When punishing employees' use of slurs, equality counts

The mantra in real estate is "location, location, location." But the mantra in employee discipline must always be "consistency, consistency, consistency."

Remind supervisors to dole out discipline in equal amounts for equal behaviors. Trying to "get tough" on one worker or "set an example" with another will only trigger discrimination claims. As a new case shows, punishing for one ethnic slur but not another can spark legal trouble.

Case in point: When Lily Moss, a Texas state prison guard, uttered the "n" word twice in a conversation about cultural-diversity training and racial tension at the prison, she was written up as violating a work rule against using racial slurs and epithets. As a result, the prison demoted her.

Moss sued for sex discrimination, alleging that male guards who used the terms "wetback" for a Hispanic prisoner and "wood" for a white prisoner were not punished.

A jury sided with her, concluding that the prison treated Moss more severely because of her sex. The 5th Circuit appeals court agreed. (Moss v. Texas Department Of Corrections, No. 05-11403, 5th Cir., 2006)

Final tip: This case puts Texas employers in a bind unless they punish all slurs equally. Spread the word that no ethnic slurs will be permitted and all will be punished.