

Retaliatory Harassment: Actionable?

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We know that under Title VII of the Civil Rights Act of 1964, an employer is strictly liable if a supervisor creates a hostile work environment, unless the employer has taken prompt remedial action which ends the harassment. But what is the employer's liability when the perpetrators are co-workers and not supervisors and the harassment is retaliatory in nature? This article reports on a recent case in the 3rd Circuit which not only answers the question in the affirmative, but also raises some difficult questions as to who is a supervisor, when supervisor conduct short of actual harassment leads to strict employer liability and whether a trial can ever be avoided when a retaliatory harassment claim has its origin in a sexual harassment complaint.

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