

Whistleblower Attorneys Are Looking Beyond Safety Law Boundaries

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Bracewell's **Bob Nichols** told *Bloomberg Law* that he expects plaintiffs' lawyers to seek alternatives to OSH Act actions.

"It's much better for them to find a private right of action," said Nichols.

Employees are opting to preemptively protect themselves when raising safety and health complaints through private means instead of waiting on Occupational Safety and Health Administration enforcement. The search for alternatives to OSHA enforcement gained more traction during the COVID-19 pandemic as worker advocates and unions grew frustrated with what they considered the agency's apparent reluctance to cite employers for failing to protect workers, especially those working in food processing, distribution, and health care.

OSHA's whistleblower provision doesn't allow for private attorneys to represent workers or to take complaints to federal court. Instead, the cases are handled by OSHA investigators, Department of Labor attorneys, and administrative law judges.

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Robert S. Nichols

Of Counsel

HOUSTON

+1.713.221.1259

bob.nichols@bracewell.com

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