

9-D | FALSE MOTIVE: THE MCDONNELL DOUGLAS CORP. V. GREEN BURDEN SHIFTING ANALYSIS

Where an employee establishes a prima facie case of retaliation, courts analyze the claim under the McDonnell Douglas Corp. v. Green, 411 U.S. 791 (1973), framework. The employer has the burden of producing evidence that it had a nonretaliatory, legitimate reason for its actions, i.e., insubordination, poor performance, lack of qualifications, reorganization. If the employer presents proof of a legitimate, nonretaliatory reason for its action, the employee has an opportunity to prove pretext, or that the employer is not being truthful. This effort frequently includes evidence that the employer treated the employee differently than similarly situated employees. The employee will seek to present evidence that creates disbelief of the employer's proffered reason. Of uppermost importance is the temporal relationship between the protected conduct and the adverse action. Actions closer in time enhance an employee's case, and vice versa.

*(American Bar Association // Section of Labor and Employment Law
Equal Employment Opportunity Committee // EEO Law Basics // Spring 2006)*

