

Defining 'Protected Activity' Under SOX

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The article analyzes what should be seen as a significant step forward for employers, the U.S. Department of Labor, OSHA Administrative Review Board's decision in *Welch v. Cardinal Bankshares Corp.* The decision provides a clearer, more definitive definition of what constitutes "protected activity," under the whistleblower provisions of the Sarbanes-Oxley Act (SOX). This case, along with other federal court and Department of Labor decisions, has clarified the law such that every employee who "blows the whistle" on what they perceive to be corporate wrongdoing, violations of internal policies or minor accounting errors should not be able to successfully claim SOX whistleblower status. The article explains why *Welch* and cases that follow it could remove a substantial group of potential plaintiffs from the umbrella of SOX protection.