

Do You Even Lift, Bro? How A Case Of Seemingly Innocent Workplace Bullying Can Blindside Your Company With A Title VII Lawsuit

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Is there anything wrong with a group of employees teasing a male co-worker because he doesn't like sports? Well, the answer is obvious: of course. Employees should always treat co-workers with respect. But is this conduct *unlawful*? The answer to this question may surprise you. Let's kick off this blog post by discussing two recent federal court cases that shed light on this issue. First up is *Woods v. Boh Brothers*. In this case, Kerry Woods was employed by Boh Brothers as welder. Woods was supervised by a guy named Chuck Wolfe. Woods claimed that during his employment, Wolfe subjected him to almost-daily verbal harassment:

- Wolfe directed very foul language and locker room talk at Woods;
- Wolfe referred to Woods by graphically derogatory names, many of which concerned gender;
- Wolfe simulated sex acts in front of Woods; and
- Wolfe made fun of Woods for using "wet wipes" instead of toilet paper.

Significantly, Wolfe did not deny engaging in this conduct. In fact, here is what he had to say about the wet-wipes: [EEOC Interview](#) Why did Wolfe engage in this conduct? He later explained during a deposition that Woods was just not "manly" enough: But don't worry, according to Wolfe, he was just "playing around": When Woods complained to management, Wolfe told the company that he did not like Woods because Woods "didn't fit in." Woods later sued the company alleging violations of Title VII. Woods ultimately secured a significant jury verdict. Next up is *Prowel v. Wise Business Forms, Inc.* In this case, Brian Prowel worked for Wise Business Forms as a machine operator. According to Prowel, most men at the plant he worked in were "rough around the edges," "blue collar" type guys and into sports, drinking and hunting. Prowel, on the other hand, described himself as an "effeminate man" who did not curse, was well groomed and dressed neatly. In Prowel's mind, he just "didn't fit in" to the culture. During his employment, Prowel's male co-workers reacted negatively to his personality and mannerisms:

- They called him "princess."
- They criticized the way he crossed his legs.
- They described him as walking like a woman.
- They criticized the way he dressed.
- They mocked his clean appearance.
- They left articles of female clothing at his desk.

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Despite reporting this conduct to his supervisors, no remedial action was taken. Prowel was later terminated by his supervisors due to a “lack of work.” After his termination, Prowel filed suit under Title VII alleging sex discrimination. What was the result? Well a quick review of the docket reveals this filing: [Mediation](#) In the end, the case settled for some undisclosed amount. So you might be asking yourself: how do these examples of workplace bullying violate Title VII? After all, it was just a bunch of guys picking on a male co-worker. The answer to this question is simple: Title VII prohibits discrimination based on an individual’s failure to adhere to gender-based norms. In both fact patterns, the plaintiffs were picked on by other men because they weren’t “manly” enough. So why is this worth highlighting? The answer to this question is also simple: this sort of banter is commonplace and happens every day. Even worse, employees and supervisors might not know this sort of humor can result in legal liability. Here are a few ways your employees could be generating evidence of a discriminatory motive without you even knowing it: [Email 2](#) [email Texts](#)

What is the takeaway? Employers must consider addressing all forms of workplace harassment. This includes commentary regarding an employee’s failure to conform to society’s view of how a male or female should act. Remember: even a seemingly “garden-variety” case of teasing/bullying can amount to actionable conduct under certain circumstances. One final point: be sure to consider addressing any online harassment (or teasing) that occurs off the clock. A federal judge recently held that messages received by a plaintiff during the evening hours supported her hostile work environment claim. [The court’s opinion can be found here.](#)