

JUDGE RULES IN FAVOR OF EEOC IN RETALIATION LAWSUIT



A district court recently granted summary judgment in favor of an employee in a Title VII retaliation lawsuit. The suit, filed by the EEOC (Equal Employment Opportunity Commission) on behalf of the former employee, alleged that Germany-based Cognis Corporation violated the Civil Rights Act when it fired the man for his refusal to waive his rights to file a discrimination charge. Cognis was purchased in December 2010 – several months after the lawsuit was filed – by BASF, a multinational chemical company headquartered in New Jersey. At the Cognis Kankakee, IL, facility, the man in question was required to sign a last-chance agreement as a condition of his continued employment. The agreement stipulated that he would not be allowed to file a discrimination charge with the EEOC, including a charge due to conduct that may occur in the future. The EEOC alleges that, when the man refused to put his name to that agreement, he was fired. The EEOC’s lawsuit further charged that the company had retaliated against other employees, who were forced to sign the agreement for fear of termination – thereby relinquishing their rights to seek relief for any potential discriminatory behavior. The Commission made a motion for summary judgment, which was granted for the fired employee. The judge believed that no reasonable jury would conclude that the company had not unlawfully retaliated against the man when it terminated his employment, stating that Cognis’ argument in response was one that “defies simple logic.” The case will proceed to trial to determine the amount of damages due to the former employee. For the class of employees who signed the last-chance agreement but were not fired, the EEOC’s motion for summary judgment was denied. Those claims will proceed to trial for a jury’s consideration. In this instance, the district court saw the likelihood of a reasonable jury deciding that the company had engaged in unlawful activity by allegedly demanding that its workers waive their rights to file charges of discrimination. The last-chance agreement could conceivably be a way for Cognis to subvert the probability of a retaliation claim – an act that would violate employees’ civil rights and would be considered by law with the same regard as retaliation itself.



“Filing EEOC charges is a fundamental right of American employees, and this agency always stands ready to protect this right,” said the Commission’s Chicago District Director John Rowe in an EEOC press release. “This court’s opinion should cause employers to remember that seeking to dissuade employees from exercising that right is not only a bad policy, it’s a violation of federal law which can give rise to very substantial liability.” The EEOC’s supervisory trial attorney, Gregory Gochanour, added that the EEOC was “very pleased with this court’s decision, both with regard to [the terminated employee] and to the class [of employees].” Gochanour further noted that the man who lost his job was “brave” by risking termination in lieu of allowing the company to “strip him of his rights.” “We expect he will be fairly compensated for his damage attributable to Cognis’ unlawful actions,” Gochanour said. “Beyond that, we are highly optimistic that, at trial, the jury will find in favor of the other class members and award them just compensation.”