HINSHAW

Supreme Court Holds FLSA Retaliation Provision Protects Oral Complaints

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An employee verbally complained to his employer about the location of the employer's time clock. He contended that the employer unlawfully denied employees compensation for time spent donning protective gear required for the job by placing the time clock away from the dressing area. The employee "raised a concern" with his supervisor and expressed that "it was illegal for the time clocks to be where they were." He further asserted that he "was thinking about starting a lawsuit about the placement of the time clocks." The employee was subsequently terminated. The employee sued, arguing that he was terminated in retaliation for "filing a complaint," in violation of the Fair Labor Standards Act's (FLSA) anti-retaliation provision. The employer argued that the anti-retaliation provision, which covers employees who have "filed any complaint," only protects employees who have made a written complaint relating to the FLSA. The U.S. Supreme Court rejected the employer's argument, holding that the FLSA's anti-retaliation provision extends to oral complaints, such as those made by the employee. The Court found that the anti-retaliation's purpose is to prevent "fear of economic retaliation from inducing workers quietly to accept substandard conditions." That purpose would be inhibited if the FLSA only protected written complaints because some workers may be unable to reduce their complaints to writing. Furthermore, oral methods of receiving complaints, such as hotlines, would be ineffective and the use of informal workplace grievance procedures would be discouraged. Accordingly, the Court construed the "filed any complaint" provision broadly to cover oral as well as written complaints. Employers should note the Supreme Court's ruling that the FLSA's anti-retaliation provision affords the same protections as to oral complaints concerning alleged FLSA violations as it does for written complaints, and ensure that employees are not subject to adverse employment actions for making such complaints by either mode of communication.

Topics

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