

Law of the Workplace

PREPARED BY SIEGEL, O'CONNOR, O'DONNELL & BECK, P.C.

CLIENT ALERT

TITLE VII PROTECTS EMPLOYEES FROM RETALIATION FOR PARTICIPATING IN INTERNAL INVESTIGATIONS

On January 26, 2009, the U.S. Supreme Court held that Title VII protects employees from retaliation by an employer after the employee responds to questions in an internal discrimination or harassment investigation. Specifically, the Court held that Title VII, which prohibits discrimination and harassment in the workplace, protects workers who speak out about discrimination or harassment during company-ordered investigations, not only investigations that arise out of an actual discrimination claim.

In *Crawford v. Metro. Government of Nashville and Davison County*, -- S. Ct. --, 2009 WL 160424 (2009), the Metropolitan Government of Nashville and Davidson County, Tennessee ("the County") commenced an internal investigation into rumors of sexual harassment by a supervisor. As part of the investigation, a County official interviewed Vicky Crawford, who reported the subject supervisor had sexually harassed her. The County took no action against the supervisor. However, soon after completing the investigation the County fired Crawford for alleged embezzlement. Crawford filed suit under Title IIV of the Civil Rights Act of 1964 claiming that the County retaliated against her for reporting the supervisor's behavior.

The County filed for summary judgment arguing Crawford did not initiate a complaint prior to the internal investigation and, therefore, Title VII did not protect Crawford's participation in the internal investigation because the investigation was not conducted due to a pending charge before the Equal Employment Opportunity Commission ("EEOC"). Both the lower court and the Sixth Circuit Court of Appeals agreed with the County. The Supreme Court, however, disagreed with the County. In finding in favor of Crawford, the Court held Title VII's antiretaliation protection extends to an employee who speaks out about discrimination on her own initiative and when answering questions during an employer's internal investigation. The Court went further to explain that an employee can "oppose" sexually harassing behavior by responding to someone else's questions just as surely as by provoking the discussion regarding the harassment.

The Crawford decision provides a reminder to employers ferreting out discriminatory or harassing activity in the workplace that many times retaliation provides the impetus for a lawsuit. Employers should caution supervisors and employees alleged to have committed discriminatory or harassing conduct that retaliation is strictly prohibited and will not be tolerated in the workplace.

Employers with questions regarding discrimination, harassment or retaliation in the workplace may call the attorneys of Siegel, O'Connor, O'Donnell & Beck, P.C. at 860-727-8900 or by visiting us online at www.siegeloconnor.com.

This material is intended to provide you with information regarding a noteworthy legal development. It should not be regarded as a substitute for legal advice concerning specific situations in your operation. If you have any questions or would like additional information on this topic, please contact our Firm at (860) 727-8900 or www.siegeloconnor.com.

SIEGEL, O'CONNOR, O'DONNELL & BECK, P.C.

Hartford • New London

(860) 727-8900 www.siegeloconnor.com