

10.15 Civil Rights—Title VII—“Constructive Discharge” Defined

A constructive discharge occurs when the working conditions are so intolerable that a reasonable person in the plaintiff’s position would feel compelled to resign.

Comment

This instruction is based on *Pennsylvania State Police v. Suders*, 542 U.S. 129, 147 (2004). *Accord Poland v. Chertoff*, 494 F.3d 1174, 1184 (9th Cir. 2007); *see also Emeldi v. Univ. of Or.*, 673 F.3d 1218, 1225 (9th Cir. 2012) (holding in Title VII retaliation case that constructive discharge occurs when “a retaliating employer creates working conditions so extraordinary and egregious as to overcome the normal motivation of a competent, diligent, and reasonable employee to remain on the job” (quotation marks and alterations omitted)). *Green v.*

Brennan, 578 U.S. 547, 555 (2016) (stating that constructive discharge has two elements—discrimination by the employer to the point where a reasonable person would have felt

compelled to resign, and actual resignation).

Revised June 2024