415.7 PROTECTED ACTIVITY

Protected activity is:

[disclosing] [or] [threatening to disclose] to (appropriate governmental agency), under oath, in writing, an activity, policy or practice of (defendant) that violated (describe law, rule or regulation)] [or]

[providing information to] [or] [testifying before] (appropriate governmental agency, person or entity), which was conducting an [investigation,] [hearing] [or] [inquiry] into an alleged violation of (describe law, rule or regulation) by (defendant)] [or]

[objecting to (defendant’s) activity, policy, or practice that violated (describe law, rule, or regulation)] [or] [refusing to participate in (defendant’s) activity, policy or practice that violated (describe law, rule, or regulation)] [or] [would have violated] (describe law, rule or regulation), had (plaintiff) participated].

NOTES ON USE FOR 415.7

1. The bracketed language is derived from *F.S.* 448.102(1), (2) and (3).

2. There is a split of authority on the issue of whether, under *F.S.* 448.102(3), a claimant must prove an actual violation of a law, rule, or regulation as opposed to a reasonable, good faith belief that a violation has occurred. Compare Aery v. Wallace Lincoln-Mercury, LLC, 118 So. 3d 904 (Fla. 4th DCA 2013) (holding employee need only have a good faith, objectively reasonable belief that the employer’s actions that he objected to were illegal) with Kearns v. Farmer Acquisition Co., 157 So. 3d 458 (Fla. 2nd DCA 2015) (holding employee was required to prove he objected to an actual violation of law or refusal to participate in activity that would have been an actual violation of law).

(Revised November 22, 2017; June 30, 2021.)