

Employment Plaintiffs' Bizarro World

By **Robin E. Shea** on January 21, 2011



The Cynical Girl has a great list of [The Top Ten Reasons Why Your Boss Doesn't Like You](#). On a somewhat related note, here are some recent cases from employment law plaintiffs' bizarro world, for your weekend reading pleasure:

Naw, I'm pretty sure I was fired because of my race. The U.S. Court of Appeals for the Third Circuit (Delaware, New Jersey, and Pennsylvania) has affirmed dismissal of a race discrimination lawsuit brought by an employee who confessed to having ideations of blowing up his supervisor with explosives that he had stored in his garage.

Don't mess with Razorbacks -- they have memories like elephants. The U.S. Court of Appeals for the Eighth Circuit (Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota and South Dakota) affirmed dismissal of a lawsuit against the University of Arkansas, in which the plaintiff alleged that he was passed over for a promotion because of a prior discrimination claim filed almost three years earlier. Oh, and the person selected was also more qualified.

Home Depot is *hic* a *meanie!* An employee of Home Depot had come forward asking for treatment for her alcoholism, and the company allowed her to go through its employee assistance program and returned her to work when her treatment was completed. Approximately a month later, the plaintiff was arrested for driving under the influence, in violation of her EAP agreement as well as the law. Nonetheless, Home Depot allowed her to continue working and was ready to grant her request for time off to attend Alcoholics Anonymous meetings, but about a month later, she tested positive for alcohol while on the job. At that point, the long-suffering Home Depot terminated her employment. She sued for violation of the Americans with Disabilities Act and the Family and Medical Leave Act. Thankfully, the U.S. Court of Appeals for the Seventh Circuit (Illinois, Indiana, and Wisconsin) has affirmed dismissal of her lawsuit.

Catbert lives . . . but he can't sue. A Human Resources manager was fired after he severely botched two terminations, both of which resulted in ethics complaints from the affected employees and one of which resulted in reprimands for the manager's bosses. In one case, an employee learned that he was being eliminated when he saw a new position - absorbing his job duties - *posted in the company newsletter*. In the other case, the HR manager told an employee being terminated in a reduction in force that his performance score was the lowest of his peers, when in fact three employees had scored lower but were being retained because of exceptional circumstances. The Third Circuit affirmed dismissal of the HR manager's age discrimination and retaliation claims.

Of course, sometimes employers are in the wrong, too.

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