QUESTION PRESENTED:

Section 806 of the Sarbanes-Oxley Act, 18 U.S.C. § 1514A, forbids a publicly traded company, a mutual fund, or "any ... contractor [or] subcontractor ... of such company [to] ... discriminate against an employee in the terms and conditions of employment because of" certain protected activity. (Emphasis added). The First Circuit held that under section 1514A such contractors and subcontractors, if privately-held, may retaliate against their own employees, and are prohibited only from retaliating against employees of the public companies with which they work.

The question presented is:

Is an employee of a privately-held contractor or subcontractor of a public company protected from retaliation by section 1514A?

CERT. GRANTED 5/20/2013