

Breaking News: Refusing To Allow An Employee To Rescind His Or Her Voluntary Resignation Can Get You Sued

November 21, 2015 | [Employment Discrimination, Currents - Employment Law](#)

Here is the scenario. Your employee decides to voluntarily resign. She gives plenty of notice. Before her scheduled end date, the employee provides information relevant to a sexual harassment investigation involving her supervisor. Before the scheduled end date, the employee tries to rescind her employment. The supervisor refuses. Here's the question: Is the refusal to allow the employee the opportunity to rescind her resignation an "adverse employment action" for purposes of a retaliation claim? It could be, at least according to the Fifth Circuit Court of Appeals. A similar scenario played out in *Porter v. Houma Terreboone Housing Authority*. According to the court: "Just as an at-will employer does not have to hire a given employee, an employer does not have to accept a given employee's rescission. Failing to do so in either case because the employee has engaged in a protected activity is nonetheless an adverse employment action." This is something employers need to be aware of. Remember: thoroughly investigate all work place harassment claims. Also, separate the subject of the investigation from any decisional process regarding the employee's employment. In a perfect world, the decision-maker would not have any knowledge regarding the employee's "protected activity."

RELATED PRACTICE AREAS

Arbitration and Grievances
EEO Compliance
Labor and Employment
Workplace Culture 2.0

RELATED TOPICS

harassment claims
Retaliation