

Court Decertifies Class of Female Drivers' Hostile Work Environment Claims, Trims Retaliation Claims

Jackson Lewis

Article By

[Adam L. Lounsbury](#)

[Jackson Lewis P.C.](#)

[Employment Class and Collective Action Blog](#)

- [Labor & Employment](#)
- [Litigation / Trial Practice](#)
- [Iowa](#)

Wednesday, January 30, 2019

Finding that the case involved “actions perpetuated by one individual against another individual in an isolated environment, not conduct in a common environment directed against several women at once,” Chief Judge Leonard Strand decertified a class of female truck drivers that alleged they were subject to a hostile work environment. *Sellers v. CRST Expedited, Inc.*, No. C15-117-LTS (N.D. Iowa Jan. 15, 2019).

He also granted partial summary judgment to the company on the drivers’ separate claim that they suffered retaliation when they complained about harassing conduct under the company’s policies.

The court explained that, unlike in a race discrimination case that focuses on the employer’s racial animus underlying employment decisions, which can be proven by common evidence, a “pattern or practice” sexual harassment suit for damages requires individualized proof because liability focuses “on the gravity of the conduct to which the claimant was exposed.” The conduct at issue here involved “actions perpetuated by one individual against another individual in an isolated environment, not conduct in a common environment directed against several women at once.” As a result, the court held that the plaintiffs could not produce common evidence to show the class was exposed to conduct severe or pervasive enough such that a reasonable person would be offended. Accordingly, the plaintiff could not satisfy Rule 23’s commonality, predominance, or superiority requirements. The court remarked that

“the allegedly offensive actions, not the employer’s alleged policies are what create difficulties in trying hostile work environment claims as a class.” It concluded the drivers could proceed individually, but not as a class.

In a separate discussion, the court granted summary judgment to the company on the plaintiff’s retaliation claim. Although the court explained there were triable issues on whether the company’s policy for handling complaints of harassment resulted in lower pay to women who used it, or whether the company’s policy of removing complainants from a truck in which an alleged harasser was assigned, could be considered adverse employment actions, the plaintiffs could not demonstrate there was a retaliatory motive behind any of the policies. The court held the company’s reasons for having the policy, including protecting a complainant’s safety and well-being and complying with licensing and other truck ownership rules, were not retaliatory or pretextual. The court reasoned the plaintiffs’ proof that the company knew the policy had an impact on pay, and was working to explore alternative policies, was inadequate to show the retaliatory intent required for the plaintiffs’ claims to prevail.

Jackson Lewis P.C. © 2019

Source URL: <https://www.natlawreview.com/article/court-decertifies-class-female-drivers-hostile-work-environment-claims-trims>