

Court Revives SOX Whistleblower's Case Against JPMorgan

David Bario, The Litigation Daily

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Back in August, when an appeals court [sided with construction giant AECOM Technology Corp.](#) in a suit brought by a former employee, the news didn't generate much in the way of headlines. But as a flurry of law firm [memos](#) pointed out at the time, the decision was significant. Although the U.S. Court of Appeals for the Second Circuit tossed the ex-employee's lawsuit, the panel also adopted a much more lenient standard for evaluating Sarbanes-Oxley whistleblower claims.

Now that ruling has made a mark on another SOX whistleblower case, and this time the defendant, JPMorgan Chase & Co., isn't off the hook.

In [an order issued on Thursday](#), the Second Circuit reinstated claims that JPMorgan fired a senior banker after she flagged a favored client for possible fraud and money laundering. And because the employee allegedly raised the alarm just as another JPMorgan client, Bernard Madoff, was revealed as a titanic con artist, her allegations have brought plenty of [unwelcome attention](#) on the bank.

The appeals court ruled Thursday that under the standard it set in *Nielsen v. AECOM Technology*, former JPMorgan Vice President Jennifer Sharkey didn't have to "definitively and specifically" tie her retaliation claims to categories of misconduct identified in §806 of SOX. In *Nielsen*, the panel noted, the court concluded that §806 covers whistleblower allegations "which the employee reasonably believes constitut[e] a violation of the enumerated federal provisions."

The decision gives Sharkey and her lawyers at Wigdor another chance to persuade U.S. District Judge Robert Sweet that she's entitled to SOX whistleblower protection, and that JPMorgan violated the law. In her suit, which Sweet dismissed last December, Sharkey claims she was fired in retaliation for repeatedly raising red flags about an Israeli client who was a lucrative source of fees for JPMorgan. The client, whose name hasn't been publicly disclosed, allegedly made suspect money transfers involving Colombia and engaged in other business activities that suggested fraud or other crimes.

JPMorgan is represented by Arnold & Porter's Michael Schissel. Wigdor partner Lawrence Pearson argued for Sharkey at the Second Circuit.
