STEVEN COLLOTON ON LABOR

Highlights:

- Steven Colloton has a history of anti-labor rulings, undermining workplace and consumer protections.
  - Colloton voted to vacate an $8.1 million award for whistleblowers who exposed corporate fraud.
  - Colloton reversed two class action judgments against Tyson Foods for violating the Fair Labor Standards Act.
  - Colloton was a deciding vote in ruling that racial profiling and harassment of customers was not an interference with their right to contract.
  - Colloton ruled that public employees could not claim that they were retaliated against for their political speech.
  - Colloton repeatedly ruled against giving employees the opportunity to prove in court that their employers retaliated against them for filing discrimination claims.

Colloton Has A History Of Anti-Labor Rulings, Undermining Workplace And Consumer Protections

COLLOTON VOTED TO VACATE AN $8.1 MILLION AWARD FOR WHISTLEBLOWERS WHO EXPOSED CORPORATE FRAUD

The Eighth Circuit Vacated An $8.1 Million Award For Whistleblowers Who Exposed Corporate Fraud. According to Reuters, "A divided appeals court vacated an $8.1 [million] award giving two whistleblowers their share of a $48 million deal that Cisco Systems Inc and Comstor reached with the federal government to settle fraud allegations. In a 6-2 ruling Monday, an en banc panel of the 8th U.S. Circuit Court of Appeals said the whistleblowers may not deserve the award because it's unclear whether the False Claims Act charges resolved in the settlement were based on what the whistleblowers alleged." [Reuters, 10/5/15]

Colloton Voted With The Majority To Vacate The Award. According to the Daily Beast, "Colloton, a former law clerk to Chief Justice Rehnquist, has a consistent pro-business, anti-labor, anti-civil-rights record as a judge. As the liberal group People for the American Way reported, he reversed an $8.1 million award to a whistleblower who exposed corporate fraud and reversed a $19 million judgment in a class action against Tyson Foods for violating the Fair Labor Standards Act." [Daily Beast, 4/11/17]

COLLOTON REVERSED TWO CLASS ACTION JUDGMENTS AGAINST TYSON FOODS FOR VIOLATING THE FAIR LABOR STANDARDS ACT

An Appeals Court Reversed Two Class Action Judgments Against Tyson Foods For Violating The Fair Labor Standards Act. According to Bloomberg Law, "Tyson Foods Inc. is off the hook for nearly $24 million previously awarded to workers at two Nebraska plants who alleged federal and state law wage violations, the U.S. Court of Appeals for the Eighth Circuit ruled in two decisions Aug. 26 (Acosta v. Tyson Foods, Inc., 2015 BL 274716, 8th Cir., 14-1582, 8/26/15; Gomez v. Tyson Foods, Inc., 8th Cir., 13-3500, 8/26/15)." [Bloomberg Law, 9/8/15]

Colloton Wrote That There Was Insufficient Evidence That Tyson Violated The Fair Labor Standards Act. According to Reuters, "Writing for a three-judge appeals court panel, Circuit Judge Steven Colloton found insufficient evidence of an agreement for Tyson to pay wages sought by the Madison workers, and no evidence of such an agreement for the Dakota City workers. He said the district court misinterpreted the Nebraska Wage Payment and Collection Act, which lets workers sue for unpaid wages. As a result, Colloton said the Tyson workers' claims failed as a matter of law." [Reuters, 8/26/15]

COLLOTON WAS A DECIDING VOTE IN RULING THAT RACIAL PROFILING AND HARASSMENT OF CUSTOMERS WAS NOT AN INTERFERENCE WITH THEIR RIGHT TO CONTRACT

In Gregory v. Dillard's, Black Shoppers At A Department Store Claimed That They Were Surveilled Due To Their Race. According to Race, Racism and the Law, "In the Eighth Circuit Court of Appeals case Gregory v. Dillard's, black shoppers entering the Dillard's retail store in Columbia, Missouri claimed that they were entering a different store than white shoppers. They entered a store where a special security code was often announced when they crossed the threshold, where store employees closely followed them, and where they were suspected of being shoplifters solely based on the color of their skin." [Race, Racism and the Law, 1/18/13]

Colloton Ruled That If Racially Discriminatory Surveillance Or Harassment Did Not Prevent A Customer From Making A Purchase, The Retailer Did Not Violate Public Accommodation Laws. According to Outten & Golden LLP, "Defendant did not dispute for summary judgment purposes that the surveillance paractices were racially motivated. Instead, it disputed that the customers entered a 'contract' with the store by shopping there. Because the customers were not prevented from carrying out transactions by the store -- for the most part, the plaintiffs left the store in disgust or frustration of their own accord -- the district court held that no 'contract' was formed within the meaning of section 1981. The original three-judge panel had substantially reversed that decision, with Judge Murphy writing for the majority, and Judge Colloton dissenting. The six-judge majority en banc affirms the decision below entirely. The majority opinion, signed this time by Judge Colloton, holds that to keep faith with the term 'contract,' some threshold beyond mere browsing through merchandise had to be met. To state a claim, a shopper 'must show an attempt to purchase, involving a specific intent to purchase an item, and a step toward completing that purchase.' And '[t]o the extent that the plaintiffs urge us to expand our interpretation of the statute . . . and to declare that a shopper need only enter a retail establishment to engage in protected activity under § 1981, we decline to do so.'" [Outten & Golden LLP - archived, 5/11/09]

COLLOTON RULED THAT PUBLIC EMPLOYEES CAN NOT CLAIM THAT THEY WERE RETALIATED AGAINST FOR THEIR POLITICAL SPEECH

Colloton Ruled That Public Employees Could Not Claim That They Were Retaliated Against For Their Political Speech. According to the Daily Beast, "Colloton also ruled that police may use police dogs to bite and hold suspects, voted against a group of Native Americans in a Voting Rights Act case, and held that public employees should not be able to claim that they were retaliated against for their political speech." [Daily Beast, 4/11/17]

Colloton Repeatedly Ruled Against Giving Employees The Opportunity To Prove In Court That Their Employers Retaliated Against Them For Filing Discrimination Claims

Colloton Repeatedly Ruled Against Giving Employees The Opportunity To Prove In Court That Their Employers Retaliated Against Them For Filing Discrimination Claims. According to People for the American Way, "In three separate cases, he dissented from decisions that employees should at least get the chance to prove in court that their employers retaliated against them for filing sex harassment, age discrimination, or other discrimination claims. In two more decisions, he argued in dissent that public employees should not have the opportunity to prove that they were retaliated against for speaking out in violation of their First Amendment rights." [People for the American Way - archived, accessed 6/24/24]