

Steve Corso, Punam Kaji and Poorav Rohatgi for Law360: A Lower Bar For SOX Whistleblower Claims Emerges

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A number of federal circuit courts have adopted a lower standard for whistleblowers to meet before proceeding with retaliation claims brought under the Sarbanes-Oxley Act. Because more frequent claims that take longer to litigate is likely the result, publicly traded companies should continue to review and assess proactive measures now to help minimize such claims.

In *Beacom v. Oracle America Inc.*, No. 15-1729, (8th Cir. June 6, 2016), the Eighth Circuit Court of Appeals joined the Second, Third and Sixth Circuits in lowering the bar for employees to proceed with SOX whistleblower retaliation claims.[1] This less stringent standard requires employees to prove that a reasonable person in the same factual circumstances, with the same training and experience, would believe that the company violated a federal law protecting shareholders from fraud. Despite adopting the lower standard, the court in *Beacom* upheld the district court's granting of summary judgment to the employer, Oracle, concluding that the whistleblower's belief that Oracle was violating one of the specified laws was objectively unreasonable...

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