

Recent Federal Decisions Highlight Breadth of Employers' Obligations Under Title VII

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Recent federal court decisions serve as a timely reminder of an employer's obligations under Title VII to protect employees from all unlawful harassment in the workplace, even if that harassment is perpetrated by someone other than a manager or coworker.

Specifically, the Seventh Circuit Court of Appeals in *EEOC v. Costco Wholesale Corp.*, upheld the decision of a jury which found a retail store liable for a hostile work environment resulting from a customer's harassment of one of its employees. The appellate court reasoned that "being hounded for over a year by a customer despite intervention by management, involvement of the police, and knowledge that he was scaring her" put the employer at fault for the hostile work environment. Notably, although the employer attempted to address the harassment by speaking to the customer, the jury found the employer's response to be inadequate.

Similarly, in *Gardner v. CLC of Pascagoula, L.L.C.*, the Fifth Circuit Court of Appeals denied summary judgment on a hostile work environment claim against a nursing home based on a nurse's allegations of harassment by a resident because the evidence demonstrated that the harassing conduct occurred daily and "consisted of physical sexual assault and violent outbursts," and that the nursing home "failed to even attempt to remedy the situation."

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These cases serve as a reminder that in the event *any* unlawful harassment occurs in the workplace, regardless of its source or cause, employers must promptly and fully investigate and take remedial action that is reasonably calculated to prevent further harassment.