

MAY 17, 2012

PHYSICIAN'S HARASSMENT CLAIM FAILS - ONLY A PERSONALITY CONFLICT

Complaints of harassment don't always result in liability for an employer. Here's a case in point.

A Syrian born Muslim physician employed at Stroger Hospital in Cook County wrote letters and lodged formal complaints over the years about his treatment by a female coworker who was also a physician in the same department. The physician complained of the "friction that exists" between him and his coworker, her "domineering attitude," her "creating a private practice atmosphere" and her "overflowing her clinic with patients." Later he wrote another letter stating that he had been "discriminated against," "disrespected," and that she "created an atmosphere of confusion and chaos." Another letter then asserted that the conduct of the department head in failing to prevent the harassment was a form of "favoritism, harassment and feeling of grandiosity." Ultimately he wrote a letter to the president of the medical staff complaining of "frank discrimination" by his coworker and the department head.

A financial crisis then hit the hospital where 650 employees were laid off including 200 physicians. The complaining physician was one of them and he filed suit, claiming "hostile work environment" in addition to his claim of retaliatory discharge.

ONLY A PERSONALITY CONFLICT

Despite all the language in his multiple complaints about "discrimination" this physician lost his case. The Seventh Circuit held that none of the physician's complaints over the years ever mentioned his religion or national origin as the basis for the alleged discrimination. Because of that, the Court held that all that was being complained of was a personality conflict. Personality conflicts are not within the scope of the protections of antidiscrimination laws. The Court said that Title VII does not prohibit all verbal or physical harassment in the work place, it is directed only at discrimination because of (in the case of this physician) religion and national origin."

NO RETALIATION

In this case the Court also said that there was no retaliation against the physician because: 1) the Hospital was never put on notice that unlawful harassment was ever the subject of the physician's complaints; 2) that the physician's layoff came more than five months after his last letter of complaint so there was no legal connection between the two events.

WHAT DOES THIS MEAN FOR EMPLOYERS?

Complaints of "harassment" and "hostile work environment" arise fairly frequently in the workplace. This case suggests that these types of allegations will not give rise to a successful law suit without some actual link to legally protected categories - race, color, religion, sex, age, national origin and disability. But that does not mean these types of complaints and allegations can be safely ignored.

Rather, as a best practice in human resource administration, any employer that receives a complaint of "harassment" should promptly look into the allegation and deal with it. This works for two reasons:

- You have an employee who is having a problem in the workplace and it is best for overall productivity and morale that you deal with the problem and solve it if you can - regardless of the legal status of the complaint; and
- If the complaint actually turns out to be about unlawful harassment - then by jumping on the complaint right away and taking appropriate action to solve the complaint you will have created a defense to any future claim of unlawful harassment. Either way the employer comes out on top.

Reference: Jajeh v. County of Cook, (7th Cir., No. 11-2331, May 2, 2012).

For more information or if you have questions, please contact Steve Lyman at slyman@hallrender.com or your regular Hall Render attorney.