

UNWELCOME ADVANCES AT CHIROPRACTOR'S OFFICE LAND THE DOCTOR IN COURT



When a receptionist working at a chiropractor's office received an onslaught of unwelcome sexual advances, she accepted her final paycheck. She then brought legal action against the doctor who allegedly harassed her but also named Chiropractic Strategies Group, Inc. and Mobile Spine & Rehab on the Loop, Inc. (CSG) – the company that hired her. The woman had been at CSG's Mobile, AL office for only a few months when she began receiving sexually suggestive and explicit messages from the chiropractor. He also made unsolicited physical contact and allegedly told her that “small favors” would reap a better work schedule. One evening, while closing up the office, the doctor – who earlier had sent text messages expressing a desire for sexual interaction – turned off the lights in the office and cornered the receptionist. She screamed, which was overheard by the chiropractic assistant – the only other staff member – who had returned for her keys. The woman later spoke with the controller/secretary at the Arlington, TX office and reported the incident. She was told that the doctor would remain at the office, and the controller requested that text messages be forwarded to her. The receptionist was called back and asked if she wanted her last paycheck. There was no further discussion between the woman and anyone from CSG. The former employee's suit claimed violations of Title VII of the Civil Rights Act – a hostile work environment and retaliation. She also charged Alabama state law claims of assault and battery, invasion of privacy, outrage, and negligent and/or wanton (reckless disregard) hiring, supervision, training and retention. The district court granted summary



judgment in favor of the defendants on every claim.

In court, the plaintiff argued that she was constructively discharged, which is akin to being fired, as she was asserting that quitting was her only option due to an intolerable work environment. The district court consented to the constructive discharge but did not believe that CSG was liable. Appellate judges, however, disagreed. The woman had expressed concern over working with the chiropractor, but she was not given the option of temporary leave and the controller could not verify that she had told the plaintiff that there would be an investigation. The receptionist's only choices were returning to the office with the doctor or a receiving a final paycheck. On appeal, the plaintiff argued that, if the district court determined that she had been constructively discharged, then her retaliation claim was sound and should not have been dismissed. The appeals court concurred – noting that CSG's response to the incident might prevent an employee from complaining of harassment at work. With regard to the state claims, CSG – as with the other claims – did not allege that the inappropriate conduct had not taken place, but rather that the company shouldn't be held accountable. Appellate judges believed that a reasonable jury might find that CSG had not taken sufficient action to rectify the situation. Therefore, CSG would be liable for the doctor's behavior. The appeals court reversed the grant of summary judgment on all claims and remanded the case for further proceedings.