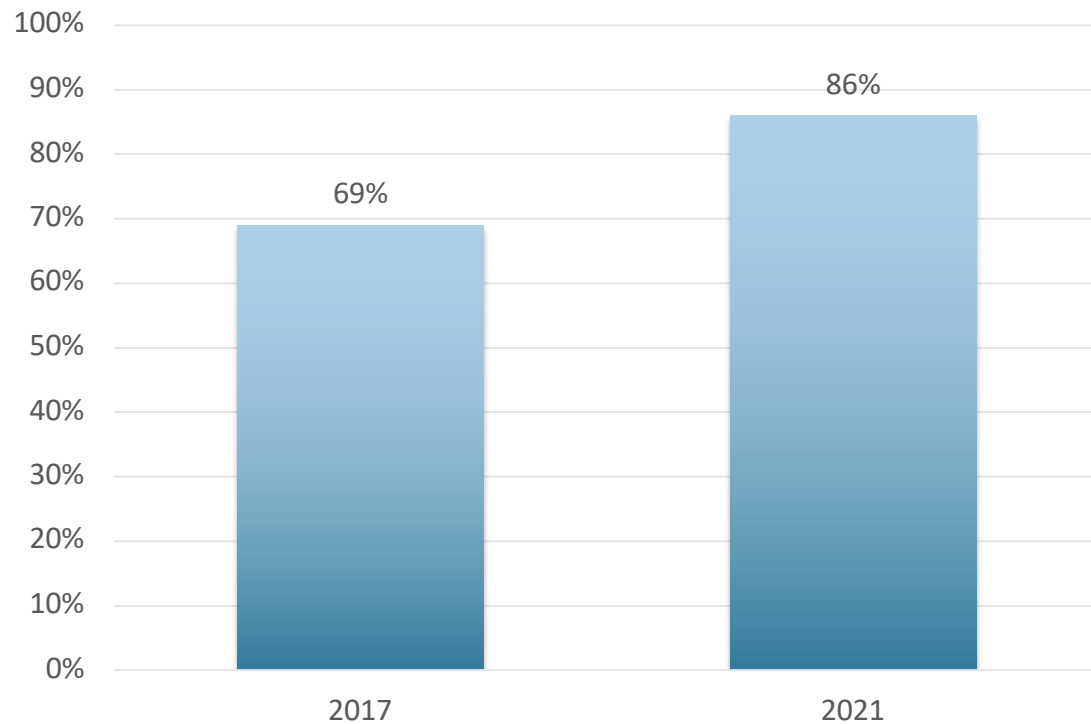


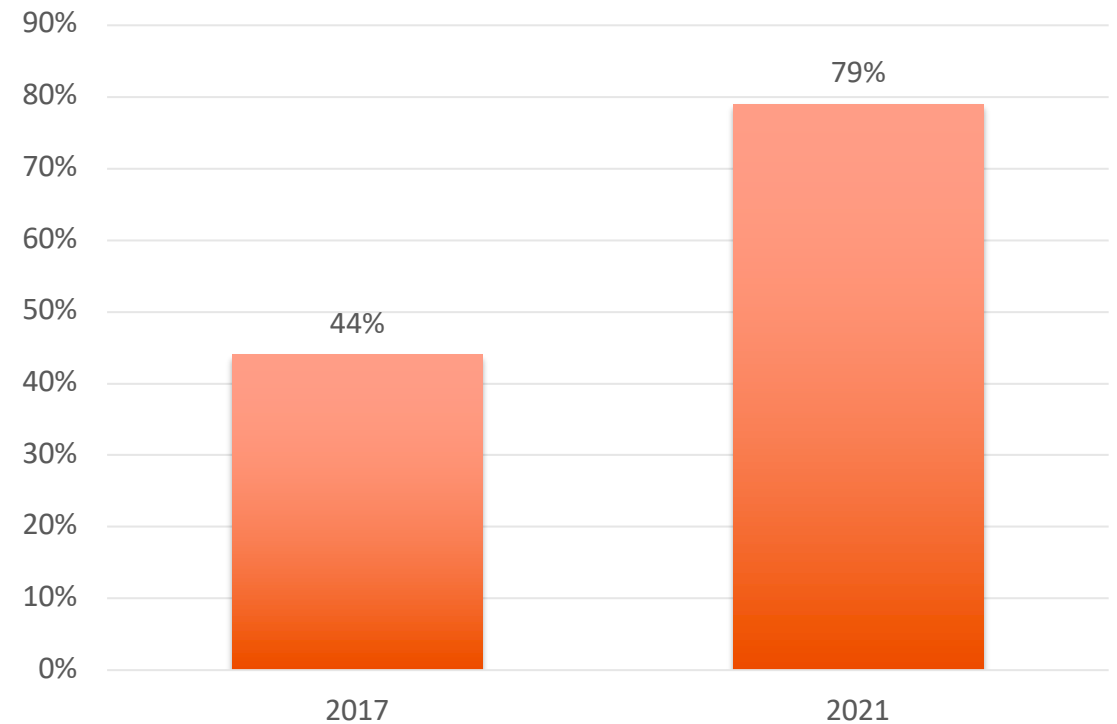
Five Reasons Why Whistleblowing and Retaliation Are Hot Right Now

