

Retaliation

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Common Issues

- ▶ Statutory based
- ▶ Procedural pre-requisites
- ▶ Damages
- ▶ No underlying violation required

2

Prima Facie Case

- ▶ Engagement in protected activity

3

Participation/Opposition

- ▶ Participation protects access
 - Filing a charge
 - Being interviewed in an investigation
 - Testifying in a proceeding
- ▶ Opposition protects protest of improper activities
 - Agency action generally not required

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First appeared as part of the conference materials for the
2017 Essential Employment Law: A Practical Course in the Basics session
"Retaliation: Winning the Battle, Losing the War"