

# Employment Law Alert: U.S. Supreme Court Lowers the Bar for Establishing Retaliation Under Title VII

June 23, 2006

Yesterday, the U.S. Supreme Court expanded the kind of employment actions that can be considered illegal retaliation under Title VII of the Civil Rights Act of 1964. In *Burlington Northern & Santa Fe Railway Co. v. White*, the Court stated illegal retaliatory actions could include anything that is “materially adverse to a reasonable employee or job applicant” and further explained “that means that the employer’s actions must be harmful to the point that they could well dissuade a reasonable worker from making or supporting a charge of discrimination.” This new, broader formulation of what constitutes retaliation is expected to make defending against retaliation claims more challenging for employers. Avoiding actions that could prompt retaliation claims will require extra vigilance from employers, who must now consider whether employment actions that do not result in a loss of pay, benefits, or privileges could be perceived as materially adverse.

Look for more information about this case in next month’s About Management Newsletter or contact any of [McGlinchey Stafford’s labor and employment law attorneys](#).