

Rumors and Gossip in Workplace Can Create Employer Liability for Harassment, Fourth Circuit Holds

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Employers may be liable under Title VII of the Civil Rights Act for failing to effectively address and stop gossip and rumors of an alleged sexual relationship between a female employee and a male supervisor, the federal appeals court in Richmond has held. *Parker v. Reema Consulting Servs.*, No. 18-1206 (4th Cir. Feb. 8, 2019).

This is a novel holding. Other courts have held that gossip and rumors do not typically give rise to Title VII liability.

The Court revives the case from dismissal. The Fourth Circuit has jurisdiction over Maryland, North Carolina, South Carolina, Virginia, and West Virginia.

Background

In December 2014, Evangeline Parker began working for Reema Consulting as a low-level clerk at its warehouse facility. She was promoted six times, ultimately rising to Assistant Operations Manager of the facility in March 2016. Two weeks after her last promotion, male employees began circulating false rumors that she obtained her position because of a sexual relationship with a high-ranking male manager.

The highest-ranking manager at the facility allegedly participated in spreading the rumor by holding a group meeting where the rumor was discussed. In another meeting, he allegedly blamed Parker for bringing the gossip into the workplace. Approximately one month after Parker complained to human resources about the rumors and associated conduct, she was terminated.

Parker asserted sexual harassment and retaliation claims under Title VII.

The district court granted the employer's motion to dismiss, ruling the rumor was not gender-based harassment. The district court also concluded that the harassment was not sufficiently severe or pervasive as it was in circulation for a short period of time. Finally, the district court dismissed Parker's retaliation claim, concluding that Parker did not have an objectively reasonable belief that the conduct about which she complained violated Title VII.

Fourth Circuit Decision

The Fourth Circuit held that Parker sufficiently alleged a hostile work environment based on sex and reversed dismissal.

The Court explained that the district court failed to take into account "the sex-based nature of the rumor and its effects." According to the Fourth Circuit, Parker's complaint "plausibly invokes a deeply rooted perception — one that unfortunately still persists — that generally women, not men, use sex to achieve success. And with

this double standard, women, but not men, are susceptible to being labelled as ‘sluts’ or worse, prostitutes selling their bodies for gain.” The Court also noted a male allegedly started the rumor and those who allegedly spread the rumor were all male.

The Court explained that to state a claim under Title VII for a hostile work environment because of sex, the plaintiff must allege workplace harassment that (1) was “unwelcome”; (2) was based on the employee’s sex; (3) was “sufficiently severe or pervasive to alter the conditions of employment and create an abusive atmosphere”; and (4) was, on some basis, imputable to the employer.

The Court concluded Parker sufficiently alleged the harassment was severe or pervasive based on her allegations that it persisted continuously for approximately two months. It explained that because the alleged harassment met the elements of a sexual harassment claim, complaining about such harassment was necessarily protected activity for purpose of Parker’s retaliation claim. Therefore, the Fourth Circuit also reversed the dismissal of Parker’s retaliation claim.

Takeaways

Companies should consider training their managers and human resources staff on appropriate steps to be taken to stop rumors of an affair when they occur, without infringing on employees’ rights to discuss and complain about the nature and terms of their employment. How to handle complaints of harassment or discrimination and how to avoid retaliatory conduct also should be considered.

Please contact a Jackson Lewis attorney with any questions related to harassment policies, training for management and employees, and other preventive practices.

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