

September 22, 2023

Via EEOC Portal Upload

Mauricio Ortiz-Castro
Investigator
Equal Employment Opportunity Commission
255 East Temple St., 4th Floor
Los Angeles, CA 90012

**RE: Geary Johnson v. Williams Lea Inc.
EEOC Charge No. 480-2023-00893**

Dear Mauricio Ortiz-Castro:

I am writing on behalf of the Respondent, WILLIAMS LEA LLC f/k/a Williams Lea Inc., in response to the Charge of Discrimination, Harassment, Retaliation filed by Complainant, Mr. Geary Johnson, in the above-referenced matter.

1. Background. Williams Lea LLC ("WL") is an equal opportunity employer and makes all employment decisions without regard to race, color, religion, creed, national origin or ancestry, sex, age, physical or mental disability, veteran status, genetic information, or any other protected class characteristic under federal, state, or local law. Williams Lea does not tolerate sexual or any other forms of harassment and has a well-disseminated Non-harassment and Non-discrimination policy that is electronically distributed to WL employees where each employee signs an acknowledges that they read and understood the policy. Additionally, each employee receives comprehensive training on the policy.

Williams Lea is a business process outsourcing company who utilizes staffing firms such as Roth Staffing to source temporary staff for various projects with WL clients. Based in Wheeling, West Virginia, Williams Lea provides administrative services to companies nationwide. We source administrative positions at law firms, banking entities, and professional services firms.

2. The Charge. Complainant alleges that he was discriminated against on the basis of his sex, retaliated against for filing a sexual harassment complaint with his employer Roth Staffing, and sexually harassed on the basis of his sexual orientation in violation of Title VII of the Civil Rights Act of 1964 (Title VII). Complainant also alleged that he was subjected to a hostile work environment.

Williams Lea denies that Complainant was subjected to any discrimination, harassment, or retaliation. To the contrary, Complainant was treated fairly, and any decisions made by Williams Lea with respect to Complainant's assignment were for legitimate, non-discriminatory, non-retaliatory reasons unrelated to his sex, sexual orientation, and/or sexual harassment complaint. Each of Complainant's allegations is addressed separately below.

3. Respondent's Response. Williams Lea strictly prohibits discrimination in all forms including harassment based on sex and strictly prohibits retaliation. Complainant's claims are entirely without merit.

The Policy provides that it is against Williams Lea policy for any employee, client, associate or vendor to harass or discriminate against any Williams Lea employee or non-Williams Lea employee based on race,

color, creed, religion, national origin, ancestry, citizenship status, age, gender, sexual orientation, veteran status, disability, genetic information or and any other basis protected by applicable federal, state or local laws or ordinances. Williams Lea will not tolerate harassment or discrimination based on a protected classification because it is personally offensive, fails to respect the rights of others and interferes with work performance. All employees, contractors, managers, and non-managers must comply with this policy and take appropriate measures to ensure that such conduct does not occur. A copy of Williams Lea Non-harassment and Non-discrimination policy, as contained in its Employee Handbook, is attached as **Exhibit A**.

As explained below, Complainant was an employee of Roth Staffing ("Roth") and was temporarily placed to work with one of WL's clients. Complainant was hired by Roth on or about April 23, 2018, and was temporarily placed with WL on or about February 17, 2022. Complainant was placed on an assignment with Williams Lea to work with its client, Activision. Complainant was assigned as a Hospitality Associate to assist with set-up of conference rooms, cleanliness in break rooms and catering areas, and inventory of catering supplies. Complainant's performance on Activision's account was managed by WL Senior Account Director, Aaron Smith, who facilitated the decision regarding assignment, placement, and replacement. Complainant's assignment ended after Activision expressed concerns regarding Complainant's professionalism and performance and requested that WL remove Complainant from their account. Williams Lea investigated the Activision's concerns and due to its findings regarding Complainant's poor performance along with Activision's removal request, WL agreed to end Complainant's assignment after finding a suitable replacement. WL ended Complainant's assignment prior to finding his suitable replacement due to a sexual harassment claim filed against Complainant. At the time of ending Complainant's assignment, Mr. Smith was not aware of the sexual harassment complaint filed by Complainant with Roth Staffing. Mr. Smith's Affidavit is attached as **Exhibit B**.

WL has a long-standing culture of properly enforcing harassment complaints, properly supporting employees who are subject to harassment, and holding employees accountable for violating policy and laws. Claimant's accusations go contrary to WL's demonstrated values and overall position regarding harassment. WL also does not engage in retaliatory behaviors. Complainant's allegations of sex discrimination, sexual harassment, hostile work environment, and retaliation are without merit.

A. Complainant Cannot Establish a Prima Facie Case of Harassment or Sex Discrimination.

To prove a claim of sexual harassment, Complainant must establish: (1) that he belongs to a protected group; (2) he has been subject to unwelcome sexual harassment, such as sexual advances, requests for sexual favors, and other conduct of a sexual nature; (3) that the harassment was based on his sex; (4) that the harassment was sufficiently severe or pervasive to alter the terms and conditions of his employment and create a discriminatorily abusive working environment; and (5) a basis for holding the employer liable. *See Edwards v. Orange Cty Sheriff's Office*, 525 F.3d 1013, 1026 (11th Cir. 2008) (citing *Mendoza v. Borden, Inc.*, 195 F.3d 1238, 1245 (11th Cir. 1999) (en banc)). Complainant's claim fails as a matter of law because he cannot establish the second, third, fourth or fifth elements of the case.

