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see also *commerce union bank co. v. tidwell*, 560 f.2d at 1347 ("[w]hile these activities [might] not be the only way to enforce the terms of the contract, they were not any less effective or any less coercive than methods previously held to be sufficient to make out a breach of contract"); *south central bell telephone co. central telephone co. of georgia, inc.*, 594 f.2d 201, 204 (5th cir.1979) (citing *tidwell* for proposition that "coercive means to an adult of even normal intelligence are sufficient" (internal citation omitted)). where the record reflects that the district court failed to consider a ground upon which an appellant may have prevailed in the district court, we may exercise our discretion to uphold the district court's judgment. the district court did not consider *iacampo's* claim that the fepa also protected her against sexual harassment. accordingly, the court vacates the judgment in favor of booth, hasbro, and godfrin and remands for further proceedings consistent with this opinion. the remainder of this opinion deals with hasbro's appeal. in bringing her disparate impact and unwritten practices claims, *iacampo* relies on two of the acts at issue, title vii and the ada, and two of rhode island's analogous laws, the fepa and the ricra. the first theory, disparate impact, posits that facially neutral employment practices or conduct that have a disparate, unfavorable effect upon a protected group of employees are per se illegal under title vii and the ada. in support of her contentions, she relies on two supreme court decisions, *teamsters*, 431 u.s. 324, and *griggs*, 401 u. 424. in *teamsters*, the court held that facially neutral employment policies that had a disparate impact on racial minorities could constitute a violation of title vii; in *griggs*, the court held that broad, facially neutral employment practices that did not involve specific criteria could violate the act. see 431 u. at 334. disparate impact cases involve a plaintiff who alleges that facially neutral employment practices or policies have a disproportionate impact on a protected group of employees, regardless of whether the purpose behind the practices or policies is illegal. at 335. disparate impact cases are "important because the proof of discriminatory motive is.. difficult." 431 u. at 336.

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