

The High Cost of Sexting

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A New York court recently entered a judgment of about \$700,000 against the owner of a limousine company for sexually harassing a female dispatcher. The judgment consisted of \$450,000 in compensatory damages, \$100,000 in punitive damages, \$167,478 in attorney fees and \$3,168 in litigation costs. The case presents an almost classic example of sexual harassment.

The sexual harassment included the following –

- A barrage of sexually suggestive voice mails and text messages expressing an obsession her breasts and the desire to have sex with her.
- A message telling her that he had to pull off the road to perform an act of self-gratification because he was thinking about her.
- He tried to show her his private parts.
- He forced her into the restroom where he put his hand up her shirt and tried to kiss her breasts.
- While she was in the hospital for stress and anxiety caused by the harassment, he called and asked her how her breasts felt.
- The owner finally fired the dispatcher and then sent her a text message saying he fired her because she refused to have sex with him.

It is difficult to understand why this case actually went to trial considering the overwhelming documentary evidence consisting of text messages. Text messages, e-mails, social media posts and voice mails are playing an ever-increasing role in litigation, especially employment cases. Employers should review their policies and focus on training regarding these various methods of communication to be sure that all employees understand what is expected of them and what is not acceptable in such communications.

Ganci v. U.S. Limousine Service Ltd. and Raymond Townsend, 10-cv-3027 (E.D.N.Y. 2015).

