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Hello,

**RELATIVES AND FRIENDS PROTECTED BY TITLE VII
RETALIATION PROVISION**

In a recent decision, the Sixth Circuit Court of Appeals has expanded the protection of Title VII's retaliation provision to persons who have not engaged in protected activity, but are family members, friends and other persons closely associated with the charging party.

North American Stainless, LP terminated Eric Thompson shortly after his fiancé, who was also employed with the company, filed a discrimination charge with the EEOC. Thompson sued the company alleging that it had retaliated against him in violation of Title VII because his fiancé had filed the charge. The Sixth Circuit entertained the question of whether Title VII prohibits employers from taking retaliatory action against employees not directly involved in protected activity, but who are so closely related to or associated with those involved, that it is clear the protected activity motivated the adverse action. The Court recognized that the plain language of the statute does not include protection of third parties, but stated, "There is no doubt that an employer's retaliation against a family member after an employee files an EEOC charge would... dissuade 'reasonable workers' from such an action" and undermine the purposes of Title VII.

The dissent characterized the ruling as legislating from the bench since the plain language of Title VII directs protection only to the employee who has engaged in protected activity.

Other circuits, including the Third, Fifth, and Eighth Circuits have rejected similar attempts to expand the law. The Sixth Circuit decision creates a circuit split that will likely be reviewed by the U.S. Supreme Court.

Practical Pointer: Employers in Michigan, Ohio, Kentucky and Tennessee (those states covered by the Sixth Circuit) should take precaution when considering the termination of an individual closely associated with an employee who has filed a charge or engaged in other protected activity. The decision makes it very easy for not only family members, but boyfriends, girlfriends, or even best friends to make a claim arising out of another employee's protected acts.

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