

11th Circuit Rejects Hostile Environment Claim

Claims of a hostile work environment continue to surface in the workplace, with employees asserting all kinds of acts and failures to act as creating such an environment. While such claims must always be taken seriously by employers, judicial decisions make it clear that not every allegation of adverse employer conduct is sufficient to establish a hostile environment. That was the outcome of a case involving an Emory University employee. *Hill v. Emory University*, 346 Fed. Appx. 390 (11th Cir. 2009).

In this case, the employee, Hill, claimed that a variety of actions by the University subjected him to a hostile work environment in violation of Title VII, Civil Rights of 1964 (Title VIII). Among other things, he pointed to his demotion from director to manager, his work group being referred to a counseling session to improve morale, the failure to assign him office space, the failure to award him raises comparable to other employees, the termination of his employment, and the failure to reabsorb him when his job was terminated.

The court held that to meet the burden of proof for a hostile environment claim under Title VII, Hill had to prove that he belonged to a protected group, that he was subjected to unwelcome harassment, and that the harassment was based on a protected characteristic such as race. He further had to show that the harassment was sufficiently severe or pervasive to alter the terms and conditions of his employment, thereby creating a discriminatory abusive working environment; and that the employer was responsible for that work environment. The court noted that the “severe or pervasive” element of proof contains an objective and subjective component. Not only must Hill have subjectively considered the working environment sufficiently hostile to alter terms and conditions of employment, but also it is necessary that a reasonable person would reach the same conclusion.

In evaluating the objective severity of harassment, the court noted that it would consider the frequency and the severity of the conduct, whether the conduct was physically threatening or humiliating or merely offensive, and whether the conduct unreasonably interfered with his job performance. Here the court agreed with the district court’s finding that the employment actions cited by Hill were, though certainly unwelcome, not sufficiently severe or pervasive in an objective sense to meet the proof requirement for a hostile environment claim.