

"If You Don't Look, You Can Say You Didn't Know": In-House Whistleblower Alleges He Was Fired for Raising Concerns About Possible Water Contamination

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By Phillip Bantz

After an in-house counsel began raising concerns about toxic chemicals from the company's factories contaminating drinking water, he was fired, according to a complaint filed today against French conglomerate Compagnie de Saint-Gobain and its current and former North American CEOs, Mark Rayfield and Tom Kinisky.

Amiel Gross, who worked as an in-house lawyer at Saint-Gobain's U.S. headquarters in Malvern, Pennsylvania, for six years, filed a [complaint](#) Tuesday with the Occupational Safety and Health Administration. He accuses the company, Rayfield and Kinisky of retaliating against him for whistleblower actions protected under the Safe Drinking Water Act and the Sarbanes-Oxley Act.

Gross initially defended Saint-Gobain against class actions, filed in 2016 by residents of upstate New York. The lawsuits alleged that the firm polluted drinking water with perfluorooctanoic acid, or PFOA, a so-called "[forever chemical](#)" that is used to make Teflon. At first, the litigation focused on sites in New York, Vermont and New Hampshire.

While working on the cases from 2016 until he was fired last year, Gross uncovered information indicating that Saint-Gobain factories had contaminated drinking water at other locations, including Wayne, New Jersey and Mantua, Ohio, according to his OSHA complaint.

At a meeting in February 2019, Gross alleges that he advised his supervisor at the time, deputy general counsel Carol Gray, and then-CEO Kinisky, to look into the possibility of additional drinking water contamination incidents.

Kinisky allegedly replied: "Don't do that. You know why? If you look, you will find it. If you don't, you can say you didn't know," according to the complaint.

Gross also alleges that deputy general counsel Gray remained silent during the meeting. He interpreted her silence as her support of Kinisky's position.

"She was the only other person sitting at that table in the conference room and she didn't say anything. It all became crystal clear at that moment," Gross' attorney, Jeanne Christensen, a partner at Wigdor in New York, said Tuesday.

Gray figures prominently in the suit. Her name appears 50 times in the complaint, while the ex-general counsel, Tim Feagans, is mentioned twice and not explicitly accused of wrongdoing. But Gray, who has retired, is not named as a defendant. The suit names Saint-Gobain, Kinisky, who now serves as a company chairman, and his successor, Rayfield.

Christensen declined to discuss why Gray was not named as a defendant. Saint-Gobain did not respond to a request for comment.

During another meeting, Gray, who also served as head of environmental, health and safety for Saint-Gobain North America, allegedly became “visibly upset” when Gross again raised concerns about additional pollution.

“Critically, Ms. Gray also failed to give Mr. Gross any clear guidance on how to proceed, leaving him to serve as the internal voice to the problem that undoubtedly led to a label as a ‘troublemaker,’” the suit alleges.

Gray allegedly “opposed proactively raising or self-reporting the issue with any governmental agency or otherwise amending prior disclosures or consulting expert reports, and Mr. Rayfield did not disagree,” according to the complaint.

As the situation escalated, Gray allegedly developed a “cold and detached” demeanor when dealing with Gross and began to intimate that he was going to be fired by, for instance, asking him how long he thought it would take to hire his successor if he were to “leave suddenly.”

In June 2020, Gray told Gross to begin training another in-house lawyer on the PFOA litigation, according to the suit.

“It was clear Mr. Gross’ fate had been sealed by Ms. Gray, forcing him to endure the unenviable task of training his own replacement,” the complaint alleges.

Gross was fired in October 2020, following a call in which the company’s head of business compliance and a human resources employee accused him of “insubordination,” and alleged that he’d made disparaging remarks about a colleague.

The complaint further alleges that Saint-Gobain “relentlessly threatened” Gross after he was fired, because he was reluctant to return a company laptop hard drive out of fear that the family photos and videos he kept on the device could be used “as a basis for heightened retaliation.”

“Mr. Gross was attacked for doing the right thing by placing the safety and health of potentially thousands of PFOA exposed residents ahead of the corporate bottom line,” the suit states. “Fortunately, the law provides Mr. Gross a remedy.”

Gross wants his job back, compensatory and punitive damages and attorneys' fees. He's also seeking an order prohibiting Saint-Gobain from disclosing disparaging information about him and requiring the company to cease any additional violations of whistleblower laws.

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