Presented at the
27TH ANNUAL LABOR AND EMPLOYMENT LAW CONFERENCE

May 7, 2020

Whistleblowers

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This presentation is presented by the authors in their personal capacities, and the views expressed are not necessarily reflect the official position of their employers.

Big Whistleblower Lawsuit Recoveries

- **$3.5 million jury award against defense contractor**
  - *Cejka v. Vectrus Systems*, 2019 WL 8198090 (D. Colo. Feb. 21, 2019)
- **$2.5 million jury award against City of Abilene**
  - Texas Whistleblower Act suit (December 2019)
- **$3.9 million jury award against City of Denton**
  - Texas Whistleblower Act suit (February 2020)
- **$11 million jury award to a whistleblowing lawyer**
  - *Wadler v. Bio-Rad Labs*, 754 F. App'x 661 (9th Cir. 2019) (upholding $8 million award to former general counsel)

Roadmap

- Outline federal whistleblower protection statutes
- National Defense Authorization Act
- False Claims Act
- Texas Whistleblower Act
- Discuss ethical issues related to attorney whistleblowers



Many Federal Whistleblower Statutes

Statute	Year	Codified
False Claims Act	1863	31 U.S.C. § 3730(h)
Whistleblower Protection Act	1989	5 U.S.C. § 2302
National Defense Authorization Act of 2013	2013	41 U.S.C. § 4712
Sarbanes-Oxley Act	2002	18 U.S.C. § 1514A
Dodd-Frank Act	2010	15 U.S.C. § 78u–6(i)
Federal Water Pollution Control Act	1972	33 U.S.C. § 1367
Federal Mine Safety and Health Act	1977	30 U.S.C. § 815(c)
Seaman's Protection Act	1984	46 U.S.C. §2114
Federal Railroad Safety Act	2007	49 U.S.C. §20109
Commercial Motor Vehicle Safety Act	1994	49 U.S.C. § 31105
Food Safety Modernization Act	2011	21 U.S.C. § 399d

Food Safety Modernization Act (FSMA)

- Covers any entity engaged in the manufacture, processing, packing, transporting, distribution, reception, holding, or importation of food
- Statute of Limitations: 180 days to file with Dept. of Labor
- Violation of food safety law or regulation.
- Causation standard: "contributing factor"
- Remedies: back pay, reinstatement, uncapped compensatory damages, fees and costs.

New Whistleblower Claim: Taxpayer First Act

- Signed into law on July 1, 2019 (codified at 26 U.S.C. § 7623(d))
- Prohibits employer retaliation against employee reporting tax fraud or underpayment of taxes
- Statute of Limitations: 180 days to file with Dept. of Labor
- Causation standard: "contributing factor"
- Remedies: double back pay, reinstatement, uncapped compensatory damages, attorneys' fees and costs.

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First appeared as part of the conference materials for the
27th Annual Labor and Employment Law Conference session
"Whistleblowers"