



January 24, 2005

## Notice and Invitation to File Amicus Curiae Briefs

The Board of Directors of the Office of Compliance is currently considering an appeal regarding the appropriate framework to be utilized in analyzing reprisal and intimidation claims raised pursuant to Section 207(a) of the Congressional Accountability Act, 2 U.S.C. 1317(a). The parties to this matter are not identified due to the confidentiality provisions of the Congressional Accountability Act. See Section 416(c), 2 U.S.C. 1416(c).

Specifically, the Board is considering whether the appropriate framework to be used may be that set forth in *McDonnell Douglas Corp. v Green*, 411 U.S. 792 (1973) applied in Title VII cases, or the framework applied by the Federal Labor Relations Authority in *Letterkenny Army Depot and IBPO, Local 358*, 35 FLRA 113 (1990).

Interested amici are invited to file briefs with the Board in Washington, D.C., which must be received on or before March 14, 2005, addressing questions regarding the appropriate standard of review as outlined below. No extensions of time will be granted for the filing of these briefs, which shall not exceed 30 pages in length without prior approval of the Board. Ten copies of the brief should be submitted to: Board of Directors, Office of Compliance, 110 2nd Street, SE, Room LA-200, Washington, D.C. 20540. Please note that, due to the requirement that mail be irradiated, first class mail and overnight package service deliveries to the Office of Compliance sometimes take several weeks. If you wish further information regarding delivery of briefs to the Office, call the Office at 202-724-9250.

The parties to the appeal pending before the Board shall be provided the opportunity to file responses to these briefs on or before March 28, 2005. The parties' response briefs may not exceed 10 pages.

Submitted briefs should address any one or all of the following issues:

1. Should a single framework be adopted for all claims raised pursuant to Section 207(a) of the Congressional Accountability Act, or should an approach be adopted by which the tribunal would look to the framework(s) applied to claims of retaliation under the laws made applicable to the Legislative Branch by the Congressional Accountability Act?

2. If the second approach set forth in question #1 is adopted, how should it apply when a Section 207(a) claim involves activity that is allegedly protected under laws to which different analytical frameworks apply, e.g., the claim asserts that retaliation or intimidation occurred because of activity allegedly protected by Section 201(a) and by Section 220(a) of the Congressional Accountability Act ?
3. If a single framework is adopted for all Section 207(a) claims, should the *McDonnell Douglas*, *Letterkenny Army Depot*, or other framework be adopted as the framework for analyzing reprisal claims raised pursuant to Section 207(a) of the Congressional Accountability Act?
4. What employment actions constitute "adverse actions" for reprisal claims under Section 207(a)?
5. If the *McDonnell Douglas* framework is adopted, to what extent does *Desert Palace, Inc. v. Costa*, 539 U.S. 90 (2003) affect that framework as applied to reprisal claims under Section 207(a), specifically those that involve a mixed-motive claim?

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