

Remember The Basics

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**Hannesson
Murphy**
Partner

A new case from the federal Third Circuit Court of Appeals serves as a nice reminder of how prompt and diligent HR work can stamp out an employment litigation claim. The case, *Lennox v. Mondelez Global, Inc.*, involved an employee who filed claims against her employer for sex and race discrimination, harassment and retaliation. Specifically, the employee claimed that during her employment, her co-workers engaged in racially derogatory and sexually offensive comments and actions. These included telling a racially offensive joke in her presence (although not to her personally), leaving a pornographic magazine out on machinery, asking her if she was wearing pajamas, referring to her as “prissy” and “Miss Princess” and inquiring whether she listened to rap, R&B and voted for President Obama. The employee only made one complaint to the company, which concerned a racial comment. In response, company officials investigated the matter, met with her and the employees involved and ordered the employees to stop. The actions worked because there were no further reported incidents after the company met with the employees, and no further complaints by the employee prior to her voluntary resignation – which occurred about seven months later. The federal district court granted summary judgment for the employer finding no merit to the employees’ claims. The appeals court affirmed, reasoning that the actions described by the employee constituted simple teasing and offhand comments which did not rise to the level of necessary to prove a hostile work environment. The court also did not find any evidence of discrimination and likewise found that since no additional complaints had been forthcoming after the company completed its investigation, there was no retaliation. While the facts of each case are different, a couple things resonate from this matter. First, the company promptly and diligently acted on the employee’s complaint when it was raised. This nixed not only the harassment and discrimination allegations but also effectively dealt with the retaliation claim. Second, the company effectively documented the actions that it took. Without such documentation, it would not have been able to prove that it responded to the complaint in a timely manner or prove that no further complaints were made by the employee prior to her departure from the company. These factors – taking complaints seriously and properly documenting actions – *cost very little*, but potentially can save an employer a lot of money in an adverse judgment down the road.

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