



Plaintiff and Defense Attorneys' Perspectives on Sexual Harassment and ADA Discrimination Litigation

Scenario 1

Patty Plaintiff is a 62-year-old woman, terminated from her position as an over-the-road truck driver by Trucking Company ("Company").

Patty was initially hired to drive as part of a team, however, they had a falling out two (2) weeks later, after which Patty drove solo. Patty was terminated by the Company for the first time during her 60-day probationary period, because of a DOT regulation violation and getting the truck stuck in mud up to its axles, when she was driving solo.

After her termination, Patty called Company VP begging to be given another chance. He eventually relented, and told her that Company would rehire her, but because of a concern about safety issues, she must drive as part of a team for the duration of her employment. VP further told Patty she would be required to locate her own co-driver, which was Company policy. For two weeks Patty teamed with a woman driver, who then told Company she was not willing to drive with Patty anymore because of unsafe driving practices. Patty then drove with two (2) different male drivers over the next four (4) months, with substantial periods when she was not driving because she was unable to find another driver to team with her. Both drivers reported Patty engaged in unsafe practices. During this time, Patty caused an accident, for which she received a traffic ticket. She sent the accident report to Company.

Prior to starting to drive with Larry, Patty had borrowed \$1,000.00 from him, which she never paid back. Patty started driving with Larry on May 1, but was off work for 10 days for personal reasons. She claims that the sexual harassment started when she returned to driving the truck on May 25. She states that, during the next week, on several occasions Larry hovered over her in his underwear while she was driving, and that once while sitting on the sleeper bed he opened the curtain between the cab and sleeper and was fully naked.

Patty claims that during that week she called HR Helen on 3 to 5 occasions to complain about Larry's behavior. Helen states she had only one telephone conversation with Patty about Larry on May 30, in which Patty complained about Larry "parading around the truck in his underwear." Helen suggested to Patty that she should get off the truck and find another teammate to drive with. Patty admits, however, that she told Helen that the situation was not that bad, she could handle it, and that she did not want to get off the truck until she found another co-driver.

Patty claims that the "real biggie" occurred while Larry was on a DOT mandated rest period, which started the evening of May 30. Dispatcher told Patty that Company would pay for a motel for her, but Patty decided to sleep in the truck outside Larry's apartment that night. The next morning, May 31, she went into Larry's apartment (she claims this was to call Dispatcher to discuss a faulty truck battery).

Patty states that while in Larry's apartment, he took her truck keys and cell phone, would not let her leave, and repeatedly demanded that she sleep with him, and that if she did so he would forgive her the \$1,000.00 debt that she owed to him. Larry did not touch her, threaten to harm her physically, or threaten to rape her if she did not sleep with him. Patty is uncertain of exactly how long she was in the apartment while being harangued by Larry, but claims that it was for several hours.

Later that afternoon, Patty demanded Larry take her to a motel. She states he took her to a nearby "flea bag" motel, that there were no telephones in the rooms, no one at the motel spoke English. Shortly after arriving, her cell phone died, and she had left the charger in the truck. She claims she could not sleep, and was afraid that Larry would come back, break down the door, rape and kill her, and that she had flashbacks of being sexually abused by her stepfather as a child.

The following day, Patty started driving with Ken. They drove together for approximately three (3) weeks until Ken complained that Patty was an unsafe driver, giving a number of examples of violations of traffic laws and DOT regulations. The Company claims that given Patty's history of incidents and the reports from Ken and other drivers about her being unsafe, that VP, at the recommendation of the safety supervisor, terminated Patty's employment. Patty claims she was let go because she complained about being sexually harassed by Larry.

Finally, this would be Patty's second lawsuit claiming she had been subject to sexual harassment.