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## Wrongful Termination Claim Dropped From ManTech FCA Suit

By **Khorri Atkinson**

Law360 (February 22, 2022, 5:48 PM EST) -- A D.C. federal judge indicated Tuesday that an amended lawsuit accusing ManTech of lying to the U.S. Army on a \$2.85 billion repair deal contained at least one claim that wasn't relevant to their False Claims Act lawsuit, but that she will allow five whistleblowers who lodged the case to amend their claims to conform the complaint to facts revealed in discovery.

U.S. District Judge Amy Berman Jackson expressed this view during a remote hearing called to determine the next steps now that discovery has been completed in the case.

Judge Jackson had **previously trimmed** several claims with leave to amend after finding that five former ManTech Telecommunications and Information Systems Corp. employees failed to show that either allegedly false labor hour reports filed in an Army repair database or violations of the Trafficking Victims Protection Reauthorization Act, or TVPRA, would support FCA allegations.

The judge had already ruled that the whistleblowers hadn't shown how ManTech's alleged use of unqualified mechanics was either material to payment or any more than a contractual breach, which the U.S. Supreme Court specifically noted in its landmark 2016 **Escobar** decision can't form the basis for an FCA claim. However, the judge had said allegations that ManTech misreported direct labor hours its employees worked under the contract were sufficiently linked to payments under the contract, and their direct allegations about being coerced into staying with the company also fit under the TVPRA.

In Tuesday's hearing, Judge Jackson criticized the length of the whistleblowers' third amended complaint, which contained several new allegations against ManTech — a subsidiary of federal contractor ManTech International Corp. — concerning a \$2.85 billion contract it inked with the Army in May 2012 to provide maintenance and repairs for mine resistant ambush protected vehicles at a facility in Kuwait.

"I have to say that the plaintiffs' counsel should think about the fact that the complaint should [have] plain ... facts to support the claims," Judge Jackson said.

"And just reading through what was new," the judge continued, "there are footnotes about what I did in my order that are not just legal conclusions but legal arguments ... that don't fall in the realm of fact. And the length of it is part of what makes it so unwieldy."

Joseph A Hennessey of The Law Office of Joseph Hennessey LLC, an attorney for the whistleblowers, said his clients will drop claims that their work contracts were wrongfully terminated early after they complained about working conditions — allegations they attempted to link to trafficking violations. A Racketeer Influenced and Corrupt Organizations Act (RICO) claim that ManTech engaged in money laundering will be retained.

According to the complaint filed in 2015, the five former ManTech employees were allegedly forced to work in an environment filled with chemicals and toxic fumes that was devoid of the proper safety precautions.

However, Hennessey asked whether he could update the third amended complaint. He said discovery has revealed a "significant amount of information" regarding labor hours invoiced to the Army under

ManTech's billing system. The plaintiffs have claimed that ManTech both under- and overreported direct labor hours of its employees to the government.

Judge Jackson, who's reviewing ManTech's pending motion to dismiss the third amended complaint, said the plaintiffs can add new facts to the claims concerning ManTech's reported labor hours, as long as the plaintiffs did not add new legal theories to the complaint.

Meanwhile, the defense urged Judge Jackson to allow summary judgment briefing now, so she could rule on their pending dismissal motion and summary judgment request at the same time because both would have overlapping arguments.

But the judge objected and flatly stated she doesn't like that idea. Judge Jackson said ruling on both motions simultaneously would not be an efficient way to resolve the case, and added that she doesn't even have jurisdiction at this stage to proceed to summary judgment.

"You made the choice to tell me these claims are defective on their face. So if there are some that actually can't be dismissed on their face and for which you need summary judgment briefing, and you want to withdraw your motion to dismiss, that's one thing," the judge told defense attorney Roderick L. Thomas of Wiley Rein LLP. "But I'm not going to consider them on a parallel basis because that would complicate and delay things significantly."

The government declined to intervene in the case, after which the litigation was unsealed, and again in August 2018 after the whistleblowers revised their claims.

The plaintiffs are represented by Joseph A. Hennessey of The Law Office of Joseph Hennessey LLC.

ManTech is represented by Roderick L. Thomas, P. Nicholas Peterson and Michelle B. Bradshaw of Wiley Rein LLP.

The case is U.S. ex rel. Hawkins et al. v. ManTech International Corp. et al., case number 1:15-cv-02105, in the U.S. District Court for the District of Columbia.

--Additional reporting by Daniel Wilson. Editing by Michael Watanabe.

*Correction: An earlier version of this story incorrectly reported which claim had been trimmed as well as Judge Jackson's characterization of the third amended complaint. The errors have been fixed.*