

# Electronic Alert

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**Washington Public Accommodation Businesses May Be Liable for  
Employee's Harassment of a Member of the Public  
By Nicole Elgin**

Washington employers may now be liable for the bad acts of those employees who harass members of the general public. On October 9, the Washington Court of Appeals in *Floeting v. Group Health Cooperative*, held that an employer can be responsible for an employee's discrimination or harassment towards patrons if the employer is a place of public accommodation. Washington's antidiscrimination law (Washington Law Against Discrimination or WLAD) prohibits sex discrimination in places of public accommodation, and sexual harassment is a type of sex discrimination. That means that Washington employers who are "places of public accommodation," need to make sure that their employees apply the same good manners to members of the public that they have to apply to co-workers. A place of public accommodation is more than just a hotel – the term means that the business is open to the public, and includes restaurants, retail operations, hotels, movie theaters, health care facilities, and other businesses that are frequented by the general public.

In this case, a patient sued a medical provider alleging that an employee of the medical facility sexually harassed him by making repeated sexual advances and shared intimate details about her relationship with her boyfriend at home. The patient finally reported the inappropriate conversations to another employee at the facility. The employer conducted an investigation and the employee who made the comments was ultimately terminated. In deciding the case, the court emphasized that Washington's antidiscrimination laws are to be liberally construed in order to accomplish the purpose of the law, and that victimized patrons should have some remedy against the business. That means that patrons (or in this case, patients) have a civil right to be free from sexual harassment, and a statutory claim if they are deprived of that right.

Proactive employers will reduce potential liability by evaluating policy language and expanding employee anti-harassment and discrimination training to ensure that employees are aware that their conduct towards the public will be judged by the same standards as their conduct towards each other. Managers and supervisors need to address misconduct in the same prompt and effective manner as they treat employee to employee complaints and always remember that discrimination towards a patron is strictly prohibited.

For questions on how this new application of the antidiscrimination laws may impact your business, contact Nicole Elgin at (503) 276-2109 or [nelgin@barran.com](mailto:nelgin@barran.com).