

Court Defines ‘Similarly Situated’ Employee for Bias Cases

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In employment discrimination cases, plaintiff-employees often attempt to prove that they were treated differently due to their membership in a protected category, such as age, race or gender, by offering evidence that they were subject to different standards or more harsh treatment than counterparts outside of their protected class. For example, a female employee might try to prove gender discrimination with evidence that her male counterparts were paid more for comparable work. Or, an Hispanic employee might try to prove that he was discriminated against based on his race with evidence that Caucasian co-workers were not comparably disciplined for similar misconduct. For such evidence to be relevant and admissible in court, the proponent must establish a requisite threshold of similarity between the facts and circumstances of his or her situation to that of the comparative situation he or she intends to offer at trial as proof of discrimination.

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