

Johansen under the employment law

Law



Employment Law The first thing is to identify whether Johansen is an independent contractor or an employee. Using the six factors from *Douglas Schultz v. Capital International Security, Incorporated* (460 F. 3d 595), it is clear that Momma Mia controls almost all the aspects of Johansen's life and thus basing on the evidence Johansen is her employee. As an employee in an organization with over minimum of 15 employees, she is protected under the Title VII of the Civil Rights Act. The organization had 1000 employees, has interstate operations, and works more than 2000 hours per year (Schultz 45).

Johansen has a right to privacy. Her rights were violated by the company by trying to control her social and private life. They asked about sexual preferences, marital status, dating, and even future marriage plans. These offensive questions are an intrusion in ones privacy. She must be able to prove that her dismissal from the company was as result of her whistle-blowing. By notifying the justice system, she is covered by Whistleblower Protection Act of 1989, and therefore, she should not be compensated in any way by the company (Schultz 45). The company's decision to fire her is, therefore, a violation of Title VII and hence a breach of contract since Momma Mia did not have a reasonable cause to fire Johansen {section 985, (2)}. Common-law states that, " every person has a right to be free from harassment and constant intrusion into ones daily affairs." This may also have caused her emotional distress.

There was misrepresentation of contract by the company, when she was being hired and entering into a contract with the company, since Momma Mia never disclosed the full nature of her services, which included client escort - something that went against her religious beliefs.

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Johansen is protected under Title VII of the Civil Rights Act of 1964. As stated in Schultz, 45 because she is a female and, therefore, falls under ‘protected class’ and she applied for the job in the company having met all the required qualifications. These give her the ability to contest the reason for termination.

Johansen’s right to sue cannot be waived regardless of the Arbitration/Mediation clause she had signed with the company. It is illegal to take away an individual’s right to sue in a court of law (Schultz 43).

Furthermore, the clause cannot be binding because Momma Mia misrepresented the contract in the first place.

Johansen can seek remedy because her profile is tainted by the ‘guilty by association’ since she was involved in a publicized case. Her career was ruined by firing her and future employers may also decline to hire her by looking at her history as a whistle blower for the previous company. Since she is not the one who breached the contract, Johansen is entitled to the agreed contract fee for the five years amounting to \$450, 000; that is, \$90, 000/year for 5 years. Moreover, Momma Mia should cover all the court fees and costs.

There is also defamation of character. By invading into Johansen’s privacy, Momma Mia should compensate her for any embarrassment she may have caused her. Being a client escort reduces her to a call girl and, therefore, she should be awarded a damage of \$2 Million. She should also be compensated for costs of finding a new job. This ground has weak basis for arbitration because Momma Mia breached the contract by misrepresentation. She concealed important information from Johansen. However, in a federal court, this case attracts a compensation of \$300, 000 under Title VII cap.

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Work Cited

Schultz, Andrew. Encyclopedia of the United States Constitution. Virginia: Infobase Publishing, 2009.