

SEVENTH CIRCUIT: TITLE VII TRUMPS PATIENT AND CUSTOMER RACIAL PREFERENCES

A recent Seventh Circuit Court of Appeals ruling makes clear that an employer's obligation under Title VII of the Civil Rights Act of 1964 to provide employees with a discrimination-free workplace takes precedence over patient or customer preferences regarding the race of employees from whom they receive services. The court held, in *Chaney v. Plainfield Health Center*, that by accommodating a patient's demand for white-only health-care providers, a nursing home maintained a racially hostile work environment in violation of Title VII. (The court also determined that issues of fact existed as to whether the defendant nursing home's discharge of the plaintiff, a black nursing assistant, was motivated by race).

In *Chaney*, the defendant nursing home had a policy of honoring the racial preferences of its residents when assigning them health-care providers in order to avoid violating federal and state laws the nursing home viewed as requiring it to grant residents certain related rights to privacy, bodily autonomy and choice of providers. The court noted that, while allowing patients to choose the gender of their health care providers is permissible under Title VII, the patient-privacy grounds justifying employee assignment based on gender-based preferences are inapplicable to race-based preferences. The court further dismissed arguments that state or federal health laws otherwise permitted a policy of permitting patients to choose providers on racial bases, reasoning that laws requiring access to chosen providers did not necessitate race-based work practices and any state law otherwise conflicting with Title VII would be preempted.

The court also rejected the defendant's contention that, as a practical matter, its race-based policy protected black employees from racial harassment from the residents, referencing several alternative means to accomplish such objectives. Calling the defendant's willingness to accede to a patient's racial preferences "the principal source of the racial hostility in the workplace" where the plaintiff allegedly experienced three specific incidents of racial harassment from co-workers, the court reasoned that barring such a policy was consistent with judicial precedence, which "now widely accept[s] that a company's desire to cater to the perceived racial preferences of its customers is not a defense under Title VII for treating employees differently based on race." The court concluded that the defendant nursing home's status as a medical provider and permanent home to its residents did not exempt it from Title VII's prohibitions of such race-based employment policies.

A full copy of the decision can be found [here](#).