



Supreme Court Rejects Protecting Internal Whistleblowers

Corporate Compliance Programs Crippled and Thousands of Employees Lose Protection

WASHINGTON, DC, UNITED STATES, February 21, 2018 /EINPresswire.com/ -- In a groundbreaking anti-whistleblower decision, the U.S. Supreme Court ruled today that employees who report violations of securities law to their supervisors or corporate compliance programs, but not to the Securities and Exchange Commission (SEC), are not protected from retaliation under the Dodd-Frank Act (DFA).

[Stephen M. Kohn](#), Executive Director of the National Whistleblower Center (NWC) and an attorney who has represented “internal” whistleblowers since 1984, described today’s Supreme Court decision in [Digital Realty Trust v. Somers](#) (No. 16-1276) as “devastating.”

“The overwhelming majority of whistleblower report violations directly to their managers and internal corporate compliance programs. Stripping internal whistleblowers of protection could negatively impact over 90% of corporate retaliation cases,” Kohn said.

“The Digital Realty Trust case establishes national precedent on interpreting numerous whistleblower protection laws that define ‘whistleblower’ in the same manner as defined in the DFA. By strictly construing the scope of protected activity, the Supreme Court has upended over 50 years of decisions interpreting numerous whistleblower statutes that have for years protected employees who report concerns to compliance officials and managers,” Kohn added.

Other whistleblower laws undermined by this decision include the whistleblower provisions in the Commodity Exchange Act, numerous banking whistleblower laws, the Clean Air Act, Pipeline Safety Improvement Act, Safe Drinking Act, Occupational Safety and Health Act, Credit Union Employee Protection Act, FDIC Act, International Monetary Transactions Act, Superfund, Water Pollution Control Act, Toxic Substances Control Act, and Surface Mining laws.

“Thousands of employees who were deemed protected as of yesterday have now lost protection,” Kohn said. This is the largest setback for whistleblower protections decided within the past 50 years. The scope of employees losing protection under this decision is mind-boggling, as past studies have demonstrated that over 90% of whistleblowers report their concerns to their managers.

“We are now forced to urge employees who want to be protected under federal law to anonymously and confidentially report violations directly to the government, and avoid making internal disclosures,” Kohn said. “Under this precedent, any employee seeking to report corporate fraud must seek legal advice before reporting concerns to their managers. An innocent and good faith disclosure can now result in summary termination, and the stripping of important legal rights that an employee may otherwise have,” Kohn added.

The NWC previously filed a brief urging the Supreme Court to protect internal whistleblowers. The NWC also operates a confidential fraud-reporting program, permitting corporate employees to obtain confidential legal advice and referrals.

For more information and to read documents related to the decision, visit the [Whistleblowers Protection Blog](#).

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