

US Supreme Court in UBS case makes it easier for whistleblowers to win suits

By **Daniel Wiessner**

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A UBS logo is seen next to Credit Suisse at the Bahnhofstrasse before a news conference of Swiss bank UBS in Zurich Switzerland, August 30, 2023. REUTERS/Denis Balibouse/File Photo [Purchase Licensing Rights](#)

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UBS Group AG

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Feb 8 (Reuters) - The [U.S. Supreme Court](#) on Thursday made it easier for whistleblowers to win lawsuits accusing companies of unlawfully firing them as retaliation for disclosing wrongdoing, rejecting a [bid by Switzerland's UBS Group \(UBSG.S\)](#) to impose a higher bar.

The [unanimous decision](#) by the justices reinstated a \$2.6 million award, including nearly \$1 million in damages, to former UBS bond strategist Trevor Murray, who has accused the company of firing him in retaliation for refusing to publish misleading research reports and complaining about being pressured to do so. A lower court had thrown out the jury verdict.



UBS had wanted the Supreme Court to require plaintiffs in whistleblower lawsuits to prove a company's retaliatory motives, a difficult task.

But Justice Sonia Sotomayor, writing for the court, said a federal law protecting financial sector whistleblowers merely requires them to show that they were treated differently than other employees because they had reported illegal conduct.

"It does not matter whether the employer was motivated by retaliatory animus or was motivated, for example, by the belief that the employee might be happier in (another) position," Sotomayor wrote.

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UBS did not immediately respond to a request for comment.

Robert Herbst, a lawyer for Murray, said the was "a huge victory for whistleblowers all across the country."

UBS has said Murray was fired as part of a cost-cutting campaign that eliminated thousands of jobs, not because of his complaints. A jury in federal court in Manhattan sided with Murray in 2020, and U.S. District Judge Katherine Polk Failla, who presided over the trial, rejected a bid by UBS to set aside the verdict.

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But the New York-based 2nd U.S. Circuit Court of Appeals, in overturning the verdict in 2022, ruled that the jury should have been instructed by the trial judge that in order to hold UBS liable under a 2002 federal law called the Sarbanes-Oxley Act, Murray had to prove that the company had acted with retaliatory intent.

Sarbanes-Oxley created enhanced accounting standards for publicly traded U.S. companies after a series of accounting scandals, along with new legal protections for employees who report illegal conduct. Named after its bipartisan sponsors - Democratic U.S. Senator Paul Sarbanes and Republican U.S. Representative Michael Oxley - it was intended to help protect investors from fraudulent corporate financial reporting.

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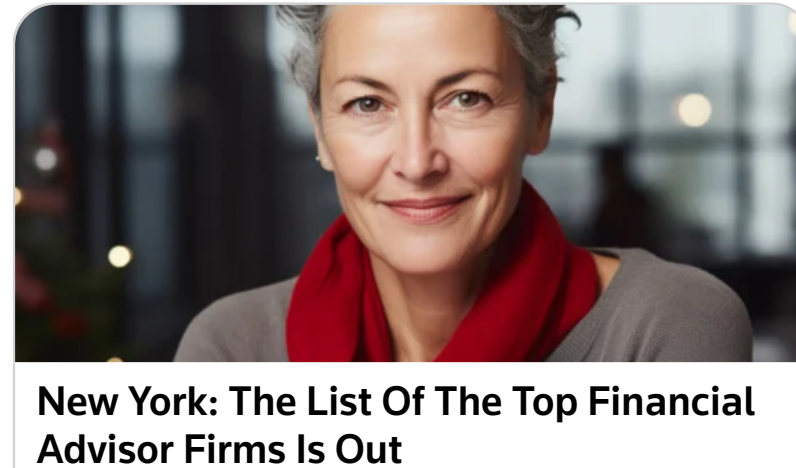
The 2nd Circuit ruling had created a split with at least two other federal appeals courts that decided that the lack of intent can be raised as a defense in a Sarbanes-Oxley case, but must be proven by the defendant.

Murray, who worked in UBS's mortgage securitization unit, accused UBS officials of pressuring him to issue skewed and bullish research on commercial mortgage-backed securities in order to support the bank's trading and underwriting operations. He has said he was fired in 2012 about two months after complaining to supervisors and despite receiving excellent performance reviews.

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President Joe Biden's administration had backed Murray in the appeal. The Supreme Court heard arguments in the case in October.

UBS was represented by Eugene Scalia of the firm Gibson Dunn & Crutcher, the son of late Supreme Court Justice Antonin Scalia and a former U.S. labor secretary, who was making his first appearance before the Supreme Court.

Reporting by Daniel Wiessner in Albany, New York; Editing by Will Dunham and Chizu Nomiyama

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Daniel Wiessner
Thomson Reuters

Dan Wiessner (@danwiessner) reports on labor and employment and immigration law, including litigation and policy making. He can be reached at daniel.wiessner@thomsonreuters.com.

