



Litigation Alert

RETALIATION IS EASIER TO PROVE!

Is your Management Team Prepared to Handle Employee Complaints About Discrimination or Retaliation?

The United States Supreme Court has made it even easier for employees to win retaliation cases even where the retaliation does not result in a termination. This decision widens the window of opportunity for an employee to show retaliation where the employer's actions create a "materially adverse" employment action that "might have dissuaded a reasonable worker" from complaining about discrimination. Employers should prepare to guide their managers through this new twist in the area of employment law.

Some examples of the type of "materially adverse" employment actions include:

- ✓ Giving the employee a less than favorable evaluation
- ✓ Giving the employee a less than favorable schedule change
- ✓ The employee is counseled about performance issues, but is not terminated.

CAN YOU AFFORD TO WAIT 3-YEARS FOR A TRIAL DATE?

The docket of Colorado's Federal Court is full. Attorneys are finding that they could be waiting for 3-years to get a trial date in federal court. This raises the question: *Do your contractual agreements contain a mandatory arbitration clause for disputes?*

CREDITORS CAN SUE CORPORATIONS TO PAY THE DEBTS OF SHAREHOLDERS

The Colorado Supreme Court has given creditors another tool to use in collecting unpaid debts. *In some very limited circumstances, creditors are now allowed to "reverse pierce" a corporation and seek payment of a shareholder's individual debt directly from a corporation the shareholder controls.* This is another version of "piercing the corporate veil," which allows courts to disregard the corporate form when a corporation and shareholder are essentially one in the same entity.

"Reverse piercing" allows a court to disregard the corporate form and allow liability to be imposed on the corporation for the acts of a dominant shareholder or other controlling corporate insiders. The circumstances are limited to situations where the individual shareholder is the alter ego of the corporate entity and is using the corporate entity to shield himself from creditors. *Creditors of individuals should now evaluate whether that individual has used a related company to help hide his assets from creditors.*

For Further Information

This advisory bulletin is a complimentary service to Minor & Brown PC clients. Please contact our Litigation Team, Kim Ritter (kritter@minorbrown.com) or John Logan (jlogan@minorbrown.com), for additional information.