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## CONNECTICUT SUPREME COURT ISSUES THEIR DECISION ON CONNECTICUT JUD. BRANCH V. GILBERT

The Connecticut Supreme Court recently clarified in *Connecticut Jud. Branch v. Gilbert* that the Commission on Human Rights and Opportunities (“CHRO”) can award damages pursuant to federal laws prohibiting employment discrimination and retaliation. The question before the Court was whether the CHRO has the authority to award emotional distress damages and attorney’s fees for violations of Title VII of the Civil Rights Act of 1964 (“Title VII”) where the federal claims form the factual basis of an employee’s claim under the Connecticut Fair Employment Practices Act, Conn. Gen. Stat. § 46a-58(a). Section 46a-58(a) prohibits any person from depriving any other person of rights secured by law, including federal law, on account of the victim’s membership in a protected class. The Court reasoned that because Section 46a-58(a), originally enacted in 1884, includes redress for violations of federal law, and because Section 46a-86(c) gives the CHRO authority to award damages for discriminatory practices under Section 46a-58, the CHRO can award damages available under Title VII to remediate a violation of Section 46a-58. The Supreme Court’s decision leaves no debate that the CHRO has authority to award emotional distress damages and attorneys’ fees in Title VII employment

discrimination and retaliation cases. *Gilbert* represents a further expansion of the authority vested in CHRO hearing officers to award damages following the 2019 revision to the Connecticut Fair Employment Practices Act permitting the CHRO to award economic damages and reasonable attorneys’ fees and costs for state law discrimination claims.

The *Gilbert* decision also addressed the specific damages awarded by the referee in the proceeding below. Although the Court found the CHRO is authorized to award emotional distress damages under Title VII, it nevertheless found flaws in the CHRO referee’s path to award emotional distress damages in this particular case. Specifically, the complainant declined to produce medical records substantiating her emotional distress damages during the CHRO discovery process, opting instead to pursue garden variety emotional distress damages without the aid of documentary and testimonial evidence to back up her claim. Despite this failing, the referee still heard evidence concerning the complainant’s treatment and medications, both of which the Court said went beyond the scope of relevant evidence on a claim for only garden variety emotional distress. The Court remanded the case back to the CHRO for a new hearing in damages on complainant’s emotional distress claims.