5. Reporting and Perceived Retaliation Are on the Rise

Employees Who Would Report Misconduct



Employees Who Believe They Have Suffered Retaliation



*Ethics and Compliance Initiative, 2021 Global Business Ethics Survey Report,
<https://www.ethics.org/wp-content/uploads/2021-ECI-GBES-State-Ethics-Compliance-in-Workplace.pdf>.

4. Significant Damages Awards and Settlements

- September 2021: \$100 million award against federal contractor resulting from trebled \$36 million award under False Claims Act
- August 2021: 12.8 million penalty levied against tech company.
- April 2021: \$11.1 million award against employer in Washington
- April 2020: \$12.6 million award against national grocery chain
- February 2020: \$10.3 million settlement following \$19.8 million jury verdict

3. Aggressive Agency Enforcement

- OSHA enforces 25 federal whistleblower statutes
 - On July 7, 2021, OSHA issued its Revised National Emphasis Program – Coronavirus Disease 2019
 - Strong emphasis on whistleblower protections
 - As of September 12, 2021, OSHA received 5,702 COVID-19-related whistleblower complaints, including 32 from September 5, 2021 to September 12, 2021
- SEC Whistleblower Bounty Program
 - \$564 million in bounties awarded to 108 individuals in fiscal year 2021
 - Distributed highest number of awards, both in terms of dollars and individuals awarded in FY 21
 - Amendments to whistleblower program paused
- **EEOC/NLRB/DOL INITIATIVE– November 2021.**

2. New Laws Dramatically Increase Liability Risk

■ Federal

- Criminal Antitrust Anti-Retaliation Act – Protects employees against adverse action for reporting criminal antitrust violations
- Anti-Money Laundering Act – Created whistleblower program for reports of money laundering modeled on Dodd-Frank, and extends existing whistleblower protections to employees who file internal complaints

- Global Issue – dramatic change across the globe in places like Australia, Canada and the EU all modeled on U.S. laws creating sweeping change.

■ State

- Virginia – Enacted comprehensive whistleblower law for internal and external complaints
- New York – Amended healthcare whistleblower law to protect complaints of workplace safety and to make social media posts and reports to the media protected activity
- New York – Amended twice in two years. Two-year statute of limitations will go into effect January 2022
- California – Amended whistleblower law to authorize employees to recover attorney's fees
- Rhode Island – Amended whistleblower law to encompass prospective employees

1. Whistleblower and Retaliation Headlines Abound



Google settles lawsuit with ex-employee who claimed firing was in retaliation for organizing

Andrew Tarantola · 9/8/2021



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[UPDATED] Apple Faces Investigation After Two Employees' Accusation of Retaliation for Speaking About Workplace Conditions

Isabella James, Tech Times | 03 September 2021, 11:09 pm



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1. Whistleblower and Retaliation Headlines Abound

<https://www.newsweek.com/elon-musk-mocking-whistleblowers-heres-why-thats-good-thing-opinion-1668633>

<https://www.vox.com/recode/22848750/whistleblower-facebook-google-apple-employees>

Elements of a Retaliation Claim

1

PROTECTED ACTIVITY

- How to define
- What are the limits, and when can you curb it

2

ADVERSE ACTION

3

A “CAUSAL CONNECTION”