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FOCUS

Stowe Associates Insurance and Compliance Tips Newsletter



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Supreme Court Upholds EEOC's Retaliation Reach

Court Rules Fiancé of Person Filing a Charge of Discrimination Protected from Employer's Retaliatory Action.

The Supreme Court ruled recently that the fiancé of a woman, who filed a charge of discrimination with the U.S. Equal Employment Opportunity Commission (EEOC), was protected from retaliation by their mutual employer and had standing to redress this illegal act. In a unanimous opinion, *Thompson v. North American Stainless, LP*, No. 09-291, the Supreme Court held that long-standing EEOC interpretations of the scope of the anti-retaliation provision of Title VII of the Civil Rights Act of 1964 (Title VII) applied to an individual harmed by retaliation, even if that person had not himself filed a charge of discrimination.

In *Thompson*, a female employee filed a charge of discrimination against her employer, North American Stainless (NAS). Three weeks after receiving notice of the charge from the EEOC, NAS fired her fiancé, who also worked at the company. The male employee then filed his own charge, claiming his termination was in retaliation for his fiancé's initial charge. After the district court in Kentucky and the entire Sixth Circuit Court of Appeals ruled that he could not raise a retaliation claim because he himself had not filed a charge of discrimination, the Supreme Court agreed to hear the case and issued its decision reversing the lower courts' opinions.

This past fiscal year, the EEOC received more charges alleging retaliation than any other basis, supplanting race discrimination charges for the first time in its 45-year history as the most numerous.

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Jury Returns Verdict in EEOC Bias Suit; Paul's Big M to Pay \$1,260,080 for Sex Harassment***Federal Agency Said Class of Young Women, Including Teens, Subjected to Verbal and Physical Sexual Abuse by Grocery Store Manager***

In a victory for the EEOC, a federal district court has returned a \$1,260,080 verdict in a significant sexual harassment lawsuit. The verdict settled the EEOC's suit against Paul's Big M grocery store in Oswego, N.Y., that had charged that a class of female employees, many of whom were teenagers at the time, was subjected to a sexually hostile work environment by the store's general manager for more than 10 years.

The EEOC's lawsuit charged KarenKim, Inc. (known as Paul's Big M) with sexually harassing a class of female workers from 2001 onward at the Oswego store. The harassment included egregious acts of verbal and physical sexual conduct by the company's general manager, Allen Manwaring. For example, the EEOC charged, he suggested a sexual threesome with one cashier's mother, stuck his tongue in another cashier's mouth and grabbed and touched the breasts and buttocks of other women.

At trial, woman after woman testified that Manwaring made sexual propositions, described his sex life with owner Karen Connors, to whom he was engaged, made lewd gestures to employees and touched or grabbed them in private areas. Many witnesses testified about the longstanding and ongoing relationship between Manwaring and Connors. They cited the relationship as one reason why the store refused to take action in response to repeated complaints about sexual harassment by Manwaring.

Manwaring testified that he pled guilty in 2008 to one criminal count of harassment in the second degree in satisfaction of four other charges after four women complained to the police. Connors testified that Manwaring was only given a 30-day paid suspension following his guilty plea. The harassment continued until Manwaring was fired in 2010 for harassing another woman, the EEOC said, although she testified that she was pressured not to reveal the harassment or the reason for Manwaring's termination.

The EEOC reported that the company repeatedly failed to take necessary steps to stop the harassment, despite numerous complaints to management and the police. The agency also asserted that working conditions were so intolerable that some of the women were forced to quit.

After a nearly two-week trial, the jury rendered a verdict in favor of the EEOC, awarding \$1,250,000 in punitive damages against the company. It also awarded an additional \$10,080 to 13 women to compensate them for the emotional pain and suffering they endured including the three women who first brought the harassment to the EEOC's attention. Total damages awarded to the 13 women amounted to \$1,260,080. The EEOC will also ask the court to award injunctive relief designed to prevent future discrimination.

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