Court Refuses to Adopt View That Member of a Protected Class Cannot Discriminate Against Other Members of That Class

BY ROBERT G. YOUNG • AUGUST 30, 2017

In an opinion issued on August 22, a federal judge in Washington, D.C., reiterated that a member of a protected class can, in fact, discriminate against members of that class. In *Moore v. Howard University*, a former security guard alleged that the university terminated his employment because of his race. The university sought to dismiss the claim on the ground that the decision makers were all of the same race as the plaintiff, and therefore no discriminatory animus was possible. The Court rejected that argument, citing nearly twenty-year old Supreme Court precedent holding just the opposite: there is no legal presumption that a member of a particular class cannot discriminate against other members of that class. Accordingly, the Court permitted the plaintiff to continue pursuing his race discrimination claim.

Client Tip*: This case serves as an important reminder for institutions to focus on the business reasons for their decisions and not to assume that litigation will be unlikely solely because the employee and the decision makers are all members of the same protected category.*

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