

Why Are Law Firms So Hard to Sue?



Summary: Lawyers wanting to sue their own firms face obstacles.

Two months ago, a former Winston & Strawn partner sued the firm for sex discrimination. While she and other attorneys have been able to sue big firms, others have not because of internal forces such as fear of losing one's career and external forces such as employment statuses and arbitration agreements, according to *Crain's Chicago Business*.

Lawsuits against former employers "can mean career suicide," *Crain's* stated. Additionally, law firms have policies in place that often mean disputes end up in arbitration, not in court.

"The nature of the work and the legal structure of law firms actually make it harder for lawyers to sue for discrimination or unequal pay compared to workers at other businesses. Law firms are partnerships, which muddies the straightforward employer/employee relationship that undergirds employment law. Compound that with contracts that increasingly require private arbitration, and the chances for a plaintiff victory wither," *Crain's* stated.

Constance Ramos, the partner of Winston & Strawn who sued recently, even faced the challenge of having her employment status questioned. According to Winston, her title was "income partner" and she was therefore not an employee. In October, the firm filed a motion that her case should be dismissed because the "allegations are untenable as a matter of law." In November, Ramos' attorney argued that Ramos had no equity and could be fired at any time, thus making her an employee of the firm.

The argument that partners have no legal grounds to sue because they are not employees has been used often by law firms who've been sued in discrimination cases. Judge Richard Posner wrote in 2007 that partners must be examined individually when they sue to see how much control they have over management decisions like hiring and firing to determine their status.

Posner's opinion was written for a settlement between Sidley Austin and 32 partners who claimed they were pushed out because of their age. The law firm did not admit to wrongdoing but settled the lawsuit for \$27.5 million. Because Posner's decision was part of a settlement, his opinion set no precedent.

The nature of legal work is another reason why lawyers have a hard time winning discrimination lawsuits against their firms. Lawyers rarely have the same practice, which makes discrimination on age, sex, or race difficult to prove.

"Title VII, the federal law prohibiting discrimination based on race, sex, age and other categories, forced firms to hire women in the 1970s. Title VII cases require a female plaintiff to find a similarly situated male attorney who was treated better. That can be hard to do, since rarely do two lawyers have exactly the same practice, says Nancy Levit, interim associate dean at University of Missouri-Kansas City School of Law," *Crain's* wrote.

Lastly, lawyers are experts in the law. Thus, they know better than to do anything discriminatory on the record, and without proof, many attorneys who want to sue their firms have a hard time winning their cases in court.

Source: [Crain's Chicago Business](#)

- [Legal Network for Gender Equity Takes on Sex Discrimination](#)
- [Steptoe & Johnson Slammed with Gender Discrimination Class-Action Lawsuit](#)

What do you think about lawyers who sue their own law firms? Let us know in the comments below.

