

# Whistleblower Lawsuits filed under California, Illinois insurer fraud laws may increase

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California got a \$3.1-million piece of the settlement pie when drugmaker Warner Chilcott agreed to pay the federal government \$125 million in October over allegations it defrauded Medicare and Medicaid.

But the state did much better in a second, lesser known settlement with the drugmaker just two months later. It got \$11.8 million.

That heftier payout stemmed from a separate but similar case brought under a California law that allows whistle-blowers to file lawsuits alleging fraud against private insurers.

California and Illinois are the only states with such laws, and until now, not many healthcare lawsuits have been filed under those statutes. That, however, may change, as awareness of the laws -- and recognition of the potential rewards for those who use them -- grows. Fraudsters face triple damages under the laws, and whistle-blowers are often entitled to larger shares of recovered money than what they can get under the federal False Claims Act.

“Nothing encourages people to come forward and incentivizes integrity like successful cases,” said Scott Simmer, a Washington D.C. attorney who represented whistle-blowers in the Warner Chilcott cases. He expects to see more cases.

The idea behind the laws, which have been on the books for years, is that it's in a state's interest to pursue fraud against private insurers because such misdeeds raise healthcare costs for everyone.

“We have found that health insurance fraud is one of the biggest

## Attorneys

Justin T. Berger

## Practice Areas

California Insurance Fraud  
Prevention Act

False Claims / Whistleblower Law

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problems we have,” said Nancy Kincaid, a spokesperson with the California Department of Insurance. “It’s a multi-billion dollar problem. Everybody is paying for these losses.” Kincaid also expects to see more such cases in California.

There’s no way to track exactly how many cases are now being brought under these laws in California and Illinois. The cases typically remain private – or under seal – at first. In some cases, the cases can stay under seal for years.

But R. Scott Oswald, managing principal of The Employment Law Group in Illinois, which represents whistle-blowers, said he and his colleagues are seeing more whistle-blowers taking action under the Illinois statute. His firm has several cases that have been under seal for years, he said.

“There’s probably a lot more fraud that’s occurring than people realize,” Oswald said.

Justin Berger, a principal at Cotchett Pitre & McCarthy who represents whistle-blowers in such cases in California, said his firm also seems to be filing more of the cases lately. Berger said he’s also hearing from U.S. attorneys that they’re seeing more of the lawsuits filed in conjunction with Medicare fraud cases.

“It’s becoming more common because there’s a little more visibility,” Berger said.

Historically, the California and Illinois laws haven’t grabbed much attention. Over the years, not too many healthcare related lawsuits had been filed under the California law and even fewer had been filed in Illinois, Simmer said... *(To read the entire article, please click [HERE](#))*