
Ninth Circuit Holds That Dodd-Frank Whistleblower Provisions Apply to Employees Who Internally Raise Concerns

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On March 8, 2017, the United States Court of Appeals for the Ninth Circuit ruled, in a 2-1 decision, to affirm a district court's denial of defendant-employer's motion to dismiss a whistleblower claim brought under the Dodd-Frank Act's ("Dodd-Frank") anti-retaliation provision. Wading into an issue that has already created a circuit split, the Ninth Circuit panel held that the term "whistleblower" extends protection to employees making internal disclosures of alleged unlawful activity, and does not limit protection under Dodd-Frank to employees reporting potential violations to the Securities and Exchange Commission ("SEC"). The Ninth Circuit, adopting the broader approach of the Second Circuit rather than the Fifth Circuit's narrower interpretation, reasoned the congressional intent underlying the relevant Dodd-Frank provisions dictated there should be legal protection "for those who make internal disclosures as well as to those who make disclosures to the SEC."

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