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OPINION

Today's Business: Is your workplace 'hostile'?

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Reese Mitchell Contributed photo

Do you spend more of your waking hours at work rather than at home? Eight hours a day, five days a week, for around 50 weeks a year, year after year, all spent on the job. You probably spend more time talking with someone like Gus from accounts receivables than with some family members. With all this time on the job, we want to enjoy our work.

Unfortunately, some employees encounter unpleasant and mean-spirited individuals who disrupt our time on the job. The potential personal impact can be devastating in severe situations.

If a co-worker or supervisor's behavior is bad enough, an employee might experience depression, engage in risky behaviors such as excessive alcohol or drug consumption, or develop a bad temper that follows him or her home. Workplace bullying and conflict are detrimental to employee morale and, ultimately, company productivity.

The average person might assume that a coworker's bad behavior constitutes a hostile work environment and is illegal. Not always true. An unlawful, hostile work environment is legally defined under specific situations outlined by federal and state law. Several crucial questions must be answered to determine if an employee faces a hostile work environment.

The first question: What is a hostile environment? Legally, a hostile work environment exists if the workplace has such a pervasively abusive atmosphere that it alters an employee's work conditions. The atmosphere must be objectively viewed as abusive by a reasonable person, and the employee must perceive it as such.

The second question is whether the employee is part of a protected class — a group safeguarded by law based on a particular characteristic such as race, age, gender, disability, sexual orientation, or religion. The law, however, does not prevent people from displaying general dislike due to personality conflicts or being generally unpleasant to co-workers and subordinates.

So, what constitutes a pervasively abusive environment? Not every offensive incident counts. Courts often find that even sexual flirtation or innuendos, even with vulgar language, may not suffice because it is unreasonable for an employer to eradicate every minor annoyance from a workplace.

Instead, the standard is what the average person finds sufficiently offensive to create an abusive atmosphere. Examples include racially and sexually derogative and demeaning slurs, posting offensive images at the worksite, unwanted sexual contact ranging from hugs and kisses to sexual assault, and unfairly targeting someone based on their protected class status.

An employee has several options if faced with a hostile environment. The simplest is reporting the misconduct to the company's upper management or human resources. However, employees must understand that human resources personnel are charged with acting in the company's best interests. While expecting confidentiality when internally reporting a hostile work environment is unrealistic, it is unlawful for the employer or its agents to retaliate against someone for reporting possible illegal discrimination.

The second option: resign. Employees will remove themselves from a toxic environment but will, at least temporarily, sacrifice their livelihood. Voluntarily leaving a position also impacts unemployment compensation and harms the success of a potential discrimination claim in court. As a last resort, the employee can pursue civil litigation to stop the harassment and seek financial compensation for their mistreatment. Any choice may have unintended consequences so consultation with an employment lawyer may be in order.

If an employee does report a hostile work environment, the employer must take the report seriously. Even if the employee is mistaken, it can indicate more severe workplace problems and trouble with employee morale. The company should investigate the allegations to discover the complaint's underlying issues. The employer should consult an employment lawyer to determine the best steps to take in the investigation.

Failing to conduct a proper investigation could expose the employer to potential liabilities if there a hostile work environment does exist. If the allegations have merit, the employer must take all necessary actions to rectify the situation.

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