

CANNOT CLAIM HARASSMENT UNLESS YOU CAN SHOW DISRUPTION OF WORK



Most people have different views when it comes to sexual harassment. Legally, however, you can only make a case if the sexual harassment was serious enough to keep you from working, according to lawyers. Herman Cain, head of the National Restaurant Association and presidential candidate, has been accused of sexual harassment by two women. Mr. Cain states he "never sexually harassed anyone." These two women, who also worked at the restaurant trade group with Mr. Cain, were given payments arising from their sexual harassment complaints. The sexual harassment cannot be a one-time incident, unless it is extremely serious. The sexual harassment has to create a hostile work environment in order to qualify as harassment, according to the lawyers. In most cases, the employee has to show the sexual harassment affected their ability to do their job. "It can't just be a one-time comment," said Travis Gemoets, an employment lawyer with Jeffer Mangels Butler & Mitchell. One woman that accused Mr. Cain of sexual harassment received a settlement from the restaurant association. She stated the harassment was more than one time and that it continued over a period of time. The other woman stated Mr. Cain invited her to a hotel room during an industry conference. According to Mr. Cain, he states these allegations are false. He said on Wednesday, that his rivals were trying to destroy him now that he was in the lead for the Republican nomination. Most employers have protocols for dealing with harassment disputes in their business. "An employer's investigation, or lack thereof, is a big component of any legal case," said Dana Kravets, who is an attorney with Michelman & Robinson and also advises and defends businesses in employment matters. If an employer takes a sexual harassment complaint seriously and follows the correct procedure to investigate it, it can undercut the claim for monetary damages. Mr. Cain has stated that the association made an investigation in the matter, which was led by the human resources manager and general counsel and that they could not find anything wrong. A plaintiff first has to make a complaint with the Equal Employment Opportunity Commission before they can file a sexual harassment complaint in federal court. Sexual harassments complaints in the work place that were recorded by the commission rose in the 1990s, but have gone down since. The commission received 11, 717 complaints in a 12 month period ending on September 30, 2010, which was down from the 15,836 complaints that were filed a decade before. According to lawyers, almost all harassment settlements include a confidentiality clause that stops the complainant from being able to talk about the settlement with anyone. "That's part of what drives the settlement value," Mr. Kravetz said. Most defendants are willing to pay even if they think the plaintiff will not win the case. Settling puts the matter to rest, and stops the allegations from going public, due to the confidentiality clause.