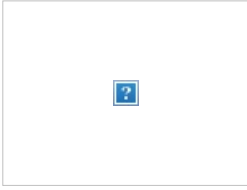


HOSTILE WORK ENVIRONMENT FOR MASSAGE THERAPIST?



A massage therapist in Michigan filed a lawsuit against her former employers, alleging a hostile work environment and retaliation. District court judges didn't see things her way, but what did the appeals court decide? The woman began working at a rehabilitation center in 2005. Near the beginning of 2007, she was given a "good" evaluation and told to improve her listening skills and lessen her negativity. Later that year, a newly hired male employee was telling jokes of a sexual nature in the presence of customers and other therapists. The plaintiff complained to her supervisor, and later, along with other female employees, complained to both the supervisor and one of the company owners. At a meeting the following month, the woman informed her supervisor that if nothing were done with regard to the employee's inappropriate behavior, she would file a civil rights complaint. After the husband/wife owners spoke separately with the male employee in question about his improper conduct, they alleged that the complaints stopped. Meanwhile, the plaintiff's evaluation showed improvements, and she received a seven-percent merit-based raise in pay. Three months later, the supervisor told the woman that the owners were having financial problems and may be unable to pay bonuses or cover payroll. Furthermore, the building's landlord gave an invoice for overdue rent to the plaintiff to deliver to the owners. The plaintiff told a co-worker about the owners' financial troubles and was subsequently fired for gossiping, as well as rolling her eyes at the supervisor, "poor judgment," and "lousy appreciation for the job."



The woman filed a suit against the company, as well as the business that processes the company's paychecks. She claimed that the male employee's offensive comments were in violation of both Title VII of the Civil Rights Act and Michigan's Elliott-Larsen Civil Rights Act. She likewise alleged that the company had retaliated against her for lodging complaints, also violating both acts. The district court granted summary judgment in favor of the companies, finding no proof of pretext for her termination and – as the plaintiff was unable to recall specific comments made by the male employee – no proof of a hostile work environment. Additionally, the paycheck-processing company had no notice of the reputed harassment. On appeal, the court noted that the plaintiff had not said that the harassment was directed at her or that it interfered with her work. Her job evaluations, in fact, improved from the time prior to the man's employment to after the plaintiff's final complaint. The woman also had not pinpointed the frequency with which the comments were allegedly made, and the court could not confirm the reported vulgarity without specificity. The woman, however, had sued the company, not her co-worker. Therefore, she had to prove that the company was liable. But the owners had told the man to stop the offensive comments and received no further complaints. The retaliation charge fared no better, as the woman's only causal link was her termination two-and-a-half months after her last complaint. No other evidence was presented, which was further negated by her favorable evaluation and pay raise taking place after her complaint. Accordingly, the appeals court affirmed the district court's ruling.