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UBS Loses to Whistleblower in Wide-Reaching Supreme Court Decision

A win for an analyst allegedly fired for protesting unethical requests will make it easier for whistleblowers to sue

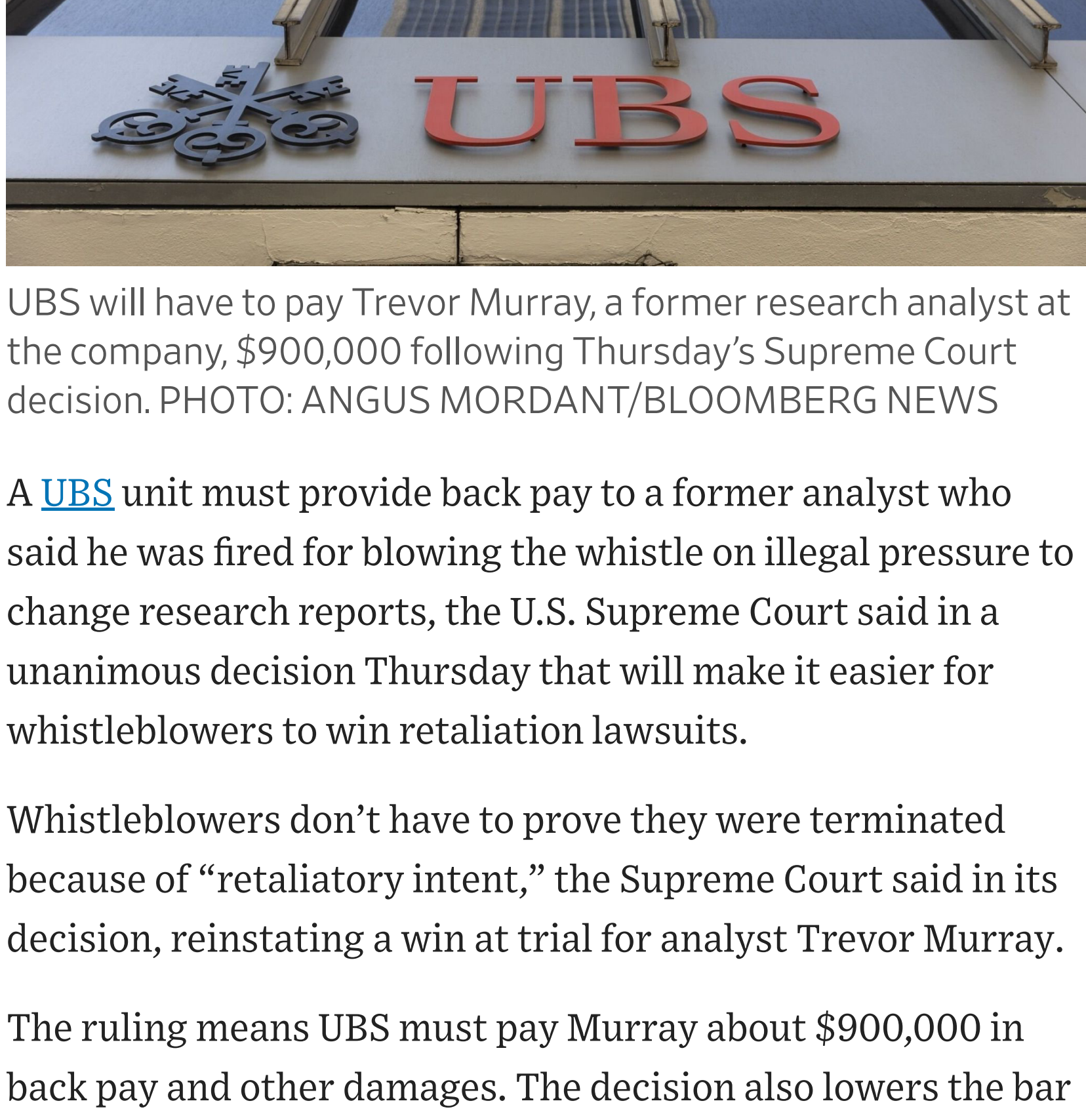
By [Richard Vanderford](#) [Follow](#)

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UBS will have to pay Trevor Murray, a former research analyst at the company, \$900,000 following Thursday's Supreme Court decision. PHOTO: ANGUS MORDANT/BLOOMBERG NEWS

A [UBS](#) unit must provide back pay to a former analyst who said he was fired for blowing the whistle on illegal pressure to change research reports, the U.S. Supreme Court said in a unanimous decision Thursday that will make it easier for whistleblowers to win retaliation lawsuits.

Whistleblowers don't have to prove they were terminated because of "retaliatory intent," the Supreme Court said in its decision, reinstating a win at trial for analyst Trevor Murray.

The ruling means UBS must pay Murray about \$900,000 in back pay and other damages. The decision also lowers the bar for whistleblowers who want to sue their employers under the Sarbanes-Oxley Act and possibly under other similar statutes.

Under Sarbanes-Oxley, employers aren't allowed to fire or otherwise retaliate against employees because of their whistleblowing activities.

"This is a huge victory for whistleblowers all across the country, not only corporate whistleblowers seeking relief under Sarbanes-Oxley, but all those seeking damages for retaliation under the dozen government and nongovernment whistleblower-protection laws structured in exactly the same way," said Robert Herbst, a lawyer for Murray.

UBS didn't respond to a request for comment.

Murray, a former Manhattan-based research analyst at UBS Securities, [sued the firm in 2012](#), saying he was fired after

complaining about pressure to alter supposedly independent reports at the request of traders on the firm's commercial mortgage-backed securities desk.

Murray said he was told to "write what the business line wanted" even though he had complained to a supervisor that it would be unethical and illegal. UBS argued to a jury that it fired Murray in the course of eliminating positions due to marketwide difficulties and a \$2 billion loss at a trading desk in London.

A jury sided with Murray in 2017. But in 2022, the U.S. Court of Appeals for the Second Circuit, whose decisions set the rules for Wall Street, found that Murray had failed to show he was a victim of what the court called "retaliatory intent."

On Thursday, the Supreme Court said the whistleblower law doesn't have that requirement. Employers have the burden of showing they would have made the same personnel decision even if the employee hadn't been a whistleblower, the Supreme Court said.

A business that treats an employee worse because of whistleblowing has committed "actionable discrimination," the Supreme Court said.

UBS had argued that companies like it might be on the hook if an employee, for example, alienates his only client and has no work to do, but then files a whistleblower claim. The Supreme Court said businesses will be safe from lawsuits if they can show they would have taken the same employment action either way.

Several business groups had asked the U.S. Supreme Court to side with UBS, among them the U.S. Chamber of Commerce and the Securities Industry and Financial Markets Association. The Chamber of Commerce argued that establishing a low bar for employees to bring lawsuits could see employers hit with meritless claims.

Airlines for America and the American Association of Railroads, both trade groups, also weighed in to side with UBS. Airlines and railroads are subject to industry-specific anti-retaliation laws that have whistleblower-protection provisions similar to those of Sarbanes-Oxley.

Write to Richard Vanderford at Richard.Vanderford@wsj.com

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