

7th Circ. Ends Retaliation Suit Stemming From SEC Disclosure

By **Michael Angell**

Law360 (February 4, 2021, 2:00 PM EST) -- The Seventh Circuit nixed a challenge to an electronics maker's victory over a worker who claimed the company punished her for winning a prior gender discrimination case by calling her out in a U.S. Securities and Exchange Commission disclosure.

A three-judge panel Wednesday told an Illinois federal court to dismiss Maria N. Gracia's second Title VII claim against electronics manufacturer SigmaTron International Inc., holding that her case should never have gotten as far as it did. Gracia had appealed SigmaTron's summary judgment win.

"On this record, the only tenable conclusion is that Gracia lacks standing," Judge Michael Y. Scudder Jr. wrote for the panel. "And the absence of any injury in fact leaves us with no choice but to vacate the district court's ruling on the merits of Gracia's Title VII and to order the claim dismissed."

Gracia's July 2016 suit stemmed from SigmaTron's disclosure in its annual report that Gracia filed a U.S. Equal Employment Opportunity Commission complaint against SigmaTron in November 2008.

The disclosure added that Gracia was fired the next month for a manufacturing mishap with a customer's order.

Gracia said SigmaTron made the disclosure to retaliate against her for securing a \$300,000 jury award against the firm for her earlier discrimination and harassment complaint.

The appeals judges Wednesday said the timing of the disclosure following the verdict was enough for Gracia to make a plausible retaliation claim. Her claim survived SigmaTron's initial bid to dismiss, and went to discovery, the judges added.

However, the lower court handed the summary judgment to SigmaTron because Gracia told the court the disclosure didn't really hurt her reputation with her new employer, that she expected to remain in her new job and her new employer was satisfied with her work, the appeals judges said.

Gracia's statement raised the question of whether she even met the Article III threshold to bring a claim to begin with, the appeals judges said, because she didn't suffer any of the typical work-related harms of a retaliation suit.

While Gracia claimed emotional injury from the disclosure, the appeals judges said she isn't looking for another job, nor is she worried about losing her job.

"None of the injuries that most often accompany employment litigation — suspension, demotion, termination, lost wages and the like — is present here," the appeals judges said.

In addition to her retaliation claim, Gracia brought a state defamation claim against SigmaTron for the disclosure. However, the district court dismissed that claim because the disclosure could possibly be accurate or that SigmaTron was just stating its defense of her earlier lawsuit.

The appeals judges affirmed that dismissal, ruling that the lower court still had purview to rule on the state defamation claim through her federal Title VII claim, even if the latter should've been dismissed

early on.

Attorneys for Gracia did not respond to a request for comment.

Attorneys for SigmaTron did not respond to a request for comment.

Judges Frank H. Easterbrook, Daniel A. Manion and Michael Y. Scudder Jr. sat on the panel for the Seventh Circuit.

Gracia is represented by Kathryn E. Korn of the Kathryn E. Korn Law Office, and Hall Adams III of the Law Offices of Hall Adams LLC.

SigmaTron is represented by Tiffany Carpenter and Michael O. Fawaz of Howard & Howard Attorneys PLLC.

The case is Maria A. Gracia v. SigmaTron International Inc. et al., case number 19-1526, in the U.S. Court of Appeals for the Seventh Circuit.

--Editing by Neil Cohen.