

## **FLSA Complaints can be Oral Rules Supreme Court**

The U.S. Supreme Court ruled on March 22, 2011 that the Fair Labor Standards Act's (FLSA) anti-retaliation provisions apply to both oral and written complaints. The Court said that the plain language of the law, "filed any complaint" is broad enough to include both oral and written complaints. *Kevin Kasten v. Saint-Gobain Performance Plastics Corporation*, Docket No. 09-834, March 22, 2011.

Kevin Kasten was fired after complaining that the company's time clocks were put in locations that kept him and his co-workers from being paid for the time spent donning and doffing protective gear. He won a related suit on the issue of being paid for donning & doffing gear. In this lawsuit, he argues that he was fired in retaliation for his numerous complaints about the time clocks.

He complained verbally by alerting his supervisor to the problem with the clocks' locations. He made similar complaints to the human resources office and to the lead operator. Saint-Gobain argues that Kasten did not make any significant complaints about the clocks; instead he was fired for failing to use the time clocks after repeated warnings.

The Seventh Circuit ruled that the word "filed" meant "written" and therefore the FLSA's anti-retaliation provisions did not extend to Kasten, because he did not write anything down. The Supreme Court overturned the Seventh Circuit, finding that the word "file" is broad enough to include oral and written complaints.

The Court said that several dictionary definitions of "file" contemplate verbal filing as well as written and that legislators, administrators and judges have all sometimes used the word "file" to include verbal statements. The Court also looked to Congress's intent in writing the law and concluded that oral complaints were meant to be covered.

The Court remanded the case for further consideration. Justice Stephen Breyer authored the 6-2 decision; Justice Kagan did not participate.