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Jury Returns Verdict for Vanguard in Retaliation Case Based Upon Absence of "Reasonable Good Faith Belief": Vanguard and Morgan Lewis Defense Team Win an Important E.D.P.A. Trial Victory, *Russell v. Vanguard*

Philadelphia, April 2, 2007: Mary Pat Russell, an IT Project Manager, challenged the decision of her former employer, The Vanguard Group, Inc., to terminate her employment for insubordination and poor job performance by filing a retaliation lawsuit in the U.S. District Court for the Eastern District of Pennsylvania. In 2003, Russell, who is African American, was considered for a promotion to System Manager. The position ultimately went to another employee, also African American, who became her manager. She was placed on an Oral Warning in May of 2003, a Written Alert in June of 2003, and a Formal Warning in July of 2003. Beginning in June of 2003, Russell complained to the CEO, the VP of HR, and the head of IT, among others, that her manager and his manager (who was white) had discriminated against her on the basis of her race, age, and gender. In her lawsuit filed in 2004, Russell alleged that her termination was motivated by retaliation for making these internal complaints and for filing two EEOC charges against prior managers.

On Friday, March 30, 2007, following a 7-day trial before Judge Louis H. Pollak, the 12-person jury returned a unanimous verdict in favor of Vanguard. The jury was required to answer up to three jury interrogatories, including whether Russell had a reasonable, good faith belief that her complaints related to unlawful discrimination. After deliberating for one hour, the jury came back with the following question: "Does the use of the word 'reasonable' in question number one mean: (a) do we believe that the plaintiff felt her opinions of discrimination were reasonable, or (b) do we believe that a reasonable person in the same circumstances would feel they were being discriminated against?" Judge Pollak instructed the jury that the answer was (b). Ten minutes later, the jury returned its verdict. The jury decided that Russell did not have a reasonable, good faith belief and did not reach the questions of causation and pretext.

The case was tried by Morgan Lewis attorneys Joe Costello and Tamsin Newman. They were supported by Catherine Cugell, Cailin Heilig, Mariann Cheung, and Toni Appel. Prior to trial, the case was also handled by former Morgan Lewis associate Pam Jenoff.