



A 12-Step Guide to Whistleblowing

1. Shut up and get a good lawyer, fast. You can complain about fraud internally, but we all know how that usually ends. Once you identify fraud, immediately contact a lawyer to ask for guidance, including what documents and corroborating evidence that you can take with you. DO NOT take originals. You don't want the real crooks to flex their muscle and convince authorities that your "theft" should negate their fraud. It's also possible that as soon as you start thinking about the impropriety, people at the company know who you are. That means you could be escorted out of the building before you can grab your kids' pictures off your desk.

2. Make sure you have a case. FCA, IRS and SEC cases are not based on rumor or hunches, but evidence. You have to prove fraud and the government is not paying awards for generalized tips, but for specific evidence. You are supposed to be doing the government's work for it. Don't assume that you will be able to prove your case by having your lawyer or the government subpoena documents from the defendant after the case is filed. Think about what you personally know right now.

3. Welcome hard questions and difficult truths. Don't blame a lawyer for questioning your case - convince them it has the necessary merit. If you have found a good lawyer and you can't convince them, then maybe you don't have a case.

4. Get an honest lawyer who's had success in the Whistleblower arena. Before divulging any specific details to a prospective lawyer, make sure they run a conflict's check first to ensure they already represent a client that has a similar case. If a lawyer purports to have recovered billions of dollars in whistleblower claims, ask them how much their relator's shares have been. There are some great lawyers who represent whistleblowers, including some who are less well known but nonetheless very capable. Asking other whistleblowers who they recommend and then talking to the lawyers is always a good way to approach a potential attorney-client relationship. The key, however, is to find an attorney with good judgment quickly. Also, don't pay someone an hourly fee to represent you on a whistleblower case (unless they are only representing you in an employment case). The real whistleblower lawyers all work on a contingency fee basis -- meaning you pay nothing unless you win.

5. Prepare for the long haul. Most defendants don't settle easily, and they never fear press as much as you think they will. Many whistleblowers believe "the company will settle this quickly to avoid the press: but they seldom do.

6. Be prepared to be "outed." If any lawyer tells you that your anonymity is guaranteed, seek another counsel. Whistleblower cases are filed under seal, and there are ways to potentially mitigate the risk of being revealed as a whistleblower, like filing a case under the name of an LLC, but anonymity can never be assured.

7. Get another job. Cases, like anything in life, have ebbs and flows. Working while your case is on-going keeps you sane, stable, and protects your family's welfare in the event your case crumbles. Cases can take years from start to finish. Sitting around waiting for a recovery can be counter-productive.

8. Plan for success. At the point at which you sense your case might be successful (for instance, the government intervenes), contact an estate planner so you don't end up like so many lottery winners. Of course, a whistleblower is the antithesis of a lottery winner. You must possess a tremendous work ethic, courage, and perseverance. Do your due diligence and find a great estate attorney and money manager so that success will last.

9. Don't count your eggs before they hatch. The big print giveth, and the little print taketh away. Never assume your case will settle for the maximum amount. In a Medicaid case, assume you will not get any award for 25 percent of the case and that some portion of penalties will be allocated to criminal sanctions for which you will not get a share. Assume you are not the only relator -- there could be other whistleblowers that you will come to learn are going to split the award. And don't think the gross penalty is your share as you have to pay lawyers' fees and taxes from that amount.

10. Find a friend. There is nobody better to meet who will understand your circumstance more than another whistleblower. They will have empathy and be able to give you guidance.

11. Be grateful. This will not be easy, because at the end of the day, the liars, cheats and thieves who stole from the American people will probably keep their jobs, receive bonuses, and may even get promoted. Anger and resentment are termites for the soul, however, gratitude is the cure, and it is something you need to cultivate.

12. Pay it forward. There are other whistleblowers behind you, and they need the law that helped you in your hour of need. That law is under constant attack by powerful and well-funded pack lobbyists and lawyers. Support groups that seek to ensure that whistleblowers are both protected and compensated.

