

SAME SEX HARASSMENT

While sexual harassment is usually thought of as being between a man and a woman, there are cases of same sex harassment that are also subject to the law.

"If a case of sexual harassment is filed in California, it is filed under the auspices of the California Fair Employment and Housing Act, and may fall into one of two categories - hostile work environment or the quid pro quo theory," indicated Deborah Barron of the Barron Law Corporation in Sacramento, California.

To further differentiate these two categories, in one (hostile work environment) the complainant needs to have been harassed by a fellow worker; in the other, the harassment could have taken place at the instigation of a supervisor (the quid pro quo theory).

"Without getting too technical, if an employee is complaining of a hostile work environment, then that person's co-workers or supervisor needs to have been making repeated unwanted sexual advances in such a pervasive manner, that working conditions are totally intolerable (meaning the workplace is a hostile environment)," explained Barron.

If these kind of shenanigans are going on already, it may be that the employee feels their job security is predicated on giving in to the other person's sexual advances. This situation is a prime example of quid pro quo. Nowhere in the code defining these categories does it specifically state that the people involved need to be a male and a female only, nor does the code address same sex harassment specifically. "This is usually where case law comes into play," said Barron.

"We know of one landmark case in which the court held that a cause of action for sexual harassment may be filed by a member of the same sex as the harasser under the auspices of either quid pro quo or hostile work environment," commented Deborah Barron of the Barron Law Corporation in Sacramento, California. The whole point is that even if someone of the same sex harasses a person, it does not deny him or her the right to protection under the law.

If facing a situation such as this, now is the time to contact a highly qualified employment attorney to get advice and find out what protections the law offers people in this kind of a situation. Knowing what rights are accorded to people facing these types of situations goes a long way toward making informed decisions about how to proceed with any potential lawsuit. Contact Deborah Barron at: deborah.barron@lawbarron.com

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