

## WOMAN CLAIMS RETALIATION FOR OPPOSING DISCRIMINATION AGAINST ANOTHER EMPLOYEE



A woman sued her former employer for retaliation due to her opposition of racial discrimination – discrimination aimed at another employee. The arguments in court relied mostly on the validity of the evidence presented. The woman worked as an administrative assistant at the International Brotherhood of Electrical Workers, Local 159 (IBEW) in Madison, WI. She had been an employee of the union for more than 30 years and was described by her colleagues as a good worker, with a former supervisor citing her job performance as “outstanding.” In 2006, an African American employee filed a complaint of racial discrimination with the Madison Equal Opportunities Commission. He claimed that his information was removed from the IBEW referral book and his union fee was returned to him, both based on his race. The plaintiff learned that her supervisor had permitted a white employee to sign the referral book without paying the initial fee, so she questioned him about the alleged discrimination. What reportedly followed was the woman’s loss of essential job duties, denial of overtime and a hostile work environment, all at the hands of her supervisor, who had previously neither criticized nor disciplined her. Numerous disciplinary actions ensued, including the supervisor accusing the woman of frequent tardiness and suspending her without pay. She eventually took medical leave, asserting that her reason was the emotional stress created by her work environment. She filed her own complaint with the



Commission and later took her case to a district court. Prior to trial, the IBEW moved to exclude evidence concerning the man’s initial complaint lodged with the Commission. The motion was denied, and the woman was allowed to present four documents at trial: the original complaint; her statement regarding the complaint; the Commission’s finding of probable cause; and the Commission’s notice of hearing. These were used to show a motive for retaliation and to provide a causal link between her protected activities – looking into the complaint – and her supervisor’s alleged adversity. The jury ruled in the woman’s favor. The IBEW responded with two motions: judgment as a matter of law under Federal Rule of Civil Procedure 50(b) or a new trial under Federal Rule of Civil Procedure 59(a). Both motions were denied. The plaintiff was awarded 202,396.76 dollars in damages. The union appealed the decision. As appeals must be filed within a 30-day period, the appellate judges noted that they would only be able to rule on the dismissal of the two post-trial motions. The judgment regarding the woman’s suit was rendered nearly eight months prior to the IBEW’s appeal. The appeals court believed that the IBEW’s request for relief was closer to Rule 60(b)(6) – a general relief from judgment. The union had argued against the allowance of the woman’s evidence and claimed that there was “insufficient evidence” for the jury to make a decision. Appellate judges used these arguments in its ruling, as these are essentially what the district court was dismissing when it denied the motions for relief after its judgment was made. The appeals court agreed and affirmed the decision.