

Risky strategy to ignore workplace harassment

By Holly Culhane, Contributing Columnist



A lawsuit recently filed by a Northern California construction superintendent is capturing headlines and reinforcing the need for all employers to regularly review their harassment policies and procedures.

In his lawsuit, the African-American worker contends he was the target of a racial harassment and discrimination campaign, which culminated in his supervisor attempting to throw a noose around his neck.

The worker alleges he was sitting at his desk when he felt something hit the hard hat he was wearing. When he looked up, he saw a rope with a hangman's noose draped over his cubicle wall and heard his supervisor laughingly ask, "Did I get him? That's how we do them in Idaho."

When he returned to work at the real estate development company the next day, an engineer in the office allegedly had moved the noose to the center of the room because it "would fit [the worker] better there." Later in the day, a photograph of an African-American man was attached to the noose.

After the worker sent photographs of the noose to a company owner, the noose was removed, but the worker was allegedly called a "snitch" and subjected to even more harassment, including his boss bragging about being an accomplished sniper. The ongoing harassment and the worker's increasing fears about his safety allegedly resulted in his hospitalization to control high blood pressure.

The lawsuit contends the supervisor was fired only after a complaint was filed with the Equal Employment Opportunity Commission. The worker finally quit when he was told he was being transferred to a worksite that he would have to share with the engineer who had re-hung the noose.

Lawsuits, such as this one, present only the plaintiff's side of disputes. So it is important to reserve judgment about the company's culpability until the trial. But at the very least, the reputation of the company named in the lawsuit is being damaged. If the accusations are proven, the company will suffer financially, as well.

This case should serve as a wake-up call for all employers to review policies and procedures regarding protecting workers from harassment. Here are some tips:

Provide training – Recognizing and preventing harassment and discrimination is the responsibility of all managers, supervisors and employees. Regular training should be provided regarding what constitutes harassment, how to report and investigate complaints, and how to resolve disputes.

Develop a complaint procedure -- Establish a clear process for reporting and investigating complaints. This process should be included in a company's harassment and discrimination policy. Provide a form that will standardize the information required to document and explain the complaint.

Develop a plan – When a harassment complaint is made, detail the nature of the accusation. Outline the scope of the investigation, including who will conduct the interviews, who will be interviewed and the general focus of the questions. Review the plan with the accuser to affirm the complaint has been adequately described and areas of concern that will be covered. A trained, qualified person should be designated to lead the investigation. This may be a neutral person within the company, or a licensed private investigator, or a labor attorney from outside the organization.

Investigate complaints – Some complaints result from misunderstandings and can be resolved informally. Document how even “informal” resolutions are reached. Conduct formal investigations when necessary. Assure all parties, including witnesses that the company is legally obligated to investigate complaints and participants will face no retribution if they provide truthful information.

Resolve complaints – A common strategy is to ask the accuser how he or she would like to see the case resolved. While this may or may not be a factor in the outcome, explain that the final decision rests with company managers. Document results of the investigation and determine if the accusation is substantiated. Consult with an attorney or human resources consultant regarding the discipline that should be taken.

Protecting workers from harassment and discrimination is an employer's legal and ethical responsibility. It also makes financial sense. A hostile workplace is an unproductive one. It can damage a company's reputation, and can hinder the hiring and retention of qualified and dedicated employees.

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