

SEXUAL HARASSMENT CLAIMS FIND MERIT IN APPEALS COURT



Appellate judges disagreed on a district court's ruling in a sexual harassment case. The initial decision was in favor of the defendants, but a U.S. Court of Appeals was in support of the former employee who filed suit. A woman was hired as an executive assistant to the director of Baltimore's Commission on Aging and Retirement (CARE). A few months after she was hired, her supervisor began "propositioning" her, namely to help satisfy his sexual fantasy involving a Jacuzzi. The subsequent weeks also entailed sexually suggestive jokes, asking whether or not she was wearing underwear and further advocating the absence of such the next day, and detailing a sexual encounter with a mother and daughter, both of whom, like the employee herself, were African American. The supervisor also referenced the Jacuzzi fantasy in additional propositions and touched the woman's leg on more than one occasion under a table at the company's monthly meetings. The employee discussed with a manager the possibility of transferring to another department. A few months later, the supervisor "forcibly grabbed and kissed" the woman. She went home, and the following day told her supervisor that she wished to



maintain only a professional relationship. The same day, the supervisor reiterated his Jacuzzi fantasy. The woman twice emailed the Executive Director of the Baltimore Community Relations Commission (BCRC), first regarding a complaint and then more specifically a harassment complaint. She also sought assistance from the First Deputy Mayor and the Mayor's Chief of Staff and submitted a formal complaint to the Mayor. The First Deputy Mayor forwarded the complaint to the woman's supervisor, who fired her later that day. She discussed the case with others and then filed a discrimination charge with the BCRC, which dismissed the action. She finally initiated a pro se action (an action without legal counsel) against her supervisor, CARE, the First Deputy Mayor and his assistant (the latter who had forwarded the complaint to the supervisor), the Mayor and the City Council of Baltimore. Her claims included a hostile work environment, quid pro quo harassment and retaliation. The district court granted summary judgment in favor of the defendants. The court believed that "just three or four incidents" of contact and the lack of physical threat did not constitute a hostile work environment. With regard to the other claims, it believed there was "legitimate" reason to fire the woman and cited a termination letter that was drafted about a week previous to woman's loss of employment. The U.S. Court of Appeals viewed the hostile work environment claim in terms of its frequency, severity and offensiveness and cited twelve varying incidents occurring at the workplace. To prove a quid pro quo harassment claim, a plaintiff must prove that "tangible aspects" of a job were affected, which the appeals court believed had been done – "informal performance feedback" in lieu of a more formal review and, more directly, that the woman seems to have been fired for rejecting the supervisor's persistent advances. Finally, the court dismissed the termination letter's timestamp as a means to negate retaliation, since it may have been modified any time after its initiation creation. The appeals court vacated the grant of summary judgment, and the case was remanded for further proceedings.