For: LeClairRyan, Philadelphia
From: Parness & Associates, Aberdeen, N.J.

FOR IMMEDIATE RELEASE

Racial Trash Talk at Work Can Lead To Litigation, Warns Attorney
--A single slur can constitute harassment, says LeClairRyan's Sher

PHILADELPHIA (8/30/17)—– Business owners may want to increase their vigilance against discriminatory workplace talk following a Third Circuit Court of Appeal's ruling that a single racial slur by an employee's supervisor is enough to create a hostile work environment, warns Brandon Sher, an attorney in national law firm LeClairRyan's Philadelphia office.

While every case is fact-specific, the Third Circuit's decision "creates a precarious situation for employers," Sher, who focuses on employment litigation and counseling, writes in a recent blog, *One Racial Slur is One Too Many, Rules Third Circuit*. His post appears in the firm's *LR Workplace Defender* blog, which focuses on employment litigation issues.

In *Castleberry v. STI Group*, No. 16-3131 (3d Cir. July 14, 2017), two African American males who were employed as general laborers claimed that while working on a fence-removal project, their supervisor threatened to fire them if they "n[****]r-rigged" the fence, Sher reports. The incident was confirmed by their coworkers and was reported by the employees to a superior. Two weeks later, they were fired without explanation. Although they were subsequently rehired, the two were fired again for "lack of work."

"The employees filed suit alleging harassment, discrimination, and retaliation in violation of 42 U.S.C. § 1981," Sher notes. The trial court dismissed the employees' harassment claim because it determined the facts as pleaded did not support a finding that the harassment was pervasive and regular. But, he writes, "The Third Circuit explained that 'some harassment may be severe enough to contaminate an environment even if not pervasive; other, less objectionable conduct will contaminate the workplace only if it is pervasive.'"

While the Third Circuit's decision is important—it is precedential in the Third Circuit, but not binding nationally—Sher also writes that *Castleberry* may be distinguished by the fact that "the supervisor's expletive was used in the same breath as his threat to terminate the employees, which ultimately occurred."

Keeping that in mind, Sher advises employers to continue to provide anti-harassment training to employees and managers. "Supervisors should be reminded to choose their words carefully and consider the significant impact of even a single racially charged comment in the workplace," he counsels.

To read the full blogpost, go to: *One Racial Slur is One Too Many, Rules Third Circuit*.

About LeClairRyan
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