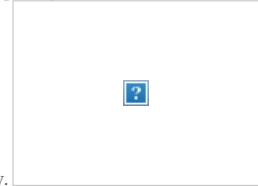


## WAS SHIFT SUPERVISOR FIRED FOR HIS EMAIL, OR WAS IT INTIMIDATION?



Was an employee fired to prevent him from testifying in a civil action against the very company that terminated his employment? That is the allegation from a former worker at Mohawk Industries, Inc. in Georgia. The man was working as a shift supervisor at the company's Union Grove manufacturing facility. In 2006, he sent a number of emails to a Senior Employment Coordinator, requesting to hire certain temporary employees on a permanent basis or to have certain individuals brought in through a temp agency. Many of the email messages noted potential workers having "good" or "not good" papers. But the true source of legal contention was an email in which the shift supervisor claimed that "90% of the people that come through the temp do not have good papers." He further insinuated that prospective employees without Georgia state IDs or proper INS (Immigration and Naturalization Service) documentation specifically seek Mohawk for work. It was this particular piece of correspondence that sparked an internal investigation at the company. Outside counsel was brought in, and an attorney interviewed the shift supervisor and several other people over the course of two days. During the man's interview, held on the first day, he was asked if he had heard of an impending case against Mohawk. He said he had not. There was no other mention of this case, and the remainder of the interview concerned the email and how the man had reached the 90% estimate. The impending case was a RICO (Racketeer Influenced and Corrupt Organizations Act) civil suit filed in 2004 by current and former Mohawk employees. It alleged a conspiracy between Mohawk and several temp agencies to maintain low wages by employing illegal aliens – who are ineligible for work – as temporary workers. RICO is a means



of holding responsible organization leaders who may have simply ordered the wrongdoing in lieu of direct criminal activity. Soon after the interviews, the shift supervisor met with an HR rep, who informed him that his employment was being terminated for "knowingly employing illegal immigrants and for illegally screening employees." The man filed a lawsuit against the company, claiming that his firing was intimidation to stop him from testifying in the RICO case. The plaintiffs involved in the civil action heard of the man's lawsuit and used his email as part of their class certification. The man was not asked to testify and was not subpoenaed. The RICO suit settled in 2010. Shortly after, the district court for the man's case granted summary judgment in favor of Mohawk. The man had alleged a conspiracy in preventing any testimony. On appeal, judges noted an absence of any such conspiracy, stating that terminating his employment would likely have the polar effect – "encouraging" him to offer testimony. Likewise, with only a single mention of the impending case in the interview and nothing more, the man presented insufficient evidence that he was being threatened or intimidated in any way. The dismissal of his claims was affirmed.