

Additional Protection for Employees in New Jersey: New Jersey Court Expands Scope of Law Against Discrimination

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[New Jersey employers](#) should be aware that a recent appellate decision greatly expanded the scope of the New Jersey Law Against Discrimination (LAD). The court ruled that an employee could maintain a hostile work environment claim based on anti-Semitic comments, even though the employee was only *perceived to be Jewish*.

The Facts of the Case

In [Cowher v. Carson & Roberts](#), Plaintiff Myron Cowher claimed that his supervisors directed anti-Semitic comments at him on a daily basis for over a year. The comments included “Jew Bag,” “Jew Bastard,” and “If you were a German, we would burn you in the oven.” However, Cowher wasn’t Jewish.

Cowher brought the anti-Semitic slurs to the attention of another supervisor, who advised him to ignore the comments until they went away. He also tried unsuccessfully to meet with the company’s president. After later leaving the company, Cowher filed suit under the LAD.

The Court’s Ruling

The court ultimately concluded that the state’s anti-discrimination law could be applied to the facts of the case. If a plaintiff “can demonstrate that the discrimination that he claims to have experienced would not have occurred but for the perception that he was Jewish, his claim is covered” by the law, the court explained. “That their target happened not to be Jewish should not serve to excuse their conduct,” the court added.

While New Jersey courts had previously ruled that discrimination laws apply when a plaintiff is incorrectly perceived to be disabled, the law had not been expanded to other protected classes. However, in this case, Appellate Division Judge Edith Payne said there is “no reasoned basis to hold that the LAD protects those who are perceived to be members of one class of persons enumerated by the Act and does not protect those who are perceived to be members of a different class, as to which the LAD offers its protections in equal measure.”

The Message for Employers

In light of this decision, New Jersey employers should ensure that their policies and procedures also address discrimination based on an employee’s perceived status as a member of a protected class, such as being Muslim or homosexual. Even though the harasser’s perceptions may turn out to be incorrect, the employer may still be held liable if it does not take steps to address the problem. This decision serves as an important reminder for companies to train their managers and supervisors on how to avoid

employment lawsuits for discrimination or harassment. Remember, managers and supervisors are the company's eyes and ears and generally the first to learn of issues. Proper training goes miles towards helping companies properly and promptly address issues before the issues become lawsuits.

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About Beth Lincow Cole

[Beth Lincow Cole](#) is committed to helping employers comply with federal and state employment law and avoid potential business-wrecking lawsuits. If your company needs guidance regarding its harassment policies and procedures or would like information on management training, contact employment law attorney [Beth Lincow Cole](#).