



CA Supreme Court Rules for the First Time that a Single Utterance of the “N Word” by a Coworker Can Give Rise to Workplace Harassment Claims



Twanda Bailey pictured with Legal Aid at Work attorneys Chris Ho, Stacy Villalobos and Ms. Bailey’s attorney Daniel Ray Bacon.

Legal Aid at Work Celebrates Pivotal Victory in Bailey v. San Francisco District Attorney’s Office.

San Francisco, CA (July 29, 2024)— In a historic ruling, the California Supreme Court held today that a single use of the “N-word” or other unambiguous racial epithets by a coworker can constitute a hostile work environment under the California Fair Employment and Housing Act (FEHA).

and County of San Francisco, including the Department of Human Resources' refusal to investigate her complaint of racial harassment, she filed a lawsuit. Two lower courts, the trial court, and the California Court of Appeal, found that no trier of fact could find severe or pervasive racial harassment based on being called a N-word by a coworker on a single occasion.

Justice Kelli Evans, writing for the unanimous court, emphasized, "The use of the 'N-word' is highly offensive and demeaning, evoking a history of racial violence, brutality, and subordination. It is beyond question that the use of such language in the workplace creates an abusive environment.

Justice Evans further wrote "[T]here is no question that conduct by coworkers may give rise to a claim of harassment" and that there is no "magic number of slurs that creates a hostile work environment."

Legal Aid at Work understands that this is the first time that a court has ever held that a coworker's single use of an unambiguous racial epithet, such as the N-word, can constitute actionable racial harassment. Courts have previously held that a supervisor's single use of the N-word may suffice, but never a coworker's single use of an epithet.

Stacy Villalobos, Senior Staff Attorney and Director of the Racial Economic Justice Program at Legal Aid at Work, who represented the amici curiae and presented oral argument before the California Supreme Court on this case in partnership with counsel for Ms. Bailey, remarked:

"We commend the California Supreme Court for recognizing today the odious nature of the n-word. It is an epithet that raises the specter of Black inferiority, racial terror, violence, and

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Legal Aid at Work, on behalf of a coalition of workers and civil rights organizations, argued that the historical and contemporary significance of racial slurs necessitates recognition of their severe impact in creating hostile work environments. The Court’s ruling adopted this reasoning, marking a significant step forward in ensuring workplace dignity and respect for all employees.

The Plaintiff-Appellant, Ms. Bailey, is represented by Daniel Ray Bacon, Law Offices of Daniel Ray Bacon, and Robert L. Rusky. Daniel Ray Bacon said:

“The California Supreme Court has protected employees from being harassed by coworkers with a single utterance of an epithet by ruling that such cases demand that the courts conduct a thorough analysis of the totality of the circumstances and ensure the employees right to a jury trial.”

[A copy of the opinion can be found here. < https://legalaidatwork.org/wp-content/uploads/2024/07/Twanda-Bailey-Opinion.pdf >](https://legalaidatwork.org/wp-content/uploads/2024/07/Twanda-Bailey-Opinion.pdf)

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About Legal Aid at Work:

Legal Aid at Work partners with people to help them understand and assert their workplace rights. We also advocate for employment laws and systems that empower low-paid workers and marginalized communities.

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