

Hugs May Get You Sued

Insights

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Perhaps it's not surprising that a circuit that for years has held that staring can constitute sexual harassment would find that excessive hugging may be illegal, too. The 9th Circuit (which covers California and other western states) in *Zetwick v. County of Yolo*, held that it is for a jury to decide whether a male county sheriff's hugging of a female correctional officer amounted to unlawful harassment.

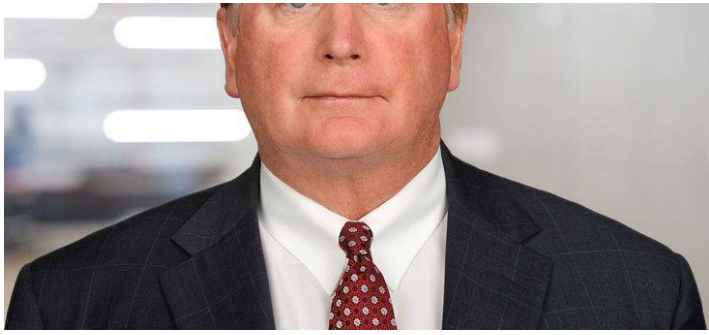
The correctional officer alleged that the sheriff hugged her more than 100 times during an eight year period and kissed her once. The sheriff countered that the hugs were dispensed at department parties, celebrations and events and not when he was alone with the plaintiff. He claimed his kiss, administered at an awards ceremony in 2003, was to congratulate her on her marriage to a sheriff's deputy. The sheriff testified that he hugged male subordinates on occasion and that he was not aware that the plaintiff found his hugs offensive until after she filed her claim.

The district court awarded summary judgment for the sheriff and the county. It found that hugs and kisses on the cheek do not go beyond what is considered acceptable workplace behavior. The 9th Circuit reversed, holding that a "black letter rule" holding workplace hugs to be acceptable is not warranted. Rather, a jury must determine whether the hugs were so severe or pervasive as to create a hostile working environment. Relevant factors, according to the court, included the number of hugs dispensed, whether the hugs came from a superior or a co-worker, and whether the hugger and huggee are of the same or different gender.

For many years we have advised including a "no hugging" rule in the Appearance and Behavior Policy in the employee handbook. While hugging has become an acceptable form of social greeting outside of work it can provide a path to the courthouse for a subordinate who finds hugs unwelcome. It is best, therefore, to refrain from hugging subordinates and colleagues at work and at work-related events. A simple handshake (one hand, not two) is the safer form of greeting.

Related People





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