



**FCRA WAGE PROJECT
CHAPTER 11: RETALIATION/REPRISAL
[ALL-IN-ONE DOCUMENT]**

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FCRA WAGE PROJECT

CHAPTER: 11 RETALIATION/REPRISAL

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ITEMS: A through G



11-0 | CHAPTER INTRO - RETALIATION/REPRISAL

I think my employer fired me because I filed a sex discrimination claim.

- a. What is retaliation or reprisal, and how do I prove it?
- b. For what reasons can I be fired?
- c. What is "protected conduct"?
- d. How do I show that my legally protected conduct led to my discharge?
- e. Did my employer retaliate against me by taking an "adverse action"?
- f. What could my employer do to deny my allegations, and how do I respond to its denials?
- g. What evidence must I show to prove that my "protected conduct" led to my being fired?
- h. If I prove retaliation, what kind of remedies am I entitled to? (New window to Remedies)
- i. My employer has fewer than fifteen employees - is there anything I can do? (New window to WDTLS)
- j. Is there a time limit for when I can file a claim with the ECHR? (New window to WDTLS)

(unknown authors)



11-A | WHAT IS RETALIATION OR REPRISAL, AND HOW DO I PROVE IT?

You have experienced retaliation if:

1. you engaged in a protected activity;
2. you suffered an adverse employment action; and
3. the adverse employment action you suffered was caused by your protected activity.⁷²

(unknown authors)

Footnotes

⁷² Snoke, 43 F. Supp. 2d at 1328.



11-B | FOR WHAT REASONS CAN I BE FIRED?

Rejection of an applicant or termination of an employee when the individual has failed to meet bona fide requirements for the position is not unlawful.⁷³ Furthermore, employee misconduct is also a justifiable reason for termination.⁷⁴

(unknown authors)

Footnotes

⁷³ Fla. Stat. Ann. §760.10(8)(b).

⁷⁴ *Brown Distributing Company of West Palm Beach*, 890 So. 2d at 1231.



11-C | WHAT IS "PROTECTED CONDUCT"?

If you oppose any action in violation of the FCRA (http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0760/ch0760.htm), or make a charge of discrimination against your employer, your conduct is protected. Likewise, if you have participated, testified, or assisted in an investigation or hearing under the FCRA, your conduct is also protected.⁷⁵

(unknown authors)

Footnotes

⁷⁵ Fla. Stat. Ann. §760.10(7)



11-D | HOW DO I SHOW THAT MY LEGALLY PROTECTED CONDUCT LED TO MY DISCHARGE?

At the very least, you must show that your employer was actually aware of your protected activity at the time of your discharge.⁷⁶

(unknown authors)

Footnotes

⁷⁶ Russell, 887 So.2d at 379-380.



11-E | CAN MY EMPLOYER RETALIATE AGAINST ME BY TAKING AN "ADVERSE ACTION"?

Your employer cannot take any discriminatory action against you because of your protected activity, and this includes (but is not limited to) termination.⁷⁷

(unknown authors)

Footnotes

⁷⁷ See Russell, 887 So.2d 372, 379-380.



11-F | WHAT COULD MY EMPLOYER DO TO DENY MY ALLEGATIONS, AND HOW DO I RESPOND TO THEIR DENIALS?

Once you establish your case, your employer must give a legitimate, non-discriminatory reason for its actions. You must then show that the reasons your employer has provided are false. (See question g) [78](#)

(unknown authors)

Footnotes

⁷⁸ Snoke, 43 F. Supp. 2d at 1327-1328.



11-G | WHAT EVIDENCE MUST I SHOW TO PROVE THAT MY "PROTECTED CONDUCT" LED TO MY BEING FIRED?

You must ultimately demonstrate that the reason your employer has stated for discharging you is a pretext for retaliation. For example, if after making your complaint, you are terminated for leaving work early but you but you believed you had permission to do so, this may be sufficient to demonstrate pretext on the part of your employer.⁷⁹

(unknown authors)

Footnotes

⁷⁹ See Russell, 887 So.2d 372, 379-380.



APPENDIX



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