

WHAT'S THE DEAL WITH ALL THESE WHISTLEBLOWER CASES?

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What is a Whistleblower ?

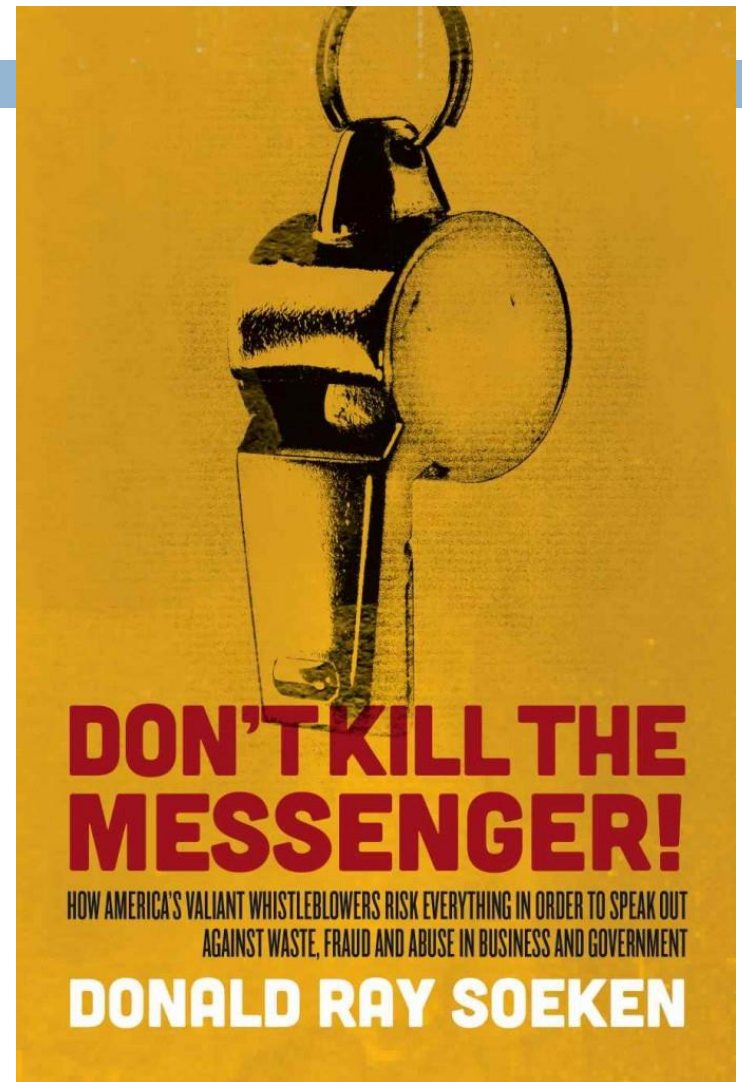
whis·tle·blow·er

/'(h)wisəl ,blō(ə)r/

noun

noun: **whistleblower**

1. a person who informs on a person or organization engaged in an illicit activity.



Where does whistleblower law originate?

Statutory vs. Common Law

Idaho Protection of Public Employees Act (IPPEA I.C. § 6-2104(4))

An employer may not take action against an employee because the employee communicates in good faith the existence of any waste of public funds, property, manpower, or a violated or suspected violation of a law, rule or regulation.

Other Idaho Whistleblower Laws

- Public Policy Claims
- Idaho Human Rights Act

Federal Whistleblower Claims

- Whistleblower Protection Act
- Federal Discrimination Laws and Anti-Retaliation Statutes
- Sarbanes Oxley Act/Dodd-Frank Act

Other federal whistleblower legal theories

- Federal OSHA Whistleblower Protection Program
- National Labor Relations Act
- First Amendment claims

The IPPEA Claim

- Plaintiff was an employee who engaged in protected activity
- Plaintiff's employer took adverse against him
- Existence of a causal connection between protected activity and the employer's action

At the Summary Judgment state, apply the federal *McDonnell Douglas* burden shifting analysis

Recent IPPEA Decisions

- **Cryer v. IDOL**, 332 F. Supp. 3d 11260 (D. Idaho 2018)
 - Judge Winmill considered what constitutes protected activity under the IPPEA
 - For communication to be protected, it must be made up the chain of command
 - Causation is almost always a question of fact

Recent IPPEA Decisions

- **Wright v. Ada County**, 160 Idaho 491 (2016), *overruled by Eller v. Idaho State Police*, 165 Idaho 147 (2019)
 - Considered whether I.C. § 6-2104(2) protects employee who participates in any investigation, or whether the investigation must relate to a waste of manpower or violation of law, rule or regulation
 - Court held that there is no requirement that the investigation involve a waste of manpower or a violation of law, rule or regulation

Recent IPPEA Decisions

- **Eller v. Idaho State Police, 165 Idaho 147 (2019).**
 - Court held that IPPEA supplants the ITCA, and the \$500,000 cap under the ITCA is inapplicable
 - Non-economic damages are available under the IPPEA
 - The court did not consider whether Idaho's cap on non-economic damages for personal injury cases under I.C. § 6-1603

Recent Idaho Verdicts/Settlements

- ▣ Eller v. ISP: Settlement, **\$1.3 Million** (August 29, 2019)
- ▣ Cryer v. IDOL: Settlement, **\$545,000** (April 12, 2019)
- ▣ Smith v. Glens Ferry Highway District: Jury Verdict, **\$250,544** (February 6, 2018)
- ▣ Wright v. Ada County: Jury verdict, **\$1,742.397** (March 14, 2017)
- ▣ Strosnider v. City of Nampa: Settlement, **\$750,000** (November 15, 2016)
- ▣ Financial whistleblower recovery
 - In 2018, a whistleblower received **\$45 million** payout from the Commodities and Futures Trading Commission for sparking the investigation into manipulation of a price-setting mechanism

Whistleblower cases in the Media

New revelations deepen scandal over Trump whistleblower complaint

Dems cite whistleblower claim of possible improper 'influence' in Trump tax audit

The Ways and Means Committee received "credible allegations" of "potential 'inappropriate efforts to influence the mandatory audit program,'" the panel's chairman said.

Edward Snowden Responds After Trump DOJ Sues Whistleblower Over New Memoir the US Government 'Does Not Want You to Read'

Lessons From High Profile WB Cases

conversation
hack job,” Tru
saying he did
The whistleblower
calls to a foreign



Geraldo Rivera @GeraldoRivera · 1h

#ukraineagate will sooner than later reveal again how grotesquely unfair #MainstreamMedia is to @realDonaldTrump
1-some deep state asshole snitched out @POTUS to Trump haters in Congress
2-is he/she getting paid as “whistleblower?” puke
3-did @JoeBiden intervene to save Hunter?

124 98 339

ng out a “political
no evidence and
sident’s phone
Rivera on Friday’s



Bobby Lewis @revrrlewis · 1d

On Fox & Friends, Geraldo Rivera says the intel whistleblower is a deep state punk snitch. Yes really.
mediamatters.org/geraldo-rivera...



In whistleblower suit, ex-Microsoft employee alleges she was terminated for reporting discrimination

Former Insider and Whistleblower from Google Turns to DOJ for Help

Local Cases to Watch



Boise police officer says boss sold guns at headquarters, retaliated when he complained