



New York State Department of Labor
David A. Paterson, Governor
M. Patricia Smith, Commissioner

March 23, 2009

[REDACTED]

Re: Request for Opinion
Labor Law §740
RO-09-0043

Dear [REDACTED]:

This letter is written in response to your facsimile of March 13, 2009 to Senior Attorney Ben Shaw in which you request an interpretation of Section 740(7) of the Labor Law, specifically the phrase "institution of an action in accordance with this section". You ask whether an action under Labor Law §740 will "wipe out any other claim," to wit, a claim under Title VII of the Civil Rights Act of 1964.

The waiver clause of the New York State Whistleblower Act (Labor Law §740) provides that a suit under the Act does not bar all other remedies arising from the same course of conduct as that which gives rise to suit; rather it bars other remedies afforded to whistleblowers as provided by that Act. (See, Collette v. St. Luke's Roosevelt Hosp., 132 F.Supp.2d 256 (S.D.N.Y. 2001), holding that a Title VII action alleging retaliatory termination was not barred by the employee's action under Section 740 of the New York State Labor Law.) A copy of the Court's decision in Collette v. St. Luke's Roosevelt Hosp. is enclosed for your review.

This opinion is based on the information provided in your facsimile of March 13, 2009. A different opinion might result if the circumstances outlined in your letter change, if the facts provided were not accurate, or if any other relevant fact was not provided. If you have any further questions, please do not hesitate to contact me.

Very truly yours,

Maria L. Colavito, Counsel


Jeffrey Shapiro
Associate Attorney

JGS:da
cc: Carmine Ruberto

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