

Supreme Court Rules that Dodd-Frank Whistleblower Protections Do Not Extend to Internal Reporting

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On February 21, 2018, in [*Digital Realty Trust, Inc. v. Somers*](#), [1] the Supreme Court held that the Dodd-Frank Act's whistleblower anti-retaliation provisions only apply where a securities-law violation is reported to the Securities and Exchange Commission ("SEC"), and do not extend to situations in which the violation is reported only internally. In so holding, the Court resolved a circuit split that had left uncertainty over the scope of the provisions. Individuals who report to the SEC remain covered by the provisions, which allow immediate access to federal court, have a six-year statute of limitations, and allow employees to recover double backpay with interest. While the Court held that individuals who only report violations internally are not covered by Dodd Frank's anti-retaliation provisions, such individuals who are employees are nevertheless protected by the anti-retaliation provisions of the Sarbanes-Oxley Act ("SOX"), which contain an administrative exhaustion requirement, a 180-day administrative-complaint-filing deadline, and are limited to damages required to make the employee whole.

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