

EMPLOYEES WHO PROVIDE INFORMATION DURING AN INTERNAL
INVESTIGATION AND ARE SUBJECTED TO AN ADVERSE ACTION,
MAY BRING A RETALIATION CLAIM

In a unanimous decision, the Supreme Court has held that employees who answer questions during an employer's internal investigation can claim retaliation under Title VII of the Civil Rights Act. In *Crawford v. Metropolitan Govt. of Nashville*, No. 06-1595 (January 26, 2009), the Supreme Court ruled that an employee who does not initiate a discrimination claim either with her employer or the Equal Employment Opportunity Commission, but who answers questions in the employer's internal discrimination investigation, and then is subjected to adverse employment action is protected by the anti-retaliation provisions of Title VII.

In the *Crawford* case, the employer was conducting an investigation into rumors that its employee relations manager engaged in sexual harassment. During the investigation the Company asked a female employee, Crawford, if she had witnessed any inappropriate behavior by the alleged harasser. In response, the employee described several instances of sexually harassing behavior directed at her by the alleged harasser. Two other female employees also reported similar incidents. The employer took no action against the alleged harasser after the investigation, but fired the three female employees who provided information. Crawford then filed a retaliation claim under Title VII, indicating that she was terminated for her responses made in the investigation.

Title VII prohibits employers from retaliating against employees for opposing any practice prohibited by Title VII. In this case the lower courts had determined that the employees' situation did not fall under the Title VII protections. The Supreme Court disagreed and determined that Crawford's answering questions during the investigation qualified as the type of opposition protected under Title VII, even though the employee did not initiate a complaint directly.