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Worker receives backlash from Grayslake trucking company

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 Comments (No comments posted.)

LAKE VILLA – Speaking before a congressional subcommittee, John Simon appeared nervous but controlled. With his eyes on the papers before him, Simon told the panel how he had inadvertently earned the title of whistleblower, and how his life hasn't been, and might never be, the same.

Simon, of Lake Villa, was one of two witnesses who had filed federal complaints against an employer about illegal practices. The other witness was Jeffrey Wigand, known as the man who brought down big tobacco.

"I just went and spoke, and didn't really realize how nervous a person can get," Simon said.

The Subcommittee on Workforce Protections, under the U.S. House of Representatives' Committee on Education and Labor, had invited Simon to speak on May 15 because they needed to hear from people who had won their cases, Paul O. Taylor, Simon's attorney, said.

The subcommittee's aim was to determine what legal protections are needed for people like Simon.

Taylor said that not enough protections exist, and the courts spend too much time handling such cases, which could discourage others from coming forward to report illegal practices.

Taylor is an attorney with Truckers Justice Center in Burnsville, Minn.

"Why would anybody blow the whistle on illegal practices by an employer knowing that it would take three to five years?" Taylor said. "It's a very cumbersome, time-consuming process."

In Simon's case, the process started more than two years ago, and a complete ending doesn't seem to be in sight.

In December 2004, Sancken Trucking, based in Grayslake, hired Simon to transport jet fuel from East Chicago, Ind., to airports in Michigan, Illinois and Wisconsin, according to a court report.

After about a month on the job, Simon said, he filed complaints with the Occupational Safety and Health Administration because he said that his employers did not allow him to keep travel logs, a violation of Federal Motor Carrier Safety Administration regulations.

OSHA dismissed his complaint in March.

Truckers must fill out travel logs, Simon said, when their hours worked in one shift exceed 16.

"I can only speculate why they didn't want to keep the logs," Simon said. "I was just not willing to falsify federal documents to keep my job."

James Sancken, part owner of the trucking business, said he would not comment unless he consulted with his lawyer. He did not return phone calls.

Sancken's attorney, Richard J. Puchalski, did not return phone calls seeking comment.

Even though OSHA dismissed Simon's complaint, the FMCSA conducted a compliance review of the entire company, checking to see whether Sancken met U. S. Department of Transportation standards.

According to copies of the review, Sancken received an unsatisfactory rating in several categories, including failing to require

drivers to keep travel logs and failing to ensure that vehicles were free of oil or grease leaks.

The review states that Sancken agreed to follow FMCSA recommendations and pay a fine of \$2,620 in order to continue business.

Soon after the FMCSA completed its review, Simon was told that his early morning Monday-through-Friday shift was no longer available. Sancken heads said that the only shift available was Thursday to Monday at \$100 a day, which Simon said he could not do because it was less pay and he would have to find care for his daughter on the weekends.

Court records state that Sancken employees did not tell Simon that he was scheduled to work his previous morning shift the next day. But when he did not show up for work, Sancken officials fired Simon.

According to the court records, Sancken claims that Simon knew he had to work that day.

Ever since his firing, Simon's life has been full of lawyers and court battles, he said.

Simon filed another OSHA complaint in April, saying that he had been unfairly fired, and that Sancken was upset with him for filing charges with federal authorities.

While the legal battles ensued, Simon bounced from job to job, but couldn't keep steady work because of what had happened with Sancken, he said.

He still hasn't been able to hold down work.

In January 2006, Administrative Law Judge Daniel L. Leland ruled in Simon's favor, and ordered that Sancken rehire him to his original job immediately. Leland also ordered Sancken to give him back pay of \$18,55.82 plus interest, \$721.54 a week from the ruling date, and also awarded emotional distress damages of \$5,000. The judge also called for Sancken to remove any adverse references in its personnel files related to Simon.

"We're happy we won the case at the initial stage," Taylor said.

However Simon still has not received any money from Sancken, he said.

And when Simon returned to his job, Taylor said, Sancken refused to return him to his old job, which violated the court order.

Taylor said he filed a civil lawsuit to force Sancken to hire Simon back. It took nine months, he said.

Simon said he didn't go back to the trucking company because he felt that he was not wanted there.

Taylor said the delays in the legal system make it harder for whistleblowers to step forward.

"I think the country should be outraged by the long delays within the Department of Labor," Taylor said. "When somebody blows the whistle it protects all of us."

Simon, though, is just trying to get by. The case has taken a toll emotionally and financially, he said.

His Lake Villa house is for sale, and Simon said he wants to move away to a place where no one has heard of him or Sancken Trucking.

"Right now my life is so messed up," Simon said. "I'm not sure what I'm going to do."

But he firmly believes that he acted rightly, and said he hopes others have the courage to stand up against what they see as wrong.

"If you stand up for yourself," Simon said, "you might be invited to create new laws to protect other people."

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