



Client Alert

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**CALIFORNIA SUPREME COURT EXPANDS DEFINITION OF
“ADVERSE EMPLOYMENT ACTION” THAT MAY CONSTITUTE UNLAWFUL
RETALIATION BY AN EMPLOYER AGAINST AN EMPLOYEE WHO
HAS REPORTED OR OPPOSED HARASSMENT OR DISCRIMINATION**

Yanowitz v. L’Oreal (August 12, 2005) 2005 DJDAR 9664

On August 12, 2005, the California Supreme Court held that an employee may establish an actionable claim of retaliation under the Fair Employment and Housing Act if the employer has engaged in adverse treatment of the employee that is reasonably likely to impair a reasonable employee’s job performance or prospects for advancement or promotion.

The essential facts and evidence resulting in the Court’s decision are as follows:

The plaintiff was a sales manager who did not obey her general manager’s order to fire a female associate because the associate was not sexually attractive to the general manager. When the plaintiff did not fire the female associate, the general manager began criticizing plaintiff’s managerial style, soliciting negative comments about plaintiff, and refused to allow plaintiff to respond to the negative criticism.

The Supreme Court held that the general manager’s order to fire the female associate was unlawful sex discrimination, and that plaintiff engaged in protected activity when she refused to follow the unlawful order. The Court concluded that the plaintiff had presented sufficient evidence to show that her employer systematically retaliated against her for her opposition to the general manager’s discriminatory order.

If you have any questions concerning the foregoing decision, please do not hesitate to contact me.

— *Patricia T. Castle, Counsel*

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