

# Top 10 Outrageous 7th Annual Employment Law Cases

What were the Top 10 Most Outrageous Employment Law Cases in 2005? After a tallying of the ballots, the winners are . . .

## 10. The Puck Stops Here

A former minor-league hockey player brought a workers' compensation claim against the Norfolk Admirals after stating his coach, "told him to start a fight," that resulted with an injury to his shoulder. The Virginia Court of Appeals upheld the Virginia Workers' Compensation Commission's finding that "fighting is an integral part of the game of hockey," and the player's injury arose in the course of his employment as an "enforcer." This case brings a new meaning to the term "icing" on the cake.



## 9. I Fought the Law and the Law Won

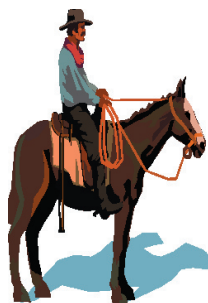


An arbitrator ruled that a police officer who was fired after being accused of having sex while on duty should be reinstated because he was on a break and that this activity no more took him out of duty than taking a nap, playing

a video game, or working a crossword puzzle. The officer testified that although he removed his radio, he did not shut it off during the interlude. In addition to being reinstated, the ruling stated that the officer should receive back pay and have the allegations permanently struck from his personnel file. The Thin Blue Line has struck again.

## 8. Brokeback Mountain

The 10th Circuit Court of Appeals ruled that a heterosexual female employee could not prove that she experienced actionable sexual harassment for not behaving like a stereotypical lesbian and complaining



about receiving an email from her supervisor that featured a woman in a skirt bending over and exposing her genitals. The employee also complained about an incident that occurred during workplace harassment training where the supervisor said "after training, I don't want to hear any more sexual harassment complaints, only sexual advancements." Nothing about this case seems stereotypical.

## 7. Dress to Impress

Former employees of American Apparel filed sexual harassment lawsuits against the company alleging the owner used crude language and gestures, conducted job interviews in his underwear, and gave one of the plaintiffs a "personal massager." The owner denies all of the allegations stating that they are attempting to extort money and "exploit" his "transparent persona." We're just glad his boxers weren't also transparent.



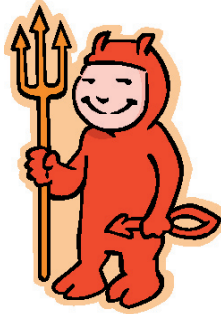
## 6. Take My Job, Please

The U.S. Court of Appeals ruled that a 70-year old plaintiff cannot proceed with her claim that her employer discriminated against her by retaining her rather than firing her and offering her a severance package. According to the employee, in a restructuring of the Human Resource Department, the employer changed her job, resulting in different responsibilities and less favorable treatment. In its ruling, the court stated that ". . . what the plaintiff would have preferred does not automatically translate into an objective adverse employment action." Let's just say the matter has been retired.



### 5. The Devil Made Me Do It

In Virginia, a court ruled that a woman could proceed with her religious discrimination lawsuit because the record was unclear as to whether the employer had made a reasonable attempt to accommodate the woman's religious idiosyncrasies. The plaintiff was fired after striking and choking a co-worker, rebuking other co-workers in the name of Jesus, and pouring holy oil on the floor and around equipment. We're left wondering if this plaintiff had a little too much wine at Communion.



### 4. Whip it Good



A former dominatrix landed a new job with the U.S. Treasury Department where she discovered that one of her former "clients" was an office manager. When the manager continued to harass her after numerous warnings and

retaliated against her because she rejected his overtures, she filed a sexual harassment lawsuit. Without admitting liability or fault, the government reached a settlement with the employee, paying her over \$50,000. We think the office manager was behaving like a bad bad boy.

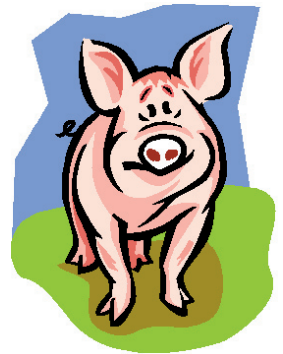
### 3. He Sees Dead People

A former Neighborhood Patrol security guard was terminated after complaining to his boss that ghosts were haunting the neighborhood he was guarding. After his termination, the former guard applied for unemployment benefits. His former employer argued that he was fired for misconduct and therefore not entitled to benefits. The ruling stated that although "such beliefs do render the claimant unfit to act as a security guard," they fall short of misconduct that would disqualify him from unemployment benefits. Kinda spooky, huh.



### 2. Nothing to Snort At

An oral surgeon who liked to joke with his longtime assistant about her pet pig Walter went too far when he, while performing a dental procedure on the unconscious assistant, inserted fake boar tusks in her mouth and had photos taken of her in a "grotesque and ugly piglike state" according to her attorney. The dental assistant claimed she suffered nightmares, panic attacks and suicidal thoughts and filed a lawsuit claiming battery, invasion of privacy, and emotional distress. The surgeon's insurer refused to defend him and he settled the claim for \$250,000. He later sued the insurer for failing to provide coverage for the incident. The insurance company prevailed with the court stating "no conceivably legitimate course of dental treatment includes boar tusks." Not even Charlotte could spin a web like this one.



### And the #1 Most Outrageous Case...

#### 1. A Rose is a Rose



A former radio disc jockey was fired after complaining about her allergy to another DJ's perfume. After filing a claim with the EEOC for disability discrimination due to her allergy, she claimed she was retaliated against by her former employer.

A jury agreed and awarded her \$10.6 million dollars in punitive and compensatory damages. Her claim stated that the perfume, a combination of lilac, rose, and other scents, caused her to lose her voice and take lengthy absences from work. We're sure you would agree that something stinks here.

The contents of this publication are intended for general information only and should not be construed as legal advice or a legal opinion on specific facts and circumstances.

Copyright © 2006 Kaufman & Canoles, P.C. (757) 624-3232