

## CLARIFICATION OF THE FIRST AMENDMENT



It may come as a surprise to many that The First Amendment and many of the Constitution's other protections only extend to the government, not to private employers. Employees of the Elizabeth R. Wellborn law firm, located in Deerfield Beach, Florida, wore orange shirts to work apparently to protest draconian new work rules. They were summarily fired. Being a political year, people talk politics in the workplace with the notion that we have freedom of speech. Not necessarily. Fact is that a constitutionally protected freedom of speech for government workers doesn't extend into the private-sector workplace. Brian Finucane, an attorney at Fisher & Phillips in Kansas City, says, a private-sector employer "has a lot of latitude as to what's permitted or not with respect to political speech, or pushing any view for that matter." An employer can allow one point of view to be aired but at the same time discipline an employee who voices a contrary opinion; even fire a worker who supports a different candidate or stance. While not exactly 'best practice' at the work place it is important for private-sector employees to understand limits of their free-speech rights at work. Are these tyrannical, arbitrary and callous acts illegal? Can management just throw you out? Yes! The First Amendment and many of the Constitution's other protections only extend to the government, not to private employers. Calm discussions; politics, religious etc. are usually fine until the discussion morphs into a hostile work environment. Offensive or pervasive comments that may violate a worker's rights to legal protection against discrimination on the basis of sex, race, age, religion, ethnicity or pregnancy may raise a problem. Offended employees subject to repeated racist or sexist references may give them grounds for discrimination lawsuits, something employers need to watch out for. Judith M. Conti, federal advocacy coordinator for the National Employment Law Center (NELP), says many assume that they have more protection at work than they actually do. "People also assume they have some right to be treated decently, and fairly, and respectfully at the workplace. They have the right to freedom from discrimination based on certain immutable characteristics like sex, race and age, but as long as treatment at work isn't related to one of those characteristics you can be treated badly with no legal recourse. It's kind of a free-for-all."