additionally, Pakutka alleged "fuel spillage and improper disposal of waste" at another Palumbo facility. He also complained to the FMCSA and OSHA that he and other employees were directed to violate hours of service violations.

The court, however, dismissed all of Pakutka's claims due, in large part, to the evidence Palumbo provided in support of its pretrial motion for summary judgment. For instance, using video surveillance, Palumbo demonstrated that Pakutka "committed sabotage" prior to a meeting with the CT DEEP.[3] During an inspection with CT DEEP, which Pakutka prearranged, officials found a cut open plastic container spilling diesel on the ground.

Prior to the meeting, however, a truck assigned to Pakutka was captured, by security cameras pulling into an area, where "no truck would be parked or fueled" and with no "business reason" to pull into, near the plastic waste oil container and scrap metal dumpster. While the same truck was fueling, Pakutka can be seen spilling and pouring diesel onto the ground.[4] Pakutka was also observed urinating "on or at his truck" after he pulled into his assigned spot.

Beyond the security footage, Palumbo also submitted text messages that contradicted Pakutka's allegations that he was forced to carry violating hours on service standards. The text messages show Pakutka communicating with the dispatcher that he needed to stop at a rest area even though "[u]sually, you would have me complete the delivery outside of HOS limits but I'm not doing it. I plan on sticking within the confines of the DOT FMCSA regulations." The dispatcher simply responded, "No problem." Lastly, Pakutka alleged that Palumbo took adverse actions against him, such as reducing his routes thus lowering his pay, because he made complaints to OSHA. Yet documentation showed that when Palumbo took those actions it was not aware the complaints were made. Therefore, those actions could not be retaliatory.

In issuing the decision, the court relied heavily on the evidence presented by Palumbo to find in its favor. The security camera footage, text messages, and documentation demonstrated that the actions taken by Palumbo substantiated the decision to place Pakutka on administrative leave. *Pakutka v. Palumbo Trucking* illustrates the importance for trucking companies to maintain proper documentation, which, can prove instrumental in litigation. Pretrial victories, like the one seen here, often come down to eliminating questions of fact. Trucking companies may be able to eliminate factual questions by presenting concrete evidence, directly contradicting a plaintiff's claims. Palumbo's use of text messages, security footage, and documentation is a prime example of a trucking company's effective use of such evidence, resulting in an early victory for the defense.

[1] *Pakutka v. Palumbo Trucking*, No. 3:20-CV-652 (AWT), 2022 WL 267528, at *1 (D. Conn. Jan. 28, 2022).
[2] *See* 49 U.S.C. § 31105(a)(1).
[3] *Pakutka*, 2022 WL 267528, at *7.
[4] Pakutka asserted that he could not tell if the person was him or not, and if video did depict him, then he suggested the video was altered.

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