

Sidekick Retaliation Claims: You and your little dog too

Your employee tells your HR department that she thinks she's being sexually harassed by her boss's supervisor. Old news: How you treat her now could risk a retaliation claim. But what if you had to fire her boss? What if the boss was her mentor who had helped promote her several times? According to the U.S. Supreme Court, the boss just might have a retaliation claim now.

Title VII's retaliation provision used to be pretty simple. Don't retaliate against someone who has done certain protected activities to resist discrimination. Only the person who actually resisted discrimination was entitled to legal protection.

Now, you've got to watch your step around other folks. In [Thompson](#), one employee filed a charge of discrimination against his company. Three weeks after learning of the charge, the company fired the employee's fiancé. The Supreme Court refused to dump the lawsuit simply because the company fired the fiancé instead of the employee who had filed the charge. That relationship, said the Court, was close enough to warrant a retaliation claim.

How close of a relationship is too close? The Court explained a company steps across the line when it takes an action against another employee that would "dissuade a reasonable worker" from resisting discrimination. Obviously, firing the employee's fiancé is too close. But how about the employee's girlfriend? Or a close friend? Or a trusted co-worker?

The Court couldn't say where to draw the line. That leaves you to think carefully when taking action against an employee connected to another employee who has resisted discrimination. And it makes it even more critical that your decisions are backed up by solid documentation. You never know where a retaliation claim may pop up.

It's just like the Wicked Witch of the West said: "I'll get you, my pretty, and your little dog too." Be careful. Toto can sue you too.



Alan Bush
281.296.3883
abush@bush-law.com

Bush Law Firm
bush-law.com

HR Risky Business

For more insight into how solid HR practices impact your company's strategic operations, visit Alan's employment law blog at hrriskybusiness.com.

[Federal Discrimination and Harassment Laws](#)

[Retaliation](#)