

Supreme Court Holds That Fired Fiancé of EEOC Complainant Has Title VII Retaliation Claim

January 25, 2011

Yesterday, the U.S. Supreme Court held that Title VII permits third-party retaliation claims, in which the plaintiff alleges that he suffered an adverse employment action in retaliation for protected conduct by another employee. In *Thompson v. North American Stainless*, the plaintiff alleged that he was fired three weeks after his fiancé, also an employee of the company, filed a charge of sex discrimination with the Equal Employment Opportunity Commission. The Supreme Court held that the plaintiff had alleged a viable claim under Title VII, despite that he himself had not engaged in any conduct protected by the statute. The Court explained that Title VII prohibits any employer conduct which might dissuade employees from filing or supporting a charge of discrimination.

While concluding that a reasonable person would be discouraged from filing a claim if she knew her fiancé would be fired as a result, the Court declined to address what relationships between employees would support a third-party retaliation claim. It explained that these determinations would be made on a case-by-case basis. However, it noted that “firing a close family member” will almost always be actionable, while “inflicting milder reprisal on a mere acquaintance” will almost never be actionable.

In light of this decision, employers should be cognizant of the expanded range of potential retaliation claims after an employee files a charge of discrimination. Employers could face claims if they take an adverse employment action against an employee who has a close relationship with an employee who filed a charge. *Thompson* suggests that the two employees need not be related for such a claim to exist. Employers, therefore, should be mindful of this new class of retaliation claims when making employment decisions.

RELATED PRACTICES

- [Labor & Employment](#)
- [Retaliation & Whistleblowing Issues](#)
- [Litigation](#)

This communication is intended for general information purposes and as a service to clients and friends of Foley Hoag LLP. This communication should not be construed as legal advice or a legal opinion on any specific facts or circumstances, and does not create an attorney-client relationship.

United States Treasury Regulations require us to disclose the following: Any tax advice included in this document was not intended or written to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code.

Attorney advertising. Prior results do not guarantee a similar outcome. © 2017 Foley Hoag LLP. All rights reserved.