Complainant alleges that on or about June 17, 2022, he submitted a sexual harassment complaint to Roth Staffing. Complainant also alleges that on or about June 24, 2022, he spoke with Chris Jenkins, an employee of Williams Lea, regarding the complaint he submitted to Roth Staffing. WL's records do not reflect that occurrence of this meeting and do not demonstrate that Complainant submitted his complaint to Williams Lea. Furthermore, the Senior Account Director responsible for ending

Complainant's assignment was not informed of Complainant's sexual harassment complaint prior to terminating Complainant's assignment.

Complainant alleges that he was subjected to sexual harassment by a coworker who inquired about his sexual preference. Subsequent evidence indicates that Complainant initiated the disclosure of his own sexual orientation and made other inappropriate statements to staff. Complainant's allegation is not an actionable sexual harassment claim as Title VII addresses only those situations where an employee's work environment is "permeated with discriminatory intimidation, ridicule and insult." See *Harris v. Forklift Sys.*, 510 U.S.17, 21 (1993). Complainant's sex discrimination and harassment claims fail as a matter of law and should be dismissed.

B. Complainant Cannot State a Retaliation Claim as A Matter of Law Because Williams Lea did not retaliate.

To prove a claim for retaliation, Complainant must show: (1) that he engaged in protected activity; (2) that Williams Lea subjected Complainant to an adverse employment action; and (3) a causal connection exists between the protected activity and Williams's action. *Passantino v. Johnson & Johnson Consumer Products, Inc.*, 212 F.3d 493, 506 (9th Cir. 2000).

Here, Complainant cannot establish the critical elements above. Prior to terminating Complainant's temporary assignment, Complainant did not engage in protected activity with Williams Lea where WL subjected him to an adverse employment action connected to his protected activity. WL ended Complainant's temporary assignment based on a legitimate business reason which included his poor performance and Activision's dissatisfaction with Complainant's performance and their request for his removal.

Complainant alleges that he received notice through WL's client's mailroom website portal of a draft document loaded to the mailroom portal by Cortez Matthews. Cortez Matthews was an employee of Robert Half, a staffing company. Complainant did not disclose the content of said uploaded document and instead perceived it to be in retaliation of his sexual harassment complaint. Williams Lea did not end Complainant's assignment based on the alleged notice that he received through WL's client's mailroom website portal. Complainant's Charge allegations of retaliation must therefore be dismissed.

C. Complainant Cannot Establish a Prima Facie Case for Hostile Work Environment.

To prove a hostile work environment claim, a sexual harassment plaintiff must prove that the underlying acts were severe or pervasive.

To determine whether harassment violates Title VII, courts consider the following factors:

- the frequency of the discriminatory conduct;
- its severity;
- whether it is physically threatening or humiliating, or a mere offensive utterance; and
- whether it unreasonably interferes with an employee's work performance.

If a non-supervisory employee harasses another employee, then the employer will be liable for the harassment if the employer knew, or should have known, about the hostile work environment and failed to promptly correct it.

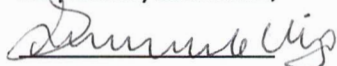
Title VII does not serve as a “general civility code.” See *Faragher v. City of Boca Raton*, 524 U.S. 775, 788 (1998). “For conduct to be severe or pervasive, the work environment must be one that a reasonable person would find hostile or abusive.” See *Oncale v. Sundowner Offshore Svcs.*, 523 U.S. 75, 81 (1998). “While a single incident of harassment can support a claim of hostile work environment. . . it must be extremely severe.” *Fried v. Wynn Las Vegas*, 18 F.4th 643, 648 (9th Cir. 2021).

Complainant alleges that the drafted document he received notice about through Activision’s mailroom website portal created a hostile work environment. WL have no information about the contents of this document. Complaint also shared that the document was disparaging and untrue and created a hostile work environment for him. Complainant did not provide sufficient information to support his claim. Additionally, WL did not receive a report regarding Complainant being subjected to a hostile work environment. The Ninth Circuit will not consider the above action to constitute a hostile work environment as they have dismissed claims containing allegations of conduct far more egregious than that alleged here. *Id.* at 649 *citing* *Kortan v. California Youth Authority*, 217 F.3d 1104, 1106-1108, 1110-1111 (9th Cir. 2000) (supervisor referring to an employee as a “regina,” “castrating bitch,” and to women generally as “bitches” and “histrionics” were not severe enough to create a hostile work environment).

Thus, Complainant’s claims fall short of the type of conduct that meets the severe and pervasive standard, and Williams Lea cannot be found liable for such a claim. Furthermore, if court will not hold WL liable for non-supervisory employees who harasses another employee when WL as the employer did not know or could not have known, about the hostile work environment and failed to promptly correct it then the court will not hold WL liable in this instance where a non-supervisory non-employee allegedly harassed another non-employee. Consequently, Complainant’s allegations of hostile work environment should be dismissed.

D. Conclusion. For the reasons discussed above in this position statement, Complainant was not discriminated against based on his sex, he was not harassed on the basis of his sexual orientation and was not retaliated against at any time during his assignment with William Lea’s client. Additionally, at all relevant times herein, Complainant was not an employee of WL. therefore, WL cannot be held or found liable for any employment claim asserted by Complainant. Accordingly, Williams Lea respectfully requests that a no-cause determination be issued as expeditiously as possible.

Respectfully Submitted,



Samantha Virgo, Esq., M.P.A

Assistant General Counsel, Head of Legal, AMS
Williams Lea, LLC