

## Could Buying a Lunch for a Customer Result in Sexual Harassment?

Over the past several weeks, Mitch, the manager at Salad Xpress, has noticed that one of the restaurant's regulars causes quite the stir when she comes there for lunch.

This particular regular is a very attractive, buxom, young woman who is a receptionist at a nearby law firm. Whenever she comes into the restaurant, several of the male employees drop what they are doing and vie for her attention. There have even been several instances where a male employee has paid for this customer's meal.

The customer does not seem to have a problem with this attention, but Mitch believes that this type of behavior could expose the company to the claim. What, if anything, should Mitch do?

- A. Mitch is overreacting. Since the customer has not complained about the male employees, there is nothing that Mitch needs to do at this time.
- B. Mitch should talk to his employees about their behavior towards this customer and encourage them to stop, as their conduct could easily be interpreted as sexual harassment.
- C. Mitch should keep a close eye on the employees when this customer comes into the restaurant and terminate any employee who buys a meal for this employee, as that conduct is inappropriate.
- D. This customer is causing a disruption in the workplace, Mitch should approach her and tell her that she can no longer eat at the restaurant.



**The correct answer is B:**

### Explanation

The employees' conduct towards the female customer could trigger a third party sexual harassment against the company. While the typical third party sexual harassment suit arises where a customer, vendor, or other third party harasses an employee, customers, vendors, clients or other non-employees may allege that one of your employees engaged in a wrongful act such as sexual harassment or discrimination (age, sex, race, disability, etc.). Therefore, under the circumstances Mitch should take action to stop this conduct before a lawsuit is filed against the company.

A customer can file a claim of harassment (or sexual harassment) against a company if the customer is subjected to unwelcome conduct that would be offensive to the "reasonable person" and makes the customer feel uncomfortable coming into the establishment.

In the present scenario, if the conduct persists, the female customer could decide that the male employees' attentions make her uncomfortable and are harassing. Alternatively, a male employee could take his attention a little too far and do something to this customer that would be offensive to the reasonable person.

Here, taking the offensive is the best form of defense. Mitch should talk to all of his employees about sexual harassment and provide sexual harassment training to the entire workforce. In doing this training, Mitch should also address third party harassment and advise his employees of the consequences of engaging in this type of behavior in the workplace.

Our Online Knowledge Center includes free online anti-sexual harassment training programs for both your supervisory and hourly employees. These programs can be used as stand-alone tools or in combination with your existing program to educate your employees about sexual harassment and to give them the tools they need to prevent sexual harassment in your workplace.

For more information about implementing an anti-sexual harassment training program, please contact an HR Professional email [hrdirectors@eplaceinc.com](mailto:hrdirectors@eplaceinc.com).