

Employee Failed To Present Sufficient Evidence At Trial To Support Retaliation Claim

Article By:

Anthony J Oncidi

[*Nejadian v. County of Los Angeles*, 40 Cal. App. 5th 703 \(2019\)](#)

Patrick Nejadian sued his former employer, the County of Los Angeles, for age discrimination and retaliation and was awarded \$300,000 on the retaliation claims (arising under the FEHA and the Labor Code); the jury found no liability on the age discrimination claim. The Court of Appeal reversed the judgment on the ground that Nejadian had failed to present sufficient evidence to support his claims. The Court held that under Cal. Lab. Code § 1102.5(c), an employee is required to show that the activity in question *actually would* result in a violation or noncompliance with a statute, rule, or regulation, which is “a quintessentially legal question” for the trial court. Once it is determined by the court that the activity would result in a violation or noncompliance with a statute, rule, or regulation, the jury must then determine whether the plaintiff refused to participate in that activity and, if so, whether that refusal was a contributing factor in the defendant’s decision to impose an adverse employment action on the plaintiff. (The Court of Appeal acknowledged that the “Directions for Use” of CACI No. 4603 should include an explanation about this procedure.) In reviewing the evidence presented, the Court determined that “Nejadian mostly referred to the activities in generalities” and failed to present sufficient evidence to show that the activities in question would result in a violation of any specific state, federal, or local statute, rule, or regulation. Similarly, the alleged retaliation under the FEHA did not constitute protected activity because the conversation in which he told a coworker that he felt discriminated against based upon his age “was part of an informal discussion between coworkers, and [the coworker] did not report Nejadian’s statement to management.”

© 2025 Proskauer Rose LLP.

National Law Review, Volume IX, Number 316

Source URL: <https://natlawreview.com/article/employee-failed-to-present-sufficient-evidence-trial-to-support-retaliation-claim>