**Arnold v Metro-North Commuter R.R. Co.**

2026 NY Slip Op 30514(U)

February 10, 2026

Supreme Court, New York County

Docket Number: Index No. 159992/2024

Judge: Paul A. Goetz

# SUPREME COURT OF THE STATE OF NEW YORK
# NEW YORK COUNTY

**PRESENT:** **HON. PAUL A. GOETZ** **PART** **47**

***Justice***

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ROBERT ARNOLD

Plaintiff,

- v -

METRO-NORTH COMMUTER RAILROAD COMPANY,

Defendant.

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**INDEX NO.** 159992/2024

**MOTION DATE** 02/07/2025

**MOTION SEQ. NO.** 001

**DECISION + ORDER ON MOTION**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18

were read on this motion to/for DISMISS.

In this whistleblower retaliation action, plaintiff Robert Arnold, a sheet metal worker employed by defendant, Metro-North Commuter Railroad Company ("Metro North"), alleges that he was retaliated against for objecting to illegal activity occurring at his workplace. Plaintiff alleges two causes of action against defendant for:(1) Whistleblower Retaliation – New York Labor Law § 740; and (2) Intentional Infliction of Emotional Distress. Defendant moves pre-answer to dismiss the complaint pursuant to CPLR § 3211(a)(1) and (a)(7) arguing that plaintiff has failed to state a cause of action on which relief can be sought.

*Failure to State a Cause of Action*

When reviewing a "motion to dismiss for failure to state a cause of action pursuant to CPLR 3211(a)(7), [courts] must accept the facts as alleged in the complaint as true, accord the plaintiff the benefit of every reasonable inference, and determine only whether the facts, as alleged fit within any cognizable legal theory" (*Bangladesh Bank v Rizal Commercial Banking Corp.*, 226 AD3d 60, 85-86 [1st Dept 2024] [internal quotations omitted]). "In making this

determination, [a court is] not authorized to assess the merits of the complaint or any of its factual allegations" (*id*. at 86 [internal quotations omitted]).

*Labor Law § 740*

A cause of action based upon Labor Law § 740, known as the Whistleblower Law, is available "to an employee who discloses or threatens to disclose an employer activity or practice which (1) is in violation of a law, rule or regulation, and (2) creates a substantial and specific danger to the public health" (*Minogue v Good Samaritan Hosp*., 100 AD3d 64, 69 [2d Dept 2012]).

Metro North argues that the statute only applies to private entities and therefore, as a public organization, it cannot be held liable. Metro North relies on the language defining "employer" in Labor Law § 740 and the legislative history of the bill, indicates that Labor Law § 740 was not intended to cover public employers. Metro North further argues that the claim should have been brought instead under New York Civil Service Law § 75-b.

Labor Law § 740 provides in relevant part that:

> An employer shall not take any retaliatory action against an employee … because such employee … discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that the employee reasonably believes is in violation of law, rule or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety

The statute defines employer as "any person, firm, partnership, institution, corporation, or association that employs one or more employees." Metro North argues that because the statute does not explicitly mention public bodies that the legislative intent was to only make private entities subject to liability. Metro North further notes that the statute later defines "public body" as including "any federal, state, or local regulatory, administrative, or public agency or authority,

or instrumentality thereof", and argues that because public agencies are referenced in this part of the statute that their omission from the "employer" definition evinces an intent by the legislature to exclude public employers from liability.

To initiate an action "plaintiff must have a cause of action under the applicable statute" (*Am. Psychiatric Ass'n v Anthem Health Plans, Inc.*, 821 F3d 352, 359 [2d Cir 2016]). To make this determination a court must apply the "traditional principles of statutory interpretation, [to determine whether plaintiff is] within the class of plaintiffs whom [the legislature] has authorized to sue" (*id*. at 360). With questions of statutory interpretation the"primary consideration is to ascertain and give effect to the intention of the [l]egislature" (*New York Civ. Liberties Union v City of Rochester*, 43 NY3d 543, 549 [2025]). "Because the clearest indicator of legislative intent is the statutory text, the starting point in any case of interpretation must always be the language itself, with due consideration given to the statutory purpose and history, including the objectives the legislature sought to achieve through its enactment" (*id*.).

Metro North cites *Batavia Townhouses, Ltd. v Council of Churches Hous. Dev. Fund Co., Inc.* for the principle that "[w]hen different terms are used in various parts of a statute or rule, it is reasonable to assume that a distinction between them is intended" (38 NY3d 467, 474 [2022]). However in *Batavia*, the principle was applied to note a distinction between General Obligations Law §§ 17-101 and 17-105(1) the former of which created a cause of action for "acknowledgment [of] or promise to pay a contractual obligation," while the latter required "an "express promise to pay (*id*. at 473 [noting that the different language in the portions of the statute demonstrated that the legislature intended a higher burden of proof on a 17-105(1) claim than it did on a 17-101 claim]).

In contrast, here Metro North relies upon the definition of a "public body" an entity to which an employee must report or threaten to report alleged employer wrongdoing. Unlike in *Batavia* where the court was comparing the language in two portions of the statute focusing on an operative act performed by a party affecting the type of potential liability and thereby relevant to a party's intent, here the "employer" and "public body" play different roles in the applicability of Labor Law § 740. The former is the party liability is sought against, and the latter is included in an element of the claim. Therefore, Metro North's argument highlighting the difference in language is unavailing because unlike in *Batavia* where the Court was considering parts of the statute that fall into the same category, types of liability, here employer and public body are not in the same category under Labor Law §740 since they play different roles under the statute. Significantly there is no language in the statute excluding a public corporation such as Metro North from its ambit. Indeed, according to Labor Law § 740 "[e]mployer means *any . . . corporation*" which includes a public benefit corporation such as Metro North (*Ecco III Enterprises, Inc. v Metro-North Commuter Railroad Co.*, 170 AD2d 204 [1st Dept 1991] [observing that Metro North is a public benefit corporation]).

