

Zero Tolerance on Harassment

Accused workers face firing

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For Cheryl Brown, the lawsuit was sparked one evening in 2005 when a male co-worker pressured her into stripping off her sweater as they served drinks behind the bar, surmising it would help them attract more orders and tips.

Michele L. Sacco pressed her case against a prominent investment bank following years of perceived gender bias, including allegations of exposure to pornographic material.

Sexual harassment complaints filed with the Connecticut Commission on Human Rights (COHR) have dwindled every year since 2000, and are down 31 percent this decade. But attorneys and workplace experts predict an increase as Madison Square Garden appeals the \$11.6 million verdict against it, and as Bristol, Conn.-based ESPN readies to defend itself against a \$5 million, wrongful-termination suit from on-air analyst Harold Reynolds, who was fired after another employee lodged a sexual harassment complaint against him.

At risk of multimillion dollar settlements and judgments, companies are more likely to jettison employees who open themselves up to a sexual harassment claim. "Why should I spend time, money and energy to prove that you are only a fool, and not a sex harasser?" said Bernard Jacques, an employment-law partner in the Hartford office of Pepe & Hazard L.L.P. "You are going to see a heightened standard on the part of employers."

In the fiscal year ending last June, COHR received 188 complaints of sexual harassment statewide, 5 percent of the total number of employment-related filings filed with the agency. Those filings included 428 cases of other types of harassment, and 507 allegations of workplace retaliation. Roughly one-quarter of all employment-based complaints were generated in the southwest section of the state, including Fairfield County. COHR does not list sexual harassment filings by areas of the state.

Under Title VII of the Civil Rights Act of 1964, sexual harassment is defined as any conduct or advances of a sexual nature when:

- Employment decisions are made with regard to an individual's response to such conduct; or
- Incidents interfere with a worker's performance or otherwise creates an unwelcome work environment.

Workers who are exposed to derogatory or lewd comments can file a complaint, as well as those exposed to a co-worker who views pornographic material online. By law, remedies can include a cease-and-desist order; back pay and compensatory damages; and promotion or reinstatement.

Aside from the legal implications, such claims can leave companies staggering to recover workplace morale as employees are interviewed as witnesses, according to David Lewis, president of Stamford human resources consulting firm OperationsInc.

"It's egg shells for the first 30 to 60 days everyone's walking on them," Lewis said. "You see an alteration in the dynamic of what

might have been a positive working environment for a period of time because people are sensitive."

Lewis has also observed a higher level of employee turnover following such cases, particularly among uninvolved employees who were interviewed as part of the investigation.

The Madison Square Garden case is only the most recent example of a multimillion dollar judgment in such cases. Five years ago, PepsiCo Inc. and subsidiary South Beach Beverage Company Inc. settled a U.S. Equal Opportunity Employment Commission lawsuit for \$1.8 million. The suit charged that five SoBe beverage employees were subjected to egregious sexual harassment and retaliation at the company's Norwalk headquarters.

And in October 2006, Syosset, N.Y.-based David Lerner Associates Inc. paid \$1.5 million to settle sexual harassment claims brought by three women against a manager in the firm's Darien office. Cheryl Brown and Michele Sacco, who live in Fairfield and Greenwich respectively, have yet to specify what they are seeking, and both declined interview requests made through their attorneys.

As part of a broad sex-discrimination suit filed against Legg Mason Inc. and affiliates, Greenwich resident Michele Sacco alleges episodes of sexual harassment. Between 2004 and 2006, she claims, she was exposed to pornographic images that were distributed in the office, and to sexually explicit comments from two portfolio managers. Sacco claims she was later discharged for raising complaints.

The Equal Employment Opportunity Commission was unable to conclude that the information it obtained established a violation of the statutes. "This lawsuit is without merit and we are vigorously going to defend it," said Legg Mason spokeswoman Mary Athridge, declining further comment on the case or the company's sexual harassment policies.

Cheryl Brown claims she was sexually harassed in June 2005 by a fellow bartender at the Thirsty Turtle in Stamford, one of more than a dozen bars and restaurants owned by Post Road Entertainment and Club L.L.C. After her male colleague asked a reluctant Brown to remove her sweater to "help us make money," she claims, she acceded after what she interpreted as a veiled threat that she might get in hot water with management. After she complained to an assistant manager, Brown said she was left off the shift schedule for a few weeks and then fired.

At deadline, the hospitality company had yet to file a formal response in court. "We do see as a standard in the entertainment (and) hospitality industry that this kind of conduct ... seems to go along with the territory," said Nicole Rothgeb, an attorney with Hartford-based Livingston, Adler, Pulda, Meiklejohn & Kelly P.C. who is representing Brown. "Those industries are not above the law and employees who work in those industries are entitled to the same protection as anyone else."