



The Movie, *Dallas Buyers Club* Teaches a Lot About Work and Life

Insights

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The *Dallas Buyers Club*, just opened in limited cities, it's the largely true story of a thoroughly unlikeable hard ass Texas oil worker at the beginning of the 80's AIDS crisis, who learns that he has full blown AIDS (from wild heterosexual behavior). The movie is amazing. It's not "*political*." Rather, it manages to blend tragedy, comedy and true story into a story that puts a face on an incredibly brutal time. Matthew McConaughey's performance is a possible Oscar winner. My hospital administrator wife and I talked about the movie for hours.

Dallas Buyers Club is the type of movie that makes you think. I've been practicing almost 30 years, so if you do the math, I was a new attorney when AIDS was literally first being mentioned. Around 1984, AIDS booted herpes from the stage as the shortest lived STD crisis in recent memory. It fell to me as a new attorney who enjoyed "*developing legal issues*" to sort through what to do when a prominent employer learned that an employee "had AIDS." Would customers turn on the business? Would the employer be responsible if coworkers or customers were exposed, and could one contract the disease from toilet seats or sneezes? I was told to sort it out and to keep it quiet or else since young attorneys in large firms had a career life expectancy only slightly longer than Israeli tank commanders in combat, the situation was pretty stressful for me. Little scientific guidance was available from public health authorities and the ADA didn't even exist. Good luck finding guidance in the federal Rehabilitation Act (handicap discrimination law).

The employer actually dealt with the employee with dignity and decency, so that's not the story. *Dallas Buyers Club* captured the near terror AIDS caused and the resulting employer concerns. With our superior knowledge in 2013, it's hard for us to appreciate that people really were unsure if the CDC was shooting straight and that coworkers and the public were not at risk from normal workplace contact. Employers, who generally wanted to do the right thing for a trusted employee, would fear that they might be exposing people to risk. I didn't see the ugly scenes in the movie when McConaughey's so-called friends and coworkers call him a "*fag*" and literally run from him when he spits, but I know that such behavior occurred. Happily I remember many occasions when employer and employees closed ranks around an employee and showed a civility seemingly now absent from the workplace.

Uncertainty and few clear answers were the problem, and such a problem often translates into "*knee-jerk*" decisions, which any management labor lawyer will tell you is the surest course to turn an ADA accommodation or fitness for duty decision into a lawsuit.

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So what do I think that Management, HR and Safety Professionals can learn from this movie?

Lesson One: There will always be a potentially infectious disease in the workplace. Think about my 30 years... herpes, hepatitis, HIV, SARs, pandemic flu, medicine-resistant TB, Avian flu, and recently, MRSA or antibiotic-resistant staph. And I suspect that the challenges will become more frequent and potentially more dangerous. We must anticipate such challenges and train frontline supervision to not act on emotion. Obtain guidance. Go through the ADA interactive process. Do not simply terminate an employee with investigating the condition and separating fact from fiction ... "*direct threat*" from urban legend.

Lesson two. We're entering a period of debate about the proposed anti discrimination bill ENDA. I am not going to get into the merits of this law or the underlying social issues. As a defense side management lawyer, I have seen so many unfounded discrimination claims that I dread the thought of another cause of action. I obviously realize that unlawful discrimination and harassment occurs, but to my frustration, I generally see legitimate claimants walk away and get another job, and so often it seems that those individuals who actually pursue the claims are doing so for reasons other than a sustainable legal claim. So you can appreciate my concern about creating a new area of employment law claims which also drags in deeply held cultural and religious beliefs.

So my **second point** is that regardless of the legal framework, we must reclaim civility in the workplace. I do not need a legal scheme to make me understand that treating someone differently because of their sexual orientation is despicable. Performance and character are what matters. I fear that in our antidiscrimination efforts, we have set the bar too low. We must require professionalism and civility in all workplaces. We need to relearn the term, "civility." Why should we tolerate coarse and corrosive behavior.

Lesson three is that, no matter how diligently we work, it seems as if every day produces another story about employees engaging in incredibly stupid behavior, ostensibly as teasing or horseplay, which gives rise to claims of harassment on the basis of sex, race, national origin or other protected characteristic. Please do not assume that these situations cannot arise in your workplace. Develop a business plan that has concrete steps to continuously develop and reinforce your culture and values.

So go see *Dallas Buyers Club*. Despite the admittedly dark subject matter, I think that you'll be encouraged by the triumph of the human spirit and the redemption of a wheeling dealing Texan good ole boy. For those of you who are movie lovers, it's Rotten Tomato's number is an amazing 95%, which is better than the reedoutable *Captain Phillips* but one point behind *Gravity* and two points behind *12 Years a Slave* ... pretty heady company.

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