Metro North also cites a federal trial court case dismissing a Labor Law § 740 claim asserted against a public entity (*see Dibiase v Barber*, CV 06-5355 (AKT), 2008 WL 4455601 [EDNY Sept. 30, 2008]). However, this decision is not binding on this court and New York Appellate Divisions' decisions which are binding on this court have held that the law does apply to public employers (*see Hanley v New York State Exec. Dept., Div. for Youth*, 182 AD2d 317 [3d Dept 1992] [holding that public employee may bring claim under either Civil Services Law § 75-b and Labor Law § 740]; *see also Remba v Federation Employment & Guidance Service*, 149 AD2d 131 [1st Dept 1989] *affd*, 76 NY2d 801 [1990]).

Metro North further argues that the legislative history indicates that the legislature intended liability to be applied only to private employees because the amendment to Labor Law § 740 noted in its Sponsor Memo that there was "a discrepancy with how private employees are treated in comparison to public employees, [under] Civil Service Law 75-b" (*See* Sponsor Mem. of Sen. Ramos, *in* N.Y. Bill Jacket, S.B. 4394-A, 2021-2022 Leg., 244th Sess. (N.Y. 2021), ch. 522, at 5-6). When a statute "contain[s] no ambiguity and … resorting to an examination of the legislative history is unwarranted" (*Matter of Guido v New York State Teachers' Retirement Sys.*, 250 AD2d 31 [3d Dept 1998], *affd as mod, Matter of* , 94 NY2d 64 [1999]). Regardless, the amendment did not change the definition of "employer", and furthermore, when the bill was initially introduced the comments on the Bill Jacket stated "This bill would protect public and private sector employees who disclose violations of law, rule or regulation" (*Remba*, 149 AD2d at 134).

"If the Legislature had intended to restrict [Labor Law § 740] eligibility to employees . . . [working only for private employers]. . . , it easily could have and surely would have written the statute to say so. [The court] may not create a limitation that the Legislature did not enact. Further, a statute's plain meaning must be discerned 'without resort to forced or unnatural interpretations'" (*Theroux v* Reilly, 1 NY3d 232, [2003] *quoting Castro v United Container Mach. Group*, 96 NY2d 398, 401 [2001]). Reading Labor Law § 740 "in an unforced and natural manner" results in Metro North being subject to its prohibitions.

Accordingly, Labor Law § 740 applies to public employers and this claim will not be dismissed.[1]

[1] Following its argument that Labor Law § 740 does not cover public employees, Metro North noted that the claim could have been brought under Civil Rights Law § 75-b. It goes on to argue that if the court elects to interpret the

*Intentional Infliction of Emotional Distress (IIED)*

To state a claim for Intentional Infliction of Emotional Distress ("IIED"), plaintiff must allege: (1) extreme and outrageous conduct; (2) intent to cause, or disregard of a substantial probability of causing, severe emotional distress; (3) a causal connection between the conduct and injury; and (4) severe emotional distress (*Howell v New York Post Co., Inc.*, 81 NY2d 115, 121 [1993]). In addition, plaintiff "must allege conduct that is so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community" (*164 Mulberry St. Corp. v Columbia Univ.*, 4 AD3d 49, 56 [1st Dept 2004]). However, "claims of intentional infliction of emotional distress against government bodies are barred as a matter of public policy" (*Dillon v City of New York*, 261 AD2d 34, 35 [1st Dept 1999]).

Accordingly, plaintiff's IIED claim will be dismissed.

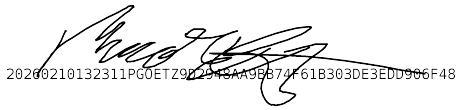
Based on the foregoing, it is,

ORDERED that the motion is granted to the extent that plaintiff's IIED cause of action is dismissed and the motion is otherwise denied; and it is further

ORDERED that defendant is directed to file an answer to the amended complaint within 21 days of this order; and it is further

Labor Law § 740 claim as a Civil Right Law § 75-b claim, it should still dismiss plaintiff's Labor Law § 740 cause of action because pursuant to New York Civil Services Law § 75-b(3)(b) an employee who has entered into a Collective Bargaining Agreement must arbitrate his claim pursuant to that agreement which would foreclose his 75-b claim. However, because Metro North's arguments regarding the applicability of Labor Law § 740 were rejected and that statute does not contain a similar provision, Metro North's arguments regarding the Collective Bargaining Agreement need not be addressed.

ORDERED that the parties are directed to attend a preliminary conference on June 4, 2026 at 9:30 AM.




**2/10/2026**
**DATE**

**PAUL A. GOETZ, J.S.C.**

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|---|---|---|---|---|---|---|---|
| **CHECK ONE:** | | **CASE DISPOSED** | | | X | **NON-FINAL DISPOSITION** | |
| | | **GRANTED** | | **DENIED** | X | **GRANTED IN PART** | **OTHER** |
| **APPLICATION:** | | **SETTLE ORDER** | | | | **SUBMIT ORDER** | |
| **CHECK IF APPROPRIATE:** | | **INCLUDES TRANSFER/REASSIGN** | | | | **FIDUCIARY APPOINTMENT** | **REFERENCE** |