



CLIENT ADVISORY

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HARASSMENT CLAIM

The Seventh Circuit Court of Appeals recently ruled in favor of the University of Chicago in a suit filed by two University employees alleging a variety of claims. One of the employees, Gloria Bannon, claimed race discrimination on the basis of not being promoted, hostile work environment and retaliatory constructive discharge. The other employee, Dr. Jacqueline Burton, claimed sex discrimination and retaliatory constructive discharge.

The Court held that Bannon could not show that the University failed to promote Bannon because of her race, in that she was promoted in 2002, and that her claim was also time-barred for not being timely filed. The Court further held that, while there was evidence to indicate that her superior might have used racial slurs, Ms. Bannon also needed to prove that her work environment was both subjectively and objectively offensive. Ms. Bannon never complained about her supervisor's behavior, socialized with him on numerous occasions, and even sent him a card telling her supervisor that he was a "great boss". Therefore, Ms. Bannon could not prove that she found the workplace to be subjectively offensive. Ms. Bannon was also unable to show that her working environment was so intolerable that resignation was a fitting response, so her constructive discharge claim also failed. Lastly, the Court held that the circumstances did not prove her state-law claim of intentional infliction of emotional distress, and that Illinois does not recognize a claim of retaliatory constructive discharge.

As for Ms. Burton's claims, the Court held that Ms. Burton could not show that she successfully applied for a promotion, or was denied a promotion on the basis of her sex, because she did not meet all the University's application requirements, so that her failure to promote claim could not be sustained. Furthermore, Ms. Burton could not prove that she was fired in retaliation for bringing to light questionable accounting practices, as she claimed, when the University had a legitimate, nondiscriminatory reason for firing her, namely questionable consulting work and conflicts of interest

that were uncovered concerning her husband, and which neither her husband nor Dr. Burton had reported. *Gloria Bannon and Jacqueline Burton v. The University of Chicago, No. 06-2955 (7th Cir., October 1, 2007)*

For more information please contact Popovits & Robinson at 708/479-3230.

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