

# SHOULD YOU BLOW THE WHISTLE?

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**Blowing the whistle on an employer or other entity can be daunting, but whistleblower laws offer job protections, identity safeguards, and large cash rewards. If you want to stop misconduct, activate your legal protections, and receive a significant cash award, filing a whistleblower claim is the right move.**

When a person comes across dangerous or fraudulent activity, one of the first questions they ask themselves is, “Should I report this?” The answer to this question is of course up to you. But we can offer some insight into why some people decide “Yes, I should,” and opt to enter the world of the whistleblower.

It isn’t an easy decision. Since our youth, we’ve experienced the risks and harsh realities of telling on someone for misconduct. Many learn early on that the bigger the kid you tell on, the bigger the consequence, and things aren’t much different in the legal arena. The bigger the corporation you turn in for misconduct, the greater the battle. So is pursuing a whistleblower claim even worth it?

Yes! Job protections and big cash rewards make it easier to blow the whistle and stop the misconduct, and smart whistleblowers use an experienced whistleblower lawyer with David v Goliath battles (and victories) to their credit.

Those who decide to become whistleblowers typically have one or more of the following in common. They (1) want to put a stop to the misconduct, (2) want the cash whistleblower award, (3) want the legal protections that come with filing a claim, and (4) are confident in their case.

## Stopping the misconduct

For some, this one’s a given. A defense contractor’s employee may worry that selling cheap, defective military gear to the armed services could endanger lives. A stockbroker may realize that his partner’s insider trading activity is robbing investors of their hard-earned nest eggs. A doctor might realize that accepting \$30,000 cash to prescribe a drug isn’t looking out for her patients’ best interests.

For others, it may not be so obvious that whistleblowing could actually make a difference. But successful claims always make a difference. Winning whistleblower actions not only help put a stop to the defendant’s wrongdoing, but also to fraudulent acts by other industry participants. Successful settlements or verdicts set a standard for the industry.

Even if no specific court order is issued to stop the corrupt activity, a multimillion-dollar settlement can quickly demonstrate that it isn’t financially prudent to sidestep the law. Suddenly, producing high-quality military equipment is cheaper than getting sued – and the armed forces has safer gear.

Whistleblower actions serve to hold companies accountable. They level the playing field for those who choose to play by the rules. They recover stolen and wasted taxpayer funds, putting them back into proper use. Without whistleblowers, consumer product manufacturers go unchecked, healthcare costs continue to rise, and lives are risk. Whistleblowers are not only exceptional, courageous people. They are truly American heroes.

## **Earning a cash award**

There's no shame in pursuing a whistleblower claim for the cash award. Government whistleblower programs offer large awards for that very reason – to encourage individuals with knowledge of misconduct to come forward.

Government resources are limited. Regulators don't have the time or personnel to continually monitor each and every entity for wrongdoing. Government officials also realize how difficult it can be for an employee, contractor, or other person to come forward and report fraud. Therefore, as payment for taking the risk and exposing acts of fraud, waste, or abuse, whistleblowers receive a percentage of any recovery resulting from a claim. These awards are lucrative, often falling in the hundreds of thousands to millions of dollars range.

Financial incentives work. Whistleblower tips increased 20% in the first two years after the Securities and Exchange Commission (SEC) implemented its whistleblower program. SEC whistleblower awards started high and kept getting higher. In 2014, the SEC awarded \$30 million to an individual whistleblower, more than twice its previous record amount. [1] Four years later, the SEC set another record, awarding \$33 million. Since its inception, the SEC has paid out 62 awards totaling over \$381 million. [2]

Significant cash awards have also come out of the False Claims Act (FCA) whistleblower program. In 2018, the federal government recovered almost \$2.9 billion in civil settlements and judgments under the False Claims Act, awarding whistleblowers over \$300 million. FCA whistleblower awards can be considerable depending on the number of false claims involved. Bank of America whistleblowers shared a \$170 million award for reporting fraudulent high-risk mortgage sales practices. Four GlaxoSmithKline whistleblowers shared a \$250 million award for reporting illegal drug marketing practices.

## **Obtaining whistleblower protections**

An equally valuable incentive for many whistleblowers is the promise of protection against retaliation. Studies suggest that as many as one in three whistleblowers will experience workplace retaliation. [3] Once an employee is suspected of being a whistleblower, it isn't uncommon for that employee to be demoted, transferred to another department, harassed by coworkers and superiors, or fired altogether.

Federal and state whistleblower programs provide strong protections against retaliation. For example, the Anti-Retaliation provisions of the False Claims Act enable whistleblowers to file separate claims

seeking damages for workplace retaliation, including job reinstatement, back pay with interest and attorney's fees.

## **Confidence in whistleblower action**

Finally, when an individual is certain that they have followed proper procedure, gathered sufficient proof of wrongdoing, and crafted a persuasive case, it's easier to take that step and file a whistleblower claim. However, this is where the most questions arise.

How can you be sure your case is going to hold up against a powerful corporate defendant? Will the government be interested in dedicating its limited resources to investigating your claims? Is your suit optimized to achieve the largest whistleblower award available? In this guide, we aim to answer these questions and more to help you make informed decisions around whether to blow the whistle - and how to go about it.