

Workplace Cliques Break Along Racial Lines: Is That Proof of Race Discrimination?



You may think that what employees do in the breakroom or at post-work happy hours is their own business. That could be an expensive mistake.

As this new case shows, company culture and employees' off-duty comments can be used as evidence of race discrimination unless you do something about it. An anti-discrimination policy isn't enough. Instead, get proactive. Don't just integrate the shop floor. Integrate the lunchroom, too ...

Case in Point: Cathalene, a long-time FedEx employee, had to take a pay cut when she transferred from a courier position in California to York, Pa. She finished her last 17 years at the York facility and received all positive evaluations and no discipline.

But this was no happy ending. Cathalene, who is black, departed her job by quitting and filing a race discrimination lawsuit.

She claimed that a white male in the same position at York did not have to take a pay cut, plus he received more overtime hours than she was given.

At the trial, Cathalene planned to introduce as evidence of race bias that white co-workers sat together at a separate lunch table at work. She said the same group sometimes engaged in racially offensive talk at off-premise social events.

Plus, she said, supervisors often sat with the white clique, which included the white man who earned more than Cathalene. She wanted to argue to the jury that this was proof of a racially hostile workplace.

Result: The court agreed she could use the evidence of lunch cliques and social gatherings that included racial slurs as part of her argument that racial hostility might be behind her lower pay.

The court did, however, draw the line at her request to introduce testimony about the city of York's alleged racist past to prove that FedEx discriminated against her. Apparently the judge wasn't ready to indict an entire city. (*Johnson v. Federal Express*, MD PA)

Three lessons learned ... without going to court

1. **Observe to see if it's a problem** Look at employee behavior. Do cliques of workers gather in a way that appears to exclude members of a protected class (race, sex, religion, age, etc.)? Are older workers

separated from younger ones? And, most critically, do the segregated tables include managers or first-level supervisors?

2. **Point out the risk to supervisors.** Explain how their social interaction with one group could look if a “left out” employee from a protected class suffers a negative employment action (firing, demotion, pay cut). The employee may connect the social snub to the employment action—whether it’s legitimate or not.
3. **Do an informal audit of employment practices.** Are some clique members getting promotions, extra overtime or other training? If so, make sure it’s justified based on solid, objective measures—not who they know.