

From: Wichern, Nadine
Sent: Mon, 25 Jul 2022 23:36:07 +0000
To: Turner, Christopher; DiBattista, Bridget
Cc: Bowery, Eileen; Berardi, Anthony C.; Maldonado, Rita L.
Subject: People of the State of Illinois ex rel. Fox, Emily v. Thornley, Jenny, No. 4-22-0622
Attachments: Fox NOA 7.21.22.pdf, Fox Cir Ct Order 3.7.22.pdf, Fox Transfer Memo 7.25.22.pdf, Fox CLMS Case Opening Document.pdf

I am assigning this appeal to Christopher Turner with Bridget DiBattista as the supervisor. The case is open in CLMS.

Chris, the NOA was just filed 7/21/22, [REDACTED] but it may be [REDACTED]
[REDACTED] For now you can [REDACTED]
[REDACTED] See the note below about [REDACTED]

Thank you!

Nadine J. Wichern
Chief, Civil Appeals Division
Office of the Illinois Attorney General
100 West Randolph Street
12th Floor
Chicago, Illinois 60601
(312) 814-5659 (office)
(773) 590-7119 (cell)
Nadine.Wichern@ilag.gov

From: Khera, Harpreet <Harpreet.Khera@ilag.gov>
Sent: Monday, July 25, 2022 3:28 PM
To: Wichern, Nadine <Nadine.Wichern@ilag.gov>
Cc: Boyle Perich, Eileen <Eileen.BoylePerich@ilag.gov>
Subject: Relator's appeal of dismissal order in Fox v. Thornley Illinois False Claims Act case

Hi Nadine,

Attached is an appeals transfer memo in the Fox v. Thornley matter. I have also attached the notice of appeal as well as the dismissal order the relator is appealing.

I think [REDACTED]
[REDACTED]. Thank you!

Best,
Harpreet

Harpreet K. Khera (she/her)
Bureau Chief, Special Litigation

Office of the Attorney General of Illinois
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**APPEAL TO THE ILLINOIS APPELLATE COURT, FOURTH DISTRICT
FROM THE CIRCUIT COURT OF SANGAMON COUNTY, ILLINOIS**

PEOPLE OF THE STATE OF)	
ILLINOIS ex rel., EMILY FOX,)	
)	
Relator/Appellant,)	
)	
v.)	Case No. 21 L 000053
)	
JENNY THORNLEY,)	Hon. Adam Giganti
)	
Defendant/Appellee.)	

NOTICE OF APPEAL

NOTICE IS HEREBY GIVEN, pursuant to Illinois Supreme Court Rule 303(a), that Relator Emily Fox, hereby appeals to the Appellate Court of Illinois, Fourth Judicial District, from the Order entered in this cause granting the State of Illinois' Motion to Dismiss (the "Order"). This case was maintained under seal and records were not publicly available until a July 8, 2022, Order by the Circuit Court. Although the Order appealed from was dated March 7, 2022, the parties were not provided a copy of it until two days before the file was unsealed, *i.e.*, on July 6, 2022. Prior to that date and/or the date the case file was made publicly available, the Order had not become effective consistent with Illinois Supreme Court holdings that "to protect [the interests of the litigants and public] it is necessary that they be apprised that a decision has been made by the judge and what the decision is. They would be so apprised when it has been expressed publicly, in words and at the situs of the case." *Granite City Lodge No. 272, Loyal Order of Moose v. Granite City*, 141 Ill. 2d 122, 126 (brackets in original) (1990), citing *People ex rel. Schwartz v. Fagerholm*, 17 Ill. 2d 131, 135-36 (1959).

Copies of the Order and the July 8, 2022, unsealing Order are attached hereto as Exhibits A and B, respectively, and incorporated herein.¹

WHEREFORE, Relator prays that the Appellate Court reverse the Circuit Court's Order and reinstate the Complaint in this case, allowing the Relator to proceed, and for such other relief as the Court deems necessary and just.

