

# Retaliatory Discharge/Whistleblower

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## NJ Retaliatory Discharge and Whistleblower Lawyers

In New Jersey, the Conscientious Employee Protection Act, or CEPA, which is also known as the “Whistleblower Act,” prohibits employers from taking any retaliatory action against an employee who:

- Discloses, or threatens to disclose information about activity that an employee “reasonably believes” is in violation of a law, or a rule or regulation issued under the law;
- Provides information to, or testifies before, any public body conducting an investigation into such alleged illegal or unethical activity; and/or
- Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law.

This applies to healthcare professionals in the case of patient care as well as employees of any other business.

The CEPA Act was passed into law in 1986 to encourage employees to report wrongdoings and illegal and unethical practices on the part of their employers without fear of reprisal. Along with the Federal False Claims Act, (False Claims Act, 31 U.S.C. 3729), aka “Lincoln’s Law,” which was also strengthened in 1986, all Americans can assist the government in uncovering and prosecuting fraud.

As a reward, the individual reporting receives a percentage of the recovery. This is known as a “*qui tam*” action (Latin, meaning “[he] who sues in this matter for the king as [well as] for himself.”) The False Claims Act goes all the way back to the time of President Abraham Lincoln. The law was enacted by Congress during the Civil War to prosecute those who profited dishonestly from the war effort.

The New Jersey False Claims Act (NJFCA), which was signed by Governor Corzine on January 13, 2008, [P.L. 2007, c. 265] states that those who knowingly present false or fraudulent claims for payment to the state, misappropriate state property, or deceptively avoid binding obligations to pay the state, among other violations, are liable. Any private party or person may sue on behalf of the state.

The law states that “*A person shall be jointly and severally liable to the State for a civil penalty of not less than and not more than the civil penalty allowed under the federal False Claims Act (31 U.S.C.s.3729 et seq.).*” If the Attorney General proceeds with and prevails in an action brought by a person under this act, (with certain exceptions), this person may receive at least 15% but not more than 25% of the proceeds recovered under any judgment or settlement depending upon the extent to which the person contributed to the process.

## Who is Covered by CEPA?

Employees of both public and private employers are protected by CEPA, whether they are at-will employees, employees covered by collective bargaining agreements and, under certain circumstances, it protects independent contractors. Employee “whistleblowers” must be employed by the employer at the time of the alleged retaliatory act. CEPA is limited to whistleblowing that serves a public purpose. Employers are required to display and annually distribute to all employees written or electronic notices regarding CEPA.

## Get the Help You Need with a New Jersey Employment Lawyer

This is merely a brief overview of a complex set of laws protecting employees and private parties who report wrongdoing. Those who suspect wrongdoing or wish to report fraudulent, illegal or unethical activity should consult the employment attorneys and business lawyers at Einhorn Barbarito, who can explain their rights under the law and effectively represent their interests. We serve all of New Jersey.

Call us at [973-627-7300](tel:973-627-7300) today.