

LEGAL ALERT

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LATERAL TRANSFERS AND REASSIGNMENTS RESULTING IN “SOME HARM” MAY NOW GIVE RISE TO ACTIONABLE DISCRIMINATION UNDER TITLE VII

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For decades, employers have depended on the rule that transferring or reassigning an employee would not give rise to an actionable discrimination claim, as long as such an action did not “significantly” change an employee’s pay or benefits. Employers, however, may no longer rely on that rule following the Supreme Court’s recent decision in *Muldrow v. City of St. Louis*, 601 U.S. ____ (2024).

As of last week, an employee seeking to demonstrate that their employer transferred or reassigned them in violation of Title VII of the Civil Rights Act of 1964 need show only that such an action produced “some” harm or disadvantage to an identifiable term or condition of their employment. Changes in schedule, decreased opportunities to work on important projects, alteration of responsibilities, and the loss of position-related perks, such as losing access to a company-owned vehicle—which courts previously disregarded as mere de minimis workplaces issues insufficient to establish employer liability—may now be actionable discrimination under Title VII.

What the Supreme Court did not do is explain whether there are some harms that are simply too trivial or minor to support a Title VII discrimination claim. Employers and employees alike will have to define the contours of the Supreme Court’s decision in *Muldrow* through future litigation.

Following *Muldrow*, employers should consider exercising caution before transferring or reassigning an employee to a different position, even if it does not appear that such an action will alter the employee’s pay, benefits, or significantly injure the employee.

For guidance on this development and its impact on your organization, please contact Hahn Loeser’s [Labor & Employment team](#).

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