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"I'm Mad as Heck and Won't Take it Anymore!"

When Personality Conflicts Escalate Into Harassment

Karin R. Zeigler, Esq.

Sometimes, being in the human resources profession feels a lot like being a junior high teacher. As much as we would all like our workforce to function like a well-oiled machine, it is made up of people, with different personalities and personality conflicts. Some people work well together; others do not. And even minor irritations, slights, and disrespectful conduct ... especially over a period of time ... can grow into disruptive personality battles. In fact, one recent study by the American Psychological Association found that workplace bullying appears to inflict more harm on employees than sexual harassment.

But these battles do not necessarily involve harassment - at least, not as defined by anti-discrimination law and most personnel policy handbooks. Yet even when co-worker conflicts do not involve issues of sex, race, or other protected classifications, they can still lead to workplace problems, and

even litigation.

Where is the line between lawful (albeit inappropriate) personality conflicts and unlawful co-worker harassment? The Eighth U.S. Circuit Court of Appeals was forced to address this question in a [recent case](#) involving in-fighting between two co-workers that quickly morphed into competing harassment claims.

Here are the facts. Deb Anda was a part-time salesperson at a Wickes Furniture Company in Minnesota. She worked with several salespeople at the store, including Ryan Carlson. Anda didn't like Carlson, and Carlson didn't like Anda. In early September of 2003, Carlson accused Anda of stealing another employee's customer (the company had in place a procedure for "assigning" customers to sales people). Anda responded to Carlson's allegation by calling him a "leviathan." Carlson believed "leviathan" meant devil, and was very offended. A leviathan actually means a monstrous sea creature symbolizing evil in the Old Testament ... but this was close enough for Carlson. Carlson reported the incident to the store manager. The manager inquired about the incident. Anda responded to the manager by claiming Carlson had made an offensive comment about her butt. The manager (presumably, after rolling his eyes) told both employees to knock off the name-calling and get back to work.

Three days later, Carlson made a formal complaint pursuant to the company's harassment policy claiming Anda was stealing customers, engaging in name-calling, and telling him stay away from another employee. The company formally investigated the complaint, and ultimately issued Anda a verbal reprimand.

In response, Anda submitted a laundry list of allegations against Carlson which included: Carlson's inability to "control his temper;" his "inappropriate comments on the sales floor;" and his "tendency to switch blame." She identified eleven incidents of such behavior, one of which included Carlson saying that Anda and another female co-worker were using a "strap-on", and another claiming Carlson called her "Large-Butt." Again, the manager formally investigated the claims. This time, the verbal reprimand was issued to Carlson.

Nine days later, Anda submitted her resignation, claiming that Carlson "scared" her and was still accusing her of stealing other people's customers. In response, the manager told Anda that Wickes did not want to lose her as a salesperson and "that there was a process to [Carlson's] disciplinary actions and that it was only a matter of time." The manager apparently talked

Anda down off the ledge of voluntary termination. Alas, yet another incident arose that afternoon. Carlson again confronted Anda about stealing his customer -- this time, in front of the customer. The next day, Anda phoned the manager and reported Carlson's latest actions, and informed the manager that her resignation was effective immediately. Carlson was later terminated, but not before Anda had already left employment with Wickes.

In March 2004, Anda filed an agency charge of sex discrimination and, after receiving a right-to-sue notice, filed suit in federal court. Wickes moved for and was granted summary judgment. The court held that Anda had not presented "sufficient evidence to create a genuine issue of material fact as to whether Wickes failed to take prompt and effective remedial action on her complaints about Carlson's conduct and whether Wickes knew or should have known of the incidents she had not reported to Wickes' management." Anda appealed.

The appellate court focused on the nature of the claims Anda reported, commenting that most of Anda's eleven complaints about Carlson were indicative of a personality conflict -- meaning they were not sexual in nature, and involved arguments over customers or gossip between salespeople. The court admitted that Carlson may have made a couple of sexual comments but found the few comments to have been "isolated comments, only two of which have any sexual overtones." The court repeated that Title VII "does not set forth a general civility code for the American workplace." Then the court went further, holding that *even if* Anda's allegations rose to the level of sexual harassment, the company took prompt and effective remedial action to address the problems, thereby avoiding liability.

The court was impressed by the facts that the store manager told Anda (the complainant) that he didn't want to lose her as an employee, as well as, his prompt investigation, prompt discipline (to both Anda and Carlson), as appropriate, and the eventual termination of Carlson after he refused rehabilitation -- all of which occurred within a month of the initial allegations against him.

Employment tips

Can employers prevent the "I don't like you, I'm mad, and now I'm gonna sue you" syndrome? Maybe. Employers can not prevent personality clashes between co-workers, but they can safeguard against flaming the fires of discontent. Prevention is the key. While we can all agree that managers and supervisors should not have to be babysitters, they need to

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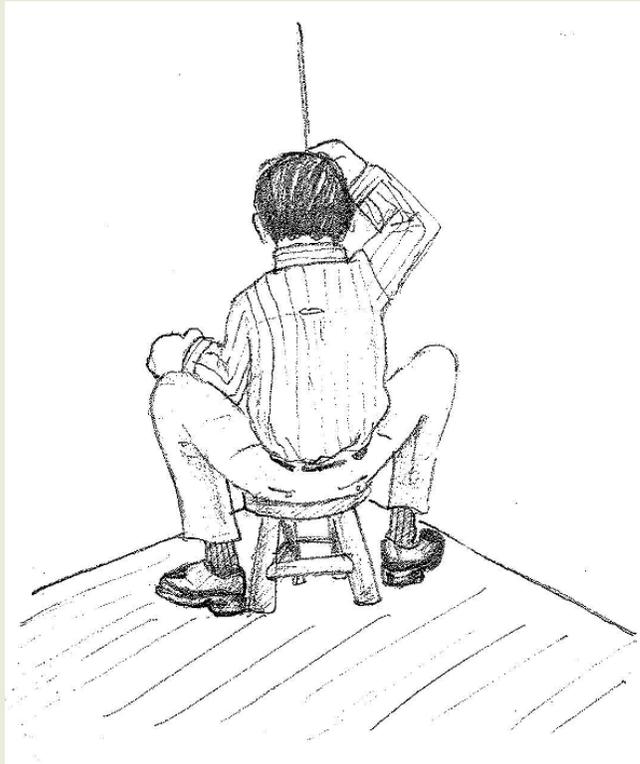
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regularly monitor and be aware of the relationships amongst their employees. Employees should be constantly redirected to treat each other with respect keep horseplay to a minimum, and focus on production and customer service rather than instigating discontent and poking fun at one another. How is this best accomplished? By role-modeling, immediately addressing situations, coaching employees to act in a professional manner at all times and, when a personality clash gets out of hand, taking prompt remedial actions.

Even if the personality clashes can not be prevented, early intervention can sidetrack potential civil rights charges and other legal claims that tend to follow fights between employees who detest each other. Finally, whether or not co-worker conflicts involve sex, race or other protected classifications, you still have an interest in treating these situations seriously and promptly before they get out of hand.



... that's how Tom learned his supervisor could give him a "time out."

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