

WHEN WORDS CAN REALLY HURT YOU

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Employers sometimes are under the impression that words alone are not sufficient to result in liability for harassment. As illustrated by the U.S. Court of Appeals for the Seventh Circuit (Indiana, Illinois, Wisconsin) in *Quantock v. Shared Marketing Services, Inc.*, 312 F.3d 899 (7th Cir. 2002), this theory does not always hold true.

Quantock worked as an account supervisor for Shared Marketing Services, Inc. ("Shared Marketing"). She alleged that, one morning, she met with Shared Marketing's President to discuss an upcoming client meeting. According to Quantock, the topic soon changed, with the President propositioning her for sex three times during that meeting. First, he asked for oral sex. When she refused, he asked her to participate in a threesome. When she refused, he asked if he could call her so that they could have phone sex. She refused. After a brief period during which some of Quantock's duties were changed, Quantock resigned and filed a harassment action. Shared Marketing denied the alleged conduct took place.

The federal District Court ruled that, even if the conduct alleged by Quantock actually occurred, it did not rise to the level of actionable harassment because the conduct occurred on only one occasion, lasted at most minutes, and was not accompanied by a threat of physical contact. The court entered summary judgment for Shared Marketing.

The U.S. Court of Appeals for the Seventh Circuit disagreed with the District Court. After considering all of the facts, the Court of Appeals determined that the President's conduct was severe enough to cause a hostile work environment. The Court noted:

- the conduct involved outright solicitation of sex acts;
- the solicitation was made directly to the complaining employee;
- the solicitation was made by an individual with a significant position of authority (President) at the company; and
- the President and the employee worked in close quarters.

This case serves as a reminder that words alone may result in liability for workplace harassment. Development of proper harassment policies and reporting procedures, as well as training of executives, managers and supervisors on what is and is not acceptable, can help reduce the risk of having a jury decide these emotional issues.

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