

# Beware discipline immediately after complaint

Before you authorize disciplinary action against an employee who has just complained about discrimination or harassment, prepare for a legal fight. If you follow through and the employee sues, few courts will quickly dismiss the case.

*The better approach:* Carefully investigate the complaint before taking immediate action. That may be true even if discipline was already under way and the complaint seems like an attempt to stop that discipline.

If your investigation finds that the complaint was meritless, of course you can and should discipline the employee as you originally planned.

**Recent case:** James was working as a Hennepin County probation officer when he got involved in a romantic and sexual relationship with a co-worker. When his girlfriend was promoted, they broke up.

Later, the woman—now his supervisor—placed James on a performance improvement plan and reprimanded him. Later still, James applied for an open position but wasn't picked.

Then two female co-workers assaulted James after work, with one breaking his car window. He filed police charges and county officials called a meeting to discuss the incident. He admitted to having had a romantic relationship with both of the offending co-workers and was suspended. Then James complained for the first time about his supervisor, explaining that they had had a sexual relationship before her promotion.

James was fired almost immediately, after the county told him they didn't believe his claims. He sued, alleging retaliation for reporting sexual harassment.

The court said the timing alone was reason enough to continue the lawsuit. He will now have a chance to prove that he was fired in retaliation for reporting his former lover's sexual harassment. (*Selmon-Vasser v. Hennepin County*, No. 13-405, DC MN, 2013)

**Final note:** Always investigate when an employee raises potential discrimination claims.