

**THIRD CIRCUIT HOLDS THAT EVIDENCE DID NOT SUPPORT  
FINDING THAT EMPLOYER TOOK PROMPT AND REMEDIAL  
ACTION IN RESPONSE TO HARASSMENT COMPLAINTS**

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In Andreoli v. Gates, 482 F.3d 641 (3d Cir. 2007), the Third Circuit reversed a District Court's entry of summary judgment against an employee alleging a hostile work environment. The Plaintiff (Andreoli) was a Federal employee from 1988 to 2000. Beginning in 1989, a coworker (DeLutiis) started making offensive remarks about women. DeLutiis' conduct worsened and included physically offensive touching. Andreoli's complaints were apparently ignored. In 1996, DeLutiis was transferred to a different shift, but still engaged in offensive conduct and told Andreoli that he would again be working on her shift. In 1997, Andreoli applied for, and was transferred to a different position that caused her to work on the same shift as DeLutiis. In 1999, DeLutiis took advantage of the location of the water cooler and stooped down to brush his leg against Andreoli while getting a drink. After Andreoli made several requests, the water cooler was eventually moved.

In April 2000, while Andreoli was sitting on a cement post outside of the building, DeLutiis drove a government van close to her and parked in a "no parking" area next to where she was seated. On two other occasions that month, DeLutiis swerved the van toward Andreoli as though he was going to run her over. She did not complain until the next month when DeLutiis drove the van directly toward her. The Supervisor informed Andreoli that DeLutiis had been instructed to beep his horn if Andreoli was in his way on any future occasion. One month later, DeLutiis drove the van toward Andreoli and caused her to lose her footing. He did not beep the horn. After a traffic hearing and a limited investigation by the employer, Andreoli stopped working due to Post Traumatic Stress Disorder. DeLutiis was warned to stay away from Andreoli, but not until after she had taken leave.

The District Court accepted the government's argument that it took prompt and effective remedial action to stop and prevent further harassment. In reaching this conclusion, the District Court indicted that Andreoli was responsible for placing herself in danger by accepting a position in close proximity to the harasser. However, the District Court did not focus on any of the delays in responding to Andreoli's complaints nor did it question the adequacy of the employer's limited response.

The Third Circuit rejected the District Court's conclusion that Andreoli had placed herself in danger by placing herself in close proximity with the harasser. More importantly, the Court concluded that the responses of the employer were neither prompt nor adequate. Instead, the employer took delayed and ineffective steps in response to Andreoli's repeated complaints. Accordingly, a jury will determine whether the employer is liable for a hostile work environment.