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U.S. Supreme Court expands right to file retaliation lawsuits against employers.

On January 24, 2011, a unanimous United States Supreme Court, in *Thompson v. North American Stainless, LP (NAS)*, issued an employee-friendly ruling in a third-party retaliation case. The Court held that a man who was fired after his fiancé filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) could sue for retaliation under Title VII of the Civil Rights Act of 1964.

Plaintiff and his fiancé both worked at NAS. His fiancé filed a charge of sex discrimination with the EEOC. Shortly after the EEOC informed NAS of that charge, the company terminated plaintiff's employment. Plaintiff sued, claiming NAS retaliated against him because his fiancé's protected activity. The trial court ruled in favor of NAS, and the Sixth U.S. Circuit Court of Appeals agreed, holding that plaintiff couldn't sue under Title VII because he (the plaintiff) didn't engage in any "protected activity" of his own. Rather, the protected activity was his fiancé's sex discrimination charge, which was the fiancé's protected activity, not the plaintiff's.

The Supreme Court had to determine whether Title VII prohibits an employer from retaliating against an employee based on the employee's close association with an individual who engaged in protected activity. The Court concluded that if plaintiff's claims were true, the termination of his employment violated Title VII, reasoning that a reasonable worker might be dissuaded from engaging in protected activity if she knew that her fiancé could be retaliated against as a result.



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Although the Court ruled that an employee could sue for what it called “third-party retaliation,” it didn't identify a “fixed class of relationships” for which such suits could be brought. However, the Court did say that firing an employee's “close family member” as a means of retaliation would most likely be unlawful.

This is a significant expansion of Title VII of the Civil Rights Act of 1964, in favor of current and former employees, and invites significant future litigation to determine who qualifies as a “close family member.”

For more information regarding Title VII of the Civil Rights Act of 1964, please contact a member of our Labor and Employment Law practice group at (419) 244-6788.

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Free Firm Seminar on March 10, 2011

Do not forget to sign up for our annual free workers' compensation seminar on Thursday, March 10, 2011 at the Holiday Inn French Quarter, 10630 Fremont Pike, Perrysburg, Ohio 43551. Registration starts at 12:30 p.m. Seminar begins at 1:00 p.m. and ends at 4:15 p.m. Please register by Monday, March 7, 2011, by emailing spierce@bugbee-conkle.com or calling us at (419) 244-6788.

We look forward to seeing you at the Holiday Inn French Quarter on March 10, 2011.

THE EMPLOYER is not intended to provide legal advice, but is intended as a service to the clients of Bugbee & Conkle, LLP and to alert them to recent developments affecting the employment relationship, with a particular emphasis on the perspective of the employer.

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