

'Zone of Interests' Expand for Employer Retaliation Claims

June 7, 2011

The Bulletin Newsletter - June 2011 Edition

A recent decision by a federal District Court in Florida has taken Title VII employee retaliation claims to a whole new zone, literally. While not binding on Michigan employers, this case highlights how broadly courts may interpret Title VII retaliation claims.

This past February, we reported on the case of *Thompson v North American Stainless* in which the plaintiff successfully argued that he was fired because his fiancé, who worked at the same company, had filed a discrimination claim with the Equal Employment Opportunity Commission (EEOC).

The U.S. Supreme Court held that, under Title VII, such retaliation would be unlawful because it would discourage employees from asserting their rights if someone within their "zones of interests" would suffer the consequences. As a result, even though Thompson had not engaged in any protected activity under Title VII, the court ruled that he asserted a valid retaliation claim.

The Sixth Circuit has now applied the "zones of interests" concept to a case in which the plaintiff, who worked for an entirely different company than his wife who asserted rights, argued that, under *Thompson*, he is able to assert a valid Title VII retaliation claim.

Specifically, in *McGhee v Healthcare Services Group, Inc and Sovereign Healthcare of Bonifay, LLC*, the plaintiff was employed by the co-defendant Healthcare Services. The plaintiff's wife was employed by the other defendant Sovereign Healthcare, against which she filed a charge of discrimination with the EEOC.

In *McGhee*, the plaintiff alleged that, in retaliation for his wife's complaint against her employer, Sovereign Healthcare, his employer, Healthcare Services, fired him. It was plaintiff's contention that Sovereign Healthcare, as a customer of Healthcare Services, was able to exert influence over his employer to take this action.

The U.S. District Court, Northern District of Florida denied the defendants' motion to dismiss, finding that this fact scenario stated a claim for retaliation under the holding of *Thompson*. Thus, an employer that was never accused of discrimination, who fired an employee who never exercised rights under Title VII eventually may be held liable for unlawful retaliation.

While this case is not binding on Michigan employers, the extent to which *Thompson's* holding has been expanded by this federal district court is cause for concern. As more employees receive protection under federal laws, employers should be cautious when terminating an employee and

'ZONE OF INTERESTS' EXPAND FOR EMPLOYER RETALIATION CLAIMS Cont.

consult an experienced employment attorney when appropriate.

The Bulletin Newsletter is distributed by the firm of Plunkett Cooney. Any questions or comments concerning the matters reported may be addressed to Theresa Smith Lloyd or any other members of the practice group. The brevity of this newsletter prevents comprehensive treatment of all legal issues, and the information contained herein should not be taken as legal advice. Advice for specific matters should be sought directly from legal counsel. Copyright© 2011. All rights reserved PLUNKETT COONEY, P.C.