WOMAN AND FORMER BOSSES WIND UP IN COURT OVER PAY RAISE DISPUTE

A woman brought action against her former employers, alleging a violation of Title VII of the Civil Rights Act. She claimed that the company had retaliated against her, citing both the opposition and participation clauses – an employee opposing an unlawful act or participating in the investigation of such an act. The former worker was employed for two years at NYK Logistics (Americas), Inc., a company that provides third-party logistics services such as transportation, warehousing and distribution. The trouble started when she was promoted to a Team Leader position but did not receive an anticipated pay raise. She saw the raise as a "promise" to her and, in fact, only accepted the promotion – with an increased workload – for the bump in her paycheck. She finally received the raise six months later, after she made numerous complaints to the HR Department and at least once threatening to go to the "EEO" (Equal Employment Opportunity – though she was specifically referring to the Commission). The raise was backdated a few months, but the woman wanted retroactive pay for a three-month period prior to that, at the time when she had received the promotion. She inquired about the additional back pay in a couple of emails, and less than a month later, she received a final written warning. The woman was then removed as Team Leader with no loss of pay. The warning noted an incident involving a co-worker's termination, as well as the woman's EEO threats and multiple threats to quit if she didn't receive her raise. These, along with alleged mishandling of company files, were the reasons that she was fired shortly thereafter. She filed a lawsuit with a claim of retaliation and asking for compensatory and punitive damages totaling no less than two million dollars. With regard to the participation clause, the woman noted that the written warning had mentioned her EEO threats. Even discounting a manager's assertion that the plaintiff's EEO allusion was for an "Officer" and not the agency, there is no indication that the company was aware of the woman's visits to the EEOC – once to learn her rights and at least once more

after the written warning. If the higher-ups lacked knowledge of any investigation, then retaliation could not have taken place. Likewise, the opposition clause would necessitate a form of discrimination. Many of the plaintiff's supervisors and co-workers were both female and white, as was she. But her suggestion that she was "disrespected" due to her gender was too vague for a discrimination argument. More significantly, it implied that she was challenging the lack of a pay raise and was making EEOC threats because of that – not that the company failed to give her a raise due to the woman visiting the EEOC. Because the woman couldn't prove that the company was aware of her engagement in protected activity or that it had responded unlawfully for the same, the retaliation claim was dismissed. The district court granted summary judgment in favor of the company, and the appeals court affirmed the decision. Want to see which HR jobs are available near you? Click here to see.