Dated: July 21, 2022

Respectfully Submitted,

EMILY FOX, RELATOR

By: /s/ Robert M. Andalman
One of her attorneys

Robert M. Andalman (ARDC No. [REDACTED])
randalman@aandglaw.com
Diana Guler (ARDC No. [REDACTED])
dguler@aandglaw.com
A&G Law, LLC
542 S. Dearborn Street, 10th Floor
Chicago, IL 60605
312-348-7629 (phone)
312-341-0700 (fax)

¹ Although the Order provided a procedure for unsealing the case in March of 2022, the parties were not apprised at that time and the Clerk did not in fact unseal the docket until after the July 8, 2022, Order was entered.

CERTIFICATE OF FILING AND SERVICE

I, Robert Andalman, an attorney, certify that on July 21, 2022, I electronically filed the foregoing ***NOTICE OF APPEAL*** with the Clerk of the Circuit Court for the Seventh Judicial Circuit, Sangamon County, Illinois by using the Odyssey eFileIL system.

I further certify that on July 21, 2022, the foregoing ***NOTICE OF APPEAL*** was served by email and via the Odyssey eFileIL system on the below named participants:

Eileen E. Boyle Perich (ARDC No. [REDACTED])
Assistant Attorney General
Office of the Illinois Attorney General
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601
Phone: (773) 590-7089
E-mail: eileen.boyleperich@ilag.gov
Counsel for the State of Illinois

I further certify that on July 21, 2022, the foregoing ***NOTICE OF APPEAL*** was served by certified mail on the below named individual.

Jenny Thornley
[REDACTED]

Under penalties as provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure, I certify that the statements set forth in this instrument are true and correct to the best of my knowledge, information, and belief.

/s/ Robert M. Andalman

Robert M. Andalman (ARDC No. [REDACTED])
Diana Guler (ARDC No. [REDACTED])
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randalman@aandglaw.com
dguler@aandglaw.com
Counsel for Relator, Emily Fox

OFFICE OF THE ILLINOIS ATTORNEY GENERAL

**CIVIL APPEALS DIVISION
TRANSFER MEMORANDUM**

**KWAME RAOUL
Attorney General**

TO: Nadine J. Wichern, Chief, Civil Appeals Division
Paul Racette, Deputy Chief, Civil Appeals Division

CC: Jane Elinor Notz, Solicitor General
Chris Wells, Chief, Public Interest Division

FROM: Harpreet Khara, Bureau Chief, Special Litigation

DATE: July 25, 2022

SUBJECT: Appeal Transfer or Request

We are:

Appellant []
Appellee [X]
Appellee/Cross-Appellant []

Nature of order appealed from/requested to be appealed:

Final [X]
Interlocutory []

Lower court:

State [X]
Federal []

Case name and lower court docket number:

People of the State of Illinois, ex rel. Emily Fox v. Jenny Thornley, Case No. 2021 L
000053 (Sangamon County)

Client agency: N/A

Primary agency contact(s) for the case: N/A

**Parties for whom we filed an appearance in the lower court
(list individually):** N/A

Date of order(s) appealed from (attach order(s)):

3/7/2022 (but not provided to the parties until 7/6/2022, as indicated in the relator's notice of appeal).

Date notice of appeal filed (attach notice of appeal):

7/21/2022

Name, Division/Bureau, and phone number of lower court AAG:

Eileen Boyle Perich, Special Litigation, (773) 590-7089. Eileen is in an interim role at IDOL this summer and then she is going on maternity leave in October 2022 after her return to the OAG. Please contact Special Litigation Bureau Chief Harpreet Khara during Eileen's absence: (773) 590-7127.

Name, address, phone number, and any e-mail address of record of opposing counsel or *pro se* litigant:

Robert M. Andalman
A&G Law, LLC
542 S. Dearborn Street, 10th Floor
Chicago, IL 60605
312-348-7629 (phone)
randalman@aandglaw.com

Full name of lower court judge:

Hon. Adam Giganti

CASE DESCRIPTION

Possible issues on appeal:

[REDACTED]

Brief factual description of case:

During the relevant time (2014-2020), both the Relator and Thornley were employed by the Illinois State Police Merit Board. Relator's complaint alleged that Thornley defrauded the State and thereby violated the Illinois False Claims Act, 740 ILCS 175/1 *et seq.*, between 2014 and 2020 by making and using false records and statements, falsifying data in the State's payroll system, creating false timekeeping records and overtime requests, and submitting false travel and reimbursement vouchers. Relator also alleged that Governor Pritzker, his partner M.K. Pritzker, and his General Counsel Ann Spillane were complicit in Thornley's scheme to defraud the State. The State moved to dismiss Relator's complaint on the basis of our broad prosecutorial discretion to dismiss cases under the Illinois False Claims Act. The Court granted our motion, finding that Relator had not identified

the type of “glaring evidence of fraud or bad faith” required for the Court to override our broad prosecutorial discretion.

