

Employers Be Warned- Look At The Big Picture When Considering Harassment Allegations

March 4, 2014 | [Employment Discrimination, Workplace Culture And Conduct, Labor And Employment](#)



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The U.S. District Court for the Eastern District of Wisconsin has issued notice to employers that they must not view employee complaints in a bubble, but rather should take into account similar co-worker complaints in assessing whether they are being placed on notice of possible harassment. Further, the Court has indicated that even remote employees can potentially establish viable hostile work environment claims based on their limited contact with an alleged harasser, if such conduct is severe or pervasive enough.

In *Dahlke v. Mitchell Bank*, Cause No. 12-cv-0027, [found here](#), Lisa Dahlke (“Dahlke”) worked as a part-time bank teller in Defendant’s remote branches one to two days per week, while also performing limited work at the Defendant’s main branch location (often before or after going to a remote branch). When new management took over Defendant’s main branch in 2006, Dahlke claimed that the new manager immediately began harassing her by, among other acts, allegedly: removing her from the work schedule suddenly; yelling at her and humiliating her; referring to female employees as “bitches” and “old ladies;” and referring to her as an “old hag,” “prude,” and “dummy.”

According to Dahlke, this name-calling occurred on a regular basis between 2006 and her separation in 2009. Dahlke further alleged that her manager commented that he wanted “young and fresh” employees, not “old and used” employees like her; stated “I’m the man, no woman disrespects me;” commented that the check-sorter sounded like his vibrator; and referred to himself as a “pimp” for the female employees who he called “prostitutes in his stable.” She further attributed similar treatment of other female employees to the manager during this time frame, as well as alleged commentary on female employees’ and customers’ appearances and sexual commentary. Dahlke alleged that she complained regarding these actions/comments on more than one occasion to her direct supervisors.

Dahlke was ultimately terminated after failing to show up at work subsequent to the firing of her sister (who also had worked at the bank and was investigated and prosecuted for alleged financial improprieties). Dahlke claimed she was afraid to return to work after her sister’s separation because she thought she would have to report directly to the alleged harasser and felt unsafe working for him. Dahlke subsequently filed a Title VII suit alleging, among other things, a hostile work environment.

In ruling on dispositive motions, the District Court readily found the evidence presented sufficient to allow a jury to find harassment on the basis of sex. In considering whether the alleged harassment was “severe or pervasive,”

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Defendant advocated that Dahlke's work was primarily performed outside the main branch, thereby precluding a showing of severe or pervasive harassment. The District Court, however, summarily nixed such argument, stating "Proof that a person was consistently sexually harassed at one of the three work sites that she had to regularly report to is sufficient."

In considering liability, the Court noted that the alleged harasser did not directly supervise Dahlke and was not shown to have disciplinary authority and treated his alleged acts as "co-worker" harassment. Significantly, even after finding that Dahlke's own complaints were "probably insufficient" to provide adequate notice of sexual harassment, the Court advised that "her complaints have more weight when considered in combination with [her co-workers'] complaints." The Court then went on to find, "a reasonable jury could conclude that defendant either knew or should have known that plaintiff was being sexually harassed at the New Berlin branch." It further chastised the Defendant for its alleged response (or lack thereof) to the complaints, stating: "The fact that defendant received multiple sexual harassment complaints of a similar nature from all three of the women working in the New Berlin branch should have made it obvious to defendant that there was a problem at the branch. At the very least, the complaints should have prompted defendant to investigate. But defendant did nothing."

This case serves as a valuable reminder to employers that they should look at the big picture of what may be going on in their workplaces and keep an eye out for trends or patterns of complaints pertaining to specific managers/supervisors, when considering how to respond. Additionally, as remote work is on the rise, this case serves to caution employers to take a hard look at the happenings in the workplace, even if those interactions occur on less than a daily basis, as remote workers may be victims of a hostile environment just like those who work in the office each day.