



A newsletter for the friends  
& clients of Thorsey Law Firm

A PROFESSIONAL LIMITED LIABILITY COMPANY

March 2008  
Editor: A. Richard Thorsey

### **VA Supreme Court Clarifies Recovery Under Worker's Compensation Act.**

The VA Supreme court issued a critical ruling for employers and employees alike when in January it held in *Hilton v. Martin, 2008 Va. LEXIS 18* that injuries occurring in the workplace must arise out of the conditions under which the employer requires the work to be done in order to limit the victim's recovery to that provided by the Worker's Compensation Act.

In *Hilton*, an ambulance service employee was engaging in horseplay with a charged defibrillator and shocked a fellow employee. The employee ultimately died of electrocution and cardiac arrest. The Court stated the regardless of the assailant's motivation, the injury must arise from a causal connection between the injury and the employer's workplace requirements. The assault must be directed to the

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victim as an employee and not personal to the employee to limit recovery to those provided for by worker's compensation. This case established that employer's can be held liable for injuries caused by employee behavior if there is no connection between the injury and the requirements of the position.

### **U.S. Supreme Court to Consider Whether Additional Retaliation Protections Against Racial Discrimination May Be Found**

The U.S. Supreme Court granted certiorari in the case of *Humphries v. CBOCS West, Inc.* to determine whether there is additional protection for employee's who claim retaliation for complaints of racial discrimination in 42 U.S.C.A §1981. If the Court finds there are additional protections within the statute in

addition to those under Title VII, plaintiffs will have another avenue to support their legal claims of unlawful retaliation by their employer.

### **Supreme Court Ruling Allows Employees to Sue Over 401(k) Misconduct**

The U.S. Supreme Court ruled unanimously in *LaRue v. DeWolff and Boberg & Associates Inc.* to allow employees to sue over the mismanagement of their 401(k) accounts. In his opinion, Justice John Paul Stevens said that courts should "interpret employee benefits law" as giving employees the right to sue over administrative issues with their specific accounts.

The decision protects the savings of those with 401(k) plans from mismanagement and fraud. Currently, over 50 million employees have invested nearly \$3 trillion in 401(k) accounts.



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