

Build the Proof: Timeline, Knowledge, Causation, Explanations, and Pretext

A structured guide to building the timeline, employer-knowledge map, causation record, explanations, and pretext analysis.



Keep private case information off websites and online tools. This guide is educational and does not accept documents or requests for representation.

Purpose

A retaliation file becomes useful when each important proposition is tied to a source. This guide provides a proof architecture for workers, advocates, and attorneys who need to organize more than a chronological story.

1. Start with propositions, not document piles

A folder of messages is not yet a case theory. Create a table with these columns:

- proposition;
- source;
- date;
- source type;
- confidence;
- favorable or adverse;
- missing evidence;
- likely custodian;
- legal or procedural significance.

Example propositions:

- the worker made a complaint on a specific date;
- HR forwarded the complaint to the decision-maker;
- a performance investigation began afterward;
- the employer had discussed the same performance issue before the complaint;
- a comparator received different treatment;
- the explanation changed between the termination meeting and the agency response.

2. Build multiple clocks

One timeline is often not enough. Protected-activity clock

- when the complaint, request, report, participation, or disclosure occurred;

Knowledge clock

- when each participant learned of it;

Decision clock

- when investigation, recommendation, approval, and communication occurred;

Explanation clock

- when each reason was first stated and later repeated or changed;

Deadline clock

- when agency or court time limits may have begun;

Damage/mitigation clock

- lost pay, job search, medical effects, benefits, and later employment.

The decision may have been prepared before the worker received it. Close timing between complaint and communication is less persuasive if the record shows an independently initiated process already underway.

3. Classify sources

Use a source label:

- personal observation;
- original document;
- system record;
- witness firsthand knowledge;
- public record;
- employer statement;
- agency record;
- hearsay;
- inference;
- unknown.

A worker's account is evidence, but it does not prove every event independently. An email can establish that words were sent, but not necessarily how every recipient understood them. A timestamp can show access, not motive.

4. Map employer knowledge

For each decision participant, ask:

- Did this person receive the protected communication?
- Did someone relay it?
- Did this person know only that a complaint existed, or know its substance?
- Did the person supply information, recommend action, approve action, or merely communicate it?
- Is the knowledge shown directly or inferred?

Use the Employer Knowledge Map to distinguish recipient, investigator, influencer, recommender, reviewer, approver, and messenger.

5. Define the adverse action

Identify the concrete action and its effect. Retaliation can extend beyond firing, but not every slight is materially adverse. Consider:

- discipline;
- lower evaluation;
- reassignment;

- schedule or pay change;
- loss of opportunity;
- increased scrutiny;
- threat or intimidation;
- investigation;
- reference or post-employment interference;
- action against a close associate;
- altered access or automated score.

Context matters. The same schedule change may be trivial for one worker and materially harmful for another.

6. Test causation

Close timing can support an inference, but it is not the end of the analysis. Look for:

- direct statements;
- sudden hostility linked to the complaint;
- knowledge followed by departure from ordinary process;
- escalation inconsistent with prior practice;
- explanation changes;
- selectively applied standards;
- weak factual support;
- a decision-maker relying on a biased influencer;
- post-complaint surveillance or record-building;
- treatment of comparable employees;
- evidence that the action was already planned.

Causation standards differ by statute. Do not apply one universal test.

7. Preserve every explanation

Create an explanation table:

- date;
- speaker or author;
- forum;
- exact reason;
- supporting document;
- omitted fact;
- later version;
- material change or added detail;

- possible innocent explanation.

Compare internal records, unemployment submissions, agency position statements, references, and litigation documents. A later explanation may be more complete because a different author had more information. The issue is whether the versions can coexist and whether the contemporaneous record supports them.

8. Analyze comparators and process

A comparator should be similar in the facts the employer actually considered:

- role;
- supervisor;
- policy;
- conduct;
- disciplinary history;
- evidence;
- time period;
- decision-maker;
- business conditions.

Do not reduce comparator analysis to names. List similarities and differences. Process evidence may include:

- skipped investigation steps;
- unusual approval path;
- changed scoring criteria;
- exceptions granted to others;
- missing documentation;
- unusually rapid escalation;
- post hoc creation of records.

A process deviation can matter without proving retaliation by itself.

9. Include adverse facts

Create a separate adverse-facts section. Include:

- real performance problems;
- attendance failures;
- misconduct;
- inconsistent worker statements;
- legitimate restructuring;
- preexisting investigations;
- comparator differences;

- decision-maker lack of knowledge;
- delayed complaints;
- procedural mistakes;
- mitigation problems.

Ignoring adverse evidence does not make it disappear. It makes later analysis less reliable.

10. Identify missing evidence

For each missing item, record:

- what fact it could prove;
- who controls it;
- whether it likely exists;
- what request, subpoena, discovery, agency process, or public source might obtain it;
- whether another source can substitute.

Examples include original decision drafts, HR case notes, audit trails, comparator records, meeting invitations, scoring data, and system logs.

11. Use the matrix

Use:

- Retaliation Timeline and Pretext Matrix
- Employer Knowledge Map
- Protected Activity Record
- Witness Interference Record

12. Connect to the underlying right

Retaliation proof does not replace the underlying legal context. Use WorkRights.com for:

- Evidence at Work
- Wage rights
- Discrimination
- Accommodation
- Layoffs
- AI and surveillance

Final principle

A strong retaliation record is not the most dramatic story. It is the account that remains coherent after the employer's explanation, adverse facts, and missing evidence are placed beside it.

13. Separate causation from pretext

Causation asks whether protected conduct helped cause the action. Pretext asks whether the employer's stated reason is unworthy of belief or conceals the real reason. They overlap but are not identical. A weak explanation may support pretext without proving knowledge. Close timing may support causation without disproving a legitimate performance concern. Build both analyses separately before combining them.

14. Test two competing accounts

Write the strongest version of the worker's account and the strongest legitimate employer account. Then identify which source would move the analysis either way. This avoids confirmation bias and exposes the highest-value missing evidence. Questions include:

- What would the employer say was already underway?
- Which document best supports that claim?
- What fact would show the decision-maker acted independently?
- What evidence would show the reason was adopted only after the complaint?
- Which adverse fact is hardest for the worker to explain?

15. Preserve damages and mitigation without inflating them

Retaliation proof and damages proof are different ledgers. Track lost wages, benefits, job-search efforts, later earnings, medical consequences where legally relevant, and other requested relief. Preserve mitigation efforts even when they feel unrelated to liability.

16. Create the attorney handoff

An efficient handoff makes the dispute intelligible enough for serious review and includes:

- issue and forum summary;
- protected-activity classification;
- knowledge map;
- adverse-action list;
- explanation history;
- top ten sources;
- adverse facts;
- missing evidence and likely custodian;
- deadlines and receipt proof;
- damages and mitigation.