



Eleventh Circuit Revives HR Manager's Retaliation Claim

In *Patterson v. Georgia Pacific LLC*, the Eleventh Circuit Court of Appeals reversed and remanded a suit filed by a former human resources manager alleging she was retaliated against in violation of Title VII of the Civil Rights Act of 1964 based on testimony she provided in a case against a prior employer.

While employed as a human resources manager at Georgia Pacific, the plaintiff, Jacqueline Patterson ("Patterson"), provided deposition testimony in a Title VII pregnancy discrimination lawsuit against Memorial Hermann, where she had previously worked also in human resources. When Hawkins, the human resources director at Georgia Pacific questioned Patterson about her deposition testimony, he asked, "did you support or go against the employer?" Patterson responded that she testified "on behalf of the ladies." A week later, Hawkins fired Patterson without a stated reason. Patterson claims Georgia Pacific fired her because of her deposition testimony supporting the plaintiffs in the suit against Memorial Hermann.

The district court granted summary judgment to Georgia Pacific on the basis that Title VII's anti-retaliation provision does not apply to human resources managers acting in the course of their employment duties, even if their actions would otherwise qualify as protected activity. Essentially, the district court reasoned that Patterson's deposition was in relation to her job duties for Memorial Hermann, thus her retaliation claim was barred. Alternatively, the district court held that an employee's actions involving a former employer were not protected conduct for purposes of applying the anti-retaliation provision to a current employer. In reversing and remanding the case, the Circuit Court held that the district court was doubly wrong.

The Eleventh Circuit clarified that the district court's articulated manager's exception "has no basis in the text of Title VII's opposition clause [or participation clause] and actually contradicts the text of it." The appeals court further held that Title VII's opposition clause protects any employee who has opposed an unlawful employment practice. Thus, "[w]hat matters is not the job duties or title of the employee but the actions or conduct that caused the retaliation against her." The Court further stated that "opposition is opposition" and there is nothing in the anti-retaliation provision's opposition clause or Title VII that permits an employer to retaliate against one of its employees for

opposing an unlawful employment practice on the part of a former employer.