

Enough evidence over time justifies harassment claim

A recent court decision helped clarify how much evidence is enough to make a compelling case for a sexual harassment claim. In *Chavez v. New Mexico*, the court stated that a pattern of separate incidents over a period of time established sufficient cause to go to a jury.

The Case

Four female employees—Maria Chavez, Dian Contreras, Lori Lucero, and Teresa Smith—of the New Mexico Boys' School claimed that a male employee, Martin Bochenek, verbally abused them and subjected them to demeaning treatment because of their gender. From June 1999 to May 2001, the women alleged that approximately a dozen incidents occurred.

Complaints against Bochenek included intimidating Chavez by seating himself in a forceful, seductive manner; rubbing the front of his body against Lucero's backside and, on another occasion, refusing to make eye contact while looking intently at the rest of her body; walking closely behind Contreras and muttering a derogatory sexist comment half under his breath; staring at Lucero in a lewd, lascivious manner while standing behind her; and sexually propositioning Contreras in exchange for not issuing a letter of reprimand.

Although they were unable to say Bochenek was the perpetrator, the women reported other incidents. All four received via U.S. mail envelopes containing images of male genitalia with white stickers attached that contained crude statements. Lucero found her name scratched off her mailbox and replaced with "bitch."

A district court dismissed these and other claims of racial harassment and non-gender-specific hostile behavior.

However, on appeal to the Tenth Circuit, the court found sufficient evidence of sexual harassment to go to a jury.

Conclusion

The court concluded that it was required to look at "the entire body of conduct" to determine the "severity and pervasiveness" of the women's claims that Bochenek had created a hostile work environment. In doing so, it found considerably stronger evidence than in other cases.

What This Case Means to Counties

Put clear policies in place which empower employees to deal with harassment in order to avoid facing a court case in such matters. Also, do not discount claims of harassment if the same individual is the subject of multiple complaints. Instead, take prompt and precise action to discourage alleged perpetrators.

For more information, contact CTSI at 303-861-0507.