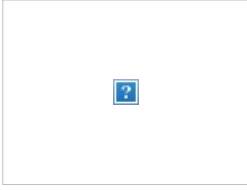


## FIRED EMPLOYEE INADVERTENTLY HELPS PROVE DEFENDANT'S EVIDENCE AGAINST HER



A woman's lawsuit against her former employer was dismissed in a district court. Her appeal included a heap of evidence to support her argument, but did appellate judges see things differently? The woman was fired from Florida-based Interline Brands, Inc. for repeated absences and similar violations of the company's attendance policy. The subsequent month, she filed a charge with the EEOC (Equal Employment Opportunity Commission), alleging sexual harassment, sexual discrimination and retaliation. A complaint in a Texas district court followed, where she cited a violation of Title VII of the Civil Rights Act, claiming that she had been terminated for rejecting sexual advances from a couple of Interline employees. The company made a motion for summary judgment, which the district court granted, noting a quid pro quo sexual harassment claim and stating that the plaintiff had not proven a prima facie case – one that could proceed to trial. On appeal, the plaintiff used as evidence: disciplinary reports and timesheets showing that she, along with other employees, were often absent or late for work; emails proving that she had requested forms for filing a grievance; documents denoting the EEOC charge and investigation; a section of the Interline handbook; text messages between the woman and another employee asking about her condition after a car accident; forms from a doctor's office showing that she'd received medical treatment from injuries sustained in the accident; Interline letters discussing her attendance policy violations and ensuing termination; and a physician's report stating that the plaintiff suffered from a mental illness.



The appeals court, while acknowledging that the woman's evidence was extensive, found little association with the sexual harassment claim. Instead, she had merely proven that she was frequently absent or tardy, had filed an EEOC charge, and had medical complications, some of which was due to a car accident. The woman's summary of her evidence was a 47-point statement of facts, which she submitted along with her opposition to the summary judgment and a six-page document that she asserted was a bullet-point summary of her deposition. The court noted that the statement facts did not specifically cite any facts on record, and the deposition summary likewise failed to cite the deposition transcript – which appellate judges, when comparing her summary to the transcript, believed was likely “a total fabrication.” In contrast, Interline supplied affidavits and deposition testimony to support its argument that no such sexual harassment took place, that the plaintiff was fired for the stated reason of excessive absences, and even that the woman had attempted to persuade a former co-worker to lie during the discovery of evidence. The appeals court deemed the district court's summary judgment proper, referring to the plaintiff's inability to oppose Interline's argument, as well as “her inadvertent success in confirming” evidence against her. The purpose of summary judgment is “to dispose of factually unsupported claims.” Believing that the woman's claim indeed lacked support, the appeals court affirmed summary judgment in favor of the company.