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
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The Faragher-Ellerth Defense

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
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Faragher

- A case about lifeguards behaving poorly



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Ellerth

- A boorish supervisor and an employee who did not report
- Defense can apply even in face of atrocious misbehavior

First Prong

- **Reasonable care to prevent and promptly address harassment**
- Written policies
- Reporting mechanisms
- Prompt follow-through
- Thorough investigation of harassment
- Specific disciplinary actions not required

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Second Prong

- **Employee unreasonably failed to take advantage of employer's mechanisms**
- Employer educated employee about mechanisms
- Employee had full opportunity
- If employee utilizes mechanisms, probably no defense

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A Defense Against Other Discrimination Claims

- Race, religion, sexual orientation (not just sex-based harassment)

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Questions?

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