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BLOGS

Employment

Illinois Federal Court Dismisses Franchisee Employee's Hostile Work Environment Claims Against Franchisor

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A federal court in Illinois recently dismissed a franchisee employee's Title VII hostile work environment and related Illinois state-law claims against the franchisor. *Budzyn v. KFC Corp.*, 2022 WL 952746 (N.D. Ill., Mar. 30, 2022). Jasmine Budzyn sued KFC Corporation for violation of Title VII, negligent retention, willful and wanton supervision, assault and battery, infliction of emotional distress, and false imprisonment arising from her employment with a franchisee. She alleges that she was sexually harassed and raped by her manager, which she reported to her store manager and KFC's regional director. Budzyn contended she was employed by KFC as well as the franchisee and asserted her claims against KFC directly.

The court disagreed. Budzyn claimed that KFC had the ability to control her work environment, a central question where liability on a Title VII claim turns on a putative employer's ability to supervise and control the employee. The court rejected this argument because Budzyn could not show that KFC controlled the franchise's day-to-day operations and did not allege that KFC could hire or fire her or direct her work. The court held that KFC could not be liable for negligent retention or supervision, because KFC was not the employer of Budzyn's manager—again, because Budzyn could not show that KFC controlled the manager's daily work. Further, KFC did not pay the manager or provide him with tools, materials, or equipment to perform his job. Finally, the court dismissed Budzyn's intentional tort claims against KFC, finding that sexual assault and sexual misconduct are not within the scope of employment, precluding liability for KFC.

**Brandon Mickelsen is a Law Clerk for Lathrop GPM who contributed to the writing of this post.*

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