

HR TIP OF THE WEEK

TOPIC: Retaliation under the ADA, FMLA, Title VII / Employer Documentation

LEGAL DEVELOPMENT: Title VII, the ADA, and the FMLA all prohibit retaliation (an adverse action) against an employee for exercising their statutory rights. A lower standard applies to retaliation claims under Title VII, where an employee only needs to show that the adverse action “might have dissuaded a reasonable worker from making or supporting a charge of discrimination.” On June 24, 2026, in *Steidle v. United States Liability Insurance Co., Inc.*, the Third Circuit applied this “might have dissuaded” standard to ADA and FMLA retaliation claims. This means that an employee bringing a retaliation claim only needs to establish that the adverse action would dissuade a reasonable employee from requesting an ADA accommodation or FMLA leave. The Steidle Court found that receiving a lower bonus or salary bump could satisfy this standard. This lower standard makes it much easier to bring a retaliation lawsuit.

HR TIP: Retaliation claims are easier to prove than discrimination claims. Real-time documentation of why actions were taken, at that specific moment (when there has been a request for an accommodation, leave, or even after an internal complaint has been made), are imperative. As part of this documentation, clear and objective salary guides, with explanations as to employee placement on the guide, can act as a strategic defense against retaliation claims.

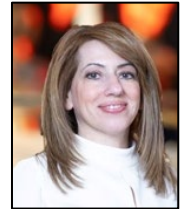
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ABOUT ME

I work with HR and legal on the types of workplace issues that make you do a double take. I've been counseling employers and tackling their employment issues for two decades and going strong. I'm a Partner at Genova Burns and Chair of the Human Resources, Law and Compliance Practice Group.



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