

TEXAS EMPLOYMENT LAW LETTER

A monthly survey
of employment
law developments

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Highlights

- Houston Company Gets Socked for \$300,000 for Derogatory References to Women
- Ethics 101: Part I
- Texas Courts Decide Important Nonsubscription Questions
- Dallas Company Dodges Bullet by Taking Prompt Action in Harassment Case
- Fifth Circuit Alert

Houston Company Gets Socked for \$300,000 for Derogatory References to Women

Now here is an interesting case from Houston, which was recently tried before Judge Hittner. The case involved Virginia Weller, who sued her former employer, Citation Oil and Gas, and an old boss, Ralph Hollingshead, for hostile environment, sexual harassment, and intentional infliction of emotional distress. It seems that her boss decided to give her a religious pamphlet which talked about the "spirit of Jezebel" and quoted various biblical verses to support its somewhat dated view of women. The verses quoted emphasized the following points in the pamphlet:

- ✓ The spirit of Jezebel resides primarily in women who try to seek authority or recognition;
- ✓ Women who embrace the spirit of Jezebel are the agents of Satan and the root of evil;
- ✓ Because of the above, women who are possessed of the spirit of Jezebel must be tortured or killed.

We don't know about you, but we'd be bent out of shape if we got an article like this. Ms. Weller took the article literally and naturally became scared and upset. She asked for a job transfer so she would not

have to work for Hollingshead. Since the company was small, the higher-ups said no. The company managers assured her, however, that she should not take the article literally, that it certainly was not directed towards her, and that Hollingshead was not planning on torturing or killing her. Not mollified by these representations, Ms. Weller quit. To her credit, she was able to find another job three months later making as much as she made at Citation Oil. So, her lost wages were only around \$18,000. This amount plus reinstatement or some front pay would have been her *only* remedy prior to enactment of the Civil Rights Act of 1991.

The Civil Rights Act now provides both punitive damages to punish a company and compensatory damages for such intangibles as mental anguish. Also, the "tortification" of employment law continues to occur with plaintiffs claiming intentional infliction of emotional distress, which also can involve an award of punitive damages. Ms. Weller got a favorable verdict on all of these claims to the tune of \$300,000.

This case aptly illustrates an illusion which many people embrace: that they have a God-given, constitutionally protected, carved-in-stone right to say what they believe, regardless of what they say, when they say it, or where it is said. That's wrong. The First Amendment prohibits the government from curbing free speech. That's it.

So, as we saw in this case, an individual manager may believe that expressing his religious views is protected when it is not and may end up angering a jury enough to award over \$300,000 even when the employee's out-of-pocket damages are substantially less.

Incidentally, we want to thank the ace employee's attorney who tried this case, Zoe Littlepage, from the Houston firm of Mandel & Wright for letting us know about it. If anyone else has an interesting case, drop us a line.