

# HR Case Studies



## Retaliation

Learning from other companies' mistakes can help you know what to avoid when it comes to retaliation issues. These case studies share real-life examples of companies that retaliated against employees. By knowing these pitfalls and following the HR tips provided by Express, you can be assured that you have the information you need to avoid retaliation claims. Contact Express Personnel Services for more information on this and other HR issues.

### Employee Awarded \$140,000 in Compensatory and Punitive Damages

An employee who worked as a welder for a small company was awarded \$140,000 because of a hostile work environment, constructive discharge and retaliation.

The employee, an African American, filed an EEOC claim after a new employee who he trained was promoted to a leadership position that made more money. Shortly after filing the claim, the employee was subjected to racial slurs and jokes that eventually caused the employee to resign. Evidence proved that the employee was so isolated after filing his EEOC claim that it was reasonable for the jury to believe that the defendants intended for the plaintiff to quit.

#### What can we learn from this?

First of all, you need to be fair and consistent with your employment practices such as promotions and salary increases. Next you need to have a strong policy that prohibits any type of retaliation against an employee who files a complaint and make sure the policy is communicated to all employees. Once an employee complains of harassment or discrimination, you should take extreme care to ensure the employee does not suffer any type of adverse job action because of the complaint.

### Retaliation Against Unfounded Harassment Claim

The lead captain at a correctional complex requested sex from a subordinate female correctional officer. Requests for sex were made both in person and through the state's e-mail system. When the employee complained about the sexual harassment, the company suspended and demoted the lead captain. However, the company failed to advise the lead captain about its retaliation policy. Friends of the lead captain made very inappropriate comments about the plaintiff and stated they were going to "get her." The employee complained about the retaliation, but the employer did not investigate at that time. Eventually, the company conducted an investigation. The employer's investigator recommended disciplinary action against one of the employees who was retaliating. However, the superintendent of the correctional complex did not take any disciplinary action. It was also learned that none of the employees were aware that the company had a policy prohibiting retaliation. The jury found the defendant not liable for the sexual harassment, but liable for the retaliation.

#### What can we learn from this?

Even if discrimination/harassment is unfounded, employers can still be liable for retaliation. It is not only important that you have a policy prohibiting retaliation, but that you educate your employees about the policy and take immediate action upon learning of any retaliation.



## Retaliation

### Three separate companies paid a total of \$570,000 in EEOC settlements for unlawful retaliation

The first company fired a female employee for exercising her right to complain of what she reasonably believed to be gender discrimination. She complained that the company only provided forklift training and certification to the male employees. The second company failed to investigate allegations of a vice president's sexually offensive conduct and terminated one of the females for complaining. The third company fired an employee for complaining to district managers about the sexual harassment that female employees under her supervision suffered from a male manager.

#### **What can we learn from this?**

As an employer, you should monitor how an employment decision affects an employee who files a complaint to ensure decisions are not based on retaliatory motives. You should also ensure that any adverse actions, such as terminations, are supported by documentation that clearly shows the nondiscriminatory reason for a specific action.