

Whistleblower / Retaliation

CMC's Whistleblower/Retaliation attorneys advise and represent employers across workplace safety, labor and employment, and regulatory enforcement matters, helping them respond quickly and defensibly while preserving legal protections.

Where Employers Get Tripped Up

Whistleblower and retaliation claims are among the fastest-evolving risks employers face, often arising from informal workplace complaints and well-intentioned employment decisions. Risk often turns less on the underlying complaint and more on how employers respond after protected activity occurs. Agencies increasingly scrutinize timing, documentation, and perceived motive, and they rely heavily on the employer's initial response to determine whether an investigation will expand.

Our proactive approach reduces exposure and helps prevent disputes from escalating into litigation or agency action.

Proactive Compliance and Training Support

Effective whistleblower and retaliation risk management begins well before a complaint is filed. We help employers establish and maintain compliance frameworks that support lawful responses, consistent decision-making, and defensible outcomes.

- Determine whether employee complaints qualify as protected activity under federal and state whistleblower and anti-retaliation laws.
- Identify and address common missteps following safety, environmental, operational, or employment-related complaints.
- Develop, audit, and update whistleblower, anti-retaliation, and complaint-handling policies.
- Advise on internal reporting, escalation, and response procedures to ensure concerns are addressed promptly and consistently.
- Train managers, supervisors, and HR personnel on compliant handling of complaints, investigations, and employment actions following protected activity, with a focus on avoiding facts that may later be cited as evidence of causation.
- Guide documentation practices that support legitimate business decisions without creating unnecessary legal risk, such as policies/procedures, disciplinary notices, employment evaluations, and affidavits of supervisors/employees.

Strategic Responses to Agency Investigations

When whistleblower complaints lead to agency inquiries, administrative proceedings, or litigation, we represent employers through every stage of the process.

- Represent employers and manage investigations resulting from complaints under Section 105(c) of the Mine Act, Section 11(c) of the OSH Act, federal whistleblower statutes, and EEOC-enforced anti-retaliation provisions
 - Title VII
 - The Equal Pay Act
 - The Americans with Disabilities Act
 - The Age Discrimination Employment Act
 - The Genetic Information Non-Discrimination Act
- Defend retaliation claims before administrative bodies and courts.
- Align compliance with broader business objectives.
- Prepare position statement and response letter to charge or retaliation.
- Develop strategic responses that address protected activity, adverse action, and causation.

Representative Experience

Our attorneys have handled countless 11(c)/105(c) investigations for our clients across all industries, conducted investigations, prepared position statements, and defended employee and manager interviews.

- Defended employers before the Department of Labor regarding workplace safety whistleblower complaints filed under Section 11(c) of the OSH Act
- Handled countless 11(c) investigations for our clients across all industries, conducting investigations, preparing position statements, and defending employee and manager interviews.
- Obtained dismissal of 11(c) whistleblower complaint where employee was terminated after making safety complaints because the *manner* in which he made the complaints was not a protected activity, and the safety issues raised were sufficiently investigated and addressed.
- Obtained dismissal of 11(c) whistleblower complaint where employee was terminated after refusing to perform a task because the employee's behavior was insubordinate, not connected to a protected activity.
- Obtained dismissal of a 105(c) whistleblower complaint where the manager was terminated and alleged, he had made safety complaints; however, through investigation, it was found that his complaints were not made on the dates/times as described to MSHA in the complaint.
- Handled whistleblower cases under the Asbestos Hazard Emergency Response Act and Clean Air Act

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