

discrimination action against prior employer warranted inference that defendant's refusal to hire was retaliatory), cert. denied, 502 U.S. 1013 (1991).

29 957 F.2d 424 (7th Cir.), cert. denied, 506 U.S. 906 (1992).

30 See also *Johnson v. Palma*, 931 F.2d 203 (2d Cir. 1991) (union's refusal to proceed with plaintiff's grievance after he filed race discrimination complaint with state agency constituted unlawful retaliation).

31 ___ U.S. ___, 117 S. Ct. 843 (1997).

32 The ADA, unlike the other anti-discrimination statutes, prohibits retaliation against "any individual" who has opposed discrimination based on disability or participated in the charge process. 42 U.S.C. § 12203.

33 See, e.g., *EEOC v. L. B. Foster*, 123 F.3d 746 (3d Cir. 1997), cert. denied, 66 U.S. L.W. 3388 (U.S. March 2, 1998); *Ruedlinger v. Jarrett*, 106 F.3d 212 (7th Cir. 1997).

34 *Hashimoto v. Dalton*, 118 F.3d 671, 676 (9th Cir. 1997).

35 *EEOC v. L. B. Foster*, 123 F.3d at 754.

36 See *Ledergerber v. Stangler*, 122 F.3d 1142 (8th Cir. 1997) (reassignment of plaintiff's staff, with attendant loss of status, did not rise to level of ultimate employment decision to constitute actionable retaliation); *Mattern v. Eastman Kodak Co.*, 104 F.3d 702 (5th Cir.) (anti-retaliation provisions only bar "ultimate employment actions" that are retaliatory; harassment, reprimands, and poor evaluation could not be challenged), cert. denied, 118 S. Ct. 336 (1997).

37 See, e.g., *Munday v. Waste Management of North America*, 126 F.3d 239 (4th Cir. 1997) (employer's instruction to workers to shun plaintiff who had engaged in protected activity, to spy on her, and to report back to management whatever she said to them did not adversely affect plaintiff's terms, condition, or benefits of employment and therefore could not be challenged), cert. denied, 118 S. Ct. 1053 (1998).

38 *Hashimoto*, 118 F.3d at 676. See also *EEOC v. L. B. Foster*, 123 F.3d at 754 n.4 (plaintiff need not prove that retaliatory denial of job reference caused prospective employer to reject her; such a showing is relevant only to damages, not liability); *Smith v. Secretary of Navy*, 659 F.2d 1113, 1120 (D.C. Cir. 1981) ("the questions of statutory violation and appropriate statutory remedy are conceptually distinct. An illegal act of discrimination -- whether based on race or some other factor such as a motive of reprisal -- is a wrong in itself under Title VII, regardless of whether that wrong would warrant an award of [damages]").

39 See, e.g., *Knox v. State of Indiana*, 93 F.3d 1327, 1334 (7th Cir. 1996) ("[t]here is nothing in the law of retaliation that restricts the type of retaliatory act that might be visited upon an employee who seeks to invoke her rights by filing a complaint"); *Passer v. American Chemical Society*, 935 F.2d 322, 331 (D.C. Cir. 1991) (Section 704(a) broadly prohibits an employer from discriminating against its employees in any way for engaging

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