

Business

Thu. 05.07.09

ASK THE EXPERTS

You could be liable if employee harasses co-worker

Can I be held liable if one of my employees harasses a co-worker?

Possibly. New Jersey courts have long held that an employer can be held liable for sexual or other unlawful harassment committed by a supervisor if the employer did not have an effective anti-harassment policy and monitoring mechanisms in place. It now appears that an employer's potential liability for workplace harassment has expanded to include not

only harassment committed by supervisors but also harassment committed by co-workers. In a recent case decided by the New Jersey Appellate Division, the court found that an employer's potential liability for failure to have effective preventive harassment mechanisms in place is no longer limited to an employee's claims against supervisors but also extends to an employee's claims against co-workers.

Employers must take heed so they

are not exposed to potential liability for co-worker harassment. A code of conduct or harassment policy will likely not be enough to shield an employer from liability. Rather, employers are well-advised to have the following in place: effective policies; a complaint structure, which includes both formal and informal structures; and some effective monitoring mechanisms to find out if the policies and complaint structures can be trusted. Finally, employers should make sure

there is an unequivocal commitment to eradicate harassment in the workplace from the top of the company or organization that is not just in writing but backed up by consistent practices.

Employers that effectively implement the above policies can greatly limit their exposure to liability for co-worker harassment.

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