

From: Stephen D. Ellis <SEllis@pfclaw.com>

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Glossary

Faragher-Ellerth Defense

An affirmative defense employers may use to defend against claims of [hostile work environment](#) harassment (for more information, see [Practice Note, Harassment](#)).

Employers may attempt to use the defense if:

- No tangible adverse employment action was taken against the plaintiff (for example, no discharge, demotion, or undesirable reassignment).
- The employer exercised reasonable care to prevent and promptly correct the harassing behavior. For example, a harassment policy demonstrates reasonable care to prevent harassing behavior. For a model policy, see [Standard Document, Anti-Harassment Policy](#).
- The plaintiff employee unreasonably failed to take advantage of any preventative or corrective opportunities provided by the employer or to otherwise avoid harm (for example, by not taking advantage of reporting procedures outlined in an anti-harassment policy).

The defense takes its name from the two US Supreme Court cases that created it:

- [Faragher v. City of Boca Raton, 524 U.S. 775 \(1998\)](#).
- [Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 \(1998\)](#).

The Faragher-Ellerth defense is primarily used to defend against claims of hostile work environment sexual harassment, but has been applied to defend against claims of hostile work environment harassment on the basis of other [protected classes](#) as well.