

Sixth Circuit: Retaliation Claim Fails if Decision-Maker is Unaware of Complaints

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The U.S. Court of Appeals for the Sixth Circuit has held that a terminated Hispanic employee working as the director of global finance for an auto parts company in Michigan could not sustain a retaliation claim because he was unable to show that the managers who fired him were aware of his complaints to HR about disparaging remarks.

The employee claimed that his employer violated Title VII of the Civil Rights Act of 1964, as amended, by terminating him after he complained to human resources for being subjected to racially and ethnically derogatory comments made in his presence by a co-executive employee. The Sixth Circuit **granted the employer's motion for summary judgment** on the grounds that the employee could not state a *prima facie* retaliation claim. The appellate court specifically found that he could not establish that the management-level employees who recommended his termination had knowledge of the employee's protected activity (i.e., complaining about racially disparaging remarks concerning his Hispanic heritage). The Court also rejected the employee's claim that the complaint to human resources was imputed to the decision makers and therefore the retaliatory motive could be established.

When investigating complaints of harassment, discrimination, and/or retaliation, it is a good idea to share the nature, extent, and results of the investigation with others on a need-to-know basis, as knowledge may serve to either help or hurt an employer's defense of such claims.

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