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New York Law Journal Article by Yankwitt LLP Examines Recent Decision That Considers Damages Demand as Source of Retaliation Claim

In an article published today in the *New York Law Journal*, Yankwitt LLP [employment](#) attorney [Michael Reed](#) examines a recent decision in the Southern District of New York that considers whether an employer’s damages demand constitutes retaliation under the Fair Labor Standards Act (“FLSA”) or the New York Labor Law (“NYLL”).

The case, *Robinson v. De Niro*, No. 19-CV-09156 (LJL), 2023 WL 4862772 (S.D.N.Y. May 25, 2023), involves Robinson, a former employee of Canal Productions who was alleged to have improperly charged personal expenses to Canal. Robinson’s counsel sent Canal a demand letter asserting claims of discrimination, hostile work environment, and wage and hour violations, after which Canal filed a lawsuit against Robinson seeking \$6 million in damages.

Judge Lewis J. Liman carefully considered the record. He then sought to apply the FLSA and NYLL’s retaliation provisions in such a way as to respect the First Amendment’s guarantee of the right to “petition the Government for a redress of grievances.” Judge Liman found that there was not enough evidence for a jury to find retaliation in Robinson.

Michael concludes the article with takeaways that wage and hour practitioners should consider.

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