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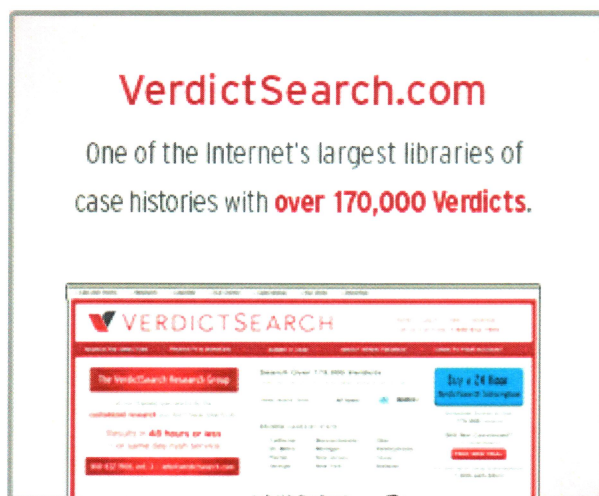
Kolchinsky v. Moody's Corp.

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Judge Paul A. Crotty

Kolchinsky oversaw Moody's Corp.'s asset backed securities collateralized debt obligations (ABS CDO) products. He alleged retaliation after reporting concerns over Moody's violation of securities law by rating ABS CDOs—and another transaction—using outdated methodology. Kolchinsky's second amended complaint reasserted claims for defamation, tortious interference and intentional infliction of emotional distress. It added a claim for violation of the anti-retaliation provisions of the Sarbanes-Oxley Act. Only Kolchinsky's SOX claim survived dismissal. Two of the four elements required to state a claim for violation of SOX's anti-retaliation provisions, as outlined in *Fraser v. Fiduciary Trust Co. Int'l*, were met. However the court rejected Moody's argument that because he was suspended with pay, Kolchinsky did not suffer an adverse employment action and thus failed to allege the third element's satisfaction. Repeating Kolchinsky's allegations of actions taken against him, the court determined that Kolchinsky sufficiently alleged that Moody's took "unfavorable personnel action" against him after he reported what he believed were potential violations of federal securities laws and SEC rules.



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