

#MeToo applies to more than just sexual harassment



Ryan Neumeyer | Tuesday, July 10, 2018

Title VII of the 1964 Civil Rights Act makes it illegal to harass workers not only on the basis of sex, but also race, color, religion or creed, pregnancy, national origin or ancestry and citizenship. Other laws, both federal and state, make it illegal to harass individuals of other characteristics, including but not limited to marital status, familial status, genetic information, military or veteran status, age, and physical or mental disability.

A recent Missouri federal case where an employee was allegedly harassed based on his Christian religious convictions illustrates this point. In *Cooper v. City of St. Louis*, No. 4:16 CV 1521 RWS, 2018 WL 3093504, at *1 (E.D. Mo. June 22, 2018), the court denied the employer's request to dismiss the employee's religious harassment claim, which allows the claim to proceed to trial.

Cooper alleged the harassment he experienced started in 2013 following a religious conversion he discussed, typically in the lunch room prior to work, with his co-workers.

His supervisor would tell Cooper to "shut up" on a daily basis and called Cooper "Reverend Rodney." In addition, other workers began referring to Cooper as "preacher man."

Cooper's supervisor admitted to calling him "Reverend Rodney," but denied other allegations that he called Cooper "retarded" or said he was bipolar. The supervisor also denied telling Cooper to "shut up" about his religion, but admitted telling him to "tone it down" following complaints from other employees. Cooper's co-worker provided testimony that the supervisor "literally told Rodney Cooper if he didn't stop praying he would get fired on the spot." Cooper stated if he requested overtime, his supervisor would tell him, "No, you need to go to Church."

Cooper alleged these and other incidents subjected him to unwelcome harassment based on a protected characteristic, his religion, and affected the terms and conditions of his employment. As a result, Cooper asserted the company should be liable for the actions of the supervisor.

A hostile work environment is created when an individual suffers "discriminatory intimidation, ridicule, and insult, that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment." Simple teasing and offhand comments in isolated incidents (unless extremely serious) will not amount to a hostile work environment." Rather, the work environment "must be both an objectively and subjectively offensive one that a reasonable person would find hostile or abusive." In making a determination about whether illegal harassment - religious, sexual, disability, and all other such claims - has occurred, courts consider "[1] the frequency of the discriminatory conduct; [2] its severity; [3] whether it is physically threatening or humiliating, or a mere offensive

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utterance; and [4] whether it unreasonably interferes with an employee's work performance.”

The court in this matter found Cooper's claim could advance to trial regardless of the fact that there was no evidence his supervisor's conduct unreasonably interfered with Cooper's work.

This case illustrates how in the #MeToo era employers must not only be vigilant in preventing sexual harassment, but all forms of workplace harassment. Employers should:

- Review harassment policies to ensure that policies are up to date and cover all forms of impermissible harassment
- Ensure that employees are provided proper training on what harassment is and what to do if they encounter such conduct in the workplace
- If a complaint arises, ensure that you follow the company's policy and take it seriously.



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