

# DataDriven: Firm triples whistleblower billings in three years

Those in the know have been predicting for some time that whistleblower matters would constitute a booming practice area for lawyers. In 2014, there has been no shortage of statistics and reports confirming that the prediction has indeed come to fruition.

One bottom-line indicator that may be of particular interest to lawyers: **Littler Mendelson**, one of the largest employment law firms in the world, is on pace to triple its billings for whistleblower and compliance matters this year compared to 2011.

“What I thought I saw coming down the tracks was far less than what ultimately transpired,” says Boston-based shareholder **Gregory C. Keating**, co-chairman of the firm’s whistleblowing and retaliation practice group. “It’s a very noticeable and significant uptick.”

Keating attributes the trend to three main factors. One is increasing state and federal legislation with provisions protecting, or even rewarding, whistleblowers, led by 2011’s game-changing Dodd-Frank law

**DATA DRIVEN**  
 THE STORY BEHIND THE NUMBERS

on financial reforms.

Another, Keating says, is a trend of judicial decisions steadily increasing the rights of, and remedies available to, whistleblowers.

And the third factor, according to Keating, is money.

The Securities and Exchange Commission’s whistleblower program awarded nine whistleblowers with total awards of about \$35 million in fiscal year 2014, according to an SEC annual report. One whistleblower alone (the fourth foreign whistleblower to be rewarded) was given the program’s largest-ever award — more than \$30 million — for providing the SEC with key information that led to a successful enforcement action.

There were just four awards in fiscal year 2013 and only one in 2012. The previous highest value award was \$14 million.

The number of whistleblower tips received by the SEC has skyrocketed from 334 in fiscal year 2011 to 3,620 in fiscal year



**GREGORY KEATING**

2014, according to the report, and the agency is sitting on a war chest of \$438 million in its “investor protection fund.”

“It’s an issue that’s very high on the radar in Washington,” Keating says. “There’s a lot at stake here, and there’s a lot of money available to whistleblowers who get aggressive counsel and convince the government there’s a problem here.”

Despite all that, only 7 percent of respondents to a recent Freshfields Bruckhaus Deringer global survey of middle- and senior-level managers said that “whistleblowing is an important issue for their organization,” and 44 percent said “their companies don’t have a whistleblowing policy or fail to publicize it.”

“Employers need to be vigilant at every juncture that when a whistle is blown they need to follow protocols, investigate and take remedial action,” Keating says. “There is a lot of deep water out there, and this is an area of very high priority for the government agencies.”

Keating says he spends most of his time litigating whistleblower retaliation cases, but increasingly he’s devoting more and more time advising employers on best practices for preventing situations and responding to them appropriately when they do arise.

— BRANDON GEE

Year	LITTLER HOURS BILLED TO WHISTLEBLOWER AND COMPLIANCE MATTERS
2011	5,909 hours
2012	6,820 hours
2013	11,622 hours
2014	15,000 hours (estimate through Dec. 1)