

Work Beyond Pay Grade Can Be Grounds for Constructive Termination, Court Rules

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The federal court for the Northern District of California recently declined to dismiss a former Al Jazeera International employee's constructive wrongful termination claim against the news outlet, finding that requiring an employee to perform tasks more advanced than their pay level, without promotion, could constitute "intolerable" working conditions.

The plaintiff alleges she was working as a producer for Al Jazeera when she was offered a promotion to senior producer. She began taking on a senior producer's job responsibilities, and Al Jazeera arranged for her to undergo management training. At the management training, the plaintiff discussed her experiences with gender discrimination in the workplace. Shortly after this training, an executive producer informed her that she would not be promoted to senior producer.

Even though this promotion was revoked, the plaintiff continued to be assigned work that a senior producer would do, without increased compensation or a senior producer credit for the shows she worked on. The plaintiff had the "sense" that she would never be promoted based on her gender and in retaliation for her comments about gender discrimination, including when she was told that a senior executive did not want her to speak about her experiences with discrimination. A few months after she learned she would not be promoted, the plaintiff resigned. The plaintiff then sued, alleging among other causes of action that the treatment of her constituted constructive discharge.

The court ruled the plaintiff's complaint alleged sufficient facts to proceed; specifically, the court noted, when asked to perform a more senior position's work "without credit, proper pay, or possibility of advancement"—and when the plaintiff reasonably believed that she would never be promoted—the plaintiff "reasonably understood her options were to either resign or be taken advantage of."

Personnel actions like work assignment or promotion decisions typically cannot by themselves form the basis for a constructive wrongful termination claim, which requires that the working conditions themselves are "so intolerable or aggravated" that a reasonable employee "would be compelled to resign." The court's ruling here is a reminder that working conditions need not necessarily be dangerous, painful, or humiliating to be "intolerable" for a reasonable employee.

With the court's denial of Al Jazeera's motion to dismiss, the plaintiff's constructive termination and other discrimination-related claims may proceed—for now. We will continue to monitor this case for any substantive updates.

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