

Many Unaware of New Jersey's 'Whistleblower' Laws

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Laws protecting workers from being fired in retaliation for "blowing the whistle" on their employer's illegal conduct have been on the books for decades, but many workers remain unaware of them, according to a prominent Hackensack employment attorney.

"It's remarkable how many professionals and staff workers alike come to us totally unaware of their rights," says Neil H. Deutsch, a specialist in employment law and senior partner at the employment firm Deutsch, Resnick, PA. "But that's changing now."

Indeed, with the Enron scandal - unleashed by a whistleblowing employee - and the passage of the Federal Sarbanes-Oxley Act, which duplicates the protection already afforded in New Jersey to employees who report financial improprieties, whistleblowing has become a hot topic.

As a result, more and more employees are becoming aware of their rights and are coming forward to do the right thing and report their employer's illegal, fraudulent and unethical conduct, Deutsch says.

In New Jersey, even employees who complain to management, as opposed to government agencies, about their employer's illegal, fraudulent or even unethical conduct have protections under state law. In fact, in New Jersey, they are protected even if their belief that their employers have violated the law turns out to be wrong, so long as their belief was reasonable.

What transgressions by employ-

ers most often result in employees blowing the whistle? Deutsch says that in recent years most whistleblowing involves fraudulent accounting practices. Also, in New Jersey, where there are numerous pharmaceutical companies, some employers try to cover up drug defects and the health problems they cause.

Deutsch, who was named among the Top Leaders of Employment Law of Northern New Jersey, last December by Digital Press International in Fort Lee, also points out that whistle-

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blowers are being protected by the courts as well as the applicable State and Federal legislation. Judges, in interpreting the meaning of those laws, are doing so in a manner that reflects, not only the literal interpretation of such laws, but their spirit and intention as well. They are interpreting those laws broadly and liberally and in favor of the conscientious employee courageous enough to come forward, Deutsch says.

For example, several years ago, the New Jersey Supreme Court interpreted the New Jersey

Conscientious Employee Protection Act, known as CEPA, and extended its protections to employees who reasonably believe that employers' conduct is unethical, as opposed to illegal, fraudulent or against public policy. This, obviously, is a less rigid standard, Deutsch says.

But, Deutsch adds, every whistleblower he has represented is fearful of blacklisting and being unable to work in their fields. Do they have reason to be fearful? Deutsch says his experience suggests their fear is for the most part unjustified.

"You would think that with the array of State and Federal laws that protect whistleblowers that employers would get the message and not retaliate against their employees. Retaliation exposes employers to

enormous liability, of the income lost by the fired employees, emotional distress damages, and, more importantly, punitive damage awards in the millions of dollars," Deutsch says. "But, in all too many cases, either out of ignorance, bad intentions or a disregard of the consequences, employers ignore those laws and fire or retaliate against employees who blow the whistle."

In fact, according to Deutsch, the number of whistleblower cases is increasing sharply, as are the size of the jury awards in such cases. "That's the good news in terms of eradication of retaliation for whistleblowing," says Deutsch.

If you have any questions about whistleblowing and your rights under the law, call Deutsch at 201-498-0900.



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