

'Perceived As' Religious Bias Claims? – A Federal Court In Michigan Says 'Yes'

July 13, 2015 | | [Employment Discrimination](#), [Labor And Employment](#)



Mark S. Kittaka
Partner

Recently, a federal judge in the Eastern District of Michigan denied a company's motion for summary judgment that Title VII and Michigan state law do not prohibit discrimination on the basis of perceived religion. [Kallabat v. Michigan Bell Tele. Co.](#), 2015 BL 194351, E.D. Mich., No. 2:12-cv-15470.

Despite the citation of other six federal district court decisions from other states (IL, KS, NC, NY, OH and TN) holding that Title VII does not cover a perceived religion claim, the court held that they would not bar the plaintiff's claim since the 6th Circuit had not ruled on this issue. The court cited a decision from the 3rd Circuit which recognized a perception theory of retaliation with a plaintiff who was perceived as Muslim.

The plaintiff also cited the [EEOC's position](#) that "employers and unions should be particularly sensitive to potential discrimination or harassment against individuals who are - or are perceived to be - Muslim, Arab, Afghani, Middle Eastern or South Asian (Pakistani, Indian, etc.)." (emphasis added).

The plaintiff in this case was subjected to harassment when he wore his hat backwards and employees remarked that it looked like a "topi" (a skullcap worn by Muslim men for religious reasons) which led to ridicule by co-workers. There was also graffiti in the restroom showing what appeared to be the Twin Towers with a plane crashing into it. Under it, the caption stated that plaintiff was learning how to fly.

This decision should be a stark reminder for employers that the EEOC and courts are expanding the scope of coverage of religious discrimination claims under Title VII, as they have with the issue of [transgender discrimination](#). Therefore, if an employee complains of harassment based on the perception of their religion, employers should not dismiss it summarily. A prudent employer must respond in the same fashion as it would for other types of harassment claims. This is just one more pitfall for unwary employers.

RELATED PRACTICE AREAS

Arbitration and Grievances
EEO Compliance
Labor and Employment
Workplace Culture 2.0

RELATED TOPICS

Equal Employment Opportunity
Commission (EEOC)
Religious Discrimination
Title VII