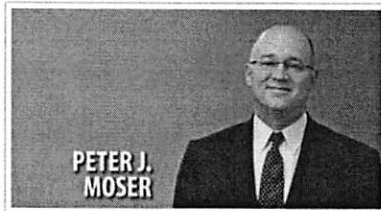




Will phrase 'OK Boomer' result in lawsuits? Lawyers weigh in

By: Kris Olson December 5, 2019

There have been a number of stories in the mainstream and business press recently about potential legal peril from millennials uttering the generational war retort "OK, Boomer" in the workplace. But will any "OK, Boomer" age discrimination lawsuits actually be filed? Why or why not?



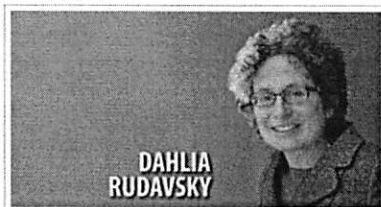
Ageist and derogatory for sure, but I doubt it moves the needle in terms of new filings. Age discrimination claims have remained steady and relatively low for years, plus financial incentive is reduced in Massachusetts given our limitation on damages (liquidated, not punitive). Could the phrase constitute evidence of animus or contribute to a hostile environment? Sure, but awareness is growing, workplaces won't tolerate it, and I think the meme-makers soon move on.

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Although "OK, Boomer" started as a witty quip on social media, "jokes" can often assume impactful meaning when used in the workplace. There's a grain of truth in every joke. If an older worker is being targeted with age-based comments, such as "old-timer" or "OK, Boomer," and the company takes no action, or particularly if a supervisor is involved, I could certainly see a case for liability. Older workers often face negative employment actions, such as termination or a failure to receive a promotion, and ageist comments can play a large role.



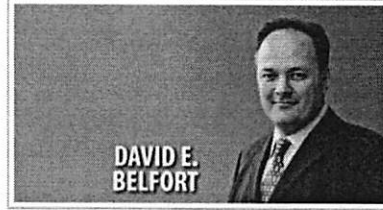
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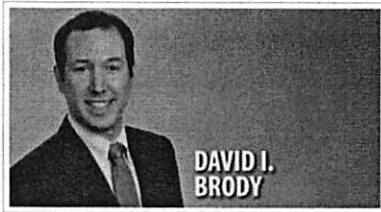
It depends on the speaker and context. Saying "OK, Boomer" may indicate a negative stereotyped view of older workers but is not in itself so disparaging as to be actionable standing alone. However, if used by a decision-maker (or heard and tolerated by a decision-maker), and paired with an adverse action — such as a layoff or demotion — it might suggest that the decision was motivated by age discrimination.

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Context is pivotal. What to some is a legitimate generational critique, to others is evidence of age bias. While a stray "OK, Boomer" remark may not constitute hostility or workplace harassment so extreme or pervasive as to amount to age discrimination, the risk of perceived or actual prejudice increases with each pejorative age-based comment — no matter how infuriating to those irked by political correctness. Because "OK, Boomer" discounts opinions solely on the basis of generational membership, this meme, like many expressions of stereotype, will inevitably find its way as a piece to the puzzle of discrimination evidence before our courts.



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If an employer tolerates language like "OK, Boomer," the workplace may become an unlawfully hostile environment for older workers. Age discrimination in employment is not uncommon, such as where an employer decides to provide growth opportunities for younger workers by pushing out older workers. Some employers are explicit; others are more discrete. Ultimately, age claims will continue to be filed and may increase if employers tolerate "generational" hostility in the workplace.

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