Recommendation of agency/client regarding appeal:

N/A

Recommendation of lower court AAG regarding appeal:

[REDACTED]

Were any documents filed under seal by any party in the lower court?

Yes]

No]

If yes, by which party, what specific documents, and why?

This matter was still under seal when we filed our Motion to Dismiss. On 4/11/2022 the Court granted the State and Relator’s Joint Motion to Substitute Exhibits. The new exhibits redacted personal identifying information. The case was unsealed on 7/8/2022, and the Court noted in its order that the exhibits addressed in the 4/11/2022 order would remain redacted.

IF WE ARE APPELLANT, INDICATE THE FOLLOWING:

Was there a court reporter?

Yes]

No]

Name, address, phone number, and e-mail address of court reporter:

Hearing dates that already have been transcribed:

Hearing dates that still need to be transcribed:

Has a motion for stay pending appeal been filed in the lower court?

Yes]

No]

If yes, was it granted or denied, and on what date?

Does a motion for stay need to be filed in the appellate court?

In addition to the final order, are there any interim orders that also should be appealed?

Yes]

No []

If yes, what date(s) was/were the order(s) entered (attach order(s)):

IF WE ARE APPELLEE, INDICATE THE FOLLOWING:

Should we be cross-appealing any order?

Yes []

No [X]

If yes, explain below (attach order(s)):

PROVIDE ANY SPECIAL INSTRUCTIONS BELOW:

(rev. 5/6/19)

MATTER TYPE
*Appeal
*Assigned Out
*Non-Involvement
*Original Action
Ap-Application/Petition
Ap-Monitor Only
As-Special AAG
As-Trial AAG
Or-Mandamus
Or-Supervisory
X-Amicus
X-Appellant
X-Appellee
X-Cross-AE
X-Cross AT
X-Intervener
X-Third Party

FORUM
Illinois Appellate Ct 1 st Dist
Illinois Appellate Ct 2 nd Dist
Illinois Appellate Ct 3 rd Dist
Illinois Appellate Ct 4 th Dist
Illinois Appellate Ct 5 th Dist
Illinois Supreme Court
Out-of State Forum
US Court of Appeals-7th Circuit
US District Court Central
US District Court Northern
US District Court Southern
US Supreme Court

STATUS
*Closed
*Open
Active
Inactive
Monitoring
Stored
Suspended/Abeyance
Transferred

ISSUE
Appellate
App-Jurisdiction
App-Rules RE: Brief
Attorney Fees
Bankruptcy
Cause of Action
Charitable Trusts
Constitution
Constitution-Due Process
Constitution-Eighth Amendment
Constitution-Equal Protection
Constitution-Ex Post Facto
Constitution-First Amendment
Constitution-Other
Constitution-Separation of Powers
Constitution-Single Subject
Constitution-Uniformity
Consumer
Contempt
Contract
Corporation/Partnership
Costs
Education
Election
Employment
Employment-Discrimination
Employment-Harassment
Employment-Termination/Discipline
Employment-Wage/hour
Environmental
Environmental-Enforcement
Environmental-Other
Environmental-Permit/Variance
Federal-State
Hearings/Investigations

Immunity
Immunity-Eleventh Amendment
Immunity- Judicial
Immunity-Public Official
Immunity-Qualified
Immunity-Sovereign
Injunction
Insurance
Judiciary
Jurisdiction
Labor Relations
Labor Relations-Bargaining Unit
Labor Relations-Other
Labor Relations-Unf. Lab. Pract.
Land Use or Acquisition
License/Permit
License/Permit-Drivers
License/Permit-Gaming/Racing
License/Permit-H.Fac./Nursing Homes
License/Permit-Liquor
License/Permit-Professional
Local Government
Minors
Minors-Adoption
Minors-Child Support
Minors-Wards
Money/Judgment
Money/Judgment-Collet./Enforc
Money/Judgment-Indemnification
Money/Judgment-Liens
Negligence
Non-Employment Discrimination
Pension
PLRA
Prisoner
Prisoner-Access Courts

Prisoner-Confinement
Prisoner-Discipline Procedure
Prisoner-Force/Protect
Prisoner-Grievance Procedure
Prisoner-Medical
Prisoner-Release/Credits
Prisoner-Religion
Procedural
Procedural-Client
Procedural-Court
Procedural-Exhaustion
Procedural-Jurisdiction
Procedural-R/J or C/E
Procedural-Standing
Procedural-Venue
Procedural-Waiver
Public Information
Public Information-FOIA
Public Information-Open Meetings
Regulation
Regulation-Content Validity
Regulation-Promulgation
Settlement
State Aid/Benefit
State Aid/Agency
Statute-Authority
Statute-Interpretation
Tax
Tax-Excise/Utility
Tax-Franchise
Tax-Income
Tax-Inheritance
Tax-Other
Tax-Property (Value)
Tax-Property Exemption

Trial Issues
Unemp Ins-Benefits-Misconduct
Unemp Ins-Benefits-Volunt Leave
Unemp Ins-Contribution
Unemployment
Workers' Compensation

CLIENT
Aging, Department
Agriculture, Department of
Alcoholism & Substance Abuse
Appellate Def. Off. Of the State
Arts Council, Illinois
Attorney General
Auditor General
Banks & Real Estate, Office of
Capital Development Board
Central Mgmt. Svcs, Dept. of
Children & Family Svcs., Dept of
Civil Service Commission
Commerce & Community Affairs
Commerce Commission, IL
Community College Bd., IL
Comprehensive Health Insr. Plan
Comptroller
Comptroller Merit Commission
Conservation, Department of
Corrections, Department of
Court of Claims
Devlpmnt. Finance Authority, IL
E. St. Louis Fin. Adv. Auth.
Educ. Labor Relations Bd., IL
Education, State Board of
Elections, State Board of
Emergency Management Agency
Employment Security, Dept of
Environmental Protection Agency
Financial Institutions
Gaming Board
General Assembly
Governor
Guardianship and Advocacy Comm
Health Facilities Planning Board

Higher Education, Board of
Historic Preservation Agency
Housing Dev. Authority, IL
Human Rights Commission
Human Rights, Department of
Human Services, Department of
Industrial Commission, IL
Insurance, Department of
Investment, IL State Board of
Joint Committee on Admin. Rules
Judiciary Inquiry Board
Judiciary & Court Personnel
Labor, Department of
Lieutenant Governor
Liquor Control Commission, IL
Local Labor Relations Board
Lottery, Department of
Mental Health & Dev Disabilities
Military Affairs, Department of
Natural Resources, Department of
Nuclear Safety, Department of
People of the State of Illinois
Pollution Control Board
Prisoner Review Board
Professional Regulation, Dept of
Property Tax Appeal Board
Public Aid, Department of
Public Health, Department of
Racing Board, Illinois
Rehabilitation Services, Dept of
Revenue, Department of
Secretary of State
State Fire Marshal
State Labor Relations Board
State of Illinois
State Police Merit board

State Police, Illinois
State Retirement Syst-Gen. Asmbl
State Retirement Systems-Judical
State Retirement Systems-SERS
State Univers. Civil Ser. Syst.
State's Attorney
State's Atty App. Prosecutor
Student Assist. Comm., IL
Teacher's Retirement System
Toll Highway Authority, Il State
Transportation, Department of
Treasurer, State of IL
Universities Retirement System
University of IL at Chicago
University of IL at Springfield
University of Illinois
University, Chicago State
University, Eastern Illinois
University, Governors State
University, Northeastern IL
University, Northern Illinois
University, Southern Illinois
University, Western Illinois
Veteran's Affairs, Department of