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What Do Your Work Emails Say About Your Tolerance For Sexual Harassment?

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Many of us have received emails at work from friends and colleagues that contain sexual metaphors, double entendres and innuendo, shamelessly intended to amuse us at the expense of our morality. But, before you open that next "you have to see this" email: beware! Those emails may be used against you in court if you ever file a sexual harassment claim against your employer.

How? Consider the case of *Seybert v. International Group, Inc.*, Civil Action No. 07-3333 (E.D. Pa. Oct. 24, 2009). In that case, Susan Seybert brought a sexual harassment action against her former employer, claiming that she was subjectively offended by, among other things, a comment made to her by a supervisor at a work dinner about going "down deep into the chocolate [dessert] with [her] berry."

In order to succeed on her claim under Pennsylvania law, Seybert was required to prove that she was subjectively offended by the supervisor's conduct. To prove that she was not, the employer sought to introduce into evidence numerous emails sent by Seybert during

work hours using the employer's computers which contained sexual content.

The court agreed with the employer, over Seybert's objection, that the emails were relevant to the issue of whether Seybert was subjectively offended by the supervisor's conduct. The court even likened the supervisor's comment to a work email of Seybert's containing a photograph of an elderly man wearing only a Santa hat and boots, resting on his stomach, with the caption, "Just Roll Me Over Darlin ... 'cause I'm Layin On Yer Present."

The court reasoned that, "...in both cases, creative imagery and base sexual wordplay are being used to construct metaphors in an apparent attempt to titillate, amuse, entertain, instruct, or simply 'gross out' others."

Is this to say that you can never again enjoy a deliciously crass email for fear that it may be used against you in a sexual harassment suit? Certainly not.

The take-away message of this case is this: **keep it out of the workplace!**

Any such emails should be sent to personal email accounts to be reviewed outside of business hours on non-work computers in the privacy of your own home ... and promptly deleted after you have enjoyed a good laugh.