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Traub Lieberman Attorneys Win Dual Motions to Dismiss in Employment Action

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Traub Lieberman Straus & Shrewsberry LLP ("TLSS") attorneys Kate Dempster, Mike Knippen and Kyle Dickinson, located in the firm's Chicago office, recently won two motions to dismiss on behalf of a nursing home facility and two individual employee defendants. The lawsuit in question was filed in the Circuit Court of the State of Illinois, McHenry County, by a former employee who alleged that she was fired in retaliation for protected whistleblower activities.

In the facility's motion to dismiss plaintiff's cause of action under the Illinois Whistleblower Act ("IWA"), TLSS successfully argued that Section 20.1 of the IWA only affords protection to employees who make external, public disclosures. Plaintiff's IWA cause of action, on the other hand, was based on exclusively internal reporting. While federal district courts that have considered the issue have consistently held that the IWA requires an external disclosure, there is no legal precedent in Illinois on this issue. After extensive briefing and oral argument, Judge Costello agreed with TLSS and granted dismissal of plaintiffs' IWA cause of action with prejudice.

TLSS also successfully moved to dismiss plaintiff's cause of action for intentional infliction of emotional distress ("IIED"), which was the sole cause of action asserted against the two individual defendants. Plaintiff alleged that the defendants were liable for IIED based on their actions on the morning plaintiff was terminated. Plaintiff specifically alleged that the individual defendants yelled at her, accosted her, made false accusations of theft, insinuated that the plaintiff drugged a resident to keep him calm, threatened to call the police on plaintiff multiple times and finally, terminated plaintiff's employment. TLSS argued that under Illinois law, a court must consider the severity and duration of the conduct in question and that, in this case, the allegations did not satisfy the threshold to plead IIED. Judge Costello, after briefing and oral argument, again agreed with TLSS and dismissed plaintiff's IIED cause of action against the individual defendants with